

# TONBRIDGE AND MALLING BOROUGH COUNCIL

## CONSTITUTION



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**The Director of Central Services and Monitoring Officer is responsible for ensuring that the Constitution is kept up to date.**

**As part of the Council's environmental strategy, the Constitution is produced with recycled paper and available to view on line.**

**Document Control:**

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April 2020	v2020/003	Updated Schedule 1 in Members Allowance (Part 6) to reflect the increase in line with the staff pay award.
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April 2021	v2021/004	Updated Schedule 1 in Members Allowance (Part 6) to reflect the increase in line with the staff pay award.
November 2021	v2021/005	Updated to reflect abolition of Electoral Review Working Group; amended CPR 5.25 (b) in respect of Group Leaders speaking; amended Data Protection Officer and Proper Officer in relation to Public Health.
March 2022	v2022/006	<p>Updated Part 4 – Rules:</p> <p>CPR 10.4 and 10.5 to remove the need for standing when addressing the Council; and New CPR 17 to reflect the use of substitute Members</p> <p>Update Protocol A – Members Training (Part 5 Codes) to reflect that training requirements apply equally to substitute members.</p>
	v2022/007	Updated Part 5 – Codes to reflect revised Officer Code of Conduct approved by the General Purposes Committee on 22 March 2022.
May 2022	v2022/008	<p>Revised:</p> <p>Article 8 – Decision Making Panels and Boards to Advise the Executive</p> <p>Executive Procedure Rules</p> <p>Rules for making decisions by Executive Members</p> <p>Overview and Scrutiny Procedure Rules</p> <p>New Terms of Reference for Scrutiny Select Committees</p>
February 2023	v2023/009	<p>Revised:</p> <p>Article 4 – Full Council</p> <p>Portfolio of Cabinet Member for Environment and Climate Change</p>

# **PART 1:**

# **SUMMARY AND EXPLANATION**





## SUMMARY AND EXPLANATION

<p><b>The Council's Constitution</b></p>
<p>Tonbridge &amp; 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><b>What's in the Constitution?</b></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 &amp; 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"> <li>(Article 2) - Members of the Council</li> <li>(Article 3) - Citizens and the Council</li> <li>(Article 4) - The Full Council</li> <li>(Article 5) - Chairing the Council</li> <li>(Article 6) - The Executive</li> <li>(Article 7) - Joint Arrangements</li> <li>(Article 8) - Decision Making</li> <li>(Article 9) - Finance, Contracts and Legal Matters</li> <li>(Article 10) - Review and Revision of the Constitution</li> <li>(Article 11) - Suspension, Interpretation and Publication of the Constitution</li> </ul>
<p><b>How the Council operates</b></p>
<p>The Council is composed of 54 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 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 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](#)



# **PART 2:**

  

# **ARTICLES**



## ARTICLE 1 – THE CONSTITUTION

<b>1.01</b>	<b>Powers of the Council</b>
The Council will exercise all its powers and duties in accordance with the law and this Constitution.	
<b>1.02</b>	<b>The Constitution</b>
This Constitution, and all its appendices, is the Constitution of the Tonbridge and Malling Borough Council.	
<b>1.03</b>	<b>Purpose of the Constitution</b>
The Council sees Tonbridge and Malling's future as a financially sustainable Council that delivers good value services, provides strong and clear leadership and, with our partners, addresses the needs of our Borough.	
The purpose of the Constitution is to help the Council realise this Vision by:	
1.	enabling the Council to provide clear leadership to the community, working in partnership with citizens, businesses and other organisations to promote the best interests of the borough and its people;
2.	supporting the active involvement of citizens in the process of local authority decision-making;
3.	helping councillors represent their constituents more effectively;
4.	enabling decisions to be taken efficiently and effectively, in a transparent and accountable manner;
5.	creating powerful and effective means of holding decision-makers to public account;
6.	ensuring that decisions are subject to effective scrutiny and that no one will review or scrutinise a decision in which they were directly involved;
7.	ensuring that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8.	providing a means of securing best value for the community in the delivery of services.

<b>1.04</b>	<b>Interpretation and Review of the Constitution</b>
<p>Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option it thinks is closest to the purposes stated above. Any dispute as to the interpretation of the Constitution should be referred in the first instance to the Chief Executive who, if unable to resolve the dispute satisfactorily, will report the matter to the Council for resolution.</p>	
<p>The Council will monitor and evaluate the operation of the Constitution as set out in Article 10 (Review and Revision of the Constitution).</p>	
<b>1.05</b>	<b>Statutory Provisions</b>
<p>Many of the provisions of this Constitution summarise detailed statutory provisions; for a fully authoritative view, reference should be made to the original legislation. In the event of any conflict, the statutory position will prevail.</p>	



## ARTICLE 2 – MEMBERS OF THE COUNCIL

<b>2.01</b>	<b>Composition and Eligibility</b>
<b>(a)</b>	<b>Composition:</b>
The Council will comprise 54 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.	
<b>(b)</b>	<b>Eligibility:</b>
Only qualifying Commonwealth, Republic of Ireland or EU citizens who are over 18 and:	
<ul style="list-style-type: none"> <li>- Registered local government electors of the Borough; or</li> <li>- 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)</li> </ul>	
will be eligible to hold the office of councillor.	
<b>2.02</b>	<b>Election and terms of councillors</b>
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.	
<b>2.03</b>	<b>Roles and Functions of All Councillors</b>
<b>(a)</b>	<b>Key Roles:</b>
All Councillors will:	
(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>(b)</b>	<b>Rights and Duties:</b>
(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.)	
<b>2.04</b>	<b>Conduct</b>
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.	
<b>2.05</b>	<b>Allowances</b>
Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.	

## ARTICLE 3 – CITIZENS AND THE COUNCIL

<b>3.01</b>	<b>Citizens' Rights</b>
Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:	
<b>(a)</b>	<b>Voting and petitions</b>
Citizens on the electoral roll for the Borough have the right to vote and to sign a petition to request a referendum for an elected mayor form of constitution.	
<b>(b)</b>	<b>Information</b>
Citizens have the right to:	
(i)	obtain a copy of the Constitution;
(ii)	attend meetings of the Council, the Cabinet and committees, except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
(iii)	find out from the Notice of Forthcoming Key Decisions what key decisions will be taken by the executive and when;
(iv)	Inspect reports and background papers, any records of decisions made by the Council, its committees and the executive, except where confidential or exempt information is likely to be disclosed; and
(v)	inspect the Council's accounts and make their views known to the external auditor.
<b>(c)</b>	<b>Participation</b>
Citizens have the right to:	
(i)	contact their local councillor about any matters of concern to them;
(ii)	participate in Council meetings by asking questions;
(iii)	contribute to investigations by the Overview & Scrutiny Committee;
(iv)	Petition the Council on matters of local concern

<b>(d)</b>	<b>Complaints</b>
Citizens have the right to complain to:	
(i)	The Council itself under its complaints scheme about the standard of service, actions or inaction by the Council or its staff; unfair treatment or other allegations of maladministration;
(ii)	The Local Government and Social Care Ombudsman after using the Council's own complaints scheme;
(iii)	The Monitoring Officer about a breach of the Councillor's Code of Conduct.
<b>3.02</b>	<b>Citizens' Responsibilities</b>
Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers.	

**ARTICLE 4 – THE FULL COUNCIL**

<b>4.01</b>	<b>Meanings</b>
<b>(a)</b>	<b>Policy Framework:</b>
The Policy Framework means the following Plans and Strategies:	
<b>(i)</b>	Those required by law to be adopted by the Council. These include:
	- Community Safety Partnership Plan
	- Children and Young People’s Plan
	- Youth Justice Plan
	- Plans and strategies which together comprise the Development Plan
	- Statement of Licensing Policy under the Licensing Act 2003
	- Gambling Act 2005: Statement of Principles
	- Pay Policy Statement
<b>(ii)</b>	Those which the Council has decided should be adopted by the Council meeting as a matter of local choice:
	- Corporate Strategy (or its equivalent)
	- Equality Policy Statement
	- Health and Safety Policy
<b>(b)</b>	<b>Budget:</b>
The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure (including the Capital Strategy) and the setting of virement limits.	
<b>4.02</b>	<b>Functions of the Full Council</b>
Only the Council will exercise the following functions:	
<b>(a)</b>	adopting and changing the Constitution (except where the Monitoring Officer exercises delegated authority to make necessary amendments to give effect to decisions of the Council, Executive or a Committee);

(b)	approving and adopting the policy framework and the budget;
(c)	subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
(d)	appointing the Leader;
(e)	agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
(f)	appointing representatives to outside bodies;
(g)	adopting a scheme of Members' Allowances;
(h)	changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;
(i)	confirming the appointment of the Head of Paid Service;
(j)	making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
(k)	all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself (unless delegated to committees, sub-committees or officers) rather than the executive; and
(l)	all other matters which, by law, must be reserved to Council.
<b>4.03</b>	<b>Council Meetings</b>
There are four types of Council Meeting:	
(a)	the annual meeting;
(b)	ordinary meetings;
(c)	extraordinary meetings;
(d)	special meetings
And they will be conducted in accordance with the Council and Committee Procedure Rules in Part 4 of this Constitution.	

## ARTICLE 5 – CHAIRING THE COUNCIL

<b>5.01</b>	<b>Role and Function of the Mayor</b>
The Mayor and Deputy Mayor will be elected by the Council annually. The Mayor (and, in their absence, the Deputy Mayor) will have the following principal responsibilities:	
(a)	to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
(b)	to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
(c)	to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the executive are able to hold the executive to account;
(d)	to promote public involvement in the Council's activities;
(e)	to act with impartiality when discharging all Mayoral roles and responsibilities;
(f)	to attend such civic and ceremonial functions as the Council and they determine appropriate.
(NB. In accordance with the provisions of the Local Government Act 2000 neither the Mayor nor the Deputy Mayor can be a member of the Executive.)	





## ARTICLE 6 – THE EXECUTIVE

### (Leader with Cabinet)

<b>6.01</b>	<b>Role</b>
The executive will carry out all of the Borough Council's functions which are not the responsibility of any other part of the Borough Council, whether by law or under this Constitution.	
<b>6.02</b>	<b>Form and Composition</b>
The executive will consist of the Leader, Deputy Leader together with at least 1, but not more than 8, councillors appointed to the executive by the Leader.	
<b>6.03</b>	<b>Leader</b>
The Leader will be a councillor elected to that position by the Council at the post-election annual meeting. The Leader will normally hold office for a four year period i.e. until the day of the next post-election annual meeting of the Council, when they may seek re-election, or until:	
(a)	they resign from the office; or
(b)	they are removed from office by resolution of the Council.
<b>6.04</b>	<b>Deputy Executive Leader</b>
The Leader shall appoint a Deputy Leader. If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader shall act in the Leader's place.	
Unless they resign or cease to be a member, the person who is appointed as Deputy Leader will hold office until the end of any term of office of the Leader. Where a vacancy occurs in the office of Deputy Leader, the Leader shall appoint another person to undertake the role.	
The Leader may, if they think fit, remove the Deputy Leader from office.	
<b>6.05</b>	<b>Other Executive Members</b>
Only councillors shall be appointed to the executive; there shall be no co-optees and (save for the provisions of 6.04 above) no deputies or substitutes for executive members. Neither the Mayor nor Deputy Mayor of the Council shall be appointed to the executive.	

Other executive members shall be appointed annually by the Leader. They will normally hold office until the next annual meeting of the Council, when they may be re-appointed, or until:	
(a)	they resign from office; or
(b)	they are no longer councillors; or
(c)	they are removed from office, either individually or collectively, by resolution of the Council
<b>6.06</b>	<b>Proceedings of the Executive</b>
Proceedings of the executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.	
<b>6.07</b>	<b>Responsibility for Functions</b>
The Leader will recommend for adoption by Council annually a list in Part 3 of this Constitution setting out which individual members of the executive, committees of the executive, officers or joint arrangements are responsible for the exercise of particular executive functions.	
<b>6.08</b>	<b>Political Balance</b>
The political balance requirements of Section 15 of the Local Government & Housing Act 1989 do not apply to the composition of the executive, nor to any Committee of the executive.	

## ARTICLE 7 – JOINT ARRANGEMENTS

<b>7.01</b>	<b>Arrangements to Promote Well Being</b>
The Council or the Executive, in order to promote the economic, social or environmental well-being of its area, may:	
(a)	enter into arrangements or agreements with any person or body;
(b)	co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
(c)	exercise on behalf of that person or body any functions of that person or body.
<b>7.02</b>	<b>Joint Arrangements</b>
(a)	The Council may establish joint arrangements with one or more local authorities to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of joint committees with these other local authorities.
(b)	The executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
(c)	Except as set out below, the executive may only appoint executive members to a joint committee exercising executive functions and those members need not reflect the political composition of the local authority as a whole.
(d)	The executive may appoint members to a joint committee from outside the executive where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area.  (The political balance requirements do not apply to such appointments)
(e)	Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

<b>7.03</b>	<b>Access to Information</b>
(a)	If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
(b)	If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in the Local Government Act 1972 will apply.
<b>7.04</b>	<b>Delegation to and from other Local Authorities</b>
(a)	The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
(b)	The executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
(c)	The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.
<b>7.05</b>	<b>Contracting Out</b>
The executive may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under the relevant statutory requirements (e.g. the Deregulation and Contracting Out Act 1994), or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.	

## ARTICLE 8 – DECISION MAKING

<b>8.01</b>	<b>Responsibility for Decision Making</b>
<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>	
<b>8.02</b>	<b>Principles of Decision Making</b>
<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"> <li>- decisions should be taken reasonably, with regard to relevant considerations and ignoring irrelevant factors;</li> <li>- realistic alternatives should be evaluated prior to decisions being taken;</li> <li>- 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;</li> <li>- 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;</li> <li>- decision making should, so far as practicable, be planned in advance with due public notification of forthcoming decisions;</li> <li>- decisions should have regard to proportionality – i.e. the action must be proportionate to the desired outcome;</li> <li>- appropriate professional advice should be obtained from suitably qualified officers of the authority;</li> <li>- decisions should be taken on the basis of clear aims and desired outcomes from the resultant actions;</li> <li>- decisions should have regard to relevant approved policies and adopted procedures of the Council; they must be lawful, and sufficient budgetary provision should exist;</li> </ul>	

<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>	
<b>8.03</b>	<b>Types of Decision</b>
<b>(a)</b>	<b>Decisions reserved to Full Council</b>
<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>(b)</b>	<b>Key Decisions</b>
<b>(i)</b>	<p>A 'key decision' means an executive decision which is likely either:</p> <ul style="list-style-type: none"> <li>- 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</li> <li>- 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</li> </ul>
<b>(ii)</b>	<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>	
<b>8.04</b>	<b>Decision making by the Full Council</b>
<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>	
<b>8.05</b>	<b>Decision making by the Executive</b>
<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>	

<b>8.06</b>	<b>Decision making by Overview and Scrutiny Committee</b>
Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.	
<b>8.07</b>	<b>Decision making by other committees and sub-committees established by the Council</b>
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	
<b>8.08</b>	<b>Decision making by Council bodies acting as tribunals</b>
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.	





## ARTICLE 9 – FINANCE, CONTRACTS AND LEGAL MATTERS

<b>9.01</b>	<b>Financial Management</b>
The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this Constitution.	
<b>9.02</b>	<b>Contracts</b>
Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.	
<b>9.03</b>	<b>Legal Proceedings</b>
The Director of Central Services and Deputy Chief Executive is authorised to commence, defend or participate in any legal proceedings (including authority to settle/ compromise/ withdraw) as set out in Part 3 (Responsibilities) of the Constitution.	
<b>9.04</b>	<b>Authentication of Documents</b>
<p>Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Central Services and Deputy Chief Executive or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.</p> <p>Any contract entered into on behalf of the Council shall comply with the requirements of the Contract Procedure Rules set out in Part 4 of the Constitution. Such contracts must either be signed by at least two authorised officers of the authority or made under the common seal of the council attested by at least one officer as authorised under paragraph 9.05 below.</p>	
<b>9.05</b>	<b>Common Seal of the Council</b>
The Common Seal of the Council will be kept in a safe place in the custody of the Director of Central Services and Deputy Chief Executive. A decision of the Council, the Executive or any part of it will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which, in the opinion of the Director of Central Services and Deputy Chief Executive, should be sealed. The affixing of the Common Seal will be attested by the Chief Executive or the Director of Central Services and Deputy Chief Executive or some other person authorised by one of them.	



## ARTICLE 10 - REVIEW AND REVISION OF THE CONSTITUTION

<b>10.01</b>	<b>Duty to Monitor and Review the Constitution</b>
The operation of the Constitution will be monitored and reviewed by the Monitoring Officer to ensure that its aims and principles are given full effect.	
<b>10.02</b>	<b>Protocol for Monitoring and Review of Constitution by Monitoring Officer</b>
A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1 (The Constitution). In undertaking this task the Monitoring Officer may:	
(a)	observe meetings of different parts of the member and officer structure;
(b)	undertake an audit trail of a sample of decisions;
(c)	record and analyse issues raised with them by members, officers, the public and other relevant stakeholders; and
(d)	compare practices in this authority with those in other comparable authorities, or national examples of best practice.
<b>10.03</b>	<b>Changes to the Constitution</b>
(a)	Save as provided by (b) below changes to the Constitution will only be approved by the Full Council after consideration of the proposal by the Monitoring Officer.
(b)	The Monitoring Officer is authorised to make any necessary amendments to the Constitution:
(i)	to give effect to any decision of Council, the Executive or a Committee;
(ii)	consequential upon changes to operational arrangements.



## ARTICLE 11 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

<b>11.01</b>	<b>Suspension of the Constitution</b>
<b>(a)</b>	<b>Limit to suspension:</b>
The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Full Council to the extent permitted within those Rules and the law.	
<b>(b)</b>	<b>Procedure to suspend:</b>
A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.	
<b>(c)</b>	<b>Rules capable of suspension:</b>
The Rules specified in Part 4 of this Constitution may be suspended in the following circumstances:	
<b>(i)</b>	where it is considered appropriate in order to facilitate the conduct of meetings or the discharge of the Council's functions; or
<b>(ii)</b>	in cases of urgency, on the advice of the Head of the Paid Service, Monitoring Officer or Chief Finance Officer.
<b>11.02</b>	<b>Interpretation</b>
The Ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.	
<b>11.03</b>	<b>Publication of the Constitution</b>
<b>(a)</b>	The Chief Executive will give an electronic copy of this Constitution to each member of the authority upon delivery to them of that individual's declaration of acceptance of office on the member first being elected to the Council.
<b>(b)</b>	The Chief Executive will ensure that copies are available for view on the Council's website and hard copies can be purchased by members of the local press and the public on payment of a reasonable fee.



**SCHEDULE 1: DESCRIPTION OF EXECUTIVE ARRANGEMENTS**

The following parts of this Constitution constitute the Executive arrangements:		
1.	The Overview and Scrutiny Procedure Rules	Part 4
2.	Article 6	The Executive
3.	Executive Procedure Rules	Part 4
4.	Article 7	Joint Arrangements
5.	Article 8	Decision Making
6.	Access to Information Procedure Rules	Part 4
7.	Responsibility for Functions	Part 3





# **PART 3:**

  

# **RESPONSIBILITES**



## RESPONSIBILITY FOR FUNCTIONS – INTRODUCTION

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 give effect to Section 13 of the Local Government Act 2000 by specifying which functions:	
(a)	must not be the responsibility of the Executive ('Council functions');
(b)	may (but need not) be the responsibility of the Executive ('local choice functions');
(c)	are to some extent the responsibility of the Executive ('shared functions')
<p>The following sections set out how each of these three kinds of function will be discharged:</p> <ul style="list-style-type: none"> <li>- Responsibility for Executive Functions</li> <li>- Responsibility for Local Choice Functions</li> <li>- Responsibility for Shared Functions</li> </ul> <p>Unless reserved to the Council by law, or allocated to the Council under (b) or (c) above, all other functions are to be the responsibility of the Executive. This is a statutory requirement under section 13 of the Local Government Act 2000.</p>	



## RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

All functions other than those listed as 'Council Functions' (set out later in Part 3) will be the responsibility of the executive. Under Section 15(2) of the Local Government Act 2000, the Council may make provision that specific executive functions shall be allocated to, and discharged by:	
(a)	the executive as a whole
(b)	any individual member of the executive
(c)	a committee of the executive
(d)	any officer of the Council
At the current time no executive functions have been delegated to committees of the executive, any other authority, or any joint committee. All executive functions will be discharged by the executive as a whole, by members of the Executive in accordance with the Rules set out in Part 4 of the Constitution, or have been delegated to officers of the Council, as set out in the 'Functions Delegated to Officers' (set out later in Part 3).	
The main functions of the executive are to:	
(i)	formulate, monitor and review the budget and policy framework, following appropriate consultation, for adoption or approval by Council;
(ii)	take in-year decisions on resources and priorities; deliver and implement the approved budget and policy framework (except in relation to 'Council functions');
(iii)	take 'key decisions' on matters identified in the Notice of Forthcoming Key Decisions;
(iv)	lead the community planning process, taking measures to promote the economic, social and environmental well-being of the borough;
(v)	respond to recommendations and reports from the Council, Overview and Scrutiny Committee, the Monitoring Officer and Chief Finance Officer;
(vi)	form partnerships with public, private, voluntary and community sector organisations.
The Executive Procedure Rules, and Rules for the making of decisions by Executive Members, are set out in Part 4 of the Constitution.	



## PORTFOLIOS OF CABINET MEMBERS

<b>Cabinet Member for Community Services</b>	
<b>Key Policies:</b>	<ul style="list-style-type: none"> <li>- Borough Leisure and Arts Strategy</li> <li>- Community Safety Partnership Plan</li> <li>- Equality Policy Statement</li> <li>- Joint Health Needs Assessment for Kent</li> <li>- Open Space Strategy</li> <li>- Sustainable Community Strategy</li> <li>- Vision for Kent</li> <li>- West Kent Area Investment Framework</li> </ul>
<b>Key Tasks:</b>	To support the Leader in the development and delivery of Council policies in the following areas of responsibility:
Arts Programme	<ul style="list-style-type: none"> <li>- Provision and promotion of Borough wide arts events</li> <li>- Provision of public art</li> <li>- Partnerships</li> <li>- Support for arts marketing</li> </ul>
	<ul style="list-style-type: none"> <li>- Implementation, monitoring and future review of the Borough's Community Strategy</li> <li>- Matters related to the LA21 initiative and related annual action plans</li> <li>- Matters related to the West Kent Partnership (LSP)</li> <li>- Older persons issues</li> <li>- Rural affairs issues</li> <li>- Troubled Families programme</li> </ul>
Crime and Disorder	Implementation, monitoring and review of the:
	<ul style="list-style-type: none"> <li>- Crime and Disorder Reduction Action Plan and Control Strategy</li> </ul>
	<ul style="list-style-type: none"> <li>- Crime and Disorder Reduction Strategic and Operational Action Plans</li> </ul>
	Matters relating to the:
	<ul style="list-style-type: none"> <li>- Planning and delivery of initiatives and actions aimed at tackling crime and disorder and its causes, whether in conjunction with other partner agencies or by the Council alone</li> </ul>
	<ul style="list-style-type: none"> <li>- Tonbridge and Malling Crime and Disorder Reduction Partnership</li> <li>- management of CCTV operations</li> </ul>

Equal Opportunities	<ul style="list-style-type: none"> <li>- Promotion of equal opportunities in the delivery of Council services</li> <li>- Disability discrimination responsibilities</li> </ul>
Indoor Leisure	<ul style="list-style-type: none"> <li>- Angel Centre, Tonbridge</li> <li>- Larkfield Leisure Centre</li> <li>- Poult Wood Golf Centre, Tonbridge</li> <li>- Tonbridge Swimming Pool</li> </ul> <p><i>(NB: The Leisure Trust operates these facilities on behalf of the Borough Council)</i></p>
Older Persons	<ul style="list-style-type: none"> <li>- Maintain links with the Older Persons Forum</li> <li>- Ensuring that current and future design of service delivery has regard to the needs of older people</li> </ul>
Outdoor Leisure	<ul style="list-style-type: none"> <li>- Advisory/consultancy services on outdoor leisure and grant aid issues</li> <li>- Children's play provision</li> <li>- Country Parks and access to the countryside.</li> <li>- Grounds maintenance - Poult Wood Golf Courses and Tonbridge Cemetery.</li> <li>- Provision, development, management and maintenance of informal and formal public open spaces</li> <li>- Water recreation</li> </ul>
	<ul style="list-style-type: none"> <li>- Liaison with Cabinet Member for Technical &amp; Waste Services on street scene issues</li> </ul>
Rural Affairs	<ul style="list-style-type: none"> <li>- Matters affecting the rural parts of the Borough, including the rural economy and transport issues</li> </ul>
Tonbridge Castle	<ul style="list-style-type: none"> <li>- Allotments liaison – Tonbridge</li> <li>- Cemetery management and burial function</li> <li>- Heritage interpretation throughout the Borough.</li> <li>- Parks patrolling and security</li> <li>- Tonbridge Castle Grounds – events on public open spaces and events programme</li> <li>- Tonbridge Council Chamber Functions (e.g. weddings).</li> <li>- Tonbridge Gatehouse Exhibition</li> <li>- Tourist Information Centre.</li> <li>- Tourism and Customer Services Office</li> </ul>
Youth and Children	<ul style="list-style-type: none"> <li>- Annual programme of sports coaching and events</li> <li>- Matters related to the Children's Operational Group (COG)</li> <li>- Safeguarding and promoting the welfare of children</li> <li>- Youth activity programmes</li> <li>- Youth consultation and engagement</li> </ul>



Voluntary Sector	<ul style="list-style-type: none"> <li>- Liaison with local voluntary groups</li> <li>- Grant support to local voluntary groups</li> </ul>
General	<ul style="list-style-type: none"> <li>- Input into, and implementation of, relevant performance management matters</li> <li>- Operational and developmental matters relating to IT and e-government</li> </ul>
Liaison with the County Council and other Borough Council Portfolio Holders to ensure that service provision and activities are integrated and programmed	

<b>Cabinet Member for Economic Regeneration</b>	
<b>Key Policies:</b>	- West Kent Area Investment Framework
<b>Key Tasks:</b>	<ul style="list-style-type: none"> <li>- Attracting new business investment into the Borough</li> <li>- Encouraging and supporting growth of existing businesses</li> <li>- Engaging and listening to the local business community</li> <li>- Promoting the Borough as a popular tourism destination</li> <li>- Representing the Borough Council on the West Kent Partnership</li> <li>- Supporting local entrepreneurship</li> <li>- Working to improve the vitality of the Borough's town and local centres</li> </ul>
<b>Business Engagement</b>	<ul style="list-style-type: none"> <li>- Contribute to existing business networks and fora active in the Borough</li> <li>- Holding regular engagement events for local business</li> <li>- Support locally held business award initiatives</li> </ul>
<b>Economic Development</b>	<ul style="list-style-type: none"> <li>- Commission and fund free 1-2-1 business advice sessions</li> <li>- Commission and fund business support seminars</li> <li>- Ensure payments by the Council for services from local business are paid promptly</li> <li>- Help to foster business networking via an online business directory</li> <li>- Maximise use of the Council owned property portfolio to support local business</li> <li>- Provide on-line advice for businesses in search of funding</li> <li>- Signposting businesses to support provided by partner agencies</li> <li>- Supporting local business</li> <li>- Use the Council's own procurement processes to support local business</li> </ul>
<b>Promoting Inward Investment</b>	<ul style="list-style-type: none"> <li>- Bring forward new sites for employment use as set out in the Local Development Framework (LDF)</li> <li>- Engage with developers to ensure new employment-related development is well planned</li> <li>- Signpost to on-line advice for businesses in search of new premises/sites</li> <li>- Work with Locate in Kent to promote the take up of vacant business property</li> </ul>

Partnership Working	<ul style="list-style-type: none"> <li>- Achieve a higher economic priority for the area in relation to the wider LEP</li> <li>- Assist with the delivery of the West Kent Investment Strategy</li> <li>- Contribute to the economic work of the West Kent Partnership</li> </ul>
Rural Business Sector	<ul style="list-style-type: none"> <li>- Commission and fund support for home-based businesses</li> <li>- Commission and fund support for the land-based sector</li> <li>- Contribute to a new LEADER grant programme for the land-based sector from 2015</li> <li>- Promote the enhancement of local broadband services in areas of need</li> </ul>
Skills and Employability	<ul style="list-style-type: none"> <li>- Commission services to promote entrepreneurship in deprived communities</li> <li>- Develop and support Job Clubs in areas of particular need</li> <li>- Help promote the take up of local apprenticeships available in the Borough</li> <li>- Offer regular Borough Council apprenticeships to local young people</li> <li>- Work with Job Centre Plus and other partners to tackle local worklessness issues</li> <li>- Work with local schools and colleges to develop work-readiness skills</li> </ul>
Supporting Town Centres	<ul style="list-style-type: none"> <li>- Allocation of Innovation Fund</li> <li>- Bring forward a major redevelopment of Tonbridge Town Centre</li> <li>- Contribute to the promotional work of the Town Team in Tonbridge and in other local centres</li> <li>- Encourage the improvement of the environment and appearance of town and local centres</li> <li>- Support opportunities for additional retail activities e.g. Farmers Markets</li> <li>- Tackle the need to find new uses for empty shop premises</li> </ul>
Supporting the Tourism Sector	<ul style="list-style-type: none"> <li>- Deliver an annual programme of cultural events</li> <li>- Manage Tonbridge Castle as a key visitor attraction</li> <li>- Operate the Tourist Information Centre at Tonbridge</li> <li>- Prepare online visitor information</li> <li>- Tourism marketing</li> <li>- Work with operators to help promote cultural and entertainment events</li> <li>- Work with Visit Kent to promote the Borough's visitor attractions and accommodation</li> </ul>

General	<ul style="list-style-type: none"><li>- Input into, and implementation of, relevant performance management matters</li><li>- Operational and developmental matters relating to IT and e-government</li></ul>
Liaison with the County Council and other Borough Council Portfolio Holders to ensure that service provision and activities are integrated and programmed	

<b>Cabinet Member for Environment &amp; Climate Change</b>	
<b>Key Policies:</b>	<ul style="list-style-type: none"> <li>- Climate Change Strategy</li> <li>- Contaminated Land Inspection Strategy</li> <li>- Food Law Enforcement Plan</li> </ul>
<b>Key Tasks:</b>	To support the Leader in the development and delivery of Council policies in the following areas of responsibility:
Environmental Services	<ul style="list-style-type: none"> <li>- Abatement of nuisances</li> <li>- Air Quality</li> <li>- Animal welfare</li> <li>- Contaminated land</li> <li>- Dog control</li> <li>- Environmental Monitoring</li> <li>- Food safety</li> <li>- Noise control</li> <li>- Pest control</li> <li>- Private drains and sewers</li> <li>- Sunday trading</li> <li>- All matters relating to the management and maintenance of trees on land within the Council's ownership</li> </ul>
Climate change	<ul style="list-style-type: none"> <li>- Implementation and monitoring of the commitments and actions within the Council's Climate Change Strategy</li> <li>- Planning and delivery of initiatives and actions aimed at addressing climate change, whether in conjunction with other partner agencies or by the Council alone</li> </ul>
Street Scene	Implementation, monitoring and future review of the co-ordinated approach to achieving a cleaner, greener, smarter, better designed and maintained street scene and public open space in liaison with the Cabinet Members for Strategic Planning and Infrastructure and Community Services.

<b>Cabinet Member for Finance, Innovation and Property</b>	
<b>Key Policies:</b>	<ul style="list-style-type: none"> <li>- Annual Revenue Budget</li> <li>- Asset Management Plan</li> <li>- Capital Strategy</li> <li>- Customer Services Strategy</li> <li>- IT Strategy</li> <li>- Medium Term Financial Strategy</li> <li>- Savings and Transformation Strategy</li> <li>- Procurement Strategy</li> </ul>
<b>Key Tasks:</b>	To support the Leader in the development and delivery of Council policies in the following areas of responsibility:
Customer Services	<ul style="list-style-type: none"> <li>- Development and implementation of a Customer Services Strategy</li> <li>- Meeting the Council's targets for customer satisfaction</li> </ul>
Efficiency and Innovation	<ul style="list-style-type: none"> <li>- Assume lead role in ensuring the Council's objective of achieving excellent value for money is met</li> <li>- Identify innovations in the delivery of Council services</li> <li>- Lead on the Council's shared services agenda to reduce costs</li> <li>- Progress improved use of IT to assist users to access Council services in the manner in which they prefer</li> </ul>
Financial Responsibilities	<ul style="list-style-type: none"> <li>- Administration of Housing and Council Tax Benefits and Council Tax Reduction Scheme</li> <li>- Collection of Council Tax and Business Rates</li> <li>- Capital Planning including the management of new 'bids' and the preparation of a medium term plan</li> <li>- Day to Day financial operations, including debt recovery / management and payment of staff &amp; creditors</li> <li>- Financial management for the Council as a whole in accordance with proper practices, including the preparation of Annual Estimates &amp; the provision of medium term forecasts</li> <li>- Monitoring progress against the Savings and Transformation Strategy</li> </ul>
IT and E-Government	<ul style="list-style-type: none"> <li>- Act as the Council's E-Government Champion</li> <li>- All matters relating to Information Governance, including Data Protection and Freedom of Information</li> <li>- All strategic and corporate matters relating to IT and E-government (not within the direct purview of other portfolio holders)</li> </ul>

Non-Financial Responsibilities	<ul style="list-style-type: none"> <li>- Maintenance and improvement of Council property</li> <li>- Operational management of acquisition and disposal of land and property including leases, easements and other interests</li> <li>- Operational management of Council land and property not falling within the purview of other portfolio holders, specifically offices, depots, commercial and industrial holdings and vacant land and premises</li> <li>- Strategic management of land and property requirements, resources and allocation in line with the Asset Management Plan</li> <li>- Usage of Council offices and allocation of accommodation</li> </ul>
Procurement	<ul style="list-style-type: none"> <li>- Act as the Council's Procurement Champion</li> <li>- Development and Implementation of the Council's Procurement Strategy</li> <li>- Development and Implementation of E-procurement initiatives</li> <li>- Ensuring the Council meets the milestones contained in the National Procurement Strategy</li> </ul>
Skills, Education and Training	<ul style="list-style-type: none"> <li>- Act as the Cabinet lead member on all matters relating to skills, education and training</li> </ul>
General	<ul style="list-style-type: none"> <li>- Input into, and implementation of, relevant performance management</li> <li>- Operational and development matters relating to IT and E-Government</li> </ul>
Liaison with the County Council and other Borough Council Portfolio Holders to ensure that service provision and activities are integrated and programmed	

<b>Cabinet Member for Housing</b>	
<b>Key Policies:</b>	<ul style="list-style-type: none"> <li>- Empty Homes</li> <li>- Energy and Fuel Poverty Strategy</li> <li>- Homelessness Strategy</li> <li>- Housing Strategy</li> </ul>
<b>Key Tasks:</b>	To support the Leader in the development and delivery of Council policies in the following areas of responsibility:
Housing:	<ul style="list-style-type: none"> <li>- Empty Homes</li> <li>- Enforcement of caravan site licensing</li> <li>- Houses in Multiple Occupation (HMO)</li> </ul> <p>Liaison with:</p> <ul style="list-style-type: none"> <li>- The Cabinet Member for Strategic Planning and Infrastructure over delivery of the Council's strategic housing objectives</li> <li>- Kent County Council and other partners in delivering housing related support programmes</li> <li>- Maintaining private sector housing standards and enforcement, including the housing, health and safety rating system, disrepair and defective housing</li> </ul> <p>Overseeing:</p> <ul style="list-style-type: none"> <li>- The Council's approach to housing strategy, housing need, housing market assessment and housing investment programmes</li> <li>- The Council's enabling role and promote new affordable housing, low cost home ownership housing, key and essential worker housing and schemes for special housing needs</li> <li>- The Council's comprehensive approach to housing options advice, homeless prevention, the management of the housing register</li> <li>- The Council's approach to temporary accommodation arrangements</li> <li>- The Disabled Facilities Grant and Housing Assistance Schemes</li> </ul>
Health:	<ul style="list-style-type: none"> <li>- Represent the Borough Council on the Kent wide Health and Wellbeing Board</li> <li>- Establish effective liaison with the: <ul style="list-style-type: none"> <li>- Emerging GP Commissioning Consortia</li> <li>- Kent Community Health NHS Trust and the Maidstone and Tunbridge Wells Acute trust</li> </ul> </li> <li>- Maintain effective liaison with NHS West Kent</li> </ul>



	<ul style="list-style-type: none"> <li>- Ensure the Borough Council is well positioned to play a key role in the new Public Health agenda and to influence the Joint Health Needs Assessment</li> <li>- Health Improvement and Health Inequalities</li> <li>- Health Strategies</li> <li>- Drug Abuse and Alcohol misuse</li> <li>- Emergency Services liaison</li> </ul>
General:	<ul style="list-style-type: none"> <li>- Input into, and implementation of, relevant performance management</li> <li>- Operation and developmental matters relating to IT and E-Government</li> </ul>
Liaison with the County Council and other Borough Council Portfolio Holders to ensure that service provision and activities are integrated and programmed	

<b>Cabinet Member for Strategic Planning and Infrastructure</b>	
<b>Key Policies:</b>	<ul style="list-style-type: none"> <li>- Local Plan/Local Development Framework</li> <li>- Local Transport Plan for Kent</li> </ul>
<b>Key Tasks:</b>	To support the Leader with the development and delivery of Council policies in the following areas of responsibility:
Building Control	<ul style="list-style-type: none"> <li>- Improvement of operating and customer service systems</li> <li>- Marketing and competition review</li> <li>- Overall direction and approach</li> <li>- Performance monitoring and review of resources and business throughput</li> </ul>
Development Control	<ul style="list-style-type: none"> <li>- An overview of major planning proposals and development implementation issues</li> <li>- Championing design quality and heritage conservation</li> <li>- Improvement of operating and customer service systems</li> <li>- Performance monitoring, review and resources</li> <li>- Planning enforcement - overview of performance, resources and priorities</li> <li>- Production of design and procedural guidance</li> </ul>
Infrastructure Policy and Programming	<ul style="list-style-type: none"> <li>- Involvement in major regional transport projects (including road improvement, rail investment, airport policy)</li> <li>- Input to Kent's Local Transport Plan</li> </ul> <p>Liaison with:</p> <ul style="list-style-type: none"> <li>- key infrastructure providers in the health, utilities, education and other community services sectors</li> <li>- statutory agencies and local organisations on matters including policy and protection of natural resources, flood mitigation and countryside protection</li> <li>- Local transport projects (including Tonbridge transport strategy, A228/A20 corridor, Tonbridge station improvement)</li> <li>- Public transport initiatives (bus priority measures, Medway valley line)</li> </ul>
Technical Services Projects	<ul style="list-style-type: none"> <li>- Co-ordination of projects to improve transportation facilities in the borough</li> <li>- Evaluation, design, programming, consultation and implementation of projects in the Council's Capital Plan</li> <li>- Emergency readiness and response</li> <li>- Land drainage and flood attenuation measures</li> </ul>

	<ul style="list-style-type: none"> <li>- Liaison with the County Council on its provision of highway maintenance in the borough and the promotion of enhanced highway services</li> <li>- Overall monitoring and review of the Borough Council's relationship with the Kent Highways Service, Environment Agency and other agencies</li> <li>- Promotion of traffic management, highway improvement and related projects for inclusion in the County Council's small improvements programme</li> <li>- The preparation and delivery of environmental improvement and enhancement schemes</li> <li>- The provision of an in-house technical consultancy service</li> <li>-</li> </ul>
Planning Policy	<ul style="list-style-type: none"> <li>- Conservation Area and Character Area appraisals and improvement schemes</li> <li>- Countryside planning and transport initiatives</li> <li>- Liaison with the Cabinet Member for Housing over delivery of the Council's Strategic Housing Objectives</li> </ul> <p>Overseeing:</p> <ul style="list-style-type: none"> <li>- changes to planning policy and practice arising from the new and emerging legislation, the National Policy Framework and other policy announcements</li> <li>- of Neighbourhood Planning initiatives and Village Design statements</li> <li>- the strategy and planning for meeting the development needs of the Borough</li> <li>- Preparation of development briefs</li> <li>- Preparation and review of the Local Plan/Local Development Framework</li> <li>- Regeneration and development of Tonbridge Town Centre</li> <li>- The preparation of an Infrastructure Plan and Community Infrastructure Levy, in liaison with other Cabinet Members</li> </ul>
General	<ul style="list-style-type: none"> <li>- Input into, and implementation of, relevant performance management</li> <li>- Operational and developmental matters relating to IT and E-government</li> <li>- To determine all issues relating to street naming and numbering.</li> </ul>
Liaison with the County Council and other Borough Council Portfolio Holders to ensure that service provision and activities are integrated and programmed	

<b>Cabinet Member for Technical &amp; Waste Services</b>	
<b>Key Policies:</b>	<ul style="list-style-type: none"> <li>- Car Parking Action Plan</li> <li>- Joint Municipal Waste Strategy</li> <li>- Kent Resource Partnership Strategy</li> <li>- Sustainable Community Strategy</li> </ul>
<b>Key Tasks (1):</b>	To support the Leader in the development and delivery of Council policies in the following areas of responsibility:
Car Parking	<ul style="list-style-type: none"> <li>- Car parking income</li> <li>- Design, consultation and implementation of a car parking action plan</li> <li>- Management and maintenance policy for the off-street car parks</li> <li>- Parking enforcement</li> <li>- Parking reviews</li> <li>- Review and management of the on-street parking regime including enforcement procedures</li> <li>- To promote Traffic Regulation Orders</li> </ul>
Waste	<ul style="list-style-type: none"> <li>- Abandoned cars</li> <li>- Fly tipping</li> <li>- Graffiti removal</li> <li>- Litter control</li> <li>- Public conveniences</li> <li>- Recycling</li> <li>- Refuse collection</li> <li>- Street cleansing</li> </ul>
General	<ul style="list-style-type: none"> <li>- Input into, and implementation of, relevant performance management and Best Value matters</li> <li>- Operational and developmental matters relating to IT and E-government</li> </ul>
Liaison with the County Council and other Borough Council Portfolio Holders to ensure that service provision and activities are integrated and programmed	
<b>Key Tasks (2):</b>	To represent the Council on the Kent Resource Partnership

## 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**

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

<b>Title:</b>	Tonbridge Community Forum (previously Tonbridge Forum) [P]
<b>Membership:</b>	15 Members representing Tonbridge wards; not politically balanced.
<b>Quorum:</b>	N/A
<b>Terms of Reference:</b>	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**

<b>Title</b>	<b>Terms of reference</b>	<b>Membership</b>
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"> <li>- capital and revenue funded works programmes within limits set by the KCC Executive</li> <li>- the Highway Unit's Annual Business Plan</li> </ul> <p>To advise the TMBC Executive on:</p> <ul style="list-style-type: none"> <li>- Any decisions to be taken by the Executive in relation to functions delegated to TMBC under the agreement</li> <li>- Parking orders, taxi rank locations and street management schemes (management schemes do not include street trading consents)</li> </ul> <p>And to:</p>	Membership and Chair alternating between KCC and TMBC

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

<b>1.</b>	<b>Area Planning Committees</b>	
<b>Size and Membership:</b>		
Area 1 Planning Committee	To consist of the members elected for the following wards:  Cage Green; Castle; Hadlow & East Peckham; Higham; Hildenborough; Judd; Medway; Trench; and Vauxhall	
Area 2 Planning Committee	To consist of the members elected for the following wards:  Borough Green & Long Mill; Downs & Mereworth; Hadlow & East Peckham; Kings Hill; Wateringbury; West Malling & Leybourne; Wrotham; Ightham & Stansted	
Area 3 Planning Committee	To consist of the members elected for the following wards:  Aylesford North & Walderslade; Aylesford South; Burham, and Wouldham; Ditton; East Malling; Larkfield North; Larkfield South; Snodland East & Ham Hill; and Snodland West & Holborough Lakes	

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

(Quorum: 4 Members of the individual Planning Committee)

**Terms of Reference:**

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.

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.

These functions shall include (but are not restricted to):

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.	
<b>Highways Use and Regulation</b>		
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	

<b>2.</b>	<b>Audit Committee</b>
<b>Size and Membership:</b>	
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)	
<b>Terms of Reference:</b>	
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.
<b>Corporate Governance Framework</b>	
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.
<b>Accounts</b>	
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.
<b>Treasury Management</b>	
21.	To consider reports on Treasury Management Activity and the formulation of the Treasury Management and Annual Investment Strategy

<b>3.</b>	<b>General Purposes Committee</b>
<b>Size and Membership:</b>	
To consist of 14 members and it shall be politically balanced  (Quorum: 4 Members of the Committee)	
<b>Terms of Reference:</b>	
<ul style="list-style-type: none"> <li>- Byelaws</li> <li>- Elections</li> <li>- Employment</li> <li>- Health and Safety</li> <li>- Local or Personal Bills</li> <li>- Miscellaneous Functions</li> <li>- Name and Status of areas and individuals</li> <li>- Pensions</li> <li>- Standards</li> </ul>	
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.

<b>4.</b>	<b>Joint Standards Committee</b>
The Council has established a Joint Standards Committee with all of the Parish Councils within the Borough.	
<b>Size and Membership:</b> (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).	
<b>Terms of Reference:</b>	
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.

<b>5.</b>	<b>Licensing and Appeals Committee</b>
<b>Size and Membership:</b>	
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.	
<b>Terms of Reference:</b>	
<b>Licensing and registration</b>	
(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
<b>Determination of Appeals</b>	
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"> <li>- 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.</li> <li>- Licences for houses in multiple occupation under the Housing Act 2004 (where objections made).</li> <li>- Scrap metal dealing under the Scrap Metal Dealers Act 2013</li> </ul> <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.

<b>5.1</b>	<b>Panels of the Licensing and Appeals Committee dealing with Alcohol and Entertainments and Gambling Licensing</b> <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

<b>6.</b>	<b>Overview and Scrutiny Committee</b>
<b>Size and Membership:</b> (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.	
<b>Terms of Reference:</b>	
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.

<b>Specific Functions:</b>	
<b>Policy Development and Review</b>	
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;
<b>Scrutiny</b>	
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).

<b>Finance</b>	
20.	The Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to it
<b>Annual Report</b>	
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.
<b>Officers</b>	
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.	



## Scrutiny Select Committees – Membership and Terms of Reference

<b>Title:</b>	<b>Communities and Environment Scrutiny Select Committee</b>
<b>Membership:</b>	15 Members
<b>Quorum:</b>	4 Members
<b>Terms of Reference:</b>	
<b>Communities</b>	
Community Safety initiatives	
Environmental Strategy	
Matters related to: <ul style="list-style-type: none"> <li>- The West Kent Partnership (LSP)</li> <li>- LA21</li> <li>- Climate Change</li> </ul>	
Implementation, monitoring and future review of the: <ul style="list-style-type: none"> <li>- Borough's Sustainable Community Strategy</li> <li>- Community Safety Strategy</li> </ul>	
Liaison with local voluntary groups	
Grant support to local voluntary groups	
Take a strategic view of issues affecting: <ul style="list-style-type: none"> <li>- rural parts of the Borough; including the work of the Medway Valley Countryside Partnership, and make appropriate recommendations to the Executive and other agencies</li> <li>- older persons within the Borough, including assessing the impact of the projected increase in the number of older persons, and make appropriate recommendations to the Executive and other agencies</li> </ul>	
Public Health strategies and actions	
Health improvement and health inequalities strategies	
Strategies and actions for tackling youth related drug problems	

<b>Leisure</b>	
Provision, development, management and maintenance of informal and formal public open spaces	
Larkfield Leisure Centre	<i>NB: The Tonbridge &amp; Malling Leisure Trust operates these facilities on behalf of the Borough Council</i>
Angel Centre, Tonbridge	
Tonbridge Swimming Pool	
Poult Wood Golf Centre, Tonbridge	
Leybourne Lakes Country Park	
Grounds Maintenance – Tonbridge Cemetery	
Children’s play provision	
Country Parks and access to the countryside	
Advisory and/or consultancy services on outdoor leisure and grant aid issues	
Water recreation	
Annual programme of sports coaching	
Parks patrolling and security	
Allotments liaison – Tonbridge	
Cemetery management and burial function	
Provision and promotion of Borough wide arts events	
Provision of public art	
Partnerships	
Support for arts marketing	
Tonbridge Gatehouse Exhibition	
Tonbridge Council Chamber functions (e.g. weddings)	
Tonbridge Castle Grounds – events programme	
Heritage interpretation throughout the Borough	

Youth Development Plan	
Youth activity programmes	
Youth consultation and engagement	
Young Achievers Award	
To advise the Council in respect of its twinning links with Le Puy-en-Velay and Heusenstamm and generally to promote twinning within the Borough.	
<b>Environment</b>	
Abandoned vehicles	Litter control
Animal welfare	Noise control
Air quality	Pest control
Climate Change	Private drains and sewers
Contaminated land	Public health and control of nuisances
Dog control	Public conveniences
Environment	Recycling
Environmental monitoring	Refuse collection
Fly-tipping	Street name signage maintenance
Fly-posting	Street cleansing
Food safety	Sunday trading
Graffiti removal	Verge/grass cutting
Health and safety at work	
CCTV operations	
Civil contingencies/ Emergency readiness and response	
Design, consultation and implementation of car parking action plan	

Engage with businesses to ensure compliance with food hygiene regulations
Kent Resource Partnership
Land drainage and flood attenuation
Management and maintenance policy for the off-street car parks
Matters relating to the development and delivery of co-ordinated street scene services, including partnership working with KCC Highways and other external bodies
Overall monitoring of the transport and highway activities including improvement programmes, street signage
Promotion of traffic management highway improvement and crash remedial schemes and works
Review and management of the on-street parking regime including enforcement procedures
The annual review of the charging structure for public car parking in the Borough

<b>Title:</b>	<b>Finance, Regeneration &amp; Property Scrutiny Select Committee</b>
<b>Membership:</b>	15 Members
<b>Quorum:</b>	4 Members
<b>Regeneration</b>	
Attracting new business investment into the Borough	
Encouraging and supporting growth of existing businesses	
Engaging and listening to the local business community	
Promoting the Borough as a popular tourism destination/Tourism marketing	
Representing the Borough Council on the West Kent Partnership	
Supporting local entrepreneurship	
Working to improve the vitality of the Borough's town and local centres	
<b>Economic Development Tasks</b>	
Commission and fund: <ul style="list-style-type: none"> <li>- Business support seminars</li> <li>- Free 1-2-1 business advice sessions</li> </ul>	
Ensure payments by the Council for services from local business are paid promptly	
Help to foster business networking via an online business directory	
Maximise use of the Council's own property portfolio to support local business	
Provide on-line advice for businesses in search of funding	
Signposting businesses to support provided by partner agencies	
Supporting Local Business	
Use the Council's own procurement processes to support local business	
<b>Business Engagement</b>	
Contribute to existing business networks and fora active in the Borough	

Holding regular engagement events for local business
Receive and act upon feedback from local businesses
Support locally held business award initiatives
<b>Promoting Inward Investment</b>
Promote, support and bring forward new sites for employment use
Engage with developers to ensure new employment-related development is well planned
Signpost to on-line advice for businesses in search of new premises/sites
Work with Locate in Kent to promote the take up of vacant business property
<b>Partnership Working</b>
Achieve a higher economic priority for the area in relation to the wider LEP
Assist with the delivery of the West Kent Investment Strategy
Contribute to the economic work of the West Kent Partnership
<b>Rural Business Sector</b>
Commission and fund support for: <ul style="list-style-type: none"> <li>- home-based businesses</li> <li>- the land-based sector</li> </ul>
Matters related to Farmers' Markets
Promote the enhancement of local broadband services in areas of need

<b>Skills and Employability</b>
Commission services to promote entrepreneurship in deprived communities
Develop and support Job Clubs in areas of particular need
Help promote: <ul style="list-style-type: none"> <li>- the take up of local apprenticeships available in the Borough</li> <li>- work experience opportunities for young people with local businesses</li> </ul>
Offer regular Borough Council apprenticeships to local young people
Work with Job Centre Plus and other partners to tackle local worklessness issues
Work with local schools and colleges to develop work-readiness skills
<b>Supporting Town Centres</b>
Allocation of Innovation Fund
Contribute to the promotional work of the Town Team in Tonbridge and in other local centres
Encourage the improvement of the environment and appearance of town and local centres
Support a major redevelopment of Tonbridge Town Centre
Support opportunities for additional retail activities e.g. Farmers Markets
Tackle the need to find new uses for empty shop premises
<b>Supporting the Tourism Sector</b>
Deliver an annual programme of cultural events
Manage Tonbridge Castle as a key visitor attraction
Operate the Tourist Information Centre at Tonbridge
Prepare online visitor information
Work with operators to help promote cultural and entertainment events
Work with Visit Kent to promote the Borough's visitor attractions and accommodation

<b>Finance</b>
Administration of Housing & Council Tax Benefits and Council Tax Reduction Scheme
Annual Estimates & the provision of medium term forecasts
All strategic and corporate matters relating to Information Technology and E-government (not within the direct purview of other portfolio holders)
Capital Planning including the management of new 'bids' and the preparation of a medium term plan
Collection of Council Tax and Business Rates
Day to Day financial operations, including debt recovery / management and payment of staff & creditors
Developing shared service arrangements
Development of the Council's procurement strategy
Financial management for the Council as a whole in accordance with proper practices, including the preparation of annual estimates and the provision of medium term forecasts
<b>Property</b>
Operational management of acquisition and disposal of land and property including leases, easements and other interests
Maintenance and improvement of Council property
Operational management of Council land and property not falling within the purview of other portfolio holders, specifically offices, depots, commercial and industrial holdings and vacant land and premises
Strategic management of land and property requirements, resources and allocation in line with the Asset Management Plan
Usage of Council offices and allocation of accommodation
<b>Customer Services</b>
Meeting the Council's targets for customer satisfaction



Development of a corporate customer charter
Development and implementation of a customer contact strategy encompassing a range of access channels including face-to face, telephone, website, letters and text messaging
<p>To consider:</p> <ul style="list-style-type: none"> <li>- VFM (Value for Money) and Performance Reviews</li> <li>- Service delivery improvement for customers in support of the Council's Diversity Policy and Equality Act requirements in consultation with service users</li> <li>- Options for local service delivery across the Borough in response to identified need</li> </ul>
All matters relating to Data Protection and Freedom of Information
Personnel issues that do not fall within the purview of the General Purposes Committee
Matters relating to skills education and training

<b>Title:</b>	Housing and Planning Scrutiny Select Committee
<b>Membership:</b>	15 Members
<b>Quorum:</b>	4 Members
<b>Terms of Reference:</b>	
<b>Planning</b>	
Conservation Area and Character Area appraisals and improvement schemes	
Countryside planning and transport initiatives	
Design and procedural guidance	
Evaluation, programming, consultation and implementation of projects on the Council's capital plan	
Improvement of operating systems	
Input into Regional Transport Strategy	
Liaison with the Cabinet Member for Housing over delivery of the Council's Strategic Housing Objectives	
Local transport projects (such as Tonbridge Transport Strategy, A228/A20 corridor, West Malling station)	
Major regional projects (e.g., A21, Rail Investment)	
Neighbourhood Plans/Village design statements	
Performance monitoring and review	
Planning enforcement - overview of performance, resources and priorities	
Preparation of development briefs	
Preparation of the statutory Development Plan (as defined in s.38 Planning and Compulsory Purchase Act 2004)	
Public transport initiatives (bus priority measures, Medway valley line)	

<b>Housing</b>
<p>To oversee the Council's:</p> <ul style="list-style-type: none"> <li>- approach to Housing strategy, housing need and housing market assessment and housing investment programmes</li> <li>- Enabling role and promote new affordable housing, low-cost home ownership housing, key and essential worker housing and schemes for special housing needs</li> <li>- Comprehensive approach to housing options advice, homeless prevention, the management of the housing register</li> <li>- Approach to temporary accommodation arrangements</li> <li>- Disabled Facilities Grant and Housing Assistance Schemes</li> </ul>
Liaison with the Cabinet Member for Strategic Planning & Infrastructure over delivery of the council's strategic housing objectives
Empty Homes
Liaison with Kent County Council and other partners in delivering housing related support programme
Enforcement of caravan site licensing
The Council's functions in home safety, energy efficiency, fuel poverty
Maintaining private sector housing standards and enforcement, including the housing, health and safety rating system, disrepair and defective housing
Houses in multiple occupation (HMO)



## RESPONSIBILITY FOR 'LOCAL CHOICE' FUNCTIONS

FUNCTION		DECISION-MAKING BODY	FUNCTION DELEGATED TO
Any function under a local Act		Council	Officers of the Council
The determination of an appeal against any decision made by or on behalf of the Council		Council	Licensing and Appeals Committee
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area		Council	Director of Planning, Housing and Environmental Health
The appointment of any individual:		Council	
(a)	to any office other than an office in which they are employed by the authority;		
(b)	to anybody other than (i) the authority (ii) a joint committee of two or more authorities; or		
(c)	to any committee or sub-committee of such a body; and the revocation of any such appointment		
Any function relating to contaminated land		Executive	Director of Planning, Housing and Environmental Health
The discharge of any function relating to the control of pollution or the management of air quality		Executive	Director of Planning, Housing and Environmental Health

The service of an abatement notice in respect of a statutory nuisance	Executive	Director of Planning, Housing and Environmental Health
The inspection of the authority's area to detect any statutory nuisance	Executive	Director of Planning, Housing and Environmental Health
The investigation of any complaint as to the existence of a statutory nuisance	Executive	Director of Planning, Housing and Environmental Health
The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Executive	Director of Central Services & Deputy Chief Executive
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Executive	All Chief Officers of the Council
The making of agreements with other authorities for the placing of staff at the disposal of those other authorities	[Executive]	[All Chief Officers of the Council]

**Note:** Details of functions delegated to officers of the Council are set out in the section 'Functions Delegated to Officers'.

## RESPONSIBILITY FOR SHARED FUNCTIONS

### (Policy Framework)

FUNCTIONS	RESPONSIBLE BODY
Preparation of the Council's Plans and Strategies which together comprise the:	
Community Safety Partnership Plan	The executive will be responsible for preparing the draft Plans/Strategies and submitting them to Council
Corporate Strategy	
Development Plan	
Equality Policy Statement	Council will be responsible for approving and adopting the final Plans/Strategies
Health and Safety Policy	
Pay Policy Statement	





## FUNCTIONS AND POWERS DELEGATED TO OFFICERS

<b>1.</b>	<b>TERMINOLOGY:</b>	
<p>The use of the word “officers” means all employees and staff engaged by the Council to carry out its functions. This word is also used instead of “employees” to cover those engaged under short term, agency or other non-employed situations.</p>		
<b>General:</b>		
<p>The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. The appointment of staff is a non-executive responsibility. Statutory requirements relating to the employment of officers are set out in the Officer Employment Procedure Rules in Part 4 of this Constitution. Appointment of staff below chief officer level must be the responsibility of the Head of Paid Service or their nominee.</p>		
<b>Management Structure:</b>		
<p>The Council’s management structure is headed by the Chief Executive, who has overall management responsibility to the Council for the management of its affairs. The Chief Executive is the Returning Officer for District Council elections.</p>		
<p>Below the Chief Executive are several groups of services:</p>		
<b>Service:</b>	<b>Headed by:</b>	
Executive	Chief Executive	
Planning, Housing and Environmental Health	Director of Planning, Housing and Environmental Health	
Central Services	Director of Central Services & Deputy Chief Executive	
Financial and IT	Director of Finance and Transformation	
Street Scene, Leisure and Technical	Director of Street Scene, Leisure and Technical Services	
<p>The Chief Executive and the four Directors make up the Council’s Management Team. The Management Team, led by the Chief Executive, is responsible for co-ordinating the corporate management of the authority.</p>		



## 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"> <li>- Community and Safety</li> <li>- Customer Services</li> <li>- Land Charges</li> <li>- Legal and Democratic Services</li> <li>- Licensing Services</li> <li>- Media and Communication</li> <li>- Personnel, Training and Development</li> <li>- Property Services</li> <li>- Public Rights of Way</li> </ul>

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"> <li>- Accountancy</li> <li>- Benefits</li> <li>- Council Tax/Business Rates</li> <li>- Exchequer Services</li> <li>- Internal Audit</li> </ul>
	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"> <li>- Building Control</li> <li>- Development Control</li> <li>- Environmental Health</li> <li>- Environmental Strategy/Local Agenda 21</li> <li>- Housing</li> <li>- Planning Policy &amp; Transportation</li> </ul>
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"> <li>- CCTV</li> <li>- Indoor Leisure Facilities (Leisure Trust)</li> <li>- Leisure Development (sports, arts, tourism, events)</li> <li>- Outdoor Leisure Facilities</li> <li>- Refuse Collection/Recycling</li> <li>- Street cleansing</li> <li>- Traffic Management &amp; Car parking</li> </ul>

### 3. SERVICE RESPONSIBILITIES

Service responsibilities are shown in the following table(s):

<b>Executive Services</b>	
Complaints	Corporate Co-ordination
Economic Development and Regeneration	Electoral Registration and Elections
Modernisation of Local Government (including Community Strategy)	Policy Development
<b>Central Services</b>	
Building Maintenance	Caretaking and Office Cleaning
Consumer and Community Research	Contracts Advice
Corporate Support for Performance Management	Community Safety
Customer Services at: <ul style="list-style-type: none"> <li>- Kings Hill</li> <li>- Tonbridge Area Office; and</li> <li>- Village surgeries</li> </ul>	Data Protection
Democratic Services	Facilities Management
Freedom of Information	Implement Customer Contact Strategy
Land and Premises Management	Legal Services
Licensing	Local Land Charges
Mayor's Office	Media and Publicity
Members' Allowances	Organisational Improvement and Development
Personnel	Printing and Reprographics
Property Acquisition and Disposal	Public Rights of Way
Service delivery for customers with special needs	Training and Development

<b>Finance and Transformation</b>	
Accountancy and Financial Advice	Administration of Insurances
Business Rates	Cash flow and investment management
Central purchasing of IT	Council Tax
Corporate finance, advice and guidance	Corporate overview of Finance and Information Technology
Fraud Prevention	Housing and Council Tax Support
Income Services	Internal Audit
Installation, support and maintenance (IT)	IT infrastructure
Payroll	Purchases & Credit Sales Management
Systems development and implementation	
<b>Planning, Housing and Environmental Health Services</b>	
Building Control	Conservation Areas and Listed Buildings
Dangerous Structures	Development Control
Energy Efficiency Advice	Food Hygiene and Safety
Forward Planning and the Local Development Framework	Health and Safety (including employer responsibility)
Homelessness and Housing Advice	Home Improvements Agency
Housing Strategy/Projects/Affordable Housing	Pest control
Pollution Control and environmental monitoring	Private Sector Housing initiatives and enforcement
Public Health and health promotion	

<b>Street Scene, Leisure and Technical Services</b>	
Allotments	Arts programme
Car parking management and enforcement management	CCTV development and management
Client Management of grounds maintenance	Client Management of indoor leisure facilities
Civil contingencies	Co-ordination of street scene services
Country Parks (Leybourne and Haysden)	Countryside and woodland management
Environmental enhancement and engineering projects	Land drainage
Leisure Strategy	Public conveniences
Public Open Spaces and Sports Grounds	Refuse collection
Responsible dog ownership and dog warden services	Sports development
Street cleansing/litter abatement	Summer play scheme
Tonbridge cemetery and churchyards	Tourism and Promotion
Twinning	Waste reduction and recycling
Youth Development	
<p>The duties of Directors also include effective corporate and strategic management of the Council through collaborative working with councillors, other chief officers, and partners. The number of chief officers and their functions/responsibilities may change from time to time to reflect the needs of the Council and the skills and experience of the individuals concerned.</p>	





#### 4. FUNCTIONS OF STATUTORY OFFICERS:

The Council has designated the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Director of Central Services and Deputy Chief Executive	Monitoring Officer
Director of Finance and Transformation	Chief Finance Officer
Such posts will have the functions described below. These are the 'statutory officers' referred to throughout this Constitution.	

##### **Functions of the Head of Paid Service**

The Head of Paid Service shall undertake all duties designated under section 4 of the Local Government and Housing Act 1989.	
(a)	<b>Discharge of functions by the Council:</b>
The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.	
(b)	<b>Restrictions on functions:</b>
The Head of the Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if a qualified accountant.	

##### **Functions of the Monitoring Officer:**

The Monitoring Officer shall undertake all duties designated under section 5 of the Local Government and Housing Act 1989.	
(a)	<b>Maintaining the Constitution:</b>
The Monitoring Officer will maintain an up- to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.	
(b)	<b>Ensuring Lawfulness and Fairness of Decision Making:</b>
After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive function if it is considered that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will	

have the effect of stopping the proposal or decision being implemented until the report has been considered.	
(c)	<b>Supporting the Joint Standards Committee:</b>
The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Joint Standards Committee.	
(d)	<b>Conducting Investigations:</b>
The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.	
(e)	<b>Proper Officer for Access to Information:</b>
The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.	
(f)	<b>Advising whether Executive Decisions are within the Budget and Policy Framework:</b>
The Monitoring officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.	
(g)	<b>Providing Advice:</b>
The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.	
(h)	<b>Keeping Registers:</b>
<p>The Monitoring Officer will keep the following registers for members of the Council:</p> <ul style="list-style-type: none"> <li>- declarations of acceptance of office;</li> <li>- declarations of disclosable pecuniary and other interests;</li> <li>- declarations of gifts and hospitality received;</li> <li>- notifications made to the Chief Executive of the constitution, change of membership or cessation of a political group; and</li> </ul> <p>the following registers for members of town and parish councils:</p> <ul style="list-style-type: none"> <li>- declarations of disclosable pecuniary and other interests</li> </ul>	
(i)	<b>Restrictions on Posts:</b>
The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.	

### **Functions of the Chief Finance Officer**

<b>(a)</b>	<b>Ensuring Lawfulness and Financial Prudence of Decision Making:</b>
After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if it is considered that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.	
<b>(b)</b>	<b>Administration of Financial Affairs:</b>
The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.	
<b>(c)</b>	<b>Contributing to Corporate Management:</b>
The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.	
<b>(d)</b>	<b>Providing Advice:</b>
The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.	
<b>(e)</b>	<b>Give Financial Information:</b>
The Chief Finance Officer will provide financial information to the media, members of the public and the community.	
<b>(f)</b>	<b>Restrictions on Posts:</b>
The Chief Finance Officer cannot be the Monitoring Officer.	

### **Duty to provide sufficient resources to the Head of the Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will provide the Head of the Paid Service, Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in its opinion sufficient to allow their duties in such designated roles to be performed.

### **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

<b>Employment</b>	
(a)	The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.
(b)	All officers shall be appointed on merit in accordance with Section 7 of the Local Government and Housing Act 1989.

## 5. FUNCTIONS DELEGATED TO OFFICERS:

1.	<p>In order to be able to carry out its functions effectively, authority is granted to the following list of officers (subsequently referred to as Chief Officers) to act on behalf of the Council in relation to routine matters of management and administration of their own service areas:</p> <ul style="list-style-type: none"> <li>- Chief Executive</li> <li>- Director of Finance and Transformation</li> <li>- Director of Central Services &amp; Deputy Chief Executive</li> <li>- Director of Planning, Housing and Environmental Health</li> <li>- Director of Street Scene, Leisure &amp; Technical Services</li> </ul>
1.1	<p>Additionally, authority to act on behalf of the Council is detailed in the following paragraphs and in the specific delegations to Chief Officers.</p>
2.	<p>Chief Officers will exercise their delegated powers subject to the following conditions and reservations:</p>
2.1	<p>If a matter which the Chief Officer would normally deal with under delegated authority is in their opinion likely to give rise to unusual difficulty or controversy, they should refer it for consultation with, or determination by, the Executive, an individual Executive Member or to the appropriate Committee or Sub-Committee.</p>
2.2	<p>In using their delegated authority, Chief Officers must conform with specific instructions of the Council and with the requirements of the Council's Constitution, including the Financial Procedure Rules and the Contracts Procedure Rules.</p>
2.3	<p>Chief Officers shall not incur expenditure for which provision has not been made in the Council's annual estimates or reduce income for which provision has also been made in the estimates. Similarly, expenditure should not be incurred even though provision has been made in the estimates if in doing so, income which was expected is no longer to be received, except in the circumstances set out in 2.4 below:</p>
2.4	<p>(Subject to the agreement of the Director of Finance &amp; Transformation) Chief Officers may incur additional expenditure where provision has not been made in the annual estimates subject to the expenditure being anticipated to be wholly offset by additional income and not adversely affecting other areas of the Council's budget.</p>
2.5	<p>Before exercising their delegated powers, Chief Officers shall consult with any other Chief Officers who may be affected by the decision or where they consider that it would be beneficial to do so. In particular where any decision is likely to have financial or legal consequences for the Council, Chief Officers will consult the Director of Finance &amp; Transformation and the Director of Central Services &amp; Deputy Chief Executive before taking any decision.</p>

2.6	<p>All delegated powers will be exercised in the name of the Chief Officer concerned.</p> <p>A Chief Officer shall designate an appropriate officer to deputise for them during their absence or indisposition and shall notify the Chief Executive, Director of Finance &amp; Transformation and Monitoring Officer of all such authorisations. The Chief Executive shall advise members of any authorisation received.</p> <p>In addition, a Chief Officer may authorise other officers to exercise powers on their behalf, either generally or in respect of specific matters.</p> <p>Each Chief Officer shall maintain a written record of any officers who have been authorised to exercise powers on their behalf, indicating in each case whether such authorisation is made generally or in respect of specific matters.</p>
2.7	<p>Except where specific provision is made by legislation or by resolution of the Council, the Chief Officers are appointed to be the Proper Officers in respect of any legislation falling within the purview of their respective Services.</p> <p>Each Chief Officer shall maintain a written record of their Proper Officer functions and of any officers who have been appointed to deputise for them, indicating in each case whether such appointment is made generally or in respect of specific matters.</p>
3	<p>Where a Chief Officer has a conflict of interest in respect of a particular matter, or in respect of another matter which relates to it, whether arising in a professional or a personal capacity, they shall immediately delegate their responsibilities in respect of that matter to another officer and shall have no further involvement in the matter.</p>
3.1	<p>The officer to whom a matter is delegated under paragraph 3 shall (subject to the provisions of the Council's Constitution) be entitled, in respect of that matter, to exercise all of the functions of the Chief Officer.</p>
3.2	<p>Where a Chief Officer makes such a delegation, written notice will be given to the Chief Executive, to the Director of Finance &amp; Transformation, to the Monitoring Officer and to the officer to whom the delegation has been made. The Monitoring Officer shall keep a permanent record of such delegations.</p>
<b>Note:</b>	
C	Delegations marked 'C' are delegated by Council
E	Delegations marked 'E' are delegated by the Executive
C/E	Delegations marked 'C/E' are delegated by both Council and the Executive

## All Chief Officers

CO 100	<p>To recruit staff within the establishment of their Services and to appoint temporary staff, subject to concurrence of Management Team.</p> <p>Permanent appointments are to be within the established salary of the post and otherwise in accordance with good personnel practice. All advertisements to be placed through the Director of Central Services &amp; Deputy Chief Executive.</p>	E
CO 101	In consultation with the Director of Central Services & Deputy Chief Executive, to authorise in appropriate cases the payment of relocation and removal expenses to applicants appointed to posts with the Council, in accordance with the Council's Relocation Assistance Scheme and Mortgage Subsidy Scheme.	E
CO 102	In consultation with the Director of Central Services & Deputy Chief Executive, to approve absences and expenditure for staff training including attendance at conferences in accordance with the Council's scheme.	E
CO 103	In consultation with the Director of Central Services & Deputy Chief Executive, to authorise payment of professional fees in accordance with the Council's scheme.	E
CO 104	To approve payment of merit increments to staff passing the whole or a defined part of an examination or attaining a full professional qualification relative to their training and employment or for exceptional performance of duties.	E
CO 105	Subject to Management Team approval, to allocate car allowances and/or leased car facilities to members of staff required to use their own car on official business.	E
CO 106	Provision and renewal of plant and equipment, provided that it is included in annual estimates or Capital Plan.	E
CO 107	Subject to concurrence of the Director of Finance & Transformation, to approve departures from the approved schedule of renewals to a limit of £20,000 where urgent operational circumstances dictate that it is appropriate to do so.	E

CO 108	To purchase items of information systems and technology not exceeding £5,000, subject to:  (a) consultation with IT Manager; (b) purchase being in accordance with the agreed strategy policy and standards; and (c) within the Chief Officer's budget allocation	E
CO 109	To deal with all matters related to pension entitlements on transfer to other duties; early retirement on grounds of ill health or as a result of redundancy; or as otherwise prescribed by the Pensions Legislation and Regulations or other termination by reason of redundancy; and to provide certificates and authorisations on behalf of the Borough Council. Ill health retirements for employees with salaries in excess of £30,000 may only be granted in consultation with the Director of Finance & Transformation and Director of Central Services & Deputy Chief Executive.	E
CO 110	Subject to approval of Management Team, to vary the internal progression requirements of career grade.	E
CO 111	Subject to approval of Management Team, to award honoraria in respect of exceptional performance.	E
CO 112	To authorise overtime, shift and other payments as appropriate.	E
CO 113	To serve requisitions for information under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 in respect of matters falling within their Service areas.	E
CO 114	To appoint officers within their respective services as 'Authorised Officers' for the purposes of any legislation falling within the Borough Council (subject to ensuring that the officer(s) for the specific purpose(s) in question are qualified and have had appropriate training to effectively discharge the function).	E



**Chief Executive**

CEX 100	To review and administer the Council's scheme for the allocation and control of car allowances to Council employees.	E
CEX 101	To determine whether posts falling vacant should be eligible for a car allowance.	E
CEX 102	To determine re-gradings for non-M grade staff of not more than one grade providing such re-grading does not take the post into the M grades.	E
CEX 103	To have control of the Council's Building Repairs Reserve and to manage its Expenditure Plan in accordance with Council policy.  Management for this purpose includes the redirection of resources within the current Expenditure Plan total and provision for specific premises shall not be treated as individual budget items.	E
CEX 104	To co-ordinate the discharge of the Council's duties in respect of the following policies and strategies:  <ul style="list-style-type: none"> <li>- community planning under the Local Government Act 1999;</li> <li>- economic development under the Local Government Act 1972;</li> <li>- community safety under the Crime and Disorder Act 1998</li> </ul>	C
CEX 105	In consultation with the Chairman of General Purposes Committee to award partnership supplements of between 3% and 10% of the salary of any officer employed by the Council in partnership working with another authority taking into account the following factors:  <ul style="list-style-type: none"> <li>- the savings being achieved from the partnership opportunity;</li> <li>- any additional responsibilities the officer has;</li> <li>- any additional pressures put upon the officer as a result of the partnership opportunity; and</li> <li>- the number of staff the officer supervises.</li> </ul>	E
CEX 106	To determine any request for  <p>(a) A listing review of a community nomination decision;</p> <p>(b) A review of a compensation decision</p> <p>Under the Assets of Community Value provisions contained in Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.</p>	E

CEX 107	To authorise a compensation payment (in consultation with the Cabinet Member for Finance, Innovation & Property).	E
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### Chief Executive or their nominated Deputy

CEX 200	To exercise any of the powers as delegated to any other Chief Officer.	E
CEX 201	To commit the Council to expenditure under section 138 of the Local Government Act 1972 (power of principal councils) with regard to emergencies or disasters.	E
CEX 202	To determine claims for ex-gratia payments not exceeding £350 in respect of damage to or loss of clothing or personal possessions used in the course of Council duty.	E
CEX 203	In accordance with <a href="#">Part 3 (5) Functions Delegated to Officers, paragraph 2.6</a> the Chief Executive is required to appoint an appropriate officer to deputise in her absence. As of 14 February 2019, the Director of Central Services has been designated as the formal deputy to the Chief Executive for all matters relating to the role of Chief Executive, Head of Paid Service, Director of Executive Services and Returning Officer and is authorised to exercise all powers on behalf of the Chief Executive in their absence.	

## Director of Finance and Transformation

DFT 100	In respect of rating, council tax, council tax support, housing benefits and discretionary housing payments, to decide those matters that, because of policy or other considerations, are required to be dealt with by the Cabinet.	E
DFT 101	<b>Local Government Finance Act 1988</b>	
	Schedule 11: To represent the Council (the Charging Authority) at the hearings of appeals before valuation Tribunals and to authorise other officers to appear on their behalf.	E
DFT 102	<b>Local Government Finance Act 1988 (National Non-Domestic Rating) sections 43, 44, 44A, 45 &amp; 46:</b>	
	To determine the liability of a ratepayer to non-domestic rate in any given financial year  <ul style="list-style-type: none"> <li>- section 4: To determine entitlement to mandatory relief</li> <li>- section 55: To alter, amend or otherwise maintain a rating list as directed by the Valuation Officer</li> <li>- section 57: To determine entitlement to transitional relief</li> <li>- section 62: To administer, collect and recover national non-domestic rate</li> </ul>	E
DFT 103	To determine any application rate relief, where the circumstances of the application fall within any guidelines laid down by the Executive and a grant of relief is in accordance with the views of local Members and any relevant parish council.	E
DFT 104	To determine applications for housing benefit, council tax support and discretionary housing payments.	E
DFT 105	To carry out any other function ancillary to, or consequential from matters relating to rating, council tax, council tax benefits, housing benefits and discretionary housing payments that have been delegated to the Director of Finance & Transformation.	E
DFT 106	To be authorised to appear on behalf of the Council before a Magistrates' Court in order to make applications, prosecute or defend (as the case may be) any proceedings under the Non-Domestic Rating (Collection & Enforcement) (Local List) Regulations 1989 and the Council Tax (Administration & Enforcement) Regulations 1992.	E

DFT 107	To authorise suitably qualified officers of the Council to appear on behalf of the Council before a Magistrates' Court to make applications, prosecute or defend in respect of the above matters.	E
DFT 108	To make premature repayments of local loans, subject to an appropriate premium to make good any loss the Council may sustain.	E
DFT 109	To write off amounts due to the Council up to and including £5000, subject to compliance with the Council's Financial Procedure Rules (set out in Part 4 – Rules) and any other conditions determined by the Council.	E
DFT 110	To pay annual contributions and subscriptions to all organisations as agreed by the Council and included in the approved estimates.	E
DFT 111	To undertake matters relating to treasury management subject to compliance with the Council's Treasury Management Strategy Statement and Annual Investment Strategy.	E
DFT 112	In consultation with the Chief Executive, to determine and administer gratuities in accordance with the Council's Scheme under the Superannuation Act 1972 and any Regulations made thereunder.	E
DFT 113	To administer the Council's insurances and amend the level of cover provided by the Council's policies as considered appropriate.	E
DFT 114	<b>Local Government Finance Act 1992 (Council Tax)</b>  To undertake any function (not being a matter of policy) that may from time to time require action in respect of the levying, collection and recovery of council tax including those items mentioned below:	E
	<b>section 2:</b> To determine liability to pay council tax	E
	<b>section 10:</b> To determine the basic amount of council tax payable by a liable person	E
	<b>section 11:</b> To determine discounts	E
	<b>section 13:</b> To determine reduced amounts, ie, council tax support and reductions because of disability and to deal with any appeals arising from such determinations	E
	<b>section 14:</b> To administer, collect and recover council tax, including the levying of civil penalties and registration of charges at HM Land registry to secure repayment	E

	<b>section 16:</b> To represent the Council at the hearing of appeals before valuation tribunals and to authorise other officers to appear on their behalf	E
	<b>section 17:</b> To serve completion notices and to take such further action as is necessary with regard to completion notices	E
	<b>section 31B:</b> to determine the Council Tax base	E
	<b>sections 64 and 68:</b> To supply information to the Secretary of State on behalf of the Council	E

## Director of Central Services and Deputy Chief Executive

<b>1</b>	<b>Property</b>	
DCS 100	To manage the Council's property portfolio in accordance with the Council's adopted Asset Management Plan.	E
DCS 101	To obtain specialist advice and to instruct contractors to carry out minor works of maintenance and improvement within existing budgetary provision.	E
DCS 102	The day to day management, maintenance and improvement of all land and property not falling within the purview of any other Chief Officer, including specifically offices, depots, commercial and industrial holdings and vacant land and premises.	E
DCS 103	To grant wayleaves across Council-owned land at market value and determine applications to position service wires, cables or conduits under land owned by the Council.	E
DCS 104	To approve terms for acquisition of land and property included in a confirmed compulsory purchase order where notice to treat has been served.	E
DCS 105	To approve terms for granting leases and licences five years or less for land or premises owned by the Council.	E
DCS 106	To institute proceedings for possession of Council properties on account of arrears of payment and/or breaches of covenants/conditions/agreements.	E
DCS 107	To submit applications for planning permission (and any subsequent approvals required) in respect of schemes for development:  (a) by the Borough Council; or (b) relating to land or buildings to be disposed of which have received approval by or on behalf of the Council	E
DCS 108	To give consent to the assignment of existing leases and under-leases of Council-owned property, subject to the usual enquiries concerning the assignee being satisfactory and to the usual conditions and/or undertakings.	E
DCS 109	To negotiate terms for all land and property transactions.	E
DCS 110	To complete all property transactions which have been authorised by Members.	E

DCS 111	To object to rating proposals by the Valuation Officer in respect of Council-owned property.	E
DCS 112	To agree rent reviews at market value following professional valuation.	E
DCS 113	To determine applications for occasional use of Council-owned property not falling within the purview of any other Chief Officer.	E
DCS 114	To agree terms for disposal of repossessed properties and to arrange for the disposal thereof at the best price reasonably obtainable.	E
DCS 115	To determine any applications for compensation under the Assets of Community Value provisions contained in Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.	E
DCS 116	To approve indemnities to Building Societies in the appropriate model form in respect of applications to Building Societies either under the referral scheme or under local arrangements meeting the requirements of the Council's own direct lending scheme.	E
DCS 117	To approve application by mortgagors for their property to be occupied temporarily, for not more than three years, by persons other than members of their immediate family.	E
DCS 118	In respect of any property in a confirmed Compulsory Purchase Area where it is the Council's intention to proceed with the Order to do all or any of the following things:  (a) to serve notice to treat; (b) to complete the purchase in accordance with the appropriate valuer's valuation; and (c) to serve notices of entry	E
<b>2</b>	<b>Personnel</b>	
DCS 200	To prepare and update list of politically sensitive posts under section 2(2) Local Government & Housing Act 1989 and take steps arising from provisions of sections 1 to 3 of the Act.	E
DCS 201	To make minor alterations to the agreement with other Councils in relation to protection of children arrangements.	E
DCS 202	In consultation with the Director of Finance & Transformation, to vary charges for dealing with above arrangements as a result of inflation or operational changes.	E

<b>3</b>	<b>Court Proceedings</b>	
DCS 300	To bring any civil or criminal proceedings on any matter and in any court or tribunal (including bringing any appeal) on behalf of the Council, subject to consultation with the relevant Chief Officer(s).	C/E
DCS 301	To seek Counsel's Opinion and to give instructions to Counsel.	C/E
DCS 302	To defend, settle withdraw or compromise any legal proceedings brought by or against the Council in any Court.	C/E
DCS 303	To appear as a third party in any legal proceedings.	C/E
DCS 304	To appear on behalf of the Council in any Court, inquiry or hearing.	C/E
DCS 305	To serve requisitions for information under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 or any other statutory power of the Council in respect of matters falling within the area of any Service.	E
<b>4</b>	<b>Land Charges</b>	
DCS 400	As Registrar of Local Land Charges, to exercise all of the Council's functions relating to Land Charges including all functions under the Local Land Charges Acts 1972 and 1975 and any related legislation.	E
<b>5</b>	<b>Equalities</b>	
DCS 500	To be responsible for the Council's duties under the Equality Act 2010.	E
<b>6</b>	<b>Standards</b>	
DCS 600	<p>In consultation with the Independent Person(s) and Chair and Vice-Chair(s) of the Joint Standards Committee to grant dispensations to Members pursuant to section 33(2) of the Localism Act 2011 and paragraph 8 of the adopted Code of Conduct to speak only or to speak and vote where:</p> <p>(a) so many members of the decision-making body have disclosable pecuniary interests in a matter that it would impede the transaction of the business; or</p> <p>(b) without a dispensation, no member of the Cabinet would be able to participate on a particular item of business.</p>	C



DCS 601	<p>In cases of urgency, in consultation with the Independent Person(s) and Chair and Vice-Chair(s) of the Joint Standards Committee to grant dispensations to Members pursuant to section 33(2) of the Localism Act 2011 and paragraph 8 of the adopted Code of Conduct to speak only or to speak and vote where:</p> <p>(a) without a dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;</p> <p>(b) the granting of the dispensation is in the interests of persons living in the authority's area; or</p> <p>(c) it is otherwise appropriate to grant a dispensation</p>	C
DCS 602	Appointed to receive complaints relating to alleged breaches of the adopted Code of Conduct and to process complaints in accordance with the adopted Arrangements for dealing with Code of Conduct complaints.	C
<b>7</b>	<b>General Licensing</b>	
DCS 700	<p>To exercise all of the Council's functions with regard to</p> <ul style="list-style-type: none"> <li>- Charitable collections (including house to house and street collections)</li> <li>- Classification of films</li> <li>- Hypnotism</li> <li>- Lotteries</li> <li>- Minibuses</li> <li>- Pleasure boats/ vessels and boatmen</li> <li>- Pavement licences</li> <li>- Scrap metal licensing</li> <li>- Sex establishments</li> <li>- Street trading</li> </ul> <p>This authority shall include power to grant or refuse applications for licences, registrations, consents and permits under the applicable legislation.</p>	C
DCS 701	<p>To exercise all of the Council's functions with regard to the welfare of animals including:</p> <ul style="list-style-type: none"> <li>- Animal boarding</li> <li>- Animal trainers and exhibitors</li> <li>- Dangerous wild animals</li> <li>- Dog breeding and welfare</li> <li>- Game</li> <li>- Pet shops</li> <li>- Riding establishments</li> <li>- Zoos</li> </ul>	C

	This authority shall include power to grant or refuse applications for licences, registrations, consents and permits under the applicable legislation.	
<b>8</b>	<b>Hackney Carriage and Private Hire Licensing</b>	
DCS 800	To exercise all of the Council's functions with regard to the licensing of Hackney Carriage vehicles and drivers and Private Hire vehicles drivers and operators. This authority shall include power to grant or refuse applications for licences under the applicable legislation.	C
DCS 801	To permit departures from the standard licence conditions in respect of specific hackney carriages or private hire vehicles in circumstances where it is considered appropriate to do so.	C
DCS 802	To take all enforcement action including the power to suspend/ revoke:  (a) vehicle licences (b) drivers' licences (c) operators' licences  Under the Local Government (Miscellaneous Provisions) Act 1976, including where the suspension is to have immediate effect.	C
DCS 803	To lodge objections with the Licensing Authority for applications for Goods Vehicle Operators licences under the Goods Vehicles (Licensing of Operators) Act 1995 and to appear at public inquiries to present the Council's case.	C
<b>9</b>	<b>Planning and Engineering</b>	
DCS 900	To make temporary traffic restriction orders in respect of roads under the Town Police Clauses Act 1847.	E
DCS 901	To make orders under section 14 of the Road Traffic Regulation Act 1984 (temporary closures of public paths).	E
DCS 902	To make draft Traffic Regulation Orders and confirm them where no adverse representations have been received.	E
DCS 903	To issue/ serve notices under the Highways Act 1980.	E
DCS 904	To make and confirm directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995.	E

DCS 905	To issue/ serve notices and requisitions for information under the Planning Acts*  <i>* For the purposes of this power, "Planning Acts" means the Town &amp; Country Planning Act 1990, Planning (Listed Building and Conservation Areas) Act 1990 and any other statute or statutory instrument conferring powers upon a council in its capacity as local planning authority</i>	C
DCS 906	To deal with, and complete, agreements under section 106 of the Town and Country Planning Act 1990 on behalf of the Council.	C
DCS 907	To appoint professional consultants to give evidence at public local plan and all appeal inquiries under the Town and Country Planning Acts 1990.	C
DCS 908	To exercise the Council's functions in relation to the naming and numbering of streets and properties (including the service of notices under the County of Kent Act 1981).	C
DCS 909	To enter into agreements under section 38 of the Highways Act 1980 in respect of new street works.	E
DCS 910	To agree to the vesting in the Council of sewers and roads subject to section 38 Agreements that have been completed to the satisfaction of the Director of Planning, Housing and Environmental Health.	E
DCS 911	To declare the adoption of roads and sewerage systems and vest the asset in the Authority.	E
DCS 912	To issue approvals for the erection of buildings over public sewers under section 18 of the Buildings Act 1984.	E
DCS 913	To serve notices under the provisions of the Land Drainage Act 1991.	E
<b>10</b>	<b>Public Rights of Way</b>	
DCS 1000	To manage the Council's functions in respect of public rights of way, including the Countryside and Rights of Way Act 2000, including:  <ul style="list-style-type: none"> <li>- the provision of advice</li> <li>- dealing with consultations</li> <li>- making Orders</li> </ul>	E
DCS 1001	To maintain and display a copy of the Definitive Map, to facilitate public access to this information and to respond to enquiries from the public regarding public rights of way issues.	E

DCS 1002	To exercise all of the Council's functions in respect of town and village greens, including the submission of responses to the Commons Registration Authority to any applications to register land within the Council's ownership as a town or village green.	
<b>11</b>	<b>Alcohol, Entertainments and Gambling Licensing</b>	
DCS 1100	To exercise the Council's functions with regard to the Licensing Act 2003 (as amended) and any regulations made under that Act as set out below:	C
1100.01	Application for personal licence	If no objection made
1100.02	Application for premises licence/club premises certificate	If no relevant representation made
1100.03	Application for provisional statement	If no relevant representation made
1100.04	Application to vary premises licence/club premises certificate	If no relevant representation made
1100.05	Application to vary designated premises supervisor	If no police representation made
1100.06	Request to be removed as designated premises supervisor	All cases
1100.07	Application for transfer of premises licence	If no police representation made
1100.08	Applications for interim authorities	If no police representation made
1100.09	Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.	All cases (after consultation with the Chairman, where appropriate)
1100.10	To give written notice that the Council will accept a plan of other than standard scale	All cases
DCS 1101	To exercise the Council's functions with regard to the Gambling Act 2005 (as amended) and any regulations made under that Act as set out below:	C
1101.01	Application for premises licence	If no relevant representation made
1101.02	Application for provisional statement	If no relevant representation made

1101.03	Application to vary premises licence/club premises certificate	If no relevant representation made
1101.04	Application for transfer of premises licence	If no police representation made
1101.05	Applications for interim authorities	If no police representation made
1101.06	Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.	All cases (after consultation with the Chairman, where appropriate)
1101.07	To give written notice that the Council will accept a plan of other than standard scale	All cases
<b>12</b>	<b>Data Protection</b>	
DCS 1200	To deal with notification matters under the Data Protection Act 1998.	E
<b>13</b>	<b>Anti-Social Behaviour</b>	
DCS 1300	To exercise all functions of the Council under and in connection with the Anti-Social Behaviour, Crime and Policing Act 2014, including any orders or regulations made thereunder.	E
DCS 1301	To authorise injunction proceedings in respect of anti-social behaviour under section 2(1)(b) or (c) of the Anti-Social Behaviour, Crime and Policing Act 2014.	
DCS 1302	To make Public Spaces Protection Orders.	

## Director of Planning, Housing and Environmental Health

<b>1</b>	<b>Planning Applications and Development Control</b>	
DPHEH 100	<p>To exercise all functions of the Council as a local planning authority (save in respect of plan making) and in particular to determine any application under the Planning Acts (including any prior or subsequent approvals) provided that:</p> <p>(i) the exercise of such powers does not involve departing from the adopted plans and policies forming part of the statutory Development Plan ( save as specified below)*</p> <p>(ii) cases where there is a balance to be made between diverging and significant policy considerations shall be referred to the relevant Area Planning Committee</p> <p>(iii) in the event of a recommendation by the Director of Planning, Housing and Environmental Health of any application which, in the opinion of the Director of Central Services &amp; Deputy Chief Executive, might lead to an adverse judicial finding, award of costs against or to the payment of compensation by the Council, such application shall be referred to the relevant Area Planning Committee</p> <p>(iv) Member for the relevant Ward in which the application site falls may require that the application be determined by the relevant Area Planning Committee provided that:</p> <p>(a) The request is made within 21 days of notification of the application to the Member; and</p> <p>(b) The request is made with reasoned justification on proper planning grounds as determined by the Director of Planning, Housing and Environmental Health in consultation with the relevant Area Planning Committee Chair.</p>	C
*Paragraph DPHEH100(i) shall not apply to the following categories of development:		
(a)	Householder development as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 or such later Order amending, repealing or re-enacting those provisions.	
(b)	Minor alterations to petrol filling stations and garages (eg forecourt layouts, pump islands, underground fuel storage tanks and forecourt canopies).	
(c)	Development in connection with agricultural operations as defined by Section 336 of the Town and Country Planning Act 1990.	

(d)	Equestrian related development.	
(e)	Minor operations as described in the Town and Country Planning (General Permitted Development) Order 2015 (or such later Order amending, repealing or re-enacting those provisions) but requiring express grant of planning permission by the Council.	
(f)	Applications and notifications under the Planning Acts for the felling, topping or lopping of trees. The call-in provision under DPHEH 100(iv) does not apply to such applications and notifications.	
For the purposes of this power, "Planning Acts" means the Town & Country Planning Act 1990, Planning (Listed Building and Conservation Areas) Act 1990 and any other statute or statutory instrument conferring powers upon a council in its capacity as local planning authority to determine applications for any form of consent, approval or determination relating to the built environment.		
100.01	to respond to formal consultations by statutory bodies on any matter relating to the Director of Planning, Housing and Environmental Health's service areas and development proposals by Government Departments.	C
100.02	to respond to consultations before the grant of planning permission) by the Kent County Council, by neighbouring planning authorities, by the Secretary of State or government departments.	C
DPHEH 101	To issue Certificates of Alternative Development under the provision of the Land Compensation Act 1961.	C
DPHEH 102	To determine applications for Hazardous Substances Consents under the Hazardous Substances Act 1990 subject to provisos (i), (ii) and (iii) in DPHEH 100 above.	C
DPHEH 103	To deal with all notifications relating to hedgerows, including under Section 75 Environment Act 1995 and Hedgerow Regulations 1997.	C
DPHEH 104	To authorise the service of Hedgerow Retention Notices in all cases except where the Director of Planning, Housing and Environmental Health proposes to permit the hedgerow to be removed contrary to adverse representations raising material considerations which shall be referred to the relevant Area Planning Committee.	C
DPHEH 105	To determine applications under Part 8 of the Anti-Social Behaviour Act 2003 relating to high hedges.	C

DPHEH 106	To exercise all of the Council's powers in relation to the Self Build and Custom Housebuilding Register, including any set out in the Self Build and Custom Housebuilding Act 2015 and any regulations made thereunder.	
<b>2</b>	<b>Building Control</b>	
DPHEH 200	To approve or reject applications and to determine appropriate fees payable under the Building (Prescribed Fees) Regulations 1994 and associated sections of the Building Act 1984.	C
DPHEH 201	To act in an emergency in respect of dangerous buildings pursuant to section 78 of the Building Act 1984.	E
DPHEH 202	To issue building regulation completion certificates.	E
DPHEH 203	To approve or reject applications for relaxation or dispensation of building regulations within their specified terms of reference including those under Parts B and L and Schedule 2 to the Building Regulations 1991; and also internal raised storage platforms, covered ways and porches adjacent to boundaries, and as required by sections 51 and 53 of the County of Kent Act 1981.	C
DPHEH 204	To fix or extend a period in respect of a building erected of short-life materials under section 19 of the Building Act 1984.	C
DPHEH 205	To approve or reject plans for industrial buildings under the Thermal Insulation (Industrial Buildings) Act 1975.	C
DPHEH 206	To deal with applications for building over sewers under section 18 of the Building Act 1984.	C
<b>3</b>	<b>Environmental Protection and Food Safety</b>	
DPHEH 300	<p>To exercise the Council's functions with respect to:</p> <ul style="list-style-type: none"> <li>- food safety</li> <li>- health and safety</li> <li>- environmental protection and public health (including the control of pollution and management of air quality)</li> <li>- animal welfare</li> <li>- dangerous dogs</li> <li>- housing</li> </ul> <p>and to inspect the Borough and research as necessary the need for services and to plan and implement programmes and appropriate action as allowed by the following scheme of delegations.</p>	C/E



DPHEH 301	section 20 of the Local Government (Miscellaneous Provisions) Act 1976 (provision of sanitary appliances at places of entertainment).	E
DPHEH 302	sections 59, 60, 61, 64, 65, 66, and 70 (drainage and related provisions), sections 76 and 79 (defective premises) and section 84 (yards and passages) of the Building Act 1984 and Schedule 27 to the Water Act 1989.	E
DPHEH 303	To exercise the Council's functions under the Private Water Supplies Regulations 2009 and Water Consolidation (Consequential Provisions) Act 1991.	E
DPHEH 304	To notify the water undertakers of any insufficiency or unwholesomeness found in water supplies within the Borough.	E
DPHEH 305	Pursuant to the following provisions of the Local Government (Miscellaneous Provisions) Act 1982 (as amended): <ul style="list-style-type: none"> <li>- sections 13 to 17 (registration of persons and premises in connection with acupuncture, tattooing, ear-piercing and electrolysis)</li> <li>- sections 29 and 30 (protection of buildings) including service of notices</li> </ul>	C
DPHEH 306	To determine applications for prior consent for work on construction sites pursuant to section 61 of the Control of Pollution Act 1974 and to: <ul style="list-style-type: none"> <li>- attach any conditions to a consent;</li> <li>- limit or qualify a consent to allow for any change in circumstances;</li> <li>- limit the duration of a consent;</li> <li>- to publish notice of a consent pursuant to section 61 if considered appropriate</li> </ul>	E
DPHEH 307	Pursuant to the following provisions of the County of Kent Act 1981: <ul style="list-style-type: none"> <li>- section 14 (Dust, etc, from Building Operations)</li> <li>- section 15 (Power to order alteration of chimneys)</li> <li>- section 19 (Registration of hairdressers and barbers)</li> <li>- section 21 (Registration of eating houses)</li> <li>- section 23 (Registration of houseboats)</li> <li>- section 80 (Control of brown tail moth)</li> </ul>	E
DPHEH 308	To act on behalf of the Council as enforcing authority under the Control of Asbestos Regulations 2012.	E

DPHEH 309	In accordance with the provisions of Health & Safety (Enforcing Authority) Regulations 1989 agree any transfer of enforcement responsibility made between the Health and Safety Executive and this authority and vice versa.	E
DPHEH 310	To act on behalf of the Council in respect of all duties and powers under the provisions of the Sunday Trading Act 1994.	E
DPHEH 311	To register:	
	- food premises pursuant to EC Regulation No 852/2004	E
	- premises under paragraph 5 of schedule 1 to the Sunday Trading Act 1994	C
DPHEH 312	To review Approved Premises status in respect of businesses producing foods of animal origin EC Regulation No 853/2004.	E
DPHEH 313	To approve arrangements under Section 33 Local Government (Miscellaneous Provisions) Act 1976 relating to the restoration or continuation of supply of water, gas and electricity to domestic premises.	E
<b>4</b>	<b>Housing</b>	
DPHEH 400	To determine applications and make payments in respect of statutory housing compensation payments.	E
DPHEH 401	To deal with requests for accommodation under Part VII of the Housing Act 1996.	E
DPHEH 402	To prioritise applicants for the statutory housing register and make nominations on behalf of the Council.	E
DPHEH 403	To make all necessary arrangements to rehouse the occupants of properties represented as being unfit and where formal proceedings have been taken for the closure or demolition of the building.	E
DPHEH 404	To nominate applications for alternative accommodation in cases supported by the Agricultural Dwelling House Advisory Committee and make appropriate arrangements.	E
DPHEH 405	Determine applications for Rent in Advance and Deposit Bonds in accordance with the policies adopted by the Council.	E
DPHEH 406	Authority to determine applications for house renovation grants under Part I of the Housing Grants Construction and Regeneration Act 1996 and the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002.	E

DPHEH 407	To determine applications for waiver of repayment of grant and to seek repayment in appropriate circumstances.	E
DPHEH 408	To respond to consultations in appropriate circumstances on matters relating to the Council's environmental health and housing functions.	E
DPHEH 409	To express the Council's priorities for investment through the Housing Corporation Approved Development Programme.	E
To serve relevant statutory notices in respect of the following matters and to take all consequent actions rising therefrom:		
DPHEH 410	Under Part VI of the Housing Act 1996: <ul style="list-style-type: none"> <li>- requiring repair of unfit houses;</li> <li>- repair of houses in need of substantial repair;</li> <li>- houses the condition of which materially interferes with the comfort and wellbeing of the occupants</li> </ul>	E
DPHEH 411	Under Part XI of the Housing Act 1985 requiring works to houses in multiple occupation	E
DPHEH 412	Under Part X of the Housing Act 1985 to abate overcrowding in dwelling houses	E
DPHEH 413	In respect of housing disrepair under section 80 of the Environmental Protection Act 1990	E
DPHEH 414	In relation to closets or sanitary conveniences pursuant to sections 45, 51 or 52 of the Public Health Act 1936	E
DPHEH 415	To remedy conditions in filthy and verminous premises pursuant to section 83 Public Health Act 1936	E
DPHEH 416	To enter into management agreements for the use of private sector properties for social housing purposes.	E
DPHEH 417	To authorise payment of reinstatement grants for defective housing under Part XVI of the Housing Act 1985.	E
DPHEH 418	To issue certificates of fitness under Section 310 of the Housing Act 1985.	E
DPHEH 419	To determine closing Orders where properties are made fit under section 278 of the Housing Act 1985.	E
DPHEH 420	To waive Home Improvement Agency fees.	E

DPHEH 421	To determine applications for hardship fund grants.	E
DPHEH 422	To exercise all of the Council's functions with regard to the licensing of Houses in Multiple Occupation.	C
DPHEH 423	To exercise all of the Council's functions with regard to the licensing and registration of mobile home sites including but not limited to the exercise of powers under the Caravan Sites and Control of Development Act 1960 and the Public Health Act 1936.	C
<b>5</b>	<b>Miscellaneous Functions</b>	
DPHEH 500	To deal with consultations under the Pastoral Measure 1968.	C
DPHEH 501	To approve applications for grants or loans under the Planning (Listed Buildings and Conservation Areas) Act 1990 and to administer Shop Fronts and Target Building Grants.	E
DPHEH 502	To provide a consultancy service to public and other bodies as defined by the Local Authorities (Goods and Services) Act 1970 and its Regulations.	E
DPHEH 503	To appoint professional consultants to advise Council on the specialist implications of planning applications, development briefs and master plans.	E
DPHEH 504	To determine whether details of siting, etc, for proposals to erect farm or forestry buildings in AONB and conservation areas be required as part of planning applications therefor.	E
DPHEH 505	To make representations to the Licensing Authority in connection with applications/ notices under the Licensing Act 2003.	E
DPHEH 506	To apply to the Licensing Authority for a review of a premises licence/ club premises certificate under the Licensing Act 2003.	E
DPHEH 507	To exercise all functions of the Council in respect of contaminated land.	E
DPHEH 508	To deal with all aspects of the cessation of noise from intruder alarms whether under section 77 of the Clean Neighbourhoods and Environment Act 2005, Noise Act 1996 or any other enactment, including the issue of Fixed Penalty Notices.	E

DPHEH 509	To exercise all functions of the Council relating to the welfare of animals, whether under the Animal Welfare Act 2006 or any other enactment, including the power to appoint Inspectors for the purposes mentioned in the Act and to recover any costs expended in accordance with the Act.	E
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## Director of Street Scene, Leisure and Technical Services

1	Waste and Street Scene	
DSSLT 100	To exercise the Council's functions with respect to street scene services, including: <ul style="list-style-type: none"> <li>- cleaning of streets, open spaces and public conveniences</li> <li>- collection of household and commercial waste</li> <li>- recycling</li> <li>- the control of littering, fly-tipping and dog fouling</li> <li>- abandoned vehicles</li> <li>- stray dogs and dog control</li> <li>- pest control</li> </ul>	C/E
DSSLT 101	To authorise the provision and location of litter & dog waste bins.	E
DSSLT 102	To deal with all aspects of the removal of waste from land and the recovery of costs whenever practicable.	E
DSSLT 103	To issue Fixed Penalty Notices under the Environmental Protection Act 1990.	E
DSSLT 104	To respond to consultations in appropriate circumstances on matters relating to the Council's waste and street scene functions.	E
DSSLT 105	To deal with all aspects of the removal of graffiti under the Anti-Social Behaviour Act 2003 including the issue of Fixed Penalty Notices and the recovery of costs for works carried out in default.	E
DSSLT 106	To take all necessary action to initiate proceedings and issue Fixed Penalty Notices in respect of offences under the following legislation, including the power to seize vehicles under the Control of Pollution Act 1989 and the Environmental Protection Act 1990.	E
DSSLT 107	Powers under Environmental Protection Act 1990.	E
DSSLT 108	Powers under Refuse Disposal (Amenity) Act 1978	E
DSSLT 109	Powers under Anti-Social Behaviour, Crime & Policing Act 2014.	E
DSSLT 110	Powers under Clean Neighbourhoods & Environment Act 2005.	E
DSSLT 111	To deal with all aspects of the removal of waste from land and the recovery of costs whenever practicable.	E

<b>2</b>	<b>Leisure Services</b>	
DSSLT 200	To exercise the Council's functions with respect to Leisure Services, including: <ul style="list-style-type: none"> <li>- managing the relationship with the Leisure Trust</li> <li>- managing public open spaces that fall within Council ownership</li> <li>- managing events on our Public Open Spaces</li> <li>- managing the cemetery functions</li> </ul>	C
DSSLT 201	To determine the closure of leisure facilities as a result of public holidays, emergencies, etc	E
DSSLT 202	To make discounts, refunds and concessions to approved fees and charges in response to market demand and opportunity.	E
DSSLT 203	To agree changes in operational management and programming by relevant contractors in respect of all leisure facilities and services.	
DSSLT 204	To deal with commercial and contractual initiatives and arrangements to positively enhance the financial performance of facilities in accordance with market demand and in liaison with relevant contractors.	E
DSSLT 205	To deal with all detailed matters relating to licensing arrangements for facilities as appropriate.	E
DSSLT 206	To deal with applications of Tonbridge Angels Football Club for use of Longmead Stadium under terms of lease.	E
DSSLT 207	To issue grants of exclusive rights of burial in Tonbridge Cemetery or certificates of ownership or transfers of ownership.	E
DSSLT 208	To submit applications for grant aid to external funding bodies.	E
DSSLT 209	To take all such action as may be necessary for the protection of wildlife under Part I of the Wildlife and Countryside Act 1981.	E
DSSLT 210	To approve events on Borough Council owned public open space.	
<b>3</b>	<b>Technical Services</b>	
DSSLT 300	To exercise the Council's functions with respect to Technical Services and Parking.	C

DSSLT 301	To authorise the use of the Council's car parks for uses other than car parking by non-commercial/charitable organisations.	
DSSLT 302	To confirm the siting of seats and bus shelters.	
DSSLT 303	To take all necessary action in accordance with regulations to secure the removal of cars parked in contravention of regulations.	
DSSLT 304	To waiver in appropriate circumstances payment of excess charges in all of the Borough Council's car parks and the issue of passes for such car parks.	
DSSLT 305	To take appropriate actions including issuing of notices, approve applications and undertake (and recharge) appropriate works under relevant sections of the Highways Acts 1980 and Road Traffic Regulation Act 1984.	
DSSLT 306	To issue residents' and business permits in Preferential or Residents Parking Schemes and monitor their use.	E
DSSLT 307	To exercise all the Council's functions under the provisions of the Land Drainage Act 1991 (excluding service of notices).	C
DSSLT 308	To deal with commercial and contractual initiatives and arrangements to positively enhance the financial performance of facilities in accordance with market demand in liaison with relevant contractors.	
DSSLT 309	To initiate suitable traffic orders for the maintenance of long-term price stability.	
DSSLT 310	To examine, refine, accept and seek tenders in respect of schemes currently approved by the Council for inclusion in the Council's Capital Programme and to adjust priorities for schemes in the light of constraints or releases governing the activity programme.	
DSSLT 311	To issue Fixed Penalty Notices and to take all necessary action to institute proceedings in respect of offences under the Clean Neighbourhoods and Environment Act 2005.	
DSSLT 312	To authorise temporary road closures for charitable/civic events.	
DSSLT 313	To suspend on-road and off-road parking bays and other parking restrictions.	
DSSLT 314	To exercise all powers in connection with installation of Street Signage.	



DSSLT 315	To take all necessary action in relation to Emergency Planning, including but not limited to the exercise of powers contained in the Civil Contingencies Act 2004.	
DSSLT 316	To maintain traffic regulation orders in good order.	
DSSLT 317	To represent the Council at Parking Adjudication appeals.	
<b>4</b>	<b>Engineering and Works Functions</b>	
DSSLT 400	To exercise the Council's functions under the New Roads & Street Works Act 1991.	C
DSSLT 401	Reduction of bonds in respect of Agreements under section 38 of the Highways Act 1980 together with the issue of certificates of satisfactory completions for the purpose of adoptions under the relevant agreements.	
DSSLT 402	In respect of overhanging trees and hedges, to serve informal notices only.	
DSSLT 403	To give or refuse consent for buildings in front of the building line under section 74 of the Highways Act 1980.	
DSSLT 404	To consent to the erection of flagpoles, etc, in highways for display of decorations pursuant to section 144 of the Highways Act 1980.	
DSSLT 405	To issue licences in agency area for gantries, scaffolding or other structures over a highway during building works under section 169 of the Highways Act 1980.	
DSSLT 406	To issue notices and to take appropriate action in relation to dangerous trees and dangerous excavations under sections 23 to 26 of the Local Government (Miscellaneous Provisions) Act 1976.	
DSSLT 407	To issue notices and to take appropriate action in relation to the removal of structures from highways pursuant to section 143 of the Highways Act 1980.	
DSSLT 408	To serve notices and take action under section 184 of the Highways Act 1980 (vehicle crossings over foot ways and verges).	
DSSLT 409	To determine appropriate client operational issues in respect of contracted-out services as approved by the Cabinet.	
DSSLT 410	To issue Fixed Penalty Notices and to take all necessary action to institute proceedings in respect of offences under the Clean Neighbourhoods and Environment Act 2005.	

DSSLT 411	To take all action to initiate proceedings in respect of offences under the Anti-social Behaviour Act 2003 including the issue of Fixed Penalty Notices under section 43.	
DSSLT 412	To deal with all aspects of the removal of graffiti and fly-posting under the Anti-social Behaviour Act 2003 including the issue of graffiti and/or fly-posting removal notices under section 48 and the recovery of costs for works carried out in default.	

### **Policy, Scrutiny and Communities Manager**

PSCM 100	To determine any community nomination under the Assets of Community Value provisions contained in Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.	E
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## PROPER AND DESIGNATED OFFICERS

The Constitution provides that, except where specific provision is made by legislation or by resolution of the Council, the Chief Officers are appointed to be the Proper Officers in respect of any legislation falling within the purview of their respective Services. This document attempts to codify the list of such appointments.

<b>Local Government Act 1972</b>	
Section 13(3): The officer who, with the Chairman of the Parish Meeting, shall be a body corporate by the name of "The Parish Trustees" in a parish not having a separate parish council	Chief Executive
Section 83(1): The officer to whom a person elected to the office of Mayor, Deputy Mayor or Councillor shall deliver a declaration of acceptance of office	Chief Executive
Section 84: The officer to whom a person elected to any office may give written notice or resignation	Chief Executive
Section 88(2): The officer who may convene a meeting for the election of Mayor following a casual vacancy in that office	Chief Executive
Section 89(1): The officer to whom notice shall be given of any casual vacancy occurring in the office of Councillor	Chief Executive
Section 110A: The officer to keep minutes of meetings of the Council and its Committees and to make them open to public inspection	Chief Executive and Monitoring Officer (acting jointly) *
Section 100B(2): The officer who may exclude reports from being open to public inspection which, in part or wholly, relates to items during which the meeting is not likely to be open to the public	Director of Central Services & Deputy Chief Executive *
Section 100C: The officer who, where in consequence of the exclusion of parts of the minutes which disclose exempt information the document open to public inspection does not provide members of the public with a reasonably fair and coherent record of the whole or part of the proceedings, shall make a written summary of the proceedings or part thereof which provides such a record without disclosing the exempt information	Director of Central Services & Deputy Chief Executive *
Section 100D: The officer who shall compile a list of background papers for a report for a meeting of the council	Director of Central Services & Deputy Chief Executive *
* Appointments made to comply with the Secretary of State's Statutory Guidance.	

<b>Local Government Act 1972 (continued)</b>	
Section 100F: The officer who specifies that a document under the control of the Council which discloses exempt information shall not be open to any member of the Council	Director of Central Services & Deputy Chief Executive *
Section 115(2): The officer who shall receive an accounting of, and all money due from, any officer	Director of Finance & Transformation
Section 191(2): The officer who shall receive an application under section 1 of the Ordnance Survey Act 1841	Director of Planning, Housing and Environmental Health
Section 225(1): The officer who shall receive and retain documents deposited with the Council under the Standing Orders of Parliament	Director of Central Services & Deputy Chief Executive
Section 229(5): The officer who shall certify a photographic copy of a document in the custody of the Council, or of a document which has been destroyed whole in the custody of the Council, or of any part of any such document	Chief Executive; Director of Central Services & Deputy Chief Executive
Section 234(1): The officer who may sign any notice, order or other document which the Council are authorised or required to give, make or issue	Chief Executive; Director of Central Services & Deputy Chief Executive Chief Officers ‡
Sections 236 (9) and 4(10): The officer who shall send a copy of every byelaw made by the Council and confirmed to the proper officer of every council of a parish or county to which they apply.	Director of Central Services & Deputy Chief Executive
Section 238: The officer who shall certify a printed copy of a byelaw of the Council	Director of Central Services & Deputy Chief Executive
Schedule 12, para 4(2)(b): The officer who shall sign a summons to attend a Council meeting	Chief Executive
Schedule 12 para 4(3): The officer to whom a member of the Council shall give a notice in writing desiring summonses to attend meetings of the Council to be sent to an address specified in the notice other than their place of residence	Chief Executive
Schedule 14 para 25(7): The officer who shall certify a copy of a resolution has been passed applying or disapplying the provisions of the Public Health Acts 1875 to 1925	Director of Central Services & Deputy Chief Executive
* Appointments made to comply with the Secretary of State's Statutory Guidance. ‡ Within their respective responsibilities as specified in Part 3 of the Constitution.	

<b>Local Government Act 1974</b>	
Section 30(5): The officer who shall give public notice relating to reports issued by a Local Commissioner (the Local Government Ombudsman)	Chief Executive

<b>Local Government (Miscellaneous Provisions) Act 1976</b>	
Section 41: The officer to certify documents for use in court proceedings	Director of Central Services & Deputy Chief Executive
Section 79: The officer to authenticate hackney carriage and private hire licences	Director of Central Services & Deputy Chief Executive

<b>Representation of the People Act 1983</b>	
Section 8: The Registration Officer of any constituency or any part of a constituency co-terminus with or situated in the Borough	Chief Executive
Section 35: The Returning Officer at an election of Councillors of the Borough Council or of Parish Councils within the Borough	Chief Executive

<b>Local Government and Housing Act 1989</b>	
Section 2(4): The officer with whom the list of politically restricted posts is deposited	Director of Central Services & Deputy Chief Executive
Sections 15 to 17: The officer to receive notification of formation of, and changes to, political groups, political balance, etc.	Director of Central Services & Deputy Chief Executive

<b>Local Government Act 2000:</b>	
<b>The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000:</b>	
The officer who shall ensure that records are produced and published of Executive decisions, together with statement of reasons	Director of Central Services & Deputy Chief Executive *
The officer to set out in every report to be made available to the public a list of those documents relating to the subject matter of the report	Director of Central Services & Deputy Chief Executive *
The officer who shall make available to the public a report received by an individual member of the Cabinet which they intend to take into account in making any key decision	Director of Central Services & Deputy Chief Executive *
The officer who may, if they think fit, exclude from the copy of a report the whole or any part of the report on an item of business during which, in his opinion, the meeting is not likely to be open to the public and who may, on receiving a request from a newspaper, supply a copy of any document	Director of Central Services & Deputy Chief Executive *
The officer who, on instructions by the Cabinet Leader, shall publish the Council's Notice of Forthcoming Key Decisions	Chief Executive *
The officer who shall inform the Overview and Scrutiny Committee by notice in writing about a key decision which is to be made but which is not included in the Cabinet Leader's Notice of Forthcoming Key Decisions and who shall make a copy of such notice available for inspection by the public	Chief Executive *
The officer who specifies that a document under the control of the Cabinet which discloses exempt information shall not be open to any member of the Council	Director of Central Services & Deputy Chief Executive *
The officer who specifies that a document under the control of the Cabinet which discloses advice given by a political adviser or assistant shall not be open to any member of the Council	Director of Central Services & Deputy Chief Executive *
The officer who, when so requested by the Chair or any five members of the Overview and Scrutiny Committee, may require the Cabinet to submit a report to the Council where they consider that a key decision has been taken which was not included in the forward plan or was not the subject of the general exception procedure or the subject of an agreement with the relevant committee Chair or Vice-Chair	Chief Executive
* Appointments made in compliance with Secretary of State's Statutory Guidance.	

<b>Manoeuvres Act 1958</b>	
Section 6(2): The officer to whom notice of manoeuvres shall be given	Director of Central Services & Deputy Chief Executive

<b>Local Government (Contracts) Act 1997</b>	
The officer to certify that the Council has power to enter into a contract	Director of Finance & Transformation
The officer to receive copies of certificates issued under the Act	Director of Central Services & Deputy Chief Executive *
* Statutory provision	

<b>Civil Procedure Rules</b>	
The officer authorised to sign the Statement of Truth in all civil pleadings filed by, or on behalf, of the Council	Director of Central Services & Deputy Chief Executive

<b>Legislation passed before 1 April 1974</b>	
Any reference to "the Clerk to the Council" or "Town Clerk" in any enactment passed before 1 April 1974	Chief Executive

<b>Localism Act 2011</b>	
The officer appointed as Proper Officer for the purposes of receiving applications for dispensations pursuant to Section 33 of the Localism Act 2011	Director of Central Services & Deputy Chief Executive

<b>Public Health Functions</b>		
Any person for the time being employed as a consultant in Communicable Disease Control/ consultant in Health Protection (or such other title as may be notified to the Borough Council by Public Health England from time to time) at UK Health Security Agency and the Office for Health Improvement and Disparities, is designated as the Proper Officer for the following purposes:		
<b>Legislation</b>	<b>Section or Regulations</b>	<b>Effect</b>
The Health Protection (Notification) Regulations 2010	Regulations 2, 3, 6	Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons.
Public Health (Control of Disease) Act 1984	Section 48 as amended by Health and Social Care Act 2008	Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately.



## REGULATION OF INVESTIGATORY POWERS ACT 2000 ('RIPA')

The Senior Responsible Person for RIPA compliance is the Director of Central Services & Monitoring Officer.

The following persons are designated as persons who may make authorisations to carry out directed surveillance in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010:

Chief Executive	Julie Beilby	In respect of all matters.
In the absence of the Chief Executive authorisation to carry out directed surveillance may be given by the Director with responsibility for the service concerned with the RIPA application		

## DATA PROTECTION

The Data Protection Officer is the Director of Central Services & Deputy Chief Executive.

The following person(s) have been designated as Deputy Data Protection Officer(s) and may fulfil the duties of the Data Protection Officer in the absence of the Director of Central Services & Deputy Chief Executive or as directed by the same.

Head of Legal and Democratic Services	

## APPOINTMENT OF AUTHORISED OFFICERS

All Chief Officers are authorised to appoint officers within their respective services as 'Authorised Officers' for the purposes of any legislation falling within the purview of the Borough Council subject to the relevant Chief Officer ensuring that the officers authorised for the specific purposes in question are qualified and have had appropriate training to effectively discharge the function.



# **PART 4:**

# **RULES**



## COUNCIL AND COMMITTEE PROCEDURE RULES

### Part 1: Council

<b>1.</b>	<b>Annual Meeting</b>
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	The annual meeting will:
(a)	Elect a person to preside if the Mayor is not present;
(b)	Elect the Mayor for the ensuing year;
(c)	Elect the Deputy Mayor for the ensuing year;
(d)	Approve the minutes of the last meeting;
(e)	Receive any announcements from the Mayor and/or Chief Executive
(f)	In an election year, receive the Returning Officers' Certificate of the result of the elections;
(g)	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;
(h)	Note the composition and appointments to the Executive (Cabinet) by the Leader;
(i)	Appoint: <ul style="list-style-type: none"> <li>- An Overview and Scrutiny Committee</li> <li>- Such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions; and</li> <li>- Representatives to outside bodies</li> </ul>
(j)	Appoint the Chair and Vice-Chair of each committee and sub-committee;
(k)	If considered appropriate, appoint a second Vice-Chair for any committee or sub-committee;
(l)	Agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree;

	(m)	Confirm the programme of ordinary meetings of the Council for the year; and
	(n)	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.
<b>2.</b>		<b>Ordinary Meetings</b>
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:
	(a)	Elect a person to preside if the Mayor and Deputy Mayor are not present;
	(b)	Approve the minutes of the last meeting;
	(c)	Receive any declarations of interest from Members;
	(d)	Receive any announcements from the Mayor, Leader, Members of the Cabinet or the Chief Executive;
	(e)	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;
	(f)	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;
	(g)	Deal with any business from the last Council meeting;
	(h)	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;
	(i)	Receive and consider proposals from the executive in relation to the Council's budget and policy framework;

	(j)	Receive and consider reports of the Overview and Scrutiny Committee;
	(k)	Receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
	(l)	Consider motions;
	(m)	Consider any other business specified in the summons to the meeting; and
	(n)	Authorise the sealing of documents
<b>3.</b>	<b>Extraordinary and Special Meetings</b>	
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:	
	(a)	Council by resolution;
	(b)	Mayor;
	(c)	Leader; or any
	(d)	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:	
	(a)	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
	(b)	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.	

<b>4.</b>	<b>Rules for Convening Meetings</b>
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.
<b>5.</b>	<b>Rules for the Conduct of Meetings</b>
<b>Chairing the Council</b>	
5.1	The person presiding at the meeting may exercise any power or duty of the Mayor.
<b>Quorum</b>	
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.
<b>Unfinished Business</b>	
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.
<b>Questions from Members of the Council</b>	
5.4	A member of the Council may ask the Leader or the Chair 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 Chair 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 Chair 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 Chair of a committee may invite another member of the Council or a Chief Officer to respond to the question on their 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>								
<b>Questions from Members of the Public</b>									
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 1410 1738"> <tr> <td data-bbox="320 1330 400 1442">(a)</td> <td data-bbox="400 1330 1410 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 1514">(b)</td> <td data-bbox="400 1442 1410 1514">is defamatory, frivolous or offensive;</td> </tr> <tr> <td data-bbox="320 1514 400 1666">(c)</td> <td data-bbox="400 1514 1410 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 1410 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.
<b>Addresses from Members of the Public</b>	
5.17	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.
5.18	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.

5.19	The Chief Executive may reject a request if, in their 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.
5.20	A maximum of two members of a deputation may address the Council and they may each speak for no longer than five minutes.	
<b>Petitions</b>		
The Borough Council has adopted a scheme for the submission and consideration of Petitions, which is included within this Part of the Constitution.		
5.21	A Petition containing more than 1,500 signatures and submitted under the adopted Petition Scheme will be referred to Full Council or Cabinet as appropriate (depending on whether the matter relates to an Executive or Council responsibility) for debate unless it is a petition asking for a Senior Council Officer to give evidence at a public meeting.	
5.22	A maximum of two members of a deputation may address the Council/ Cabinet for no longer than five minutes each. One of these speakers should be the petition organiser.	
5.23	A Member may move that the Council/ Cabinet:	
	(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 or Board
5.24	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.	

<b>Announcements by the Leader or a Member of the Executive</b>	
5.25	Unless previously authorised by the Council, where, in accordance with rule 2.1(d), 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 three minutes per opposition group leader;
(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.
5.26	Unless previously authorised by the Council, where, in accordance with rule 2.1(d), 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.

<b>Motions on Notice</b>	
5.27	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.
5.28	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.
5.29	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.
<b>Motions without Notice</b>	
5.30	The following motions may be moved without notice:
	(a) to appoint a Chair 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.
<b>Interests</b>		
5.31	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 5.35 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.
5.32	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.	
5.33	Where a Member with a Disclosable Pecuniary Interest or Other Significant Interest in a matter under discussion (unless a dispensation has been granted), chooses to participate in the discussion and vote, the Chair 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 Chair may apply the rules in Council Procedure Rules 10.6 to 10.8 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>	

5.34	The Chair 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.
5.35	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.
5.36	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.
<b>6.</b>	<b>Rules of Debate for Council Meetings</b>
<b>No speeches until motion seconded</b>	
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.
<b>Right to require motion in writing</b>	
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.
<b>Seconders' speech</b>	
6.3	When seconding a motion or amendment, a member may reserve their speech until later in the debate.
<b>Content and length of speeches</b>	
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.
<b>When a Member may speak again</b>	
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
<b>Amendments to motions</b>		
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.	



<b>Alteration of Motion</b>	
6.11	A member may alter a motion of which they have 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 they have 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.
<b>Severance of motion</b>	
6.14	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.
6.15	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.
6.16	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.
<b>Withdrawal of motion</b>	
6.17	A member may withdraw a motion which they have 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.
<b>Right of reply</b>	
6.18	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.
<b>Motions which may be moved during debate</b>	
6.19	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.
<b>Closure motions</b>		
6.20	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; and
	(d)	To adjourn a meeting.
6.21	If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.	
6.22	If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.	
6.23	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, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.	

6.24	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.
<b>Point of order</b>	
6.25	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.
<b>Personal explanation</b>	
6.26	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.
<b>7.</b>	<b>Previous Decisions and Motions</b>
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.
<b>8.</b>	<b>Voting</b>
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.
<b>Rules for the Conduct of Recorded Votes</b>	
-	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.
<b>Rules for the Conduct of Recorded Votes</b>	
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.
<b>9.</b>	<b>Minutes</b>
9.1	Minutes will contain: <ul style="list-style-type: none"> <li>- All resolutions passed at the meeting;</li> <li>- All motions on notice and amendments to them in the exact form and order the Mayor put them;</li> <li>- All motions to exclude the press and public in accordance with the Access to Information Rules</li> </ul>

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.	
<b>10.</b>	<b>Conduct of Members and Public</b>	
<b>General</b>		
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 10.3 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.	
<b>Members</b>		
10.4	When a member speaks at full Council they must address the meeting through the Mayor. If more than one member indicates that they wish to speak, the Mayor will invite one to speak and the others must wait to be called. Other members must remain silent 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 intervenes during a debate, any member speaking at the time must stop. 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 they think necessary.
<b>Public</b>	
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.
<b>11.</b>	<b>Suspension and Amendment of Procedure Rules</b>
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.
11.2	Any motion to add to, vary or revoke any of the rules set out in Part 1 (Meetings of the Council) and Part 2 (Committees and Outside Bodies) of these Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## Part 2: Committees and Outside Bodies

<b>12</b>	<b>Selection of Councillors on Committees and Outside Bodies</b>
12.1	At the Annual meeting, the Council will:
	(a) decide which committees to establish for the municipal year;
	(b) approve a programme of ordinary meetings of the committees for the year;
	(c) decide the size and terms of reference for those committees;
	(d) decide the allocation of seats to political groups in accordance with the political balance rules;
	(e) receive nominations of councillors to serve on each committee and outside body; and
	(f) 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	The Committee and Outside Bodies Procedure Rules, set out in this Part, shall apply to meetings of Committees, Scrutiny Select Committees, Advisory Panels and Forums in accordance with the scheme for panels and forums to advise the Executive set out in Part 3 of the Constitution.
<b>13</b>	<b>Rules for Convening Meetings</b>
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 their own motion and shall do so at the request of the Chair 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 them 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 Chair 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 to every member of the committee or sub-committee 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
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 them in such format, to such address and by such means as may be agreed.
<b>14.</b>	<b>Rules for Conduct of Meetings</b>
14.1	The Council’s Procedure Rules (set out in Part 1) for the conduct of meetings shall not apply to meetings of committees and sub-committees.
<b>Chair of Meeting</b>	
14.2.	The Chair and Vice-Chair of each committee and sub-committee shall be appointed by the Council at its annual meeting.
14.3	The Council may also appoint a second Vice-Chair for any committee or sub-committee.
14.4	If present, the Chair shall preside at the meeting.
14.5	If the Chair is not present, the Vice-Chair shall preside at the meeting.
14.6	In the case of a committee or sub-committee for which a second Vice- Chair has been appointed, if neither the Chair nor Vice-Chair are present the second Vice-Chair shall preside at the meeting.
14.7	If the Chair, Vice-Chair or any second Vice-Chair are not present, the committee or sub-committee may elect a member from among their number to preside at the meeting.



14.8	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.
14.9	The person presiding at the meeting may exercise any power or duty of the Mayor.
<b>Quorum</b>	
14.10	Except as otherwise provided by law, and subject to rule 14.11, the quorum of a meeting of a committee will be four members and of a sub-committee will be three members.
14.11	The quorum of a meeting of the Audit Committee will be three members.
14.12	The quorum of a meeting of a panel or board to advise the Executive will be four members.
14.13	The quorum of a meeting of other member working groups will be three members.
14.14	During any meeting if the Chair of the meeting counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.
<b>Unfinished Business</b>	
14.15	If, at the time a meeting of a committee or sub-committee is adjourned, there remains unfinished business, the Chair of the meeting, after consultation with the Chief Executive, may fix a time and date for the consideration of the remaining business. If the Chair does not fix a date, the remaining business will be considered at the next ordinary meeting.
<b>15.</b>	<b>Rules of Debate for Committee and Sub-Committee Meetings</b>
15.1	The Council's rules of debate shall not apply to meetings of committees and sub-committees.
<b>No Speeches until Motion Seconded</b>	
15.2	Unless proposed by the Chair 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.

<b>Right to Require Motion in Writing</b>	
15.3	The Chair of the meeting may require any motion (incorporating any agreed amendments) to be written down and handed to them before it is discussed.
<b>Content of Speeches</b>	
15.4	Speeches must be directed to the question under discussion or to a personal explanation or point of order.
<b>Amendments to Motions</b>	
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 Chair of the meeting considers that the conduct of the committee or sub-committee's business would be helped they 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 Chair of the meeting will read out the amended motion before accepting any further amendments or, if there are none, put it to the vote.

<b>Alteration of Motion</b>	
15.10	A member may alter a motion which they have 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.
<b>Withdrawal of Motion</b>	
15.11	A member may withdraw a motion which they have 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.
<b>Motions which may be Moved during Debate</b>	
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.
<b>Closure Motions</b>	
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 Chair of the meeting thinks the item has been sufficiently discussed, they 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 Chair of the meeting thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.
15.16	If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair of the meeting thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they 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 Chair of the meeting the item has been sufficiently discussed the Chair 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.
<b>Point of Order</b>	
15.18	A member may raise a point of order at any time. The Chair 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 they consider it has been broken. The ruling of the Chair of the meeting on the matter will be final.
<b>Personal Explanation</b>	
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 Chair of the meeting on the admissibility of a personal explanation will be final.
<b>Miscellaneous</b>	
15.20	Part 1 of the Council and Committee Procedure Rules set out in sections 5.31 to 5.36 (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, the Executive and panels and boards to advise the Executive.

	Sections 5.21 to 5.24 (Petitions) shall apply to meetings of the Executive 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 Chair) of which they are not a member and may, with the permission of the Chair 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>
15.2	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.
15.23	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 their motion and they will have the right to attend the meeting and be given the opportunity of explaining the motion.
15.24	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.
15.25	<p>If, contrary to a recommendation of the Director of Planning, Housing &amp; 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.
<b>16.</b>	<b>Rules for Public Speaking in Respect of Planning Applications</b>
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.
<b>17</b>	<b>Use of Substitute Members on Committees, Boards, Panels and Groups</b>
17.1	Subject to the following provisions, a member may act as a substitute for a member of the same political group at any meeting of a Committee, Sub-committee, Board or Panel listed in Part 3 of the Constitution.
17.2	The Council will allocate seats for up to 5 substitute members per Committee/ Advisory Panel/ Board for each political group on the Council in accordance with the wishes of the political group. Allocations shall be made at Annual Council but may be reviewed on request from a political group at any ordinary meeting of Council.
17.3	No substitute members shall be appointed in respect of the following: - <ul style="list-style-type: none"> <li>• Cabinet</li> <li>• Licensing &amp; Appeals Committee (or any panels of the Licensing &amp; Appeals Committee)</li> <li>• Area Planning Committees</li> </ul>
17.4	Cabinet members may not act as substitute members on the following: - <ul style="list-style-type: none"> <li>• Audit Committee</li> <li>• Overview &amp; Scrutiny Committee</li> <li>• Scrutiny Select Committees</li> </ul>
17.5	A substitute member may only attend a meeting if the ordinary member for whom they are substituting cannot do so. Such substitute may take the place with the right to speak and vote of any member of that political group who is an ordinary member of the particular Committee or Board for the meeting (or part of the meeting) when such councillor is absent, subject to the substitution being notified to Democratic Services or their nominee:

	<ul style="list-style-type: none"> <li>• when the first item is called on the agenda;</li> <li>• at the commencement of a reconvened meeting; or</li> <li>• immediately upon the substitute member arriving at the meeting</li> </ul>
17.6	Once the meeting has been informed of the appointment of a substitute Member, the original Member may not resume membership of the Committee until after the conclusion of the meeting.
17.7	Such substitution shall not be used in relation to a specific item, but only to cover the absence of a councillor from the whole or part of a meeting.
17.8	Substitute Members will have all the powers and duties of any ordinary member of the Committee or Board but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.
17.9	<p>Substitute Members must be physically present in the Council Chamber in order for their formal attendance to be recorded and to exercise their right to vote.</p> <p>Substitute members may not attend remotely.</p>





## RULES FOR PUBLIC SPEAKING IN RESPECT OF PLANNING APPLICATIONS

<b>1.</b>	<b>Application of Rules</b>
1.1	These rules apply to the consideration of planning and allied applications that may be determined by the Borough Council 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.
1.2	The right to speak does NOT apply to reports relating solely to enforcement matters or any other business of the Area Planning Committees than that in 1.1 above.
<b>2.</b>	<b>Procedure before Committee</b>
2.1	Where these rules apply, any member of the public wishing to address the committee (including applicants, their agents, parish council representatives and local residents) have the opportunity to attend the meeting in person or to attend via MS Teams.  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	Once 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 manner of accessing the Committee's meeting.
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 or a representative of the relevant Parish Council will be given an opportunity to speak if they have made a written representation.
2.4	Anyone who has made a written representation on an application, and the applicant/their agents, must notify the Council in advance that they wish to take advantage of the opportunity to speak at Committee.  Anyone who wishes to do so must register with Democratic Services as early as possible but, in any event, no later than <b>5.00pm on the closest working day prior to the day of the meeting</b> . For example, any person wishing to speak at a meeting scheduled to take place on a Wednesday must give notice no later than 5pm on the Tuesday before the meeting. Notice should be given by email to <a href="mailto:committee.services@tmbc.gov.uk">committee.services@tmbc.gov.uk</a>  Anyone seeking to register to speak after this time will be refused.

	<p>When registering to speak, every participant must indicate whether they wish to attend in person or attend remotely.</p> <p>Careful consideration should be given to appointing a single spokesperson to address the Committee in person on each application.</p>
2.5	<p>Anyone wishing to address the committee remotely is encouraged to provide a written copy of their statement, which may be read out in the event of a technical issue preventing the person connecting to the meeting.</p> <p>Whether or not written statements will be read out is at the discretion of the Chair of the committee.</p>
2.6	<p>Potential speakers are encouraged to indicate (for the purposes of the Data Protection Act 2018 and/or any other relevant 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.</p>
<b>3.</b>	<b>Procedure at Committee</b>
3.1	<p>In the introduction to the meeting the Chair will explain the composition of the top table and how the meeting will be conducted. The Chair will also explain the need for speakers to only deal with planning matters and the need to guard against making defamatory statements. The Chair will remind speakers that their face and voice may appear on the live stream, and the archived recording of the meeting</p>
3.2	<p>The Chair will indicate the order in which items of business is to be dealt with, this will ordinarily be as on the Agenda, but is at the absolute discretion of the Chair (on advice of officers where needed).</p>
3.3	<p>The Chair 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.</p>
3.4	<p>Where the Chair has suggested at the Chair'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.</p>

3.5	<p>The speakers shall be taken in the following order:</p> <p>The representative of the relevant Parish (where they have registered in advance to speak);</p> <p>Individual speakers will then be invited to come forward by the Chair, by name.</p> <p>Finally, the applicant and/or their agent will then have an opportunity to address the committee where they have registered to do so in advance.</p>
3.6	Committee Members will not be able to question speakers on any matter
3.7	At the conclusion of their representation, online speakers will be asked to turn off their video feed and mute their microphone. In person speakers will be asked to return to the public gallery.
3.8	<p>At the conclusion of the public speaking, the Chair will invite members of the public to leave the “Teams” meeting and watch the debate on the live stream to save bandwidth. Members will then debate the application.</p> <p>Members of the Committee will debate the matter as per the guidance on the conduct of meetings set out in agenda packs.</p>
3.9	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.
3.10	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

<b>1.</b>	<b>Scope</b>
<p>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.</p>	
<b>2.</b>	<b>Additional Rights to Information</b>
<p>These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.</p>	
<b>3.</b>	<b>Rights to Attend Meetings</b>
<p>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).</p>	
<b>4.</b>	<b>Notice of Meetings</b>
<p>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.</p> <p>*“clear days” refers to weekday working days and does not include the day of publication or the day of the meeting</p> <p>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.</p>	
<b>5.</b>	<b>Access to Agenda and Reports before the Meeting</b>
<p>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.</p>	

<p>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.</p>	
<b>6.</b>	<b>Supply of Copies</b>
<p>The Council will supply copies of:</p>	
(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
<p>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.</p>	
<b>7.</b>	<b>Access to Minutes after the Meeting</b>
<p>The Council will make available copies of the following for six years after a meeting:</p>	
(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);
(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.
<p>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.</p>	
<b>8.</b>	<b>Background Papers</b>
<b>8.1</b>	<i>List of background papers</i>
<p>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 their opinion:</p>	

(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 or the advice of a political advisor.
8.2	<i>Public inspection of background papers</i>
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.	
<b>9.</b>	<b>Summary of Public's Rights</b>
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).	
<b>10.</b>	<b>Exclusion of Access by the Public to Meetings</b>
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	<i>Confidential information – requirement to exclude public</i>
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	<i>Exempt information – discretion to exclude public</i>
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	<i>Meaning of confidential information</i>
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	<i>Meaning of exempt information</i>	
(a)	Exempt information means information falling within the categories set out below. These categories are subject to the stated conditions:	
(1)	Information relating to any individual.	
(2)	Information which is likely to reveal the identity of any 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 Buildings 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:	
	(i)	to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
	(ii)	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.	
(b)	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.	



(c)	<p>Information which:</p> <ul style="list-style-type: none"> <li>- Falls within any of the paragraphs (1) – (7) set out above; and</li> <li>- Is not prevented from being exempt by virtue of paragraph (b) above,</li> </ul> <p>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.</p>
<b>11.</b>	<b>Exclusion of Access by the Public to Reports</b>
<p>If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in their 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.</p>	
<b>12.</b>	<b>Application of Rules to the Executive</b>
<p>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.</p>	
<p>A key decision is as defined in Article 8.03(b) (Part 2) of this Constitution.</p>	
<p>If any meeting of the Executive or its committees, or any part thereof, is likely to be held in private, Rule 17 also applies. This requirement does not include meetings whose sole purpose is for officers to brief members.</p>	
<b>13.</b>	<b>Procedure before taking Key Decisions</b>
<p>Subject to Rule 15 (General Exception) and Rule 16 (Special Urgency), a key decision may not be taken unless:</p>	
(a)	<p>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;</p>
(b)	<p>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).</p>

<b>14.</b>	<b>Notice of Forthcoming Key Decisions</b>
14.1	<i>Contents of Notice of Forthcoming Key Decisions</i>
<p>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:</p>	
(a)	the matter in respect of which a key decision is to be made;
(b)	where the decision maker is an individual, their 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	<i>Publication of Notice of Forthcoming Key Decisions</i>
<p>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.</p>	
<p>The Notice of Forthcoming Key Decisions must contain particulars of the matter to be discussed but may not contain any confidential or exempt information.</p>	
<b>15.</b>	<b>General Exception</b>
<p>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:</p>	
(a)	the Chief Executive has informed the Chair 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).
<b>16.</b>	<b>Special Urgency</b>
<p>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 Chair 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.</p>	
<p>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.</p>	
<p>Emergency provisions for decision making during a period of serious and unexpected disruption are set out in Part 7 of the Constitution.</p>	
<b>17.</b>	<b>Private Meetings or part thereof</b>
<p>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.</p>	
<p>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.</p>	
<p>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 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.</p> <p>*“clear days” refers to weekday working days and does not include the day of publication or the day of the meeting</p>	
<p>Where the date by which a meeting must be held makes compliance with the procedure above 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 Chair of the Overview and Scrutiny</p>	

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.	
<b>18.</b>	<b>Report to Council</b>
<i>18.1</i>	<i>When the Overview and Scrutiny Committee can require a report</i>
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 Chair. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.	
<i>18.2</i>	<i>Executive's report to Council</i>
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.	
<i>18.3</i>	<i>Annual reports on special urgency decisions</i>
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.	
<b>19.</b>	<b>Record of Decisions</b>
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.	
<b>20.</b>	<b>Decisions by Officers</b>
As soon as reasonably practicable after a decision has been taken by an officer which is required to be recorded in writing under the Openness of Local Government Bodies Regulations 2014, they will prepare, or arrange for the preparation of, a record of the decision (including the date it was taken), a statement of the reasons for it, any alternative options considered and rejected and the names of any member(s) of the Council who has declared a conflict of interest in relation to the decision.	
<b>21.</b>	<b>Executive meetings relating to Matters which are not Key Decisions</b>
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 relates to matters which are key decisions.	
<b>22.</b>	<b>Notice of the Meetings of the Executive</b>
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 they do 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.
<b>23.</b>	<b>Member and Officer Attendance at meetings of the Executive</b>
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.	
Notwithstanding the above, Members of the Council who are not members of the executive may attend a meeting of the executive to which a Petition has been referred in accordance with rules 5.21 to 5.24 of the Council and Committee Procedure Rules. Members shall be entitled to address the meeting on the matters raised in the Petition provided that no speech may exceed five minutes without the consent of the Chair.	
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.	
<b>24.</b>	<b>Decisions by Individual Members of the Executive</b>
24.1	<i>Reports intended to be taken into account</i>
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	<i>Provision of copies of reports to other Members</i>
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	<i>Record of individual decisions</i>
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.	
<b>25.</b>	<b>Overview and Scrutiny Committee's Access to Documents</b>
25.1	<i>Rights to copies</i>
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	<i>Limit on rights</i>
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.
<b>26.</b>	<b>Additional Rights of Access for Members</b>
<b>26.1</b>	<i>Material relating to previous business</i>
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
<b>26.2</b>	<i>Material relating to key decisions</i>
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.	
<b>26.3</b>	<i>Nature of rights</i>
These rights of a member are additional to any other right they may have.	





## BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

<b>1.</b>	<b>The Framework for Executive Decisions</b>
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.	
<b>2.</b>	<b>The Process for Developing the Framework</b>
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)	<p>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 Chair (and to every Member) of the Overview and Scrutiny Committee.</p> <p>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.</p>

(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 the Local Government Act 1972 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, they 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 the Local Government Act 1972, 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.	

<b>3.</b>	<b>Decisions outside the Budget or Policy Framework</b>
(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.
<b>4.</b>	<b>Urgent Decisions outside the Budget or Policy Framework</b>
(a)	The Executive or officers discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
(i)	if it is not practical to convene a quorate meeting of the full Council; and
(ii)	if the Chair of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.
	The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the Overview and Scrutiny Committee the consent of the Mayor, and in the absence of both the Deputy Mayor, will be sufficient.
(b)	Following the decision, the decision taker will provide a full report to the next appropriate Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

<b>5.</b>	<b>Virement</b>
<p>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.</p>	
<b>6.</b>	<b>In-year Changes to Policy Framework</b>
<p>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:</p>	
(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.
<b>7.</b>	<b>Call-in of Decisions outside the Budget or Policy Framework</b>
(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)	<p>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:</p>
(i)	<p>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</p>
(ii)	<p>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</p>
(iii)	<p>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.</p>
<b>8.</b>	<b>Alternative Procedure for Re-Adoption of Policy</b>
<p>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, they may submit a report to the Overview and Scrutiny Committee containing their 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) shall not apply.</p>	



## Annex 2

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

1.	<p>In this Part:</p> <p>'executive' and 'executive leader' have the same meaning as in Part II of the Local Government Act 2000; and</p> <p>'plan or strategy' and 'working day' have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.</p>						
2.	<p>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 below (paragraph 3).</p>						
3.	<p>Before the authority:</p> <table border="1" data-bbox="323 938 1382 1272"> <tr> <td data-bbox="323 938 400 1010">(a)</td> <td data-bbox="400 938 1382 1010">amends the draft plan or strategy;</td> </tr> <tr> <td data-bbox="323 1010 400 1193">(b)</td> <td data-bbox="400 1010 1382 1193">approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their 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</td> </tr> <tr> <td data-bbox="323 1193 400 1272">(c)</td> <td data-bbox="400 1193 1382 1272">adopts (with or without modification) the plan or strategy</td> </tr> </table> <p>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.</p>	(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 their 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
(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 their 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						
4.	<p>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 -</p> <table border="1" data-bbox="323 1641 1382 1966"> <tr> <td data-bbox="323 1641 400 1825">(a)</td> <td data-bbox="400 1641 1382 1825">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</td> </tr> <tr> <td data-bbox="323 1825 400 1966">(b)</td> <td data-bbox="400 1825 1382 1966">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.</td> </tr> </table>	(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.		
(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.	<p>When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when -</p> <p>(a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;</p> <p>(b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their 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</p> <p>(c) adopting (with or without modification) the plan or strategy,</p> <p>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.</p>
6.	<p>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 –</p> <p>(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;</p> <p>(b) estimates of other amounts to be used for the purposes of such a calculation;</p> <p>(c) estimates of such a calculation; or</p> <p>(d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,</p> <p>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.</p>
7.	<p>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 them instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.</p>



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

<b>1.</b>	<b>How Does the Executive Operate?</b>
<b>1.1</b>	<b>Who may make executive decisions</b>
The Leader has responsibility for the discharge of all executive functions and may delegate any or all of these functions to:	
(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.
<b>1.2</b>	<b>Delegation of Functions</b>
At the annual meeting of the Council, the Leader will present to the Council a written statement of 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 information 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.
<b>1.3</b>	<b>Sub-delegation of Executive Functions</b>
(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
<b>1.4</b>	<b>The Leader's Scheme of Delegation of Executive Functions</b>
	The Leader may amend the scheme of delegation relating to executive functions at any time. In doing so the Leader will give written notice to the Chief Executive and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
(b)	Where the Leader seeks to withdraw delegation from a committee of the Executive, notice will be deemed to be served on that committee when they have served it on its Chair.
<b>1.5</b>	<b>Conflicts of Interest</b>
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.

<b>1.6</b>	<b>When and where Executive meeting will be held</b>
The executive will be scheduled to meet at least eight 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.	
<b>1.7</b>	<b>Public Access to meetings of the Executive</b>
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 this part of the Constitution for further information.	
<b>1.8</b>	<b>Quorum</b>
The quorum of a meeting of the executive, or a committee of it, shall be three members of the executive.	
<b>1.9</b>	<b>How are Decisions to be taken by the Executive?</b>
(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.
<b>2.</b>	<b>How are Executive Meetings Conducted</b>
<b>2.1</b>	<b>Who presides?</b>
If the Leader is present they will preside. In their absence, then a person appointed to do so by those present shall preside.	
<b>2.2</b>	<b>Who may attend?</b>
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. Save as expressly permitted by rules 5.21 to 5.24 of the Council and Committee Procedure Rules (Petitions) public speaking shall not be permitted at meetings of the Executive and/or any committee of the Executive.	

<p>Members of the Council who are not members of the executive may attend meetings of the executive and any committee 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.</p>	
<p>Notwithstanding the above, Members of the Council who are not members of the executive may attend a meeting of the executive to which a Petition has been referred in accordance with the Council and Committee Procedure Rules. Members shall be entitled to address the meeting on the matters raised in the Petition provided that no speech may exceed five minutes without the consent of the Chair.</p>	
<p>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.</p>	
<b>2.3</b>	<b>What business</b>
<p>At each meeting of the executive the following business will be conducted:</p>	
(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 key decisions are and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.
<b>2.4</b>	<b>Consultation</b>
<p>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.</p>	

<b>2.5</b>	<b>Who can put items on the Executive agenda?</b>
(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 their statutory duties or where they are 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.	<p>Subject to the following rules, an Executive Member may make a decision in respect of any matter falling within their portfolio, except</p> <ul style="list-style-type: none"> <li>(a) Key Decisions;</li> <li>(b) Decisions outside of the Budget &amp; Policy Framework;</li> <li>(c) Decisions which cut across two or more portfolios;</li> <li>(d) Proposals for new or amended policies or strategies</li> </ul>
2.	<p>The powers of an Executive Member shall be exercised by them personally save where they are unable to act owing to absence or illness, when they may be exercised on their 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.</p>
3.	<p>If a matter which the Executive Member would normally deal with under this delegated authority is in their opinion likely to give rise to unusual difficulty or controversy, they shall refer it for determination by the Cabinet.</p>
4.	<p>A decision made by an Executive Member shall not have effect unless:</p> <ul style="list-style-type: none"> <li>(a) the decision has been recorded in writing in the manner specified by the Monitoring Officer; and</li> <li>(b) 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).</li> </ul>
5.	<p>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.</p>
6.	<p>The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Executive and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the</p>

	Executive as a whole. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
7.	Where an Executive member would normally exercise executive functions delegated to them in respect of any matter but has a Disclosable Pecuniary Interest or Other Significant interest as defined in the Members' Code of Conduct then they shall not exercise delegated powers in respect of that matter. A decision on the matter shall be taken by the Cabinet.

## OVERVIEW AND SCRUTINY PROCEDURE RULES

<b>1.</b>	<b>Arrangements for Overview and Scrutiny Committee</b>
<p>The Council will have an Overview and Scrutiny Committee and three Scrutiny Select Committees (which are not sub-committees of the Overview and Scrutiny Committee) as follows:</p> <ul style="list-style-type: none"> <li>- Housing &amp; Planning Scrutiny Select Committee</li> <li>- Finance, Regeneration and Property Scrutiny Select Committee</li> <li>- Communities and Environment Scrutiny Select Committee</li> </ul> <p>as set out in Part 3: Responsibility for Council Functions and will appoint to them as it considers appropriate from time to time.</p> <p>The Council has appointed a Scrutiny Officer whose functions are:</p> <ul style="list-style-type: none"> <li>- To promote the role of the Council's scrutiny committees;</li> <li>- To provide support and training to the Council's scrutiny committees and the members of those committees; and</li> <li>- To provide support and any guidance to members of the Council, members of the Executive and Council officers in relation to the functions of the Overview and Scrutiny and Scrutiny Select Committees</li> </ul> <p>The Overview and Scrutiny Committee may appoint sub committees which will also be subject to these Procedure Rules. Additional Overview and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.</p> <p>Overview and Scrutiny Committee and the Select Committees 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.</p> <p>The terms of reference of the Overview and Scrutiny Committee will be:</p>	
(a)	the performance of all overview and scrutiny functions on behalf of the Council in relation to the areas of work allocated to that committee;
(b)	the appointment of such further Select Committees as is considered appropriate to fulfil those overview and scrutiny functions;
(c)	to approve an annual work programme, including the programme of the Scrutiny Select Committees and any further 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; and
(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 Chair of the Overview and Scrutiny Committee, so that the Constitution may be amended accordingly.	
<b>2.</b>	<b>Who may sit on Overview and Scrutiny Committee and the Scrutiny Select Committees?</b>
All councillors except members of the Executive may be members of the Overview and Scrutiny Committee or Scrutiny Select Committees, 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.	
<b>3.</b>	<b>Co-optees</b>
The Overview and Scrutiny Committee and Scrutiny Select Committees and any sub-committees shall be entitled to recommend to Council the appointment to it of people as non-voting co-optees.	
<b>3.1</b>	<b>Scheme of Co-option</b>
(a)	At the initial 'scoping stage of each Scrutiny Review being undertaken Members of the Committee will agree if:  - any co-option of external participants is necessary for that review; and  - any co-option is needed, who might be most appropriate individual or organisation to invite to assist with that review.
(b)	There should be a maximum of 3 external co-optees for any one review taking place.
(c)	Any co-optees assisting the review are able to give their views on the matter under consideration but have no formal voting rights.
(d)	Any co-optees assisting the review would, where appropriate, be invited to review a final draft prior to its formal consideration by the Overview and Scrutiny Committee.

<b>4.</b>	<b>Meetings of Overview and Scrutiny Committee and Scrutiny Select Committees</b>
There shall be 5 scheduled meetings of the Overview and Scrutiny Committee and each of the Scrutiny Select Committees in each municipal year at times to be agreed by the Council. In addition, extraordinary meetings may be called as and when appropriate. The Overview and Scrutiny Committee or Scrutiny Select Committee meeting may be called by:	
(a)	the Chair of the relevant committee;
(b)	any three members of the relevant committee;
(c)	the Full Council; or
(d)	the Chief Executive if they consider it necessary.
<b>5.</b>	<b>Quorum</b>
The quorum for the Overview and Scrutiny Committee and the Scrutiny Select Committees shall be as set out for committees in paragraph 14.10 of the Committee Procedure Rules in Part 4 of this Constitution.	
<b>6.</b>	<b>Chairing Overview and Scrutiny Committee meetings</b>
<p>The Chair of Overview and Scrutiny Committee shall be the Leader of the largest minority (opposition) party. In the event of there being two (or more) minority parties of equal size, the position of Chair shall be rotated on an annual basis between the Leaders of each minority party.</p> <p>The Overview and Scrutiny Committee will appoint 2 Vice-Chairs. One Vice-Chair will be a member of a party which is not the political party of the Chair. At least one of the Vice-Chairs will be a member of the party forming the executive.</p>	
<b>7.</b>	<b>Work Programme</b>
The Overview and Scrutiny Committee will be responsible for setting their own work programme and the work programme of the Scrutiny Select Committees 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.	
<b>8.</b>	<b>Agenda items</b>
Any member of the Overview and Scrutiny Committee, Scrutiny Select Committee or sub-committee shall be entitled to give notice to the Chief Executive and Scrutiny Officer that they wish an item relevant to the functions of the relevant committee or sub-committee of which they are a member to be	

included on the agenda for the next available meeting of that committee or sub-committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.

Any member of the Council may make a request to the Chief Executive or Scrutiny Officer that they wish an item relevant to the functions of the Overview and Scrutiny Committee or the Scrutiny Select Committees to be included on the agenda of the relevant committee. The request will be considered by the next available meeting of the Overview and Scrutiny Committee to determine whether it will accept the item.

In exercising its discretion, the Overview and Scrutiny Committee may have regard to any representations made by the member as to why it would be appropriate for the committee to accept the item.

If the Overview and Scrutiny Committee decides not to accept the item it must notify the member of its decision and the reasons for it.

The Overview and Scrutiny Committee may not accept items which relate to:

- Any matter relating to a planning decision;
- Any matter relating to a licensing decision;
- Any matter relating to a person in respect of which that person has recourse to a route of appeal; or
- Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda

The Overview and Scrutiny Committee and Scrutiny Select Committees 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 the executive's functions. Where they do so, the relevant Committee shall report its findings and any recommendations back to the Executive and/or Council.

<b>9.</b>	<b>Policy Review and Development</b>
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(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.
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(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 or Scrutiny Select Committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
(c)	<p>The Overview and Scrutiny Committee and Scrutiny Select Committees may:</p> <ul style="list-style-type: none"> <li>- hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process;</li> <li>- go on site visits, conduct public surveys, hold public meetings, carry out or commission research and do all other things that they reasonably consider necessary to inform their deliberations;</li> <li>- Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;</li> <li>- 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.</li> <li>- Question members of the Executive and/or members of committees or Management Team about their views on issues and proposals affecting the area</li> </ul>
<b>A9</b>	<b>Other Powers and Duties</b>
	<p>Overview and Scrutiny and the Select Committees may:</p> <ul style="list-style-type: none"> <li>- Review and scrutinise the decisions made by and the performance of the Executive;</li> <li>- Undertake more general reviews of executive decisions made by committees and officers;</li> <li>- Review and scrutinise the performance of the Council generally in relation to its policy objectives, performance targets and/or particular service areas;</li> <li>- Make recommendations to the Executive, appropriate committees and/or the Council arising from the outcome of the scrutiny process;</li> </ul>
<b>10.</b>	<b>Reports from Overview and Scrutiny Committees and Scrutiny Select Committees ("Scrutiny Reports")</b>
(a)	Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee or Scrutiny Select Committee will prepare a formal report and submit it to the Chief Executive and the Scrutiny Officer 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 relevant Committee cannot agree on one single final report to the Council or Executive as appropriate, then one minority report may also be prepared and submitted for consideration by the Council or Executive alongside the majority report.
(c)	The Scrutiny Report shall be considered by the Council or by the Executive at its next appropriate meeting following submission to the Chief Executive and Scrutiny Officer, or such longer time scale as the Chair of the Overview and Scrutiny Committee may agree.
<b>11.</b>	<b>Making sure that Overview and Scrutiny reports are considered by the Executive</b>
Scrutiny Reports of Committees which have not already been considered by the Executive shall be included in the next programmed executive agenda.	
If the Chief Executive refers a Scrutiny Report to Council, they 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 or Scrutiny Select Committee on a matter which would have an impact on the Budget and Policy framework, it shall also consider the response of the Executive to the Committee's proposals.	
Overview and Scrutiny Committee and the Scrutiny Select Committees 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/ Scrutiny Select Committee following a consideration of possible policy/service developments, the relevant committee will at least be able to respond in the course of the executive's consultation process in relation to any key decision.	
<b>12.</b>	<b>Rights of Overview and Scrutiny Committee Members to documents</b>
(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.



<b>13.</b>	<b>Members and Officers giving Account</b>						
(a)	<p>The Overview and Scrutiny Committee, sub-committee or Scrutiny Select 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:</p> <table border="1" data-bbox="416 555 1382 891"> <tr> <td data-bbox="416 555 448 629">(i)</td> <td data-bbox="448 555 1382 629">any particular decision or series of decisions;</td> </tr> <tr> <td data-bbox="416 629 448 741">(ii)</td> <td data-bbox="448 629 1382 741">the extent to which the actions taken implement Council policy; and/or</td> </tr> <tr> <td data-bbox="416 741 448 891">(iii)</td> <td data-bbox="448 741 1382 891">about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects</td> </tr> </table> <p>and it is the duty of those persons to attend if so required.</p> <p>The appropriate “senior officer” shall be identified following consultation with the Chief Executive.</p>	(i)	any particular decision or series of decisions;	(ii)	the extent to which the actions taken implement Council policy; and/or	(iii)	about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects
(i)	any particular decision or series of decisions;						
(ii)	the extent to which the actions taken implement Council policy; and/or						
(iii)	about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects						
(b)	<p>Where any member or officer is required to attend a committee under this provision, the Chair 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 they are 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 they are 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.</p>						
(c)	<p>Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the relevant committee shall in consultation with the member or officer arrange an alternative date for attendance.</p>						

<b>14.</b>	<b>Attendance by Others</b>
<p>The Overview and Scrutiny Committee and Scrutiny Select Committees 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.</p>	
<b>15.</b>	<b>Call-In</b>
(a)	<p>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.</p>
(b)	<p>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.</p>
(c)	<p>During that period the Chief Executive shall call-in a decision for scrutiny by the Overview and Scrutiny Committee if so requested by any five members of the Overview and Scrutiny Committee.</p> <p>Such a request must be made in writing and must state the reason the members believe 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.</p>
(d)	<p>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.</p>
(e)	<p>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 Committee meeting.</p>

(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.
<b>Call-In and Urgency</b>	
(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 Chair 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.
<b>16.</b>	<b>Procedure at Overview and Scrutiny Committee and Scrutiny Select Committee meetings</b>
(a)	Overview and Scrutiny Committee and the Scrutiny Select Committees and any 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 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/ relevant Scrutiny Select Committee; and
	(vi)	the business otherwise set out on the agenda for the meeting.
(b)		Where the Committee conducts an investigation (e.g. 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.	<b>Definitions:</b>
For the purposes of these Financial Procedure Rules the following definitions shall apply:	
1.1	<b>The Council</b> means the legal entity "Tonbridge & Malling Borough Council."
1.2	<b>Full Council</b> means the meeting of the Full Council as set out in Article 4 of the Constitution.
1.3	<b>Overview and Scrutiny Committee</b> means a committee as set out in the Overview and Scrutiny Committee Procedure Rules in Part 4 (Rules) of the Constitution.
1.4	<b>Executive</b> means the Executive function as set out in Article 6 of the Constitution.
1.5	<b>Relevant Executive Member</b> means the Executive member to whom responsibility for any specific functions has been delegated.
1.6	<b>Standards Committee</b> means the committee as set out in the Responsibility for Council Functions, Committee Membership and Terms of Reference in Part 3 (Responsibilities) of the Constitution and includes any Advisory Board reporting to it.
1.7	<b>Chief Officer</b> means the designated officers set out in the Functions Delegated to Officers in Part 3 (Responsibilities) of the Constitution and includes any officer of their Service acting on their 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 Finance Officer respectively.
1.8	<b>Statutory Officers</b> means the Chief Executive, the Monitoring Officer and the Director of Finance & Transformation as set out in the Functions Delegated to Officers in Part 3 of the Constitution.
1.9	<b>Chief Executive</b> means the Head of Paid Service as set out in Functions Delegated to Officers in Part 3 of the Constitution and includes any officer acting on their behalf.
1.10	<b>Monitoring Officer</b> means the Director of Central Services & Deputy Chief Executive as set out in the Functions Delegated to Officers in Part 3 of the Constitution and includes any officer acting on their behalf.

1.11	<b>Director of Finance &amp; Transformation</b> means the Chief Finance 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 set out in the Functions Delegated to Officers in Part 3 of the Constitution. It includes any officer they have designated to act on their behalf.
1.12	<b>Accounts and Audit Regulations</b> 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	<b>Internal Audit Charter</b> 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	<b>Chief Audit Executive</b> the person responsible for managing the internal audit function on behalf of the Authority.
<b>2.</b>	<b>Application</b>
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.
<b>3.</b>	<b>Financial Responsibilities</b>
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 (Budget and Policy Framework Procedure Rules – Part 4). 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.
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 them.
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.
<b>4.</b>	<b>Delegation of Financial Responsibilities</b>
4.1	In the event of the Director of Finance & Transformation being absent or otherwise unable to act, their 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 them 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, their nominated deputy shall be empowered to act on their 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 their Service nominated by them shall have authority to act on their 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.
<b>5.</b>	<b>Accounting</b>
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.
<b>6.</b>	<b>Petty Cash Accounts</b>
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 them. Such accounts shall be maintained in accordance with such procedures as may be determined by the Director of Finance & Transformation.
<b>7.</b>	<b>Audit</b>
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	<p>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.</p> <p>Internal audits shall:</p> <ul style="list-style-type: none"> <li>- Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify and report such information;</li> <li>- 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;</li> <li>- Review the means of safeguarding assets and where appropriate verify the existence of such assets;</li> <li>- Appraise the economy and efficiency with which resources are employed; and</li> </ul>



	<ul style="list-style-type: none"> <li>- 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.</li> </ul>
7.4	<p>For the purpose of conducting internal audit enquiries, the Director of Finance &amp; Transformation or their authorised representative shall be entitled to:</p> <ul style="list-style-type: none"> <li>- Enter any Council premises or land at reasonable times;</li> <li>- Have access to all records, documents and correspondence relating to any Council business;</li> <li>- Require and receive such explanations as may be necessary concerning any matter under examination; and</li> <li>- Require any employee of the Council to produce cash, stores or any other Council property under their control.</li> </ul>
7.5	<p>Any employee who suspects fraud, financial loss or error must either:</p> <ul style="list-style-type: none"> <li>- Raise their concerns under the Whistle Blowing Policy; or</li> <li>- Inform their Chief Officer, who must notify the Director of Finance &amp; Transformation; or</li> <li>- Follow the procedures set out in the Council's Anti-Fraud, Bribery and Corruption Policy.</li> </ul>
7.6	<p>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.</p>
7.7	<p>The Chief Audit Executive shall have the right of direct access to the Chief Executive, the Monitoring Officer and to Members where they consider this is necessary.</p>
<b>8.</b>	<b>Banking Arrangements</b>
8.1	<p>All facilities required in respect of banking shall be made by the Director of Finance &amp; Transformation, who shall be a signatory to every bank account and banking arrangement of the Council.</p>
8.2	<p>All cheques and payment documents shall be ordered only on the authority of the Director of Finance &amp; Transformation, who shall ensure proper arrangements for their safe custody.</p>
8.3	<p>Cheques drawn on the Council's banking accounts shall bear the facsimile signature of the Director of Finance &amp; Transformation or be signed by the Director of Finance &amp; Transformation or officers authorised by them.</p>

8.4	Payments from bank accounts to be processed electronically shall be authorised by the Director of Finance & Transformation or officers authorised by them.
8.5	Overdraft facilities may be arranged by the Director of Finance & Transformation within overall limits approved by the Council.
<b>9.</b>	<b>Corporate Credit Cards</b>
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.
<b>10.</b>	<b>Borrowing Powers</b>
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 they have examined and are satisfied with the terms of any such arrangement.
<b>11.</b>	<b>Property and Land Holdings</b>
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.
<b>12.</b>	<b>Financial Planning and Control</b>
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: <ul style="list-style-type: none"> <li>- The proposed programme of capital expenditure forming List A of the Capital Plan;</li> <li>- Estimates of income and expenditure on the revenue account for the ensuing year.</li> </ul>

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 their control.
12.7	Each Chief Officer shall immediately advise the Director of Finance & Transformation should they 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 their 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.
<b>13.</b>	<b>Virements</b>
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: <ul style="list-style-type: none"> <li>- 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 &amp; Transformation.</li> <li>- The Chief Executive, in consultation with the Management Team and Director of Finance &amp; Transformation, may transfer up to £25,000 in a financial year between budgets relating to the same area of Service activity.</li> <li>- The Executive may approve virements up to a limit of £50,000, including those that involve a transfer between different areas of Service activity.</li> </ul>
13.4	The Director of Finance & Transformation will report to the Executive any virements approved by Chief Officers or the Chief Executive.
<b>14.</b>	<b>Underspending and Overspending</b>
14.1	If revenue budgets are underspent or overspent at the year end, the following applies: <ul style="list-style-type: none"> <li>- No underspending may be carried forward to the following year unless specifically authorised by the Director of Finance &amp; Transformation. Any such amounts must be the subject of an earmarked reserve; and</li> </ul>

	<ul style="list-style-type: none"> <li>- Any overspending shall be reported to the Executive by the Director of Finance &amp; Transformation in an outturn report. If in the opinion of the Director of Finance &amp; Transformation the overspending is significant and relates to functions not the responsibility of the Executive then they shall also report to the appropriate Committee.</li> </ul>
<b>15.</b>	<b>Supplementary Estimates</b>
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 Chair 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.
<b>16.</b>	<b>Income</b>
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 them. The circumstances of any inability to comply with procedures issued by the Director of Finance & Transformation shall immediately be reported to them.
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 they 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.
<b>17.</b>	<b>Fees and Charges</b>
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.
<b>18.</b>	<b>Writing Off Debts</b>
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 they think that further effort to collect it would be a waste of effort or resources or in their opinion there is a valid reason for not pursuing the debt. The Director of Finance & Transformation must report any such write-offs they have approved at least twice a year to the Executive.

<b>19.</b>	<b>Insurances and Risk Management</b>
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 they consider 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.
<b>20.</b>	<b>Inventories</b>
20.1	Each Chief Officer is responsible for the safe custody of stores and equipment placed under their 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.
<b>21</b>	<b>Land Disposal</b>
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.
<b>22</b>	<b>Orders for Works, Goods and Services</b>
22.1	Chief Officers are responsible for ensuring that orders are: <ul style="list-style-type: none"> <li>- Placed in accordance with the tendering procedures set out in the Contracts Procedure Rules in Part 4 of the Constitution;</li> <li>- Compliant with all relevant policies of the Council;</li> <li>- Compliant with procedures issued by the Director of Finance &amp; Transformation;</li> <li>- Placed following the financial vetting of potential contractors for all arrangements valued in excess of £100,000.</li> </ul>
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: <ul style="list-style-type: none"> <li>- Supplies of utility services, e.g. gas, electricity;</li> </ul>



	- 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 they agree an alternative arrangement in specific circumstances.
<b>23.</b>	<b>Issuing of Official Orders</b>
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.

<b>24.</b>	<b>Payment of Invoices</b>
24.1	Each Chief Officer shall ensure that within their 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	<p>The following checks must be made prior to payment by Chief Officers or their authorised officers:</p> <ul style="list-style-type: none"> <li>- 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.</li> <li>- The prices, calculations, trade discounts, other allowances, credits, Construction Industry tax and VAT are correct.</li> <li>- Any goods supplied have been entered on inventories, stores or other appropriate records.</li> <li>- 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.</li> <li>- The Council has not previously paid the invoice and that it is the Council's responsibility to make payment.</li> </ul>
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 them. 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.
<b>25.</b>	<b>Financial Management of Contracts</b>
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 (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 Deputy Chief Executive 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 & Deputy Chief Executive 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.
<b>26.</b>	<b>Partnership</b>
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: <ul style="list-style-type: none"> <li>- Provision and allocation of funding and resources</li> <li>- Appraisal and reporting systems</li> <li>- Risk management provisions</li> <li>- Audit and security controls</li> <li>- Accounting arrangements</li> <li>- Exit strategy</li> <li>- Vires</li> </ul>
<b>27.</b>	<b>Working for Third Parties</b>
27.1	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.
<b>28.</b>	<b>Payment of Salaries and Members’ Allowances</b>
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	<p>Chief Officers must provide the Director of Central Services with full details of:</p> <ul style="list-style-type: none"> <li>- any new employees of the Council;</li> <li>- anyone leaving the Council's employment;</li> <li>- anyone who is transferred to other Council Services;</li> <li>- anyone whose pay changes other than by salary awards or annual increments; and</li> <li>- any other information that may affect the amount of the payment they are entitled to receive.</li> </ul>
28.4	<p>Chief Officers must notify the Director of Finance &amp; Transformation of anyone who is absent through sickness or reasons other than annual leave using the form approved by the Director of Finance &amp; Transformation.</p>
28.5	<p>The Director of Finance &amp; 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 &amp; Transformation.</p>
28.6	<p>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.</p>
28.7	<p>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 &amp; Transformation unless they approve alternative arrangements in specific cases.</p>
<b>29.</b>	<b>Security</b>
29.1	<p>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 &amp; 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.</p>
29.2	<p>Maximum limits for cash holdings shall be agreed with the Director of Finance &amp; Transformation having regard to the level of security appropriate for staff and premises. The limit shall not be exceeded without their permission.</p>
29.3	<p>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.</p>

29.4	The Director of Central Services and Deputy Chief Executive is responsible for the safe custody of all legal documents relating to the activities of or interests of the Council.
<b>30.</b>	<b>Taxation</b>
30.1	The Director of Finance & Transformation is authorised to make any decision or determination with regard to any taxation issue that they consider 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.
<b>31.</b>	<b>Travelling and Subsistence Allowances</b>
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.
<b>32.</b>	<b>Treasury Management</b>
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.
32.2	In exercising treasury management responsibilities, the Director of Finance & Transformation shall comply with the Council's Treasury Management Strategy Statement; Annual Investment Strategy; Treasury Policy Statement and the Chartered Institute of Public Finance and Accountancy Code of Practice on Treasury Management.

## CONTRACTS PROCEDURE RULES

1.	<b>Introduction: Purpose of the Contracts Procedures Rules (CPR)</b>	
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	further 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; and
	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.	
2.	<b>General Principles: Application and Compliance with Contracts Procedure Rules</b>	
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; and
	2.3.5	subject to CPR 12.6, contracts for the sale of equipment, goods or recycled commodities provided that best value is obtained.
<b>3.</b>	<b>General Principles Applying to All Contracts</b>	
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 CPR 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.
<b>4.</b>	<b>Regulatory Context</b>
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; and
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.	
<b>5.</b>	<b>Responsibilities of Chief Officers and Responsible Officers</b>	
5.1	Each Chief Officer shall:	
	5.1.1	be responsible for the purchasing undertaken by their Service and ensure 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 their 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;
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.

<b>6.</b>	<b>Scheme of Delegation</b>
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 their 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.
<b>7.</b>	<b>Financial Thresholds and Procedures</b>
7.1	The table at CPR 7.7 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
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 the Council's nominated web-based portal (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 the Council's nominated web-based portal.

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.	
7.7	Table setting out financial thresholds and procedures:	
<b>Total Value £</b>	<b>Type of Contract</b>	<b>Procedure to be used</b>
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– 189,330*	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)
189,330* 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)

Total Value £	Type of Contract	Procedure to be used
Up to but not including 663,540*	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
663,540* and above	LTR services	Advertise in the OJEU as LTR Service
189,330* up to but not including 4,733,252*	Works and works concessions	Full competitive process with tenders following advertisement by public notice
4,733,252* 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.		
<b>8.</b>	<b>Financial Thresholds and Processes Applying to Approval and Execution of Contracts</b>	
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 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 their 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); 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.
<b>9.</b>		<b>Calculating the Contract Value</b>
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.
<b>10.</b>		<b>Principles Underlying Tendering Processes and Tender Evaluation</b>
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; and
	10.1.5	outcomes which deliver equality/efficiency, and where possible and appropriate, cost savings, sustainability, and social value.
<b>11.</b>	<b>Submission and Opening of Tenders</b>	
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; and
	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; and
	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.
<b>12.</b>	<b>Evaluation of Quotes and Tenders and Award of Contract</b>
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.

<b>13.</b>	<b>Waivers</b>	
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; and
	13.4.2	Best Value and/or 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.	
<b>14.</b>	<b>Extensions or Modifications to Existing Contracts</b>	
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 have been complied with; and
	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 have been complied with.
14.3	Subject to CPR 14.6 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 any extension must take into account:	
	14.4.1	Probity; and
	14.4.2	Best Value and/or 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	CPR 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, the Chief Officer responsible for the relevant Service shall report the extension or modification to the next convenient meeting of the Executive.	
<b>15.</b>	<b>Purchasing Schemes</b>	
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; and
	15.2.4	a waiver is obtained under CPR 13 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; or
	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.	
<b>16.</b>	<b>Review and Changes to these Contracts Procedure Rules</b>	
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.	
<b>17.</b>	<b>Suspension of these Contracts Procedure Rules</b>	
	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

<b>1.</b>	<b>Recruitment and Appointment</b>	
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.	
<b>2.</b>	<b>Recruitment of Head of Paid Service and Chief Officers</b>	
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.
<b>3.</b>	<b>Appointment of Chief Executive</b>
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.
<b>4.</b>	<b>Appointment of Chief Officers (Officers graded M4 and above – other than the Chief Executive)</b>
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.
<b>5.</b>	<b>Other Appointments</b>
5.1	<b>Officers below Chief Officer</b>  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	<b>Political assistants</b>  Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.



<b>6.</b>	<b>Disciplinary Action against certain Post Holders</b>
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.
<b>7.</b>	<b>Dismissal</b>
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.	
<b>8.</b>	<b>Local Authorities (Standing Orders) (England) Regulations 2001</b>
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
	'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 them.	
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 them.	

4.2	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.	
4.3	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.	
5.2	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 Leader on behalf of the Executive to the proper officer; and	
(c)	Either	
(i)	the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither they 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 them within that period from the Leader; or	
(iii)	the appointor is satisfied that any objection received from the 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.	
6.2	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 Leader on behalf of the Executive to the proper officer; and	
(c)	Either:	
(i)	the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither they 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 them within that period from the Leader; or	
(iii)	the dismissor is satisfied that any objection received from the 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.



## Annex 2

**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 below (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 their 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.	<p>When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when -</p> <p>(a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;</p> <p>(b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their 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</p> <p>(c) adopting (with or without modification) the plan or strategy,</p> <p>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.</p>
6.	<p>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 –</p> <p>(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;</p> <p>(b) estimates of other amounts to be used for the purposes of such a calculation;</p> <p>(c) estimates of such a calculation; or</p> <p>(d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,</p> <p>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.</p>
7.	<p>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 them instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.</p>



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.



## PETITION SCHEME

<p>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.</p>
<p>Paper petitions can be sent to:</p> <ul style="list-style-type: none"> <li>- Democratic Services, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, ME19 4LZ</li> </ul>
<p>Alternatively, in electronic form if created, signed and submitted online by following the procedure set out on the Council's website.</p>
<p>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: <a href="mailto:committee.services@tmbc.gov.uk">committee.services@tmbc.gov.uk</a> at least 10 working days before the meeting for further advice.</p>
<p><b>What are the guidelines for submitting a petition?</b></p>
<p>Petitions submitted to the Council must include:</p>
<ul style="list-style-type: none"> <li>- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take;</li> </ul>
<ul style="list-style-type: none"> <li>- the name and address and signature of the persons supporting the petition; and</li> </ul>
<ul style="list-style-type: none"> <li>- 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.</li> </ul>
<p>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.</p>
<p>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.</p>

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 or Cabinet meeting (whichever is appropriate)

- 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.

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. One of these speakers should be the petition organiser.

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. 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](#).

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 Chair of the Committee by contacting the Democratic Services team at the above postal address or on [committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk) up to three working days before the meeting.

### **E-Petitions**

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 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 the 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 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.

By signing an e-petition you are giving permission for your information to be held and used by the Borough Council in connection with the e-petition.

### **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.





# **PART 5:**

# **CODES**



## Tonbridge & Malling Borough Council

### Code of Conduct for Members

#### Preamble

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (E) In accordance with section 34 of the Localism Act 2011, where you have a Disclosable Pecuniary Interest it is a criminal offence if, without reasonable excuse, you:
  - (a) Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the day on which you became a member
  - (b) Fail to disclose the interest at meetings where the interest is not entered in the authority's register
  - (c) Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of disclosure at a meeting, if the interest is not entered in the authority's register and is not the subject of a pending notification
  - (d) Take part in discussion or votes, or further discussions or votes, at meetings on matters in which you have the interest which are being considered at the meeting.
  - (e) Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date when you become aware that you have such an interest in a matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the authority.
  - (f) Take any step in relation to a matter being dealt with by you acting alone in the course of discharging a function of the Authority, except a step for the purpose of enabling the matter to be dealt with otherwise than by you.
  - (g) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

## THE CODE

### 1. Interpretation

In this Code:

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

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

**"Authority"** means Tonbridge & Malling Borough Council.

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

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

**"Code"** means this Code of Conduct.

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

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

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

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

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

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

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

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

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

- (a) may reasonably be regarded as affecting the financial position of yourself and/or an Associated Person to a greater extent than the majority of:
  - (i) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (ii) (in other cases) other council tax payers, ratepayers or inhabitants of the Authority's area; or
- (b) relates to the determination of your application (whether made by you alone or jointly or on your behalf) for any approval, consent, licence, permission or registration or that of an Associated Person;

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

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

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

## Scope

2. (1) You must comply with this Code whenever you act in your official capacity as a Member or Co-opted Member of the Authority.
- (2) This Code applies to all forms of communication and interaction including social media.

## General obligations

3. (1) You must, when using or authorising the use by others of the resources of the Authority:
  - (a) act in accordance with the Authority's reasonable requirements; and
  - (b) ensure that such resources are not used improperly for political purposes (including party political purposes).
- (2) You must not:
  - (a) bully any person or carry out any act of harassment. For the purposes of this paragraph bullying and harassment shall be construed as follows:-
    - (i) the Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Their website contains examples;
    - (ii) harassment will be have the meaning set out in The Protection from Harassment Act 1997 and other relevant legislation.
  - (b) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;

- (c) do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
  - (d) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
    - (i) you have the written consent of a person authorised to give it; or
    - (ii) you are required by law to do so; or
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is:
      - reasonable and in the public interest; and
      - made in good faith and in compliance with the reasonable requirements of the Authority;
  - (e) disclose information which is exempt information within the meaning of Part VA Local Government Act 1972 or The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012;
  - (f) prevent another person from gaining access to information to which that person is entitled by law;
  - (g) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
  - (h) use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.
- (3) Where you have not undertaken training relating to conduct matters, you shall not be able to use this as a defence where a complaint has been made.
  - (4) You must cooperate with any Code of Conduct investigation and/or determination

### **Registering Disclosable Pecuniary Interests**

- 4. (1) You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- (2) In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change

to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.

- (3) Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

## Declaring Interests

5. (1) Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.
- (2) Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant Interest in any matter to be considered, or being considered, at the Meeting, you must:
- (a) disclose the Interest; and
  - (b) explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation or are acting under paragraph 5(4):
  - (c) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
  - (d) withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered; and
  - (e) not seek improperly to influence a decision about that business.
- (3) Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority (including making an executive decision), you must:
- (a) notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
  - (b) not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
  - (c) not seek improperly to influence a decision about the matter.
- (4) Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting



for the same purpose. Having made your representations, given evidence or answered questions you must:

- (a) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
- (b) withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

### **Sensitive Interests**

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

### **Gifts and Hospitality**

7. (1) You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.
- (2) Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.

- (3) You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality.
- (4) The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

## Dispensations

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

**TMBC Code adopted 27 April 2022**

**ANNEX 4****THE SEVEN PRINCIPLES OF PUBLIC LIFE**

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

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest.

**INTEGRITY:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

**OBJECTIVITY:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**ACCOUNTABILITY:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**OPENNESS:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**HONESTY:** Holders of public office should be truthful.

**LEADERSHIP:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



**ANNEX 5****Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:**

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

**"the Act"** means the Localism Act 2011

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

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

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

**"M"** means a member of the relevant authority

**"member"** includes a co-opted member

**"relevant authority"** means the authority of which M is a member

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

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

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

Interest	Description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to M's knowledge):</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

## PROTOCOLS TO THE CODE OF CONDUCT

The following protocols have been adopted by the Council as supplementary to the Members' Code of Conduct. The Joint Standards Committee has responsibility for overseeing compliance with these protocols and any allegations of failure to meet the requirements of these protocols must be made in writing to the Monitoring Officer.

The protocols are:

Protocol A	Member attendance at training
Protocol B	Gifts, Benefits and Hospitality
Protocol C	Use of Council Resources by Members
Protocol D	Requirements of the Council relating to the disclosure of confidential material
Protocol E	Members' Planning Code of Good Practice
Protocol F	Members' Licensing Code of Good Practice





**PROTOCOL A: MEMBER ATTENDANCE AT TRAINING**

A1.1	<p>Where the council provides training for Members:</p> <p>(a) in relation to ethical standards in general or to the Council's Code of Conduct in particular;</p> <p>(b) in relation to the determination of planning applications;</p> <p>(c) in relation to the work of the Council as licensing authority;</p> <p>(d) in any other matters where the Council designates the training as mandatory for the member to attend; or</p> <p>(e) to enable them to comply with an instruction requiring them to undergo training pursuant to a decision of the Joint Standards Committee</p> <p>they must not fail to attend the training without reasonable excuse.</p>
A1.2	<p>Where Members do not attend the training specified in sub-paragraphs A1.1(b) or (c) of this protocol they may not participate in the determination of planning applications or the business of the licensing authority (as the case may be) until such time as they have attended alternative training approved by the General Purposes Committee.</p>
A1.3	<p>Unless the General Purposes Committee grants a dispensation, where Members do not attend the training specified in sub-paragraph A1.1 (e) of this protocol they may not participate in any business of the council until such time as they have attended an alternative training approved by the General Purposes committee.</p> <p>A dispensation under this paragraph may relate to all of the Council's business or to such part of it as may be specified. In considering an application for a dispensation, the General Purposes committee shall have regard to the reasons why the requirement was initially imposed.</p>
A1.4	<p>The rules in respect of training set out above apply equally to those Members nominated to serve as substitute members.</p>



## PROTOCOL B: GIFTS, BENEFITS AND HOSPITALITY

<b>B1</b>	<b>Meaning of "gifts" and "hospitality"</b>	
B1.1	The words "gifts", "benefits" and "hospitality" have wide meanings and no conclusive definition is possible. Gifts, benefits and hospitality include:	
	(a)	the gift of any goods or services;
	(b)	the opportunity to acquire any goods or services free of charge or at a discount or at terms not available to the general public;
	(c)	the offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event on terms not available to the general public.
B1.2	Common gifts include pens, diaries, calendars and other business stationery, key rings, articles of clothing, books, flowers, bouquets and promotional items.	
B1.3	Common hospitality includes lunches, dinners or refreshment.	
<b>B2</b>	<b>General Caution</b>	
B2.1	The fundamental principle must always be that any offer of a gift, benefit or hospitality should be treated with great care. Your prime duty as a member is to ensure that there is no conflict of interest in the performance of your duties. You should treat with caution any gift, benefit or hospitality that is made to you personally. Your personal reputation and that of the council can be seriously jeopardised by the inappropriate acceptance by you of a gift, benefit or hospitality.	
B2.2	You should consider carefully all the circumstances surrounding the offer of a gift, benefit or hospitality. The scale, amount of the offer and the potential frequency and source are relevant factors. Also, you should be sensitive to the timing of the offer in relation to any business of the council which may affect those making the offer.	
B2.3	You should avoid hospitality in situations where you, or you accompanied by members of your family, would be the only guests.	
B2.4	You may have to estimate the value of the gift, benefit or hospitality. Where possible, you should use as a guide the charge which other members of the public would pay to purchase the gift or receive the hospitality.	

B2.5	The decision for you in every case is whether or not it is appropriate to accept any gift, benefit or hospitality that might be offered to you, having regard to how it might be perceived by an ordinary member of the public. No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. To refuse may cause misunderstanding or offence; however, to accept may give rise to impropriety or conflict of interest. In any case of doubt, you should discuss the circumstances with the Monitoring Officer.						
B2.6	<p>Where the decision whether to accept hospitality is left to your judgement, you need to ask yourself some common sense questions. For example:</p> <table border="1" data-bbox="279 627 1420 884"> <tr> <td data-bbox="279 627 343 705">(a)</td> <td data-bbox="351 627 1420 705">is there a benefit to the Council in your accepting the invitation;</td> </tr> <tr> <td data-bbox="279 705 343 817">(b)</td> <td data-bbox="351 705 1420 817">is the entertainment lavish, on a scale which you could not personally afford;</td> </tr> <tr> <td data-bbox="279 817 343 884">(c)</td> <td data-bbox="351 817 1420 884">whether you are accepting too much hospitality from the same source.</td> </tr> </table>	(a)	is there a benefit to the Council in your accepting the invitation;	(b)	is the entertainment lavish, on a scale which you could not personally afford;	(c)	whether you are accepting too much hospitality from the same source.
(a)	is there a benefit to the Council in your accepting the invitation;						
(b)	is the entertainment lavish, on a scale which you could not personally afford;						
(c)	whether you are accepting too much hospitality from the same source.						
<b>B3</b>	<b>Code of Conduct Requirements</b>						
B3.1	The Members' Code of Conduct requires you to register in the Register of Interests maintained by the Monitoring Officer, any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits or hospitality from the same or an associated source, with an estimated cumulative value of £100 or more which are received and accepted by you (in any one calendar year), in the conduct of the business of the Council, the business of the office to which you have been elected or appointed (for example as Mayor or Deputy Mayor) or when you are acting as representative of the Council. You must also register the source of the gift, benefit or hospitality.						
B3.2	You must register the gift, benefit or hospitality within 28 days of its receipt/acceptance, using the form provided by the Monitoring Officer for the purpose.						
B3.3	Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a meeting, you must disclose at the commencement of the meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure set out in paragraph 5 of the Code of Conduct will apply.						
B3.4	You must continue to disclose the existence and nature of the gift, benefit or hospitality at relevant Council meetings, for three years from the date you first registered the gift, benefit or hospitality.						

B3.5	Where any gift, benefit or hospitality (no matter the value) is accepted, the donor should always be advised that acceptance will not confer any advantage for that donor in their dealings with the Council.
<b>B4</b>	<b>Gifts and hospitality below the £100 threshold</b>
B4.1	You are encouraged to register with the Monitoring Officer, any gift, benefit or hospitality you receive which you estimate to be below the £100 threshold, but there is no obligation to make a disclosure at a Council meeting of the source of the gift, benefit or hospitality. Remember – it is in your interests always to register a gift, benefit or hospitality if it could be perceived as something given to you because of your position.
<b>B5</b>	<b>What to Avoid</b>
B5.1	In deciding whether it is appropriate to accept any gift, benefit or hospitality, you must apply the following principles:
(a)	do not accept a gift, benefit or hospitality as an inducement or reward for anything you do as a member. If you have any suspicion that the motive behind the gift, benefit or hospitality is an inducement or reward, you must decline it. 'Reward' includes remuneration, reimbursement and fee.
(b)	do not accept a gift, benefit or hospitality of significant value or whose value is disproportionate in the circumstances.
(c)	do not accept a gift, benefit or hospitality if you believe it will put you under any future obligation to the provider as a consequence.
(d)	do not solicit any gift, benefit or hospitality and avoid giving any perception of doing so.
(e)	do not accept a gift, benefit or hospitality, if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:
(i)	from parties involved with the Council in a competitive tendering or other procurement process.
(ii)	from applicants for planning permission and other applications for licences, consents and approvals.
(iii)	from applicants for grants, including voluntary bodies and other organisations applying for public funding.
(iv)	from applicants for benefits, claims and dispensations.
(v)	from parties in legal proceedings with the Council.

B5.2	It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving the Council. The onus would be on you to disprove corruption in relation to the receipt of a gift, benefit or hospitality from a person holding or seeking to obtain a contract from the Council.
B5.3	Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer.
<p>It is a well-established and recognised rule that no Councillor or other public servant should accept gifts, hospitality, or services from anyone, which would or might appear to place them under an obligation.</p> <p>If you are in doubt about what is proper, there are three particular things you should bear in mind:</p> <ul style="list-style-type: none"> <li>▪ <b>DO</b> err on the side of caution. If the thought of the acceptance of the gift, benefit or hospitality becoming public makes you uncomfortable, do not accept;</li> <li>▪ <b>DO</b> consult the Monitoring Officer if you are still unsure;</li> <li>▪ <b>DO</b> consider if you decide to go ahead to record with the Monitoring Officer that you have addressed the issue of propriety and setting out your reasons for believing that your actions comply with this Protocol.</li> </ul>	
<b>B6</b>	<b>Gifts and Hospitality which need not be Registered</b>
B6.1	<p>There are some circumstances where you may accept gifts and hospitality without the need to register the gift, benefit or hospitality. Some situations will require the exercise of your personal judgement. You should always be cautious when additional services, privileges or advantages are offered, which might be related to your position as a member.</p> <p>Remember - always register a gift, benefit or hospitality if it could be perceived as something given to you because of your position.</p>
(a)	official hospitality such as a civic reception or a working/business lunch in council-owned premises or hosted elsewhere, by a partner organisation of the council.
(b)	civic hospitality provided by another public authority.
(c)	refreshment in connection with any meeting in the course of your work as a member, for example tea, coffee and other normal beverages and refreshments.

(d)	meals or refreshments funded by other public sector partners, as part of joint working/collaboration.
(e)	meals or refreshments provided as part of a ceremony or event to promote/or launch a project or initiative.
(f)	meals or refreshments provided at design/progress meetings, by a consultant, contractor or advisor who is already appointed by the Council for that project, scheme or initiative.
(g)	drinks or other refreshment in the normal course of socialising arising consequentially from Council business e.g. inclusion in a round of drinks after a meeting.
(h)	tickets for sporting, cultural and entertainment events which are sponsored or promoted by the Council or bodies to which you have been appointed by the Council, and the tickets are offered in relation to that sponsorship or promotion.
(i)	Small, low-value gifts, such as pens, calendars, diaries, flowers and other mementos and tokens.
(j)	gifts and hospitality arranged and paid for wholly by your own political party.
(k)	gifts and hospitality not related or connected with your membership of the Council i.e. received by you outside the performance of your functions as a member.
(l)	gifts and hospitality you may receive from family and friends e.g. birthday presents that are not related to your position as a member.
(m)	gifts given to the Council that you accept formally on the Council's behalf and are retained by the Council and not by you personally, for example a picture for display in the Mayor's Parlour.
(n)	gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw.
(o)	gifts and hospitality which you do not accept (refer to the guidance in paragraph 8 of this Protocol).
(p)	gifts which you donate to the Mayor's charity, subject to you indicating this intention to the donor of the gift.
(q)	gifts known to be available to all members of the Council e.g. badges and ties bearing the authority's coat of arms.

	(r)	souvenirs and gifts from other public bodies intended as personal gifts, for example arising from town-twinning and other civic events.
	(s)	hospitality known to be available to all members of the Council, for example refreshments at the council's Annual Meeting.
	(t)	hospitality ancillary to the Council business being conducted, such as an overnight stay for an 'away – day with a partner organisation of the council'.
	(u)	hospitality ancillary to attendance at conferences, seminars and courses where the hospitality is corporate, rather than personal.
	(v)	hospitality ancillary to attendance at functions where you represent the Council (opening ceremonies, public speaking events, conferences).
	(w)	hospitality ancillary to attendance as Mayor or Deputy Mayor, at charity events, garden parties, fetes, schools, concerts etc.
	(x)	trips in the United Kingdom or abroad which are paid for by the Council or which involve reciprocity of payment with other local authorities, government bodies/departments or outside bodies/organisations, together with any hospitality associated with such visits and available to all participants e.g. twinning visits.
<b>B7</b>	<b>Gifts and Hospitality Declined</b>	
B7.1	There is no requirement to register gifts and hospitality offered but declined. However, as a matter of good practice, it would be advisable to inform the Monitoring Officer. When gifts or hospitality are declined, the offeror should be courteously but firmly informed of the procedures and standards operating within the council.	
<b>B8</b>	<b>Reporting of Inappropriate Gifts and Hospitality Offered</b>	
B8.1	It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of the Council. You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift, benefit or hospitality has been offered to you. You may thereafter be required to assist the Police in providing evidence.	



## PROTOCOL C: USE OF COUNCIL RESOURCES BY MEMBERS

<b>C1</b>	<b>Introduction</b>								
C1.1	<p>The purpose of this protocol is to provide a guide to the use of Council resources by members. It is intended to supplement the existing Member Code of Conduct and provide additional guidance on the General Obligations set out at paragraph 3.1, which states:</p> <p>You must, when using or authorising the use by others of the resources of the Authority:</p> <table border="1"> <tr> <td>(a)</td> <td>act in accordance with the Authority's reasonable requirements; and</td> </tr> <tr> <td>(b)</td> <td>ensure that such resources are not used improperly for political purposes (including party political purposes).</td> </tr> </table>	(a)	act in accordance with the Authority's reasonable requirements; and	(b)	ensure that such resources are not used improperly for political purposes (including party political purposes).				
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C1.2	<p>This protocol provides advice as to what constitutes 'reasonable requirements' and what constitutes 'improper' use of Council resources by elected Members. If Members are unsure about anything in this protocol they should contact the Monitoring Officer.</p>								
<b>C2</b>	<b>Resources Provided to Members – General Provisions</b>								
C2.1	<p>The Council provides a range of facilities to support Members, such as stationery, photocopying, printing, telephone and e-mail address and IT equipment (which includes any access to the Council's systems via any on-site or remote access link), to enable members to carry out their duties as a councillor. You must make sure that you use the Council's resources for proper purposes only. In addition, when using the Council's resources you must have regard to the Local Authority Code of Publicity and the Members' Code of Conduct.</p>								
C2.2	<p>The Council is prohibited from publishing any material of a party political nature and you should ensure that when using or authorising the use by others of the Council's resources such resources are not used for purely political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which you have been elected or appointed. You may, therefore, use Council resources and facilities for political purposes in connection with the following business:</p> <table border="1"> <tr> <td>(a)</td> <td>holding ward surgeries;</td> </tr> <tr> <td>(b)</td> <td>dealing with correspondence from members of the public;</td> </tr> <tr> <td>(c)</td> <td>communicating group activities;</td> </tr> <tr> <td>(d)</td> <td>meetings between group members.</td> </tr> </table>	(a)	holding ward surgeries;	(b)	dealing with correspondence from members of the public;	(c)	communicating group activities;	(d)	meetings between group members.
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(c)	communicating group activities;								
(d)	meetings between group members.								

C2.3	Your use of Council resources must not extend to political parties more generally.
C2.4	The Council has agreed to <i>de minimis</i> usage that would otherwise be contrary to this protocol, but which is so small in extent that a reasonable person knowing all the facts would take the view that it should not be thought of as included in what is being controlled, prohibited or otherwise included in this protocol.
C2.5	Your use of any Council resources for purely political purposes, including designing and distributing party political material produced for publicity purposes and support of any political party or group activity, elections and campaigning, is likely to amount to a breach of the Members' Code of Conduct.
C2.6	During the election period (which runs from the date of publication of the notice of election to the close of the polls) you must not use your Council e-mail address in any ward newsletters which contain election or campaigning material.
C2.7	Provided that the use of Council resources is not purely in connection with political purposes and there is no cost to the Council or any liability for the Council arising from its use for secondary purposes, it is a matter for each individual member whether or not they use it for private and family purposes. You will, however, need to take into account any additional costs that may arise from extending software licences and the replacement of equipment (excluding marginal shortening of the life of items of equipment, for example from modest use of a printer) and any impact your use may have on, for example, service warranties and agreements. You must also take into account security issues related to confidential information and the processing and disclosure of information under the Data Protection Act 1998.
<b>C3</b>	<b>Use of resources – Council logo</b>
C3.1	The Council's logo is only available for use in connection with Borough Council business.
<b>C4</b>	<b>Use of resources – Freedom of Information &amp; Data Protection</b>
C4.1	The Freedom of Information Act/ Environmental Information Regulations apply to public authorities and not to elected Members. However, there is still potential for Members' communications to fall within the scope of a request for information. This may occur, for example:
(a)	Where the communications relate to the official business of the Council – such communications are potentially subject to the disclosure provisions of the Freedom of Information Act/ Environmental Information Regulations regardless of whether they are held in an official or personal email account, text messages or any other form of media;

	(b)	When Members are in dialogue with Council officers – as the record of the communication is held by the Council, it may be disclosable upon request under the Freedom of Information Act/ Environmental Information Regulations.
C4.2		Members are reminded that they should not be using personal email addresses for Council business as it also increases the risk that confidentiality may be breached as the Council cannot guarantee the security of external systems. In such circumstances the Member(s) themselves will be responsible and liable for any data breach.
C4.3		All Council Members will be registered with the Information Commissioner's Officer as Data Controllers in their own right.
<b>C5</b>		<b>Use of resources – Information Security</b>
C5.1		Councillors are required to comply with any Council policies regarding the use of IT facilities.
C5.2		In particular, if you are supplied with a Council computer, tablet or other electronic device (e.g. phone) and internet connection facilities, you must comply with the Council's IT Security Policies.
C5.3		Members are under an obligation to ensure that any secondary use of IT equipment supplied by the Council is acceptable and appropriate and that such use does not contravene the Members' Code of Conduct and protocols, the Computer Misuse Act 1990, the Data Protection Act 1998 or any other relevant legislation.
<b>C6</b>		<b>Use of resources – Social Media</b>
C6.1		Improper use of social media and mobile devices could be used as grounds for challenging a contentious decision, or result in complaints of breaching the Councillors Code of Conduct, for a failure to show respect for others or bringing the Council or the office of councillor into disrepute.
C6.2		Popular social media platforms include Facebook, Twitter, LinkedIn, YouTube, Instagram and blogs (web logs). Types of mobile devices include smart-phones, tablets and laptops.
C6.3		Councillors may use these and other platforms in their official capacity, but should remember that the public may still perceive them as acting in that capacity even when that is not their intention.
C6.4		Councillors should:
	(a)	consider whether they need to set appropriate privacy settings for any blog or networking site – especially if it is a private, non-political blog;

	(b)	keep an eye out for defamatory, untrue or obscene posts from others and remove them as soon as possible to avoid the perception that they condone such views;
	(c)	be careful about any connection with service users who are vulnerable adults or children, as this could be regarded as a safeguarding issue;
	(d)	ensure they use Council facilities appropriately and comply with the Acceptable Use of ICT Equipment and Systems Policy;
	(e)	be aware that by publishing information that they could not have accessed without their position as a councillor, they will be seen as acting in their official capacity;
	(f)	be careful about being too specific or personal if referring to individuals; and
	(g)	be aware that the libel laws cover blogs, social media and other forms of digital content publication.
C6.5	Councillors should not:	
	(a)	place images or text on their site from a copyrighted source (for example extracts from publications or photos) without permission;
	(b)	post comments that they would not be prepared to make face to face;
	(c)	refer in a blog to any information identified by the Council as confidential or exempt;
	(d)	disclose information given to them in confidence by anyone or information acquired by them which they believe or are aware is of a confidential nature;
	(e)	publish personal data of individuals except with express written permission to do so;
	(f)	give the impression that they are expressing the views of the Council where it is not appropriate to do so; and
	(g)	if they are involved in determining planning or licensing applications or other quasi-judicial decisions, publish anything on their blog that might suggest they do not have an open mind about a matter they are involved in determining.

## PROTOCOL D: REQUIREMENTS OF THE COUNCIL RELATING TO THE DISCLOSURE OF CONFIDENTIAL MATERIAL

<b>D1</b>	<b>Introduction</b>
D1.1	Paragraph 3.2 (d) of the Members' Code of Conduct provides that you must not disclose confidential information, except in the circumstances specified in the code. It refers to circumstances where the disclosure is:
(a)	with the written consent of the person authorised to give it; or
(b)	required by law; or
(c)	made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
(d)	reasonable and in the public interest; and made in good faith and complies with any reasonable requirements of the Council.
D1.2	The purpose of this protocol is to specify the Council's requirements with which you are required by the code to comply.
<b>D2</b>	<b>Confidential Information</b>
D2.1	Confidential information is defined in the code as "information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature".
<b>D3</b>	<b>'Good Faith'</b>
D3.1	The Members' Code of Conduct does not define 'good faith', but a disclosure made in good faith shall, for the purposes of this protocol, be deemed to mean a disclosure made in the reasonable belief that the information disclosed is substantially true and disclosed without malice or a view to gain.
<b>D4</b>	<b>Public Interest</b>
D4.1	The Members' Code of Conduct does not define what is in the "public interest" but, for the purposes of this protocol, a disclosure is deemed to be in the public interest if a member of the public with knowledge of the relevant facts would reasonably regard it as appropriate for you to disclose the information, having regard to:
(a)	the seriousness of the matter disclosed; and
(b)	the likelihood of any malpractice or impropriety continuing or being likely to occur in the future.

<b>D5</b>	<b>Disclosure</b>
D5.1	As a first step, you should ask the Chief Officer concerned to confirm whether the information which you have is "substantially true" and, if so, why the information is treated as confidential. There may be legal reasons for this, such as a duty to keep the information confidential imposed by law. Or it may be that disclosure might compromise the financial or business affairs of the Council or a contractor or supplier. Your enquiry will be judged against the restrictions imposed upon the release of information under the Freedom of Information Act 2000, Environmental Information Regulations 2004 or other relevant statutory provisions and you will be sent a full written explanation as to whether the information can be disclosed and, if not, the reasons why it should not be disclosed.
D5.2	If, having completed this process, you are not satisfied with the reasons why information should not be disclosed and are still of the view that it is in the public interest for the information to be disclosed, you should raise the matter with the leadership of your political group and with the Chief Executive.
D5.3	Only once you have completed this process and you have not been given proper reasons why the information should not be disclosed should you then consider making such a disclosure.

**PROTOCOL E: MEMBERS` PLANNING CODE OF GOOD PRACTICE**

<b>E1</b>	<b>Introduction</b>
E1.1	This Code has been prepared using the advice in the Local Government Association's guidance note on good planning practice for councillors and officers dealing with planning matters – Probity in Planning (April 2013)
E1.2	<p>This Code of good practice applies to councillors at all times when they are involved in the planning process. This includes when you are:</p> <ul style="list-style-type: none"> <li>- acting as a member of an area planning committee;</li> <li>- taking part in a debate on a planning application or other development control matter in another area planning committee;</li> <li>- acting as a member of the Full Council when it is determining a planning application or other development control matter;</li> <li>- involved in informal meetings e.g. with officers or public and consultative meetings;</li> <li>- involved outside the committee on a planning application or other development control matter, including planning enforcement matters or site specific issues</li> </ul> <p>and use of the expression "planning committee" should be taken to refer to the forum for any of these activities.</p> <p>This Code also applies to Members when dealing with site-specific issues in connection with the Local Plan.</p>
E1.3	<p>The aim of this Code is to ensure that:</p> <ul style="list-style-type: none"> <li>- in the planning process there are no grounds for suggesting that a decision has been biased, partial or is not well founded in any way.</li> <li>- You must make planning decisions openly and impartially with sound judgment and for clear and justifiable reasons.</li> <li>- Development is managed in the public interest</li> </ul>
E1.4	The Human Rights Act 1998 has implications for the planning system and creates enhanced requirements for procedural fairness, transparency and accountability in determining planning applications.

E.5	This Code is intended to minimise the prospect of legal or other challenges to planning decisions. However, non-compliance without good reason can be taken into account in investigations into possible maladministration or may have implications for the standing of councillors and the council as a whole. It could also lead to a complaint to the Monitoring Officer against an individual member.	
<b>E2</b>	<b>Relationship with the Members` Code of Conduct</b>	
E2.1	This Planning Code of good practice is designed for Members when discharging planning functions of the Council. Whilst it interprets the Members` Code of Conduct with respect to planning matters it is subordinate to the Members` Code of Conduct and in the event of any inconsistencies arising between this code and the Members` Code of Conduct, the latter shall prevail.	
<b>E3</b>	<b>Declaration of Interests</b>	
E3.1	The Members` Code of Conduct places requirements on councillors as to the notification and declaration of their interests and participation in the business of the Council in light of those interests. These requirements must be followed scrupulously and councillors should review their situation regularly. Advice can always be sought from the Monitoring Officer or one of the Council's solicitors as to whether an interest may exist; however <b>ultimate responsibility for compliance rests with individual councillors.</b>	
E3.2	<p>You can have an interest in a planning application in a number of different ways. It may, for example, be an application which relates to property in which you or your partner have a direct interest e.g. as owner. Alternatively, it may be an application which may reasonably be regarded as affecting the financial position of yourself and/ or an Associated Person e.g. a member of your family and where a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice public interest.</p> <p>These interests are defined in the Code of Conduct as Disclosable Pecuniary Interests (DPIs) and Other Significant Interests (OSIs).</p>	
E3.3	If you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Council, then you	
	(a)	must notify the Monitoring Officer of the existence and nature of the interest (if not already notified) as soon as you become aware of this;
	(b)	not participate in any discussion of, or vote taken on, the matter at a meeting (unless you have obtained a dispensation from the Monitoring Officer or General Purposes Committee as appropriate);



	(c)	withdraw from the meeting room whenever it becomes apparent that the matter is being considered
	(d)	not seek to improperly influence a decision about that business.
E3.4	If you have an Other Significant Interest in any business of the Council then you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose. Having made your representations, given evidence or answered questions you must:	
	(a)	not participate in any discussion of, or vote taken on, the matter at the meeting; and
	(b)	withdraw from the meeting room in accordance with the Council's Procedure Rules.
E3.5	You should also make known any DPI or OSI at informal meetings or discussions including those held with officers or other councillors and third parties.	
<b>E4</b>	<b>"Pre-determination" (fettering discretion) and "apparent bias"</b>	
E4.1	In addition to taking appropriate action in relation to DPIs and OSIs, Members of the Area Planning Committees need to avoid bias or predetermination or any appearance of bias or predetermination before taking a decision on a planning application.	
E4.2	If you have taken a firm view on a planning matter, or if it appears that you have made up your mind before the formal consideration of a planning application, it may appear to a member of the public that you may have formed what is called a "pre-determined view" on the matter – this used to be described as having "fettered one's discretion".	
E4.3	In some circumstances you might reasonably appear to a member of the public to have a pre-determined view on an application, by reason of comments made or close contact with an applicant or representor, even though this is not the case. This is described as "apparent bias" and may put you in the same position as one who has fettered their discretion. It is important to remember that it is the public's perception which is important here.	
E4.4	If you have fettered your discretion and then take part in the decision, that will put the Council at risk of a finding of maladministration. It could also lead to legal proceedings to challenge the decision on grounds of there being a danger of bias or pre-determination or a failure to take into account all factors enabling the proposal to be considered on its specific merits. It may also give rise to a complaint to the Council's Monitoring Officer.	

E4.5	As long as you do not have an interest, and have not fettered your discretion, you can still act as a ward councillor and address the committee in the usual way: if you have an interest the rules at paragraph E3.3 above will apply.
E4.6	Areas in which you need to give particular consideration are set out below.
<b><i>Lobbying By Other Councillors</i></b>	
E4.7	If you lead, represent or are a member of a group whose primary purpose is to lobby in support or against a planning application, you may have fettered your discretion. Depending on your involvement, you may also have an interest. This may be so, even if you were appointed to the body by the Borough Council.
E4.8	The position in paragraph E4.7 is distinct from membership of general interest groups which reflect your area of interest, for example the RSPB, the Ramblers' Association or a local historical society (unless you have a position of control or management in the organisation. However, you should still disclose the existence of an interest where appropriate. If, at the time of declaring that interest you are able to say that you were not involved in preparing that representation and have reserved your judgement, then you will not have fettered your discretion. However, if you cannot say so, you will have fettered your discretion.
E4.9	You should not lobby other councillors regarding their views on planning applications. Nor should you, outside of the planning committee meeting, try to persuade other councillors how to vote.
E4.10	You should not decide, or discuss, how to vote on planning applications at political group meetings or other meetings or lobby other members to do so. Political group meetings should never dictate how members should vote on planning applications. The use of a political whip to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
<b><i>Lobbying of Councillors by other persons</i></b>	
E4.11	Lobbying is a normal and perfectly proper part of the political process. Those who may be promoting or affected by a planning decision will often be seeking to influence it through an approach to their elected ward councillor, another councillor or a member of a planning committee. However where you are a member of a planning committee which will determine the application, lobbying can lead to a challenge to your integrity and impartiality. This can, in turn, affect the validity of a planning decision.

E4.12	<p>Councillors are entitled to have a view on planning proposals submitted or to be submitted to the Council. The simple expression of a prior view does not preclude you from taking part in the decision making process. If you decide that you wish to participate in the determination of a planning application you should explain to persons lobbying or attempting to lobby you that, whilst you can listen to what is said, it would prejudice your impartiality and your ability to participate in the decision if you give a firm statement of how you intend to vote or such a firm point of view that it amounts to the same thing. For the avoidance of doubt you will not have fettered your discretion:</p> <ul style="list-style-type: none"> <li>- by just listening to viewpoints from residents or interested parties;</li> <li>- by making comments which fall short of prejudging the issue;</li> <li>- by seeking information through appropriate channels;</li> <li>- by acting as a vehicle for the expression of views as a ward councillor;</li> </ul> <p>providing that you have not committed yourself to vote in accordance with those views and that you are not acting as an advocate for a particular viewpoint.</p>
E4.13	<p>When you participate in a planning decision, your overriding duty is to the community as a whole and not just to people in your ward. As decisions need to be taken impartially you must not improperly favour, or appear to improperly favour, any person, company, group or locality.</p>
E4.14	<p>You should not accept gifts or hospitality from any person involved in or affected by a planning application. It is advisable to let the monitoring officer know if you feel that you have been exposed to excessive lobbying or offers of gifts or hospitality linked to a planning application. It may be wise, and in your own best interests, to make a written notification to the Monitoring Officer that a gift, benefit or hospitality has been offered and refused.</p>
E4.15	<p>It is good practice to:</p> <ul style="list-style-type: none"> <li>- forward copies of lobbying correspondence to the Director of Planning, Housing and Environmental Health;</li> <li>- advise the Director of Planning, Housing and Environmental Health of any offers of planning gain or constraint on development made to them;</li> <li>- comply with guidance on lobbying or attending presentations or discussions set out in this protocol.</li> </ul>
<b>E5</b>	<b>Contact with applicants, developers and objectors</b>
E5.1	<p>You should refer those who approach you for assistance on planning, procedural or technical matters to the relevant officers.</p>

E5.2	The following rules should be applied in respect of presentations about planning proposals:
	(a) You should not attend private planning presentations unless you have taken advice from one of the Council's solicitors as to the appropriateness of attending. Officers should be present with councillors in any pre-application meetings.
	(b) A written note should be made of all meetings. A note should also be taken of any phone conversations and relevant emails recorded for the file. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file.
	(c) Questions should be limited to those necessary to clarify your understanding of proposals.
	(d) Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the Borough Council's position is co-ordinated.
	(e) It must be remembered that the presentation is not a part of the formal planning process. The presentation is a form of lobbying and councillors who will be determining the application should avoid expressing views on how they will vote.
<b>E6</b>	<b>Site Inspections</b>
E6.1	A Members site inspection can be carried out where an application is to be determined by an Area Planning Committee. The Committee Chairman, in consultation with the Head of Planning, will normally identify the need for any site inspections in advance of meetings of the Committee. Otherwise, only exceptionally should an item be deferred for a site inspection and it should only take place if voted for by a majority of the Area Planning Committee.
E6.2	A Councillor who believes a site inspection is necessary in a particular case, having careful regard to the criteria below, is encouraged to contact the Head of Planning as soon as possible. A Councillor making such a request should state under which of the four criteria below the Inspection is requested and also provide supporting justification. The Head of Planning will then consult with the Chairman of the Area Planning Committee regarding the request for the site inspection. The same justification is required should the Head of Planning believe a site inspection is necessary.

E6.3	<p>A Members' Site inspection should only be used where the benefit of doing so is clear and substantial. The decision to hold a site inspection must fit at least one of the following criteria:</p> <p>(a) Particular site factors are so significant in terms of weight attached to them, relative to other factors, and that a site inspection would be the only way to assess those factors.</p> <p>(b) It is essential in order to reach a view on an application that the specific and particular characteristics of the site need to be viewed on the ground in order to assess the broader material impact of the proposal.</p> <p>(c) The proposal raises specific matters in respect of site characteristics, the importance of which can only be established by means of a site inspection.</p> <p>(d) The proposal is of such a major or strategic scale that a site inspection is essential to enable Members to be fully familiar with all site-related matters of fact.</p>
E6.4	<p>The purpose of a site inspection is solely for Planning Committee Members to view the site and its surroundings and to relate the application proposals to the site. Officers will explain the submitted drawings. Neither the applicant, their agent nor any supporters or objectors should take part. Where an applicant or land owner and/or their agent have to be present to allow access to the site, the visiting Members should stand away from them (or if necessary, politely ask the applicant or owner to stand away) and should not engage in any discussions.</p>
E6.5	<p>One representative from the Parish Council, in whose area the site is located, may attend the site inspection. The Parish Council representative may observe proceedings, but should not take part or engage in any discussions. The relevant Parish Council will be notified in advance of the date and time the site inspection is scheduled to take place and should advise Committee Services if they wish a representative to be present.</p> <p>Access to the site by the Parish Council representative is at the discretion of the landowner.</p>
E6.6	<p>Members should avoid any discussion of the merits of the case on site, on the journey to/from the site, or anywhere other than the subsequent Committee meeting when the application is reported for determination. No decision will be taken on site.</p> <p>The application will normally be considered at the next ordinary meeting of the Area Planning Committee.</p>

<b>E7</b>	<b>Contact with Officers</b>
E7.1	General guidance is given in the Protocol on Member/Officer relations in Part 5 (Codes) of the Constitution and that is not repeated here.
E7.2	You should not put pressure on officers for a particular recommendation or decision, nor do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity. However this does not prevent you from asking questions or submitting views to a relevant officer.
E7.3	Officers must act in accordance with the Officers' Code of Conduct in this Part the Constitution and any relevant professional codes of conduct, for example the Royal Town Planning Institute's code of professional conduct. As a result, the planning officers' views will be presented on the basis of their overriding professional obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the committee or its members.
<b>E8</b>	<b>Planning applications made by Councillors and Officers and Council Development</b>
<b>Applications submitted by councillors and officers</b>	
E8.1	It is perfectly legitimate for planning applications or development plan proposals to be submitted by councillors and officers. However, proposals to the Council by councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. It is therefore vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.
E8.2	Councillors and officers who submit proposals should notify the Monitoring Officer of the proposal, play no part in its processing or determination and not seek to improperly influence a decision about such proposals.
E8.3	All such proposals shall be subject to the relevant statutory public consultation requirements. Where objections have been raised, the application shall be decided by the relevant area planning committee and not dealt with by officers under delegated powers.
E8.4	The relevant requirements set out in the Members' Code of Conduct regarding participation and voting at meetings must be observed e.g. a councillor with a DPI may not participate in the consideration of the matter and may therefore not speak. Such councillors will need to have a representative speak on their behalf.
E8.5	Members considering an application to be determined by committee must, of course, consider whether the nature of any relationship with the member or officer submitting the planning application requires the declaration of a DPI or OSI.

E8.6	Serving councillors and officers should avoid acting as agents for people pursuing a planning matter and where they do must play no part in the decision making process for that proposal. Particular arrangements may need to be made in respect of councillors whose business is, or includes, the making of planning applications on behalf of others.
<b>Applications submitted by the Council</b>	
E8.7	Proposals for development submitted by the Council must be treated no differently to any other application.
E8.8	Occasionally some councillor's e.g. Cabinet Members, may through their other roles outside of an Area Planning Committee, have been committed to or involved in a development proposal by the Council. In such circumstances, where such an item comes to be considered at an Area Planning Committee the councillor concerned must consider whether they have had a degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer.
<b>E9</b>	<b>Decision Making</b>
E9.1	Under the Council's Constitution, most decisions on planning matters are delegated to the Director of Planning, Housing and Environmental Health except in certain circumstances set out in the table of delegations. One of those circumstances is where a member for the relevant ward in which the application site falls, or the relevant planning committee Chairman or Vice-Chairman has, with reasoned justification, required that the application be determined by the relevant planning committee. In those cases, it is imperative that members state clearly their justification (in planning terms) for requiring an application to be reported to the planning committee. In every case, members are advised to frame their comments in such a way as not to give any appearance of pre-determination in respect of the matter. Any comments you have made will be included in the public register and may have to be disclosed to the public under the Freedom of Information Act or Environmental Information Regulations.
E9.2	When you have to make a planning decision you must:
(a)	come to meetings with an open mind and demonstrate you are open minded;
(b)	comply with section 54A of the Town and Country Planning Act 1990 and make decisions only in accordance with the development plan unless material considerations indicate otherwise;
(c)	not vote or take part in the meeting's discussions on a proposal unless present to hear the entire debate including any officer introduction/presentation;

	(d)	come to a decision only after due consideration of all information reasonably required upon which to base such a decision;
	(e)	request further information if you consider that there is insufficient information before the committee upon which to reach a decision;
	(f)	where proposing, seconding or supporting a decision contrary to officer recommendations or the development plan, identify the planning reasons behind the decision before the vote is taken which may have to be justified in the event of any appeal or other challenge.
<b>E10</b>	<b>Training</b>	
E10.1	You should not participate in decision-making meetings dealing with planning matters unless you have attended any prescribed training.	



## PROTOCOL F: MEMBERS' LICENSING CODE OF GOOD PRACTICE

<b>F1</b>	<b>Introduction</b>
F1.1	This protocol is intended to apply the principles contained in the Members' Code of Conduct, together with the statutory provisions relating to members' conduct contained in the Human Rights Act 1998, the Licensing Act 2003 and the Gambling Act 2005, to Members' licensing responsibilities and to support and maintain the observance of high standards of ethical conduct. This protocol applies to the actions of the licensing authority and, for the purposes of this protocol; the term "licensing authority" means the Licensing and Appeals Committee or a panel of the committee, as appropriate.
F1.2	The aim of this protocol is to ensure that in the licensing process there are no grounds for suggesting that a decision has been biased, partial or is not well founded in any way. Members must make decisions openly and impartially, with sound judgment and clear and justifiable reasons, and in compliance with any legal provisions.
F1.3	The key purpose of licensing is to regulate certain activities in the public interest and to promote the licensing objectives defined in the legislation. In addition, the licensing authority must have regard to any statutory guidance issued by the Secretaries of State for Transport and for Culture, Media and Sport and the Gambling Commission.
F1.4	This protocol also applies to other Members at times when involving themselves in the licensing process, both in formal meetings of the licensing authority and in less formal occasions, such as meetings with officers or the public and consultative meetings.
<b>F2</b>	<b>Relationship with the Members' Code of Conduct</b>
F2.1	The Members' Code of Conduct must always be complied with and the rules in that code must be applied before considering this protocol.
F.2.2	This protocol is not intended to form a part of the adopted Members' Code of Conduct, but is a separate document, which is both supportive of the Members' code and a source of expanded guidance in the particular area of licensing.
<b>F3</b>	<b>Licensing proposals and interests under the Members' Code of Conduct</b>
F3.1	As a Member, your interest in a licensing matter may take a variety of forms: <ul style="list-style-type: none"> <li>- as a Member of the Executive having responsibility for licensed premises in the Council's ownership or for licensable activities promoted by the Council;</li> </ul>

	<ul style="list-style-type: none"> <li>- as a member of another organisation or body that is applying to the licensing authority for a licence or is conducting a licensable activity;</li> </ul>				
	<ul style="list-style-type: none"> <li>- as an employee of a responsible authority, as defined in the legislation;</li> </ul>				
	<ul style="list-style-type: none"> <li>- as a person who lives, or who has business premises, in the vicinity of licensed premises or an application site;</li> </ul>				
	<ul style="list-style-type: none"> <li>- as a member of a lobby group or campaigner;</li> </ul>				
	<ul style="list-style-type: none"> <li>- as the applicant for, or holder of, a licence or the provider of a licensable activity;</li> </ul>				
	<ul style="list-style-type: none"> <li>- as a member or officer of a registered club;</li> </ul>				
	<ul style="list-style-type: none"> <li>- as a supplier of goods or services to an applicant, a licence holder or a club.</li> </ul>				
F3.2	<p>The Members' Code of Conduct places requirements on councillors as to the notification and declaration of their interests and participation in the business of the Council in light of those interests. These requirements must be followed scrupulously and councillors should review their situation regularly. Advice can always be sought from the Monitoring Officer or one of the Council's solicitors as to whether an interest may exist; however ultimate responsibility for compliance rests with individual councillors.</p>				
F3.3	<p>You can have an interest in a licensing application in a number of different ways. It may, for example, be an application which relates to property in which you or your partner have a direct interest e.g. as owner. Alternatively, it may be an application which may reasonably be regarded as affecting the financial position of yourself and/ or an Associated Person e.g. a member of your family and where a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice the public interest. These interests are defined in the code of conduct as Disclosable Pecuniary Interests (DPIs) and Other Significant Interests (OSIs).</p>				
F3.4	<p>If you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Council, then you:</p>				
	<table border="1"> <tr> <td style="width: 5%; text-align: center;">(a)</td> <td>must notify the Monitoring Officer of the existence and nature of the interest (if not already notified) as soon as you become aware of this;</td> </tr> <tr> <td style="text-align: center;">(b)</td> <td>not participate in any discussion of, or vote taken on, the matter at a meeting (unless you have obtained a dispensation from the Monitoring Officer or General Purposes Committee as appropriate);</td> </tr> </table>	(a)	must notify the Monitoring Officer of the existence and nature of the interest (if not already notified) as soon as you become aware of this;	(b)	not participate in any discussion of, or vote taken on, the matter at a meeting (unless you have obtained a dispensation from the Monitoring Officer or General Purposes Committee as appropriate);
(a)	must notify the Monitoring Officer of the existence and nature of the interest (if not already notified) as soon as you become aware of this;				
(b)	not participate in any discussion of, or vote taken on, the matter at a meeting (unless you have obtained a dispensation from the Monitoring Officer or General Purposes Committee as appropriate);				

	(c)	withdraw from the meeting room whenever it becomes apparent that the matter is being considered;
	(d)	not seek to improperly influence a decision about that business.
F3.5	If you have an Other Significant Interest in any business of the Council then you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose. Having made your representations, given evidence or answered questions you must:	
	(a)	not participate in any discussion of, or vote taken on, the matter at the meeting; and
	(b)	withdraw from the meeting room in accordance with the Council's Procedure Rules.
F3.6	You should also make known any DPI or OSI at informal meetings or discussions including those held with officers or other councillors and third parties.	
<b>F4</b>	<b>"Pre-determination" (fettering discretion) and "apparent bias"</b>	
F4.1	You should not fetter your discretion, and therefore your ability to participate in licensing decision making, by making up your mind (or clearly appearing to have made up your mind) as to how you will vote on any application prior to its formal consideration at a hearing and before hearing the evidence and representations on all sides. You should particularly think how what you do or say might be viewed by an external interest or lobby group.	
F4.2	Fettering your discretion in this way, and then taking part in the decision, will put the licensing authority at risk of a finding of maladministration and of legal challenge on the basis of a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.	
<b>F5</b>	<b>Contact with Applicants and Interested Parties</b>	
F5.1	You should refer those who approach you for assistance on licensing, procedural or technical matters to the relevant officers.	
F5.2	You should not be involved in formal meetings with applicants or groups of objectors or become involved in any organisation one of whose primary purposes is to promote or oppose licensing proposals.	

F5.3	If you are, or are likely to be, a member of a hearing panel, you should explain to those who may be attempting to lobby you that you cannot listen to what they want to say as this will prejudice your impartiality and, therefore, your ability to participate in the decision-making process. It is good practice to advise them to contact a ward councillor, who may be able to speak on their behalf at the hearing.
F5.4	<p>It is good practice to:</p> <ul style="list-style-type: none"> <li>- forward copies of lobbying correspondence to the Director of Central Services and Monitoring Officer, although correspondence received outside the relevant time period cannot be taken into account;</li> <li>- comply with guidance on lobbying or attending presentations or discussions set out in this protocol.</li> </ul>
F5.5	If you are not a member of a hearing panel, you should not feel constrained in receiving an approach from an applicant or objector and, having considered the information that they have supplied, to agree to speak or make representations on their behalf at a hearing.
<b>F6</b>	<b>Lobbying by other Councillors</b>
F6.1	You must not lobby other councillors regarding their views on licensing applications. Nor should you, outside of the context of the hearing, try to persuade other councillors how to vote.
F6.2	You should not decide, or discuss, how to vote on licensing applications at political group meetings or other meetings, or lobby other members to do so. Political group meetings should never dictate how members should vote on licensing business.
<b>F7</b>	<b>Training</b>
F7.1	You should not participate in decision-making meetings dealing with licensing applications or reviews unless you have attended any prescribed training: <b>this is a legal requirement and cannot be waived.</b>

## OFFICERS' CODE OF CONDUCT (AMENDED JANUARY 2022)

<b>Introduction</b>	
The public is entitled to expect the highest standards of conduct from all employees of Tonbridge & Malling Borough Council.	
<b>Status of the Code</b>	
The Code has been adopted by the Council following consultation with employee representatives. In the absence of a satisfactory explanation any significant breach of it is likely to be treated as a serious disciplinary matter in accordance with the Council's adopted disciplinary procedure (available on Staffnet). For example, accepting a bribe from a supplier, contractor or other third party will be regarded as gross misconduct.	
<b>Who the Code is aimed at</b>	
The Code applies to all of the Council's employees.	
Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than it will others. The Code is intended to cover all employees under a contract of employment although employees engaged on temporary contracts may in some circumstances be excluded from its provisions. Such employees should check with their Chief Officer if they are in any doubt about particular situations. Activities carried out by employees acting as members of companies or voluntary organisations should be subject to the minimum standards within this Code.	
<b>1</b>	<b>Standards</b>
1.1	Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality. Employees will be expected, without fear of recrimination, to bring to the attention of their Chief Officer or the Chief Executive any deficiency in the provision of service. Employees must report to their Chief Officer or Chief Executive any impropriety or breach of procedure. Advice in confidence, about what might be "reportable" and to whom, can be obtained from the Audit & Counter Fraud Manager or Personnel Manager.
<b>2</b>	<b>Disclosure of information</b>
2.1	It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. Your Chief Officer will tell you the rules and practices which relate to the disclosure of information in your Service. Enquiries from the media should normally be referred to your Chief Officer unless they have delegated responsibility for dealing with particular matters to another officer.

2.2	Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a councillor which is personal to that councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.
2.3	Employees should be aware of and observe the Council's corporate guidelines and policies with regard to processing personal data. The Council takes its information governance responsibilities very seriously and all employees are expected to conform to the Council's values, rules, policies and procedures. Employees should refer to their own Service guidelines and/or manager for more information, where applicable.
<b>3</b>	<b>Political Neutrality</b>
3.1	Employees serve the authority as a whole. It follows they must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.
3.2	Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.
3.3	Nothing in this section is intended to compromise the right of employees to join and take part in the activities of political parties, other than as set out for politically restricted posts in the Local Government and Housing Act 1989. You will have been informed by letter or via your contract of employment whether your post is politically restricted.
<b>4</b>	<b>Relationships</b>
4.1	<i>Councillors:</i> Employees are responsible to the authority through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the authority's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.
4.2	<i>The Local Community and Service Users:</i>
	Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.

4.3	<b>Contractors:</b>
4.3.1	All relationships of a business or private nature with external contractors, or potential contractors, should be made known to your Chief Officer. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.
4.3.2	Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to their Chief Officer.
<b>5</b>	<b>Appointment and other employment matters</b>
5.1	Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with them.
5.2	Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.
<b>6.</b>	<b>Outside commitments</b>
6.1	Most employees have contracts which require them to obtain written consent to take any outside employment. You should be clear about your contractual obligations and ensure you follow the appropriate procedures for obtaining consent to take outside employment.
6.2	Employees should be aware that any intellectual property created in the course of their employment remains in the ownership of the Authority. Intellectual property comprises inventions and original/creative writings and drawings.
<b>7</b>	<b>Personal interests</b>
7.1	Employees must declare to their Chief Officer any non-financial interests that they consider could bring about conflict with the authority's interests.
7.2	Employees must declare to their Chief Officer any financial interests which could conflict with the authority's interests.
7.3	Employees should declare to their Chief Officer membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

7.4	All personal interests should be recorded on the prescribed form on Staffnet.
<b>8</b>	<b>Equality Issues</b>
8.1	All employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.
<b>9</b>	<b>Separation of Roles during Tendering</b>
9.1	Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
9.2	Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
9.3	Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
9.4	Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform their Chief Officer and withdraw from the contract awarding processes.
9.5	Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
<b>10</b>	<b>Corruption</b>
10.1	Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.
<b>11</b>	<b>Use of Financial Resources</b>
11.1	Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.



<b>12</b>	<b>Hospitality</b>
12.1	Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the authority should be seen to be represented. It should be properly authorised by your Chief Officer. All offers of gifts or hospitality, whether accepted or refused, should be recorded using the prescribed form on Staffnet.
12.2	When hospitality has to be declined the offeror should be courteously but firmly informed of the procedures and standards operating within the authority.
12.3	Employees should not accept significant personal gifts from contractors and outside suppliers, although you may keep insignificant items of token value such as pens, diaries, etc.
12.4	When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.
12.5	Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees should ensure that the authority meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
<b>13</b>	<b>Sponsorship – giving and receiving</b>
13.1	Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
13.2	Where the authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to their Chief Officer of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.



## PROTOCOL ON MEMBER/OFFICER RELATIONS

<b>1</b>	<b>Introduction</b>
1.1	The Council's Constitution provides for the adoption of a protocol on member/officer relations.
1.2	Given the variety and complexity of member and officer relations, this protocol does not seek to cover everything or to be prescriptive in its application. General guidance is offered on some of the issues which most commonly arise or cause concern. It is hoped, therefore, that the approach which this protocol adopts, will serve as a guide to dealing with other issues that may arise from time to time.
1.3	This protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If any member is unsure about any matter, they should contact the relevant Chief Officer and/or the Monitoring Officer for appropriate advice and assistance. If there is any disagreement in the interpretation of this protocol, the opinion of the Monitoring Officer will prevail, in accordance with the Council's Constitution.
1.4	The Joint Standards Committee and the Monitoring Officer may issue general guidance on the Members' Code of Conduct. Members and officers should, therefore, keep abreast of such issues and respect each other and not do anything to bring the Council, their offices or professions into disrepute.
<b>2</b>	<b>Principles underlying Member-Officer Relations</b>
2.1	The relationship between members and officers generally is characterised by mutual trust, respect and courtesy. These are essential for good local government and serve to enhance local democracy. Member and officer relations are based upon the principles set out in this protocol.
2.2	Members must respect an officer's professional opinion on any Council business matter. They should not do anything that compromises, or which is likely to compromise the Council's position on any matter or the impartiality of officers or those who work for, or on behalf of the Council. In particular, members will be in breach of the Members' Code of Conduct if they instruct any officer to change their professional advice or take any action which the officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

2.3	Officers, being employees of the Council, must always act in the best interests of the Council as a whole, and must give wholly impartial advice. Officer support to Political Groups must not extend beyond providing information and advice in relation to Council business (not Party politics/business). It is good practice for party political discussions and decision-making to take place in the absence of officers, in order to avoid any suspicion of impropriety or misunderstanding.
<b>Legal Issues</b>	
2.4	Members of the Council do not, as elected members, have any special immunity from civil or criminal wrongs that they may commit against fellow members, officers or members of the public. Members must abide by the Council's adopted Members' Code of Conduct and ensure they do not, for example, defame another person. During the course of their normal duties for the Council, members only have a qualified (not absolute) protection against prosecution or civil action.
2.5	Any member of the public (including officers) can complain to the Council's Monitoring Officer about an alleged breach of the Members' Code of Conduct and can bring private civil litigation proceedings against an elected member. The appointed External Auditor can also take legal action against an individual member and the Council, as a whole, for any breaches of the law.
2.6	The Council's Media and Communications Team are responsible for co-ordinating the relations with the press and other media organisations on behalf of the Council. It is important, therefore, that all official communication relating to the Council (but not party political or private matters) is dealt with by this team, so as to ensure the proactive, effective and efficient management of the Council's public image, relations and interface.
<b>3</b>	<b>Employer/employee issues</b>
3.1	Any dealings between members and officers should continue to be conducted with mutual trust, respect and courtesy, and neither party should seek to take an unfair advantage of their position. In particular, members should recognise and pay due regard to their role as an employer in their dealings with officers and avoid placing the Council at risk of formal employment challenge.
3.2	Members must, in particular, guard against generating a perception that they are putting inappropriate pressure on officers. Both members and officers must ensure that all communications between them (including written communications) are not likely to cause any embarrassment, lead to the breakdown of mutual trust, respect and courtesy in member/officer relations nor likely to bring the Council into disrepute.

3.3	In seeking advice and support, members should have due regard to the seniority of the officer with whom they are dealing and recognise that, whilst those officers owe an overriding duty to the Council as a whole, such duties are first expressed to their respective line managers and Chief Officers and not to any individual member. For this reason, members should not give direct instructions to staff, unless they are duly authorised to do so by the Council's Constitution, i.e. members with individual decision making powers. If so authorised, instructions should, under normal circumstances, still be given to the relevant Chief Officer or head of section and not to a more junior officer.
<b>Equalities Issues</b>	
3.4	The Council has statutory duties with regard to equality issues and in accordance with the Members' Code of Conduct; members must also promote equality by not discriminating against others. Members and officers are bound by the provisions of the Human Rights Act 1998 which prohibit discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status, including disability, age or sexual orientation.
<b>Officer Conduct or Capability Issues</b>	
3.5	Members should not raise matters relating to the conduct or capability of an officer (or of officers, collectively) at meetings held in public or in the presence of the media, as officers have no means of responding to the same in public. If any member considers that they have not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an officer, they should raise the matter, in private, with the relevant Chief Officer. Any concerns with regard to a Chief Officer should be discussed, in private, with the Chief Executive.
<b>Monitoring Officer and Chief Finance Officer Issues</b>	
3.6	Members are required to consult with the Monitoring Officer and the Chief Finance Officer over any issues of legality, maladministration, financial impropriety or probity or where they have any doubt as to whether particular decisions are or were likely to be contrary to the Council's Budget and Policy Framework or the law. Inappropriate or late consultation will not satisfy the need to consult those officers at the relevant time.
<b>4 Overview and Scrutiny Committee</b>	
4.1	The Council's Overview and Scrutiny Committee will seek the advice of:- (a) the Monitoring Officer, where they are concerned about the legality of a decision of the Executive or the record of a decision taken; or

	(b)	the Monitoring Officer and other relevant Chief officers, where they consider a decision of the Executive might be contrary to the Council's policy framework.
4.2		The Overview and Scrutiny Committee or sub-committee may require the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit. The appropriate "senior officer" shall be identified following consultation by the chairman of that committee with the Chief Executive.
4.3		When officers give evidence before the Overview and Scrutiny Committee, questions will be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Officers must respond to questions from members in an open, constructive and helpful manner and must not mislead or be economical with the truth.
4.4		Where they consider it appropriate, the Chair of the Overview and Scrutiny Committee may ask a Chief Officer to explain any advice given by them to members of the Executive and explain any decision the Chief Officer may have taken in exercise of delegated powers. For the avoidance of doubt, any matter containing exempt or confidential information must be dealt with in private.
<b>Unacceptable or Inappropriate Behaviour</b>		
4.5		The Chair of the Overview and Scrutiny Committee shall ensure that members of the Executive and officers are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a member. Unacceptable or inappropriate behaviour by a member may also constitute a breach of the Members' Code of Conduct.
4.6		The Chair of the Overview and Scrutiny Committee may refer to the Chief Executive any unacceptable or inappropriate behaviour on the part of an officer when giving evidence before the committee.
<b>5</b>	<b>Use of Council resources</b>	
5.1		The only basis on which the Council can lawfully provide support services to members (e.g. computers, stationery, typing, printing, photo-copying, transport, etc.) is to assist them in the effective and efficient discharge of their duties and role as members of the Council. Such support services must, therefore be only used for Council business (see per paragraph 5 of the Members' Code of Conduct). The same should never be used for or in connection with party political or campaigning activities or for private purposes. Accordingly, a member requiring use of Council facilities should not request an officer to provide such services.

<b>6</b>	<b>Access to Information and the Need to Know</b>
6.1	Section 100F of the Local Government Act 1972 was introduced to give members rights in addition to those already enjoyed at common law. Section 100F makes it clear that any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council, or a committee or a sub-committee of the Council, subject to confidentiality provisions, will be open to inspection by a member of the Council. These provisions are incorporated within the Constitution, primarily in the Access to Information Procedure Rules.
6.2	In all cases, however, if there appears to be confidential/ exempt information, by virtue of the other parts of the 1972 Act, there is still the discretion for the relevant proper officer to withhold the confidential/exempt information.
6.3	It is also a matter of fact as to whether or not the information is "in the possession or under the control of" the Council. The key issue to be determined is whether or not the information belongs to the Council or to another person. If it belongs to another person, officers will only release any confidential information after an appropriate consent to release such information has been obtained from the relevant person.
6.4	Officers will not, therefore, "hand over" their files to a member, without the officer being clear about the reasonableness of the request and the officer's ability to share the information in the file with a member. If any officer is unsure about a request for information, they must discuss the same with their Chief Officer and/or the Monitoring Officer.





## PROTOCOL ON RESPONDING TO EXTERNAL CONSULTATIONS

1.	A consultation should be regarded as any request from the Government, or bodies such as the Local Government Association, professional organisations, etc., for the Council to express an opinion on policy matters. It would, therefore, not include requests for purely technical or factual information.
2.	The presumption should be that, if a response is appropriate all such consultations will be responded to at officer level, apart from those which, in the opinion of the Chief Officer, raise issues of significance for the Borough Council or where members are known to be concerned about a particular issue.
3.	Before reporting to Cabinet on such a matter, the Chief Officer will seek confirmation from the relevant Cabinet Member that the matter should be so reported and whether all members should be made aware that the consultation has been received and where copies of the document can be inspected.
4.	In circumstances where reporting such a matter to the Cabinet would mean that the deadline for comments would be missed, the response should be agreed with the relevant Cabinet Member.



## KENT ASSOCIATION OF LOCAL AUTHORITIES'

### PROTOCOL ON OVERVIEW AND SCRUTINY CO-OPERATION

*(Adopted by KALA on 15 November 2001 and adopted by Cabinet on 6 March 2002)*

<b>Aim of the Protocol</b>	
1.	To ensure the Overview and Scrutiny Committees of all Kent local authorities can review issues of community interest effectively and with efficient use of all local authority staff resources.
<b>Principles</b>	
2.	All authorities should be supported in considering issues of community well-being wider than the responsibilities of their councils.
3.	Authorities should work together to maximise the exchange of information and views, minimise bureaucracy and make best use of the time of Members and officers of local and other authorities.
<b>Procedures</b>	
4.	Authorities should seek to exchange information on programmes and results of reviews.
5.	If an Overview and Scrutiny Committee wishes to review an issue in which another authority has a statutory role or in which evidence from the officers of another authority would be helpful, it should consult with that authority before commencing the review about:
	- the purpose of the review;
	- the areas of interest to the other authority;
	- the input that can be given by Members or officers of the other authority.
6.	Consideration should be given to whether the issue is more appropriately discussed in another forum, for example a joint committee, or whether there is scope for joint action including the co-opting of Members of the other Authority onto the Overview and Scrutiny Committee for the purpose of the review.
7.	Where a proposal is subject to a public consultation process, scrutiny is most helpful if conducted as part of that process e.g. allowing any findings and recommendations to be available in time to influence the final decision.

8.	Subject to such prior consultation, Authorities will seek to respond positively to requests for information or for a Member or officer to attend meetings of Overview and Scrutiny Committees or for information.
9.	While it is ultimately for each Authority to decide who it considers the most appropriate person(s) to speak on its behalf to an Overview and Scrutiny Committee, consideration will be given to meeting specific requests.
10.	Dates and times of Member and officer attendance at Overview and Scrutiny meetings should be agreed with them.
11.	Each Authority will nominate a contact officer for the operation of these procedures.

# **PART 6:**

  

# **ALLOWANCES**



## SCHEME OF MEMBERS' ALLOWANCES

<b>1.</b>	<b>Introduction</b>	
1.1	Members' Allowances are reviewed annually by an Independent Remuneration Panel (IRP), and recommendations are made to Full Council about the level of allowances payable to Members. The first Panel reported to Members in December 2003.	
1.2	At that time the IRP recommended that pensions for councillors should not be introduced. This was agreed by Full Council, and no change has been made to this decision since.	
1.3	This scheme may be cited as the Tonbridge and Malling Borough Council Members' Allowances Scheme, and shall have effect for the municipal year commencing on 16 May 2017 and subsequent years until such time as the Independent Remuneration Panel reconsiders the Scheme of Allowances. Allowances payable to Members are set out in Schedule 1 and this is updated each year.	
1.4	In this scheme	
	-	"councillor" means a member of the Tonbridge and Malling Borough Council who is a councillor;
	-	"year" means the 12 months ending with 31 March.
<b>2.</b>	<b>Basic Allowance</b>	
2.1	Subject to paragraph 5 (Part-Year Entitlements), for each year a basic allowance as set out in Schedule I to this scheme shall be paid to each councillor.	
<b>3</b>	<b>Special Responsibility Allowances</b>	
3.1	(a)	For each year a special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority that are specified in Schedule I to this scheme.
	(b)	Subject to paragraph 5 (Part-Year Entitlements), the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.
<b>4.</b>	<b>Renunciation</b>	
4.1	A councillor may, by notice in writing given to the Director of Central Services, elect to forego any part of their entitlement to an allowance under this scheme.	

5.	<b>Part-Year Entitlements</b>					
5.1	(a)	The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility is paid.				
	(b)	<p>If an amendment to this scheme changes the amount to which a councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:</p> <table border="1" data-bbox="375 607 1367 869"> <tr> <td data-bbox="375 607 454 719">(i)</td> <td data-bbox="454 607 1367 719">beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or</td> </tr> <tr> <td data-bbox="375 719 454 869">(ii)</td> <td data-bbox="454 719 1367 869">beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year</td> </tr> </table> <p>the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole of the same proportion as the number of days in the period bears to the number of days in the year.</p>	(i)	beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or	(ii)	beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year
(i)	beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or					
(ii)	beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year					
	(c)	Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole of the same proportion as the number of days during which their term of office subsists bears to the number of days in that year.				
	(d)	Where this scheme is amended as mentioned in sub-paragraph (b), and the term of office of a councillor does not subsist throughout the period mentioned in sub-paragraph (b)(i), the entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which their term of office as a councillor subsists bears to the number of days in that period.				
	(e)	Where a councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which they have such special responsibilities bears to the number of days in that year.				



	(f)	Where this scheme is amended as mentioned in sub-paragraph (b), and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (b)(i) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph), as bears to the whole the same proportion as the number of days in that period during which they have such special responsibilities bears to the number of days in that period.
<b>6.</b>	<b>Travelling, Subsistence and Carer's Payments</b>	
6.1	Members are entitled to claim for payment of travelling and subsistence expenses incurred in the performance of an approved duty (see Schedule II for definition of approved duty).	
6.2	In addition to travelling and subsistence expenses, Members are also entitled to claim a carer's allowance to enable them to attend Committees/Boards/Panels or groups to which they have been appointed, or approved training events.	
<b>7.</b>	<b>Claims and Payments</b>	
7.1	(a)	Payments shall be made
	(i)	in respect of basic and special responsibility allowances, subject to sub-paragraph (b) below, in instalments of one-twelfth of the amount specified in this scheme on the 15th day of each month or, where the 15th day is a Saturday, Sunday or Bank Holiday, on the nearest working day to the 15th;
	(ii)	in respect of travelling and subsistence allowances, on or about the 15th day of each month in respect of claims received up to the day 14 days before that date.
	(b)	Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the councillor receiving more than the amount to which, by virtue of paragraph 5, they are entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which they are entitled.
<b>8</b>	<b>Schedules I and II to this Scheme</b>	
8.1	Schedule I sets out the Allowances payable to Members and will be updated each year.	
8.2	Schedule II sets out for Members' information, administrative issues relating to the payment of Allowances.	



**SCHEDULE I**

1.	<p>The Borough Council received a report from an Independent Remuneration Panel (IRP) containing recommendations for amendments to the Scheme for Members' Allowances. The Panel's recommendations as to basic and special responsibility allowances (SRAs) were considered in detail by the General Purposes Committee at its meeting on 6 March 2017. The Panel's recommendations were accepted in full (subject to an amendment in respect of allowances for vice-chairmen) with effect from the Borough Council elections in 2019. (During an interim period from the Annual Council meeting on 16 May 2017 until after the Borough Council elections in 2019 a modified schedule of allowances was agreed.) The revised allowances scheme was adopted by the Full Council on 11 April 2017 and published in accordance with requisite legislative requirements.</p> <p>The Allowances Scheme revolves around a framework of 'multipliers' which are based on the 'Basic Allowance' and proportions of the Leader's allowance. The multipliers which apply to the allowances that come into effect from 2019 are set out in the second column of the table below. In addition, the following points are part of the Scheme:</p>
	<ul style="list-style-type: none"> <li>- There should be a maximum of one Special Responsibility Allowance per Member (excluding group leader allowances)</li> </ul>
	<ul style="list-style-type: none"> <li>- The Leader's allowance should be based on a multiplier of 4 of the Basic Allowance</li> </ul>
	<ul style="list-style-type: none"> <li>- An SRA for the Deputy Leader should be based on 75% of the Leader's Allowance</li> </ul>
	<ul style="list-style-type: none"> <li>- The SRAs for Cabinet Members should be based on 42.5% of the Leader's allowance</li> </ul>
	<ul style="list-style-type: none"> <li>- The structure of SRAs for other roles should be simplified further based on the multiplier approach set out below</li> </ul>
	<ul style="list-style-type: none"> <li>- The SRA for the Opposition Group Leader should be a flat sum of £1,250 plus £250 per member of the group</li> </ul>
	<ul style="list-style-type: none"> <li>- The principle of annual indexation of allowances in line with any staff pay award should be retained but should not apply during the interim period (Annual Council 2017 to Borough Council elections 2019)</li> </ul>

	<b>Multiplier</b>	<b>Resolved Allowance 2021</b>
<b>Basic Allowance</b> to all Councillors	1.00	5,175.00
<b>Special Responsibility Allowances:</b>		
Leader of the Council	4.00	20,706.00
Opposition Group Leader(s) - Liberal Democratic - Independent Alliance Kent - The Green Party	0.25	3,621.00 2,070.00 1,809.00
(includes the sum of £258 paid per opposition group member)	0.05	
	% of Leaders allowance	
Deputy Leader	75	15,528.00
Cabinet Member	42.5	8,802.00
Chair of Area Planning Committee (x3)	25 (0.33)	1,725.00
Chair of Overview & Scrutiny Committee	12.5	2,589.00
Chair of Audit Committee	12.5	2,589.00
Chair of Licensing & Appeals Committee	12.5	2,589.00
Chair of Joint Standards Committee	12.5	2,589.00
Chair of General Purposes Committee	8	1,656.00
Chair of Scrutiny Select Committees (pending recommendations of the IRP)	0	0
Vice-Chair of Area Planning Committee (x3)	5 (0.33)	336.00
Vice-Chair of Overview & Scrutiny Committee	25% of chair's allowance	648.00
Vice-Chair of Audit Committee		648.00
Vice-Chair of Licensing & Appeals Committee		648.00
Vice-Chair of Joint Standards Committee		648.00
Vice-Chair of General Purposes Committee		336.00

<p><i>Allowances updated to reflect staff pay award:</i></p> <ul style="list-style-type: none"> <li>- 2020 = 2.5%</li> <li>- 2021 = 1%</li> <li>- 2022 = Frozen at current rate pending recommendations of the IRP</li> </ul>	
<b>2.</b>	<b>TRAVELLING, SUBSISTENCE AND CARER'S ALLOWANCE</b>
	<p>Members may claim the following allowances for pre-arranged meetings with any officer (regardless of their position) in respect of matters relevant to their Committee etc., or external bodies to which they have been appointed by the Council. Such meetings must not be in connection with ward business.</p>
	<p>Members necessarily incurring additional expense in the course of their work in respect of travel, or meals will be reimbursed approved expenses, subject to appropriate evidence of expenditure being produced, including supporting VAT receipts. Claims should be made on the appropriate form and returned to Electoral &amp; Democratic Services for processing.</p>
<b>A</b>	<b>Travelling</b>
	<p>Mileage rates are based on the applicable HM Revenue and Customs (HMRC) approved rate.</p>
<b>B</b>	<b>Subsistence</b>
	<p>Where appropriate, rates of subsistence shall be in accordance with the HMRC rates (excluding tea allowance).</p>
<b>C</b>	<b>Carer's Allowances</b>
	<p>Where appropriate and supported by receipts, Childcare allowance will be paid at the actual amount charged up to a maximum of £7.20 per hour per child (linked to the National Living Wage). Dependent Carer's allowance will be payable at the actual amount charged subject to a maximum rate of £16.00 per hour.</p>



**SCHEDULE II**

<b>APPROVED DUTIES</b>	
<b>1.</b>	Attendance at the following meetings entitles Members to claim travelling and subsistence allowances:-
(i)	Meetings of the Council
(ii)	Meetings of the Cabinet (either an appointed Member of the Cabinet or in pursuance of paragraph 2.2 of the Executive Procedure Rules)
(iii)	Meetings of Panels (either as an appointed member, or in pursuance of paragraph 15.21 of the Committees and Outside Bodies Procedure Rules).
(iv)	Meetings of committees or sub-committees of the Council (either as an appointed member or in pursuance of paragraph 15.21 of the Committees and Outside Bodies Procedure Rules).
(v)	Meetings of groups of Members and working parties established by the Council or any of its committees or sub-committees to deal with matters within the discharge of the functions of the Council (subject to groups or working parties being formed with the opportunity for minority group representation).
(vi)	Visits to locations which are arranged by or on behalf of the Council which enable Members to obtain greater appreciation of the effect of the discharge of the Council's functions (subject to the opportunity being extended for minority group representation on such visits).
(vii)	Attendance at conferences and training events relevant to the Council's powers, activities and duties.
(viii)	Meetings of outside bodies to which members of the Council have been duly appointed or nominated by or on behalf of the Council, <u>unless the outside body itself meets the travelling expenses of the appointee.</u> (Members are asked to clarify before claiming).
(ix)	Pre-arranged meetings with any officer in respect of matters relevant to their Committee etc. Such meetings must <u>not</u> be in connection with <u>ward</u> business.
	In addition to travelling and subsistence allowances, Members may also claim a carer's allowance (see Schedule I Para 2C) to enable them to attend a meeting of the Council to which they have been appointed, or an approved training event.

## INCOME TAX

Basic Allowances, Special Responsibility Allowances and Carers Allowances are treated by HMRC as taxable under Schedule E (the tax schedule applicable to employed persons). Payments in respect of allowances are paid directly to an individual's nominated bank or building society account via the Council's payroll system and are subject to taxation under the P.A.Y.E. Scheme, as determined by the individual circumstances of each Member.

Expenses which are "wholly, exclusively and necessarily" incurred in the execution of the duties of an elected Member, are eligible for tax relief. Members can submit claims to HMRC for a refund of tax on these expenses at the end of each financial year. It is worth noting that HMRC is entitled to request proof from individuals to substantiate any such claims that are submitted. Claims should be submitted using HMRC Form P87 which may be downloaded from the HMRC website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

The following specific HMRC guidance notes, which are also available via their website, may be of interest:

Reference	
EIM65920	Allowances Councillors may receive
EIM65930	}
EIM65940	} Expenses deductions
EIM65950	}
EIM65955	Guidance note prepared by Assoc. of Local Councillors
EIM65960	ODPM Guidance
EIM65970	ODPM Guidance Part 2

Expenses that might be incurred include:

- Postage
- Stationery if not provided by the Council
- Travelling expenses which have not been reimbursed by the Council
- Telephone calls
- Use of home

The Councillor's home may only be regarded as their place of work by HMRC when constituents are routinely interviewed or invited to attend there. On this basis, in principle, income tax is not payable on travelling expenses reimbursed for journeys undertaken between home and Council Offices (or other sites) in the performance of official duties. However, mileage paid at a rate that is higher than the HMRC statutory limit (currently 45p for cars) will attract a tax liability on the excess. The Council has obtained HMRC approval to deduct the appropriate tax at source. In instances where the Councillor's home cannot be regarded as his/her place of work, income tax is payable for travelling expenses reimbursed to Councillors and **Councillors should notify the Director of Finance & Transformation if this is the case.**



Payments in respect of subsistence are regarded as taxable except where the additional expenses have actually been incurred. Receipts substantiating claims should be submitted with claims.

Where Members are liable to pay the higher rate of income tax they may wish to have tax deductions from their allowances at the higher rate. This can be arranged by notifying the Director of Finance & Transformation in writing.

## **NATIONAL INSURANCE**

### Social Security Benefits:

Members must notify their Benefits Agency local office of any allowance payments received from the Council if they are claiming or receiving benefit.

### Contributions:

Allowances are treated as earnings for National Insurance purposes and, therefore, when monthly allowances exceed the earnings threshold, National Insurance contributions will be deducted. The 'profit' element of car mileage allowances will be treated as earnings and aggregated with allowances to determine the N.I. contribution.

The Council has a statutory responsibility to enter the National Insurance number of each Councillor on to the HMRC records and, where appropriate, obtain the partial and total exemption certificates of all persons paying contributions at other than the standard rate.

Members' contributions will be notified to HMRC at the end of each financial year. If the amount deducted by the Council in a year, when added to the amount deducted from any other employment, exceeds the maximum contribution, a refund will be due from HMRC.

It is for the individual to calculate whether or not a refund is due and to claim reimbursement accordingly.

## **INSURANCES**

Members may find it helpful to have a brief summary of those insurances effected by the Council which may affect them personally.

In general, the Council insures its properties, equipment and vehicles against the risk of loss or damage and also insures in respect of any legal liability it may incur to pay compensation or damages to others.

Policies which make particular reference to Members are:-

### Libel and Slander:

This indemnifies the Council in respect of:

- (a) Any libels appearing in a publication normal to the Council's business by any Member or employee provided that such publications are specifically authorised by the Council and agreed beforehand with the insurers.

- (b) Slanders in oral utterances made by any Member or employee during the discharge or official duties on behalf of the Council and, in the case of any Member, during any meeting of the Council, its Committees or Sub-Committees or on any occasion when such a Member is authorised to represent the Council's views.

If the claim is directed against an elected Member, that Member will be personally indemnified but will be called upon to bear 10% of any sum which the insurer may pay.

Publication is defined as any notice, agenda, minute, report, correspondence, other written or recorded matter and statements broadcast on the television or radio.

Personal Accident:

Provides benefits, as indicated below in the event of any Member or co-opted Member (not over 80 years of age), suffering accidental bodily injury whilst engaged on Council business anywhere in the world including direct travel in connection with such business.

- Death		£50,000
- Total loss of sight in one or both eyes		£50,000
- Total loss of, or total loss of use of, a hand or foot		£50,000
- Permanent total and absolute disablement (other than as above) from engaging in usual occupation)		£50,000
- Temporary total disablement	} Not exceeding 104 weeks in all	£100 per week
- Temporary partial disablement		

Benefits are also payable (as a percentage of £50,000) for a wide range of other injuries and disabilities.

The insurers' maximum liability for any one claim is £50,000

In addition, the loss of or damage to Personal Effects, including money, arising at the same time as injury giving rise to a claim is covered for an unlimited amount.

Privately owned cars used on Council business:

It is, of course, the responsibility of each Member to ensure that any car used on Council business is adequately insured for such use.

The Council does, however, hold insurance indemnifying the Council in respect of its contingent liability in the event of a claim falling upon it due to the lack of or a defect in a Member's or employee's own insurance.

The existence of this insurance does not, in any way, remove or reduce a Member's own responsibility to ensure that appropriate insurance arrangements are in place.

Members nominated to serve on outside bodies:

The Personal Indemnity cover afforded to Members and staff, is very restricted in respect of the activities of Members nominated by the Council to an Outside Body. Cover is dependent upon the business undertaken by the Outside Body, and the nature of the Member's role and responsibilities as a representative on that Body. It usually requires the Member to be representing the Council's views to the Outside Body and the activities of the Outside Body being linked to the services provided by the Council. In the majority of instances this does not apply, and Members are quite often participating in the management of the organisation to which they were nominated.

It is the Council's policy to leave the decision as to whether a Member wishes to take up a nomination to an outside body, in the absence of insurance cover, to the individual Member. Where an organisation requests that the Council makes a nomination, the Council will enquire into the level of cover, if any, provided by the organisation. This information will be passed to prospective nominees.

**Reference:**

Insurances:	Financial Services	<a href="mailto:financial.services@tmbs.gov.uk">financial.services@tmbs.gov.uk</a>
Members' Allowances:	Democratic Services	<a href="mailto:admin.services@tmbs.gov.uk">admin.services@tmbs.gov.uk</a>

**CLAIMS**

Payment of Basic Allowances and Special Responsibility Allowances will be made automatically to Members each month. If a Member chooses not to receive a Special Responsibility Allowance or payment of Basic Allowance to which they are entitled, they should notify the Director of Finance & Transformation in writing.

Claims are required for the payment of travelling and subsistence allowances and it is suggested that Members submit claims on a monthly basis for payment.

For payroll processing purposes, Members are asked to ensure that claims reach Democratic Services by the third working day of the month.

Members should ensure that they sign the attendance sheet at every Council, Cabinet, Committee, Sub-Committee, Board, Panel, Working Party and site meeting which they attend. Failure to sign the attendance sheet may delay settlement of the claim.

Where meetings are arranged for groups of Members or site visits are organised, the relevant Committee should resolve whether or not the meeting/visit is an approved duty. In circumstances where it has not been possible to obtain such a resolution, the officer organising the meeting will confer with the relevant Chairman and will indicate in the letter of invitation, the status of the meeting.

Further assistance and advice on claims can be obtained from Democratic Services ([committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk)) at Kings Hill.

**PART 7:**

**EMERGENCY  
PROVISIONS  
DURING A PERIOD OF  
SERIOUS AND/OR  
UNEXPECTED  
DISRUPTION**



## EMERGENCY PROVISIONS FOR DECISION MAKING DURING A PERIOD OF SERIOUS AND UNEXPECTED DISRUPTION

1.	<b>Rules for Decision Making during a Period of Serious and Unexpected Disruption</b>				
1.1	This rule applies to all decisions of the Council (including the Executive) in times of emergency, where that decision would be unable to be taken otherwise, and notwithstanding the provisions relating to urgent Key Decisions contained within Rules 15 and 16 of the Access to Information Procedure Rules (as set out in Part 4).				
1.2	For the purposes of this rule 'times of emergency' means the occurrence of an emergency under the Civil Contingencies Act 2004 or otherwise during a period of serious and/or unexpected disruption to the conduct of Council business.				
1.3	<p>Where this rule applies the decision may be taken, without the matter being put to a decision of the Council, Cabinet, or Committee (as relevant) if the decision maker obtains the agreement of the:</p> <table border="1" data-bbox="352 1003 1350 1189"> <tr> <td data-bbox="352 1003 432 1115">(a)</td> <td data-bbox="432 1003 1350 1115">Chair of Overview and Scrutiny Committee; or (if they are unable to act)</td> </tr> <tr> <td data-bbox="352 1115 432 1189">(b)</td> <td data-bbox="432 1115 1350 1189">Mayor and Deputy Mayor; and Political Group Leaders</td> </tr> </table> <p>that the making of the decision is urgent and cannot reasonably be deferred.</p>	(a)	Chair of Overview and Scrutiny Committee; or (if they are unable to act)	(b)	Mayor and Deputy Mayor; and Political Group Leaders
(a)	Chair of Overview and Scrutiny Committee; or (if they are unable to act)				
(b)	Mayor and Deputy Mayor; and Political Group Leaders				
1.4.	Where a decision is taken under this rule, the decision shall be reported to the next available meeting of the relevant Committee, Cabinet or Council meeting as appropriate.				





# **PART 8:**

  

# **GLOSSARY AND INDEX**



## GLOSSARY

A-Z glossary listing key terms, abbreviations and their definitions used in the Constitution:

Term or Abbreviation	Definition
Access to Information	<p>The Local Government (Access to Information) Act 1985 provides greater public access to local authority meetings, reports and documents; subject to specified confidential provisions.</p> <p>The Access to Information Procedure Rules can be found in Part 4 of the Constitution.</p>
Byelaws	<p>In the United Kingdom byelaws are laws of local or limited application made by local councillors or other bodies using powers granted by an Act of Parliament and so are a form of delegated legislation.</p>
Clear Days	<p>Means normal working days and does not include the day of publication of an agenda or the day of a meeting.</p> <p><i>Example: If a Council meeting is due to be held on a Wednesday then the publication of the agenda for that meeting shall take place by the Tuesday of the preceding week (assuming that there are no bank or statutory holidays in the intervening period).</i></p>
Co-opted Member	<p>A co-opted Member is someone who is appointed to a Committee (generally Overview and Scrutiny) who is not an elected councillor. They can participate in a debate at a meeting but do not have voting rights.</p>
Confidential information	<p>Information that is given to the Council under an obligation of confidence; or</p> <p>Information supplied by a Government department on terms that forbid its disclosure.</p>
DEFRA	<p>Government Department for Environment, Food and Rural Affairs.</p>
Executive	<p>This term is interchangeable with Cabinet and refers to the group of executive members (portfolio holders) plus the Leader and Deputy Leader of the Council.</p>

Exempt Information	There are 7 types of exempt information (set out in the Access to Information Procedure Rules) which relate to information about particular individuals, financial or business affairs of particular persons, labour relations matters and legal proceedings.
FPN	Fixed Penalty Notice
HMO	House in Multiple Occupation
Key Decision (KD)	<p>A Key Decision is an executive decision which is likely to result in incurring expenditure or making savings which are significant, or to have a significant impact on communities in two or more wards of the borough.</p> <p>Further detail is set out in Part 2 Article 8 of the Constitution.</p>
LA21	Local Agenda 21 is a voluntary process of local community consultation aimed to create local policies and programmes that work towards sustainable development.
LDF/Local Plan	The Local Development Frameworks and Local Plans are made up of a number of documents and guidance that contain the Council's spatial strategy, planning policies and proposals against which applications for development are assessed.
LEADER Programme	<p>A community led approach to the delivery of a rural development programme for England, funded by DEFRA and the European Agricultural Fund for rural development.</p> <p>Funding is available to local businesses and communities to help secure a sustainable future for rural areas.</p>
Local Enterprise Partnership (LEP)	A voluntary partnership between local authorities and businesses to help determine local economic priorities and lead economic growth and job creation within the local area.

Term or Abbreviation	Definition
LGA 1972	<p>The Local Government Act 1972 is an Act of Parliament that reformed local government in England and Wales on 1 April 1974. It created a 2 tier system of county and district/borough councils that remains in use today in large parts of England.</p> <p>There have been several amendments since its introduction and further detail is available on the Government <a href="#">website</a>.</p>
NFKD	Notice of Forthcoming Key Decisions
Non-Key Decision (NKD)	Any executive decision that doesn't meet the Key Decision threshold is a Non-Key Decision. Such decisions are delegated to individual Cabinet Members (as appropriate to their portfolio) for approval as long as they fall within the Budget and Policy Framework.
Outside Bodies	<p>These are organisations which are independent from the Council but might have an impact on our service areas, help us fulfil our responsibilities or improve community life.</p> <p>On an annual basis the Full Council appoints Members to outside bodies to represent the authority's interests on those bodies.</p>
Political Balance	<p>Under section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) and the Local Government (Committees and Political Groups) Regulations 1990, the Council is required:</p> <ul style="list-style-type: none"> <li>- to review the composition of any of its committees and sub-committees to which those provisions apply at the annual meeting of the Council and after any election; and</li> <li>- to determine the composition of its committees so as to reflect political balance and to ensure that the total number of seats which are allocated to each political group bears the same proportion to the number of all the seats on those committees as is borne by the number of members of that group to the membership of the Council.</li> </ul>

	<p>In summary, where the Council is made up from more than one political party, the seats of a committee, advisory board or panel must not all be allocated to the same political group. The majority of seats must be allocated to the political group that holds the majority of seats on the Council.</p> <p>(NB. This does not apply to Cabinet or Area Planning Committees, the latter being ward based.</p>
PROW	Public Right of Way refers to paths on which the public have a legally protected right to pass and re-pass. In England and Wales these are designated and include roads, footpaths, byways and bridleways.
Quorum	The minimum number of Members of the Council that must be present at a meeting to legally allow the meeting to take place and conduct its business.
Recommendation	A suggestion or advice of an Officer, Member or Committee on what is considered to be the best course of action on a given matter.
Resolution	A formal decision taken at a meeting by means of a vote.
Regulation of Investigatory Powers Act (RIPA)	An Act of Parliament regulating the powers of public bodies to carry out covert surveillance and investigation.
South East Local Enterprise Partnership (SELEP)	<p>See Local Enterprise Partnership</p> <p>Further information is available on their <a href="#">website</a>.</p>
Summons	A notice to Councillors to attend a meeting. The summons sets out the business proposed to be transacted at that meeting and is signed by the Proper Officer (the Chief Executive).
Tree Preservation Order (TPO)	A legal order made by a local authority to protect specific trees, groups of trees or woodlands in the interests of amenity.

Term or Abbreviation	Definition
VFM	Value for Money is a term used to describe a service or product that demonstrates a good balance between cost, quality and usefulness. It takes into account the economy, efficiency and effectiveness of a local authority service.
Virement	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. (Paragraph 13 of the Financial Procedure Rules in Part 4 of the Constitution refers).
Ward	An electoral division of a local authority area. As of May 2019 Tonbridge and Malling has 54 Borough Councillors representing 26 wards.
Working day	Excludes Saturday, Sunday, Bank and statutory holidays.





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(NB. The page numbers set out in this index guide users to the most detailed material in the Constitution related to that heading, although there may be numerous other references.)

