

RESPONSIBILITY FOR COUNCIL FUNCTIONS

Committees – Membership and Terms of Reference

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

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

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

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

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

	Development Briefs where they are produced pursuant to the requirements of a planning permission.	
22.	To submit views on behalf of the District Planning Authority in relation to the consultations under the Pastoral Measure 1968.	
23.	To consider and approve for consultation purposes Draft Conservation Areas	Formal designation of Conservation Areas reserved to Council
24.	Under the Hedgerows Regulations 1997:	
(a)	to deal with notifications under Section 75 of the Environment Act 1995 and the Regulations and to authorise the service of Hedgerow Retention Notices; and	
(b)	to exercise powers in relation to the service of notices requiring the replanting of important hedgerows under Section 75 of the Environment Act 1995 and the Regulations.	
Highways Use and Regulation		
25.	Each Area Planning Committee shall also exercise the functions of the Council relating to the regulation of the use of highways, as set out in Schedule 1 to the Functions Regulations	

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

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

3.	General Purposes Committee
Size and Membership:	
To consist of 11 members and it shall be politically balanced (Quorum: 4 Members of the Committee)	
Terms of Reference:	
<ul style="list-style-type: none"> - Byelaws - Elections - Employment - Health and Safety - Local or Personal Bills - Miscellaneous Functions - Name and Status of areas and individuals - Pensions - Standards 	
The functions of the committee shall include:	
1.	To deal with all matters relating to European, Parliamentary and Local Elections and Parish Council Elections (in consultation with the Parish Council), electoral registration and representation including all matters in respect of Constituency, Borough, ward and parish boundaries.
2.	To deal with all matters relating to byelaws, including the power to make, amend and revoke such byelaws (where those matters are not dealt with by any other committee).
3.	To advise the Council upon the exercise of its powers to promote or oppose local or personal Bills.
4.	To consider any request to change the name of a town or parish within the Borough and to make recommendations to Council.
5.	To discharge all matters relating to the Council's responsibilities as an employer (save for determination of the annual staff pay award which shall be reserved to full Council), including functions relating to local government pensions, etc., which are not the responsibility of the Executive.
6.	To discharge all other functions which are the responsibility of the Council (other than those required by statute to be taken by the Council itself) as set out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 where those functions do not fall within the purview of another committee. (Miscellaneous Function).
7.	To exercise the Council's functions relating to health and safety under any relevant statutory provision within the meaning of Part I of the Health and Safety at Work etc Act 1974 to the extent that those functions are discharged otherwise than in the Council's capacity as employer.

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

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

Size and Membership:	
To consist of 13 members and it shall be politically balanced. (Quorum: 4 Members of the Committee)	
Where any application or complaint falls to be determined by the Committee sitting as a sub-committee (Panel), there shall be constituted a panel of not less than three nor more than five Members drawn from amongst the Members of the Committee by the Chief Executive in consultation with the Chairman of the Committee, and the Panel may exercise the functions of the Committee in relation to the application or complaint in question. Where a sub-committee is exercising the functions of the Committee under the Licensing Act 2003, it shall comprise 3 Members drawn from the Members of the Committee.	
Terms of Reference:	
Licensing and registration	
(a)	Except as provided in the Licensing Act 2003 and Gambling Act 2005 and any regulations made thereunder; the discharge of all functions of the Borough Council as licensing authority set out in those Acts.
(b)	The discharge of all functions of the Borough Council relating to hackney carriage and private hire licensing, including the licensing of vehicles, drivers and operators; and
(c)	The discharge of all other functions relating to licensing and registration in so far as they are the responsibility of the Borough Council
Determination of Appeals	
To determine appeals made:	
(d)	against any decision made by or on behalf of the authority except where there is a statutory appeals procedure
(e)	under either grievance or disciplinary procedures (including grading) for all categories of employees
The functions of the Committee shall include (but not be limited to):	
1.	To deal with all matters relating to licences, registrations and permits within the purview of the Council

Annex 1

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

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

6.	Overview and Scrutiny Committee
Size and Membership: (Quorum: 4 Members of the Committee)	
To consist of 17 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-optation as set out in Part 4, Overview and Scrutiny Procedure Rule 3.1	
The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.	
Terms of Reference:	
The Overview and Scrutiny Committee shall discharge the following general functions	
1.	review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive;
2.	make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are the responsibility of the Executive;
3.	review or scrutinise decisions (other than individual regulatory decisions) made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive;
4.	make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Executive;
5.	make reports or recommendations to the authority or the Executive on matters which affect the authority's area or the inhabitants of that area; and
6.	exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive
The power of the Overview and Scrutiny Committee under 1 above to review or scrutinise a decision made but not implemented includes power:	
7.	to recommend that the decision be reconsidered by the person who made it; or

8.	to arrange for its function under subsection 1, so far as it relates to the decision, to be exercised by the authority.
Specific Functions:	
Policy Development and Review	
The Overview & Scrutiny Committee may	
9.	assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
10.	conduct research, community and other consultation in the analysis of policy issues and possible options;
11.	consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
12.	question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area;
13.	liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
Scrutiny	
The Overview & Scrutiny Committee may	
14.	review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;
15.	review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
16.	question members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
17.	make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
18.	review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the committee and local people about their activities and performance;
19.	question and gather evidence from any person (with their consent).

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