

Constitution for Governance of Thanet District Council

MAY 2008

Contents

	Page
Part 1	9
Summary and Explanation	9
Summary and Explanation	10
1.0 The Council's Constitution	10
2.0 What's in the Constitution?	10
3.0 How the Council operates	10
4.0 How Decisions are Made	11
5.0 Overview and Scrutiny	11
6.0 Other Committees	11
7.0 The Council's Staff	12
8.0 Citizens' Rights	13
Part 2	14
Articles of the Constitution	14
Article 1 – The Constitution	15
1.01 Powers of the Council	15
1.02 The Constitution	15
1.03 Purpose of the Constitution	15
1.04 Interpretation and Review of the Constitution	15
Article 2 – Members of the Council	16
2.01 Composition and eligibility	16
2.02 Election and terms of Councillors	16
2.03 Roles and functions of all Councillors	16
2.04 Conduct	17
2.05 Allowances	17
Article 3 – Citizens and The Council	18
3.01 The Council is there to serve the people of Thanet	18
3.02 Citizens' responsibilities	18
Article 4 – The Full Council	19
4.01 Meanings	19
4.02 Functions of the full Council	19
4.03 Council meetings	20
4.04 Responsibility for functions	20
Article 5 – Chairing The Council	21
5.01 Role and function of the Chairman	21
Article 6 – Overview and Scrutiny Committees	22
6.01 Terms of reference	22
6.02 General powers	22
6.03 Proceedings of Overview and Scrutiny Panels	22
6.04 Annual Report	22
Annex to Article 6 – Overview and Scrutiny Committee	23
Article 7 – The Executive ("The Cabinet")	24
7.01 Role	24
7.02 Form and composition	24
7.03 Leader	24
7.04 Other Cabinet members	24
7.05 Proceedings of the Cabinet	24
7.06 Responsibility for functions	25
Article 8 – Regulatory and other Committees	26

8.01	Regulatory and other Committees	26
Article 9 – The Standards Committee		27
9.01	Standards Committee	27
9.02	Composition	27
9.03	Role and Function	27
9.04	Proceedings of the Standards Committee	28
Article 10 – Area Committees and Forums		29
10.01	Area Committees	29
10.02	Conflicts of interest – membership of area Committees and Overview and Scrutiny Committees	29
10.03	Area Committees – access to information	29
10.04	Cabinet members on area Committees	29
Article 11 – Joint Arrangements		30
11.01	Arrangements to promote well being	30
11.02	Joint arrangements	30
11.03	Access to information	31
11.04	Delegation to and from other local authorities	31
11.05	Contracting out	31
Article 12 – Officers		32
12.01	Management structure	32
12.02	Functions of the Head of Paid Service	33
12.03	Functions of the Monitoring Officer	33
12.04	Functions of the Chief Finance Officer ("Section 151 Officer")	34
12.05	Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer	34
12.06	Conduct	34
12.07	Employment	34
Article 13 – Decision Making		35
13.01	Responsibility for decision making	35
13.02	Principles of decision making	35
13.03	Types of decision	35
13.04	Decision making by the full Council	36
13.05	Decision making by the Executive	37
13.06	Decision making by Overview and Scrutiny Committees	37
13.07	Decision making by other Committees and Sub-Committees established by the Council	37
13.08	Decision making by Council bodies acting as tribunals	37
Article 14 – Finance, Contracts and Legal Matters		38
14.01	Financial management	38
14.02	Contracts	38
14.03	Legal proceedings	38
14.04	Authentication of documents	38
14.05	Common Seal of the Council	38
Article 15 – Review and Revision of the Constitution		39
15.01	Duty to monitor and review the constitution	39
15.02	Changes to the Constitution	39
Article 16 – Suspension, Interpretation and Publication of the Constitution		41
16.01	Suspension of the Constitution	41
16.02	Interpretation	41
16.03	Publication	41
Schedule 1: Description of Executive Arrangements		42
Part 3		43
Responsibility for Functions		43
Responsibility for Functions		44
Section 1. Responsibility for Local Choice Functions		44

Section 2. Responsibility for Council Functions	45
Section 3. Responsibility for Executive Functions	51
Section 4. Scheme of Officer Delegations	76
List of Cabinet Members	97
Part 4	98
Rules of Procedure	98
Council Procedure Rules	99
1.0 Annual Meeting of the Council	99
2.0 Ordinary Meetings	100
3.0 Extraordinary Meetings	101
4.0 Committees and Sub-Committees	101
5.0 Appointment of Substitute Members of Committees, Sub-Committees and Working Parties	103
6.0 Election of Chairman and Vice-Chairman of Committees	103
7.0 Time and Place of Meetings	104
8.0 Notice of and Summons to Meetings	104
9.0 Chair of Meeting	105
10.0 Quorum	105
11.0 Duration of Meeting	105
12.0 Petitions from the Public	105
13.0 Questions by the Public and Press	106
14.0 Questions by Members	107
15.0 Reports from the Cabinet and Committees	109
16.0 Motions On Notice	110
17.0 Motions Without Notice	111
18.0 Motions Affecting Persons Employed by the Council	111
19.0 Rules of Debate	112
20.0 Previous Decisions and Motions	115
21.0 Voting	115
22.0 Minutes	116
23.0 Record of Attendance	117
24.0 Attendance at Meetings	117
25.0 Special Meetings of Committees	117
26.0 Exclusion of Public	118
27.0 Members' Conduct	118
28.0 Disturbance by Public	119
29.0 Suspension and Amendment of Council Procedure Rules	119
30.0 Application to Committees and Sub-Committees	119
31.0 Members' Correspondence	119
32.0 Urgent Action by or on Behalf of Committees/Boards	120
Access to Information Procedure Rules	121
1.0 Scope	121
2.0 Additional Rights to Information	121
3.0 Rights to Attend Meetings	121
4.0 Notices of Meeting	121
5.0 Access to Agenda and Reports Before the Meeting	121
7.0 Supply of Copies	122
8.0 Access to Minutes etc After the Meeting	122
9.0 Background Papers	122
10.0 Public's Rights	124
11.0 Exclusion of Access by the Public to Meetings	124
12.0 Exclusion of Access by the Public to Reports	126
13.0 Application of Rules to the Cabinet	126
14.0 Procedure Before Taking Key Decisions	126
15.0 The Forward Plan	126

16.0	General Exception	128
17.0	Special Urgency	128
18.0	Report to Council	128
19.0	Record of Decisions	129
20.0	Decisions by Individual Members of the Cabinet	129
21.0	Overview and Scrutiny Committees Access to Documents	130
22.0	Additional Rights of Access for Members	130
Budget and Policy Framework Procedure Rules		132
1.0	The Framework for Executive Decisions	132
2.0	Process for Developing the Framework	132
3.0	Decisions Outside the Budget or Policy Framework	133
4.0	Urgent Decisions Outside the Budget or Policy Framework	134
5.0	Virement	134
6.0	Call-In of Decisions Outside the Budget or Policy Framework	135
Cabinet Procedure Rules		137
1.0	How Does the Cabinet Operate?	137
2.0	How are Cabinet Meetings Conducted?	139
Overview and Scrutiny Procedure Rules		141
1.0	What will be the Number of and Arrangements for Overview and Scrutiny Committees?	141
2.0	Who May Sit on Overview and Scrutiny Committees?	142
3.0	Scrutiny Requirements	142
4.0	Meetings of the Overview and Scrutiny Committee	142
5.0	Quorum	142
6.0	Who Chairs Overview and Scrutiny Committee Meetings?	143
7.0	Work Programme	143
8.0	Agenda Items	143
9.0	Policy Review and Development	143
10.0	Reports from Overview and Scrutiny Committees	144
11.0	Making Sure that Overview and Scrutiny Reports are Considered by the Cabinet	144
12.0	Rights of Overview and Scrutiny Committee Members to Documents	145
13.0	Members and Officers Giving Account	145
14.0	Attendance by Others	146
15.0	Call-In	146
16.0	The Party Whip	148
17.0	Procedure at Overview and Scrutiny Committee Meetings	149
18.0	Confidential and Exempt Information	149
Hearing Procedures for the Standards Committee		150
	Interpretation	150
	Representation	150
	Legal Advice	150
	Setting the Scene	150
	Preliminary Procedural Issues	150
	Making Findings of Fact	150
	Did the Member Fail to Follow the Code?	151
	If the Member has not Failed to Follow the Code of Conduct	152
	If the Member has Failed to Follow the Code	152
	Recommendations to the Authority	152
	The Written Decision	152
Financial Procedure Rules		153
	The Status of the Financial Procedure Rules	153
	Regulation A: Financial Management	154
	Regulation B: Financial Planning	159
	Regulation C: Risk Management and Control of Resources	161

Regulation D: Systems and Procedures	163
Regulation E: External Arrangements	165
Appendix A: Financial Procedure Note – Financial Management	167
Appendix B: Financial Procedure Note- Financial Planning	171
Appendix C: Financial Procedure Note: Risk Management and Control of Resources	178
Appendix D: Financial Procedure Note – Financial Systems and Procedures	189
Appendix E: Financial Procedure Note – External Arrangements	198
Contract Procedure Rules	202
Introduction	202
1.0 Application and Interpretation	202
2.0 Exemption	205
3.0 Quotations	206
4.0 Tenders	207
5.0 Negotiated Contracts	209
6.0 Submission of Quotations and Tenders	210
7.0 Evaluation	210
8.0 Content of Contracts	211
9.0 Execution	212
10.0 Operation of the Contract	213
11.0 Contract Variations	213
12.0 Standard Clauses	213
Contract Procedure Rules Relating to the Disposal of Land	214
1.0 Application and Definitions	214
2.0 Compliance and Exemptions	214
3.0 Best Consideration	214
4.0 Method of Disposal	214
5.0 Receipt of Sealed Offers	215
6.0 Opening and Acceptance of Sealed Offers	215
7.0 Invalid Sealed Offers	215
8.0 Late Sealed Offers	216
9.0 Errors and Discrepancies	216
10.0 Acceptance of Another Sealed Offer	216
9.0 11.0 All Contracts In Writing	216
10.0 12.0 Matters to be Included in Contracts	216
11.0 13.0 Contract Signatory	217
12.0 Guidance Notes	217
Exemptions From Contracts Procedure Rules	218
13.0 A Code Of Practice	218
Post-Tender Negotiation	221
14.0 1.0 Introduction	221
15.0 2.0 Circumstances in which Post-Tender Negotiation can be Applied	221
16.0 3.0 Circumstances in which Post-Tender Negotiation should not be Used	222
17.0 4.0 Procedures for Post-Tender Negotiation	222
Errors and Discrepancies in Tenders	224
18.0 1.0 Introduction	224
19.0 2.0 Errors notified by tenderers	224
20.0 3.0 Errors found during checking	224
Officer Employment Procedure Rules	225
21.0 1.0 Recruitment and Appointment	225
22.0 2.0 Recruitment of Head of Paid Service and Chief Officers	225
23.0 3.0 Appointment of Head of Paid Service	225
24.0 4.0 Appointment of Chief Officers and Deputy Chief Officers	226
25.0 5.0 Other Appointments	226
26.0 6.0 Disciplinary Action	226
27.0 7.0 Dismissal	226

Prescribed and Other Standing Orders	229
28.0 Part I – Prescribed Standing Orders	229
29.0 Part II – Standing Orders relating to Staff	232
30.0 Part III – Standing Orders relating to Executive Plans, Strategies and Estimates	235
Part 5	238
Codes and Protocols	238
Members Code of Conduct	239
Officers' Code of Conduct	254
31.0 Introduction	254
1.0 Standards	254
2.0 Disclosure of Information	254
3.0 Political Neutrality	255
4.0 Political Restrictions	255
5.0 Relationships	255
6.0 Appointment and other Employment Matters	256
7.0 Outside Commitments	256
8.0 Personal Interests	257
9.0 Equality	257
10.0 Separation of Roles During Tendering	257
11.0 Corruption	258
12.0 Financial Regulations	258
13.0 Gifts and Hospitality	258
14.0 Sponsorship – Giving and Receiving	259
Protocol on Member/Officer Relations	260
1.0 Introduction	260
2.0 Roles of Members and Officers	260
3.0 Expectations	262
4.0 When Things Go Wrong	263
5.0 Overview and Scrutiny	264
6.0 Councillors' Access to Information and to Council Documents	264
7.0 The Media	265
Part 6	274
Members' Allowances Scheme	274
Members' Allowances Scheme 2007/2008	1
32.0 Introduction	1
33.0 Basic Allowance	1
34.0 Special Responsibility Allowance	1
35.0 Dependants' Carers' Allowance	1
36.0 Travelling and Motor Mileage Allowances	2
37.0 Subsistence	2
38.0 Explanation of "Approved Duty"	2
39.0 Renunciation	3
40.0 Part Year Entitlements	3
41.0 Repayment and Withholding of Allowances	4
42.0 Payments and Claims	4
44.0 MEMBERS' ALLOWANCES SCHEME – 2007/2008	3
Part 7	8
Management Structure	8
Management Structure	9
Appendix 1	10
Proper Officer Functions	10
Proper Officer Appointments for Specified Purposes	11
45.0 Local Government Act 1972	11
46.0 Representation of the People Act 1983	13

47.0	Local Elections (Parishes and Communities) Rules 1986	13
48.0	Local Government (Miscellaneous Provisions) Act 1976	13
49.0	Public Health (Control of Diseases) Act 1984	13
50.0	Rent (Agricultural) Act 1976	13
51.0	Local Government Finance Act 1988	14
52.0	Local Government and Housing Act 1989	14
53.0	National Assistance Act 1948 and National Assistance (Amendment) Act 1951	14
Proper Officer/Monitoring Officer Roles		16
54.0	Articles	16
55.0	Council Procedure Rules	16
56.0	Access to Information Procedure Rules	17
57.0	Budget and Policy Framework Procedure Rules	18
58.0	Cabinet Procedure Rules	18
59.0	Overview and Scrutiny Procedure Rules	19

Part 1

Summary and Explanation

Summary and Explanation

1.0 The Council's Constitution

The Thanet District Council first agreed a new constitution as required by the Local Government Act 2000 in 2002. The first comprehensive review of that document was undertaken in early 2004 as a result of which the Council agreed this revised Constitution on 6 May 2004. A number of changes were made as a result of decisions of Council in 2005 and 2006. It 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. The Council will continue to monitor the operation of this revised Constitution and may from time to time make further changes.

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business and sets out who is responsible for the various functions of the Council. [See Parts 2 and 3.]

More detailed procedures, rules and codes are included in separate parts along with other information to help enable citizens and other stakeholders understand how the Council operates. [See Parts 4 to 7.]

2.0 What's in the Constitution?

Article 1 of the Constitution commits the Council to provide clear Leadership to the community and to continuously improve the delivery of services to the community. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny of decisions (Article 6)
- The Executive ("The Cabinet") (Article 7)
- Regulatory and other Committees (Article 8)
- The Standards Committee (Article 9)
- Area Committees (Article 10)
- Joint arrangements (Article 11)
- Officers (Article 12)
- Decision making (Article 13)
- Finance, contracts and legal matters (Article 14)
- Review and revision of the Constitution (Article 15)
- Suspension, interpretation and publication of the Constitution (Article 16)

3.0 How the Council operates

The Council is composed of 56 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.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council will appoint a Leader annually who will appoint other members of an "Executive" which is called the Cabinet. The Cabinet is responsible for an extensive range of functions in accordance with this Constitution and the policies and budget agreed by the Council. [See Articles 2 to 5.]

4.0 How Decisions are Made

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet can be made up of the Leader and up to nine other Councillors whom he/she appoints. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or other confidential matters are being discussed. The Cabinet 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. [See Article 7 and Part 3; see also the Budget and Policy Framework Procedure Rules and the Cabinet Procedure Rules in Part 4.]

5.0 Overview and Scrutiny

The Council must always appoint at least one Overview and Scrutiny Committee to support the work of the Cabinet and the Council as a whole. The Council has currently appointed two Overview and Scrutiny Committees called "Panels" to undertake this role. Such Committees give the opportunity for citizens to have a greater say in Council matters by examining matters of local concern. These can lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny Committees also monitor the decisions of the Cabinet and Cabinet Members. Decisions, which have been made by the Cabinet but not yet implemented, can be "called-in" for review. This enables consideration of whether the decision is appropriate. Scrutiny may recommend that the Cabinet or Cabinet Member reconsiders the decision. Scrutiny may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy. [See Article 6 and the Overview and Scrutiny Procedure Rules in Part 4.]

6.0 Other Committees

The Council also appoints other Committees such as the Standards Committee which helps promote high standards of conduct in public life. There are also some "regulatory" Committees which will deal with things such as town and country planning and licensing matters.

7.0 The Council's Staff

The Council has people 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 Article 12 and the Protocol on Member/Officer Relations in Part 5.]

8.0 Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are referred to in the paragraph below and Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau, for example, can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as a Council tenant or as an applicant for planning permission, they may have additional rights. These are not covered in detail in this Constitution.

Citizens have the rights to:

- vote at local elections if they are registered;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a Mayoral form of Executive;
- participate in the Council's question time and contribute to investigations by the Overview and Scrutiny Committees in accordance with the procedures laid down.
- find out, from the Executive's ie. the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Cabinet;
- complain to the Council under its own complaints procedure;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. (However, they should only do this after using the Council's own complaints procedure;)
- complain to the Standards Board for England if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

These rights are subject to the provisions of the relevant legislation and, where applicable, to the provisions of this Constitution.

The Council welcomes participation by its citizens in its work. For information about how citizens can contact their local Councillor about any matters of concern to them please see details on the Council's website at www.thanet.gov.uk or contact the Democratic Services Team for details.

For a copy of the statement of the rights of citizens to inspect agendas and reports and attend meetings or to obtain a copy of the constitution, again please contact the Democratic Services Team.

[LEGAL NOTE. In some places in this Constitution references are made to the law or to matters which are governed by law, for example, eligibility to stand for office at elections in Article 2 and the right to inspect the Council's accounts in Article 3. All references to the law or to matters which are governed by law are references to the legal position as at the date hereof and are included to assist in understanding the legal context in which the Council and this Constitution operates. They are not intended nor warranted in any way to constitute a comprehensive or accurate statement of the legal position at any time. In the event of any actual or alleged conflict between this Constitution and the law, the law shall prevail. In such event or in the event that there is any change in the law after the date hereof, this Constitution shall be construed in accordance with the law then pertaining.]

Part 2

Articles of the Constitution

Article 1 – The Constitution

1.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law of England and this Constitution.

1.02 The Constitution

This Constitution, consisting of Parts 1 to 7, is the Constitution of the Thanet District Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear Leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council may monitor and evaluate the operation of the Constitution as set out in Article 15 and may make changes to it at any time.

References:

Section 37, Local Government Act 2000

Chapter 10, DLTR Guidance

The Local Government Act 2000 (Constitutions) (England) Direction 2000

Article 2 – Members of the Council

2.01 Composition and eligibility

- (a) **Composition.** The Council currently consists of 56 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with the law applicable at the time of any election.
- (b) **Eligibility.** Only certain individuals such as registered voters of the district or those living or working there will be eligible to hold the office of Councillor. The detailed criteria are prescribed by law and there is currently a minimum age requirement of 21.

2.02 Election and terms of Councillors

Election and terms. The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.03 Roles and functions of all Councillors

- (a) **Key roles.** All Councillors will:
 - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iii) effectively represent the interests of their ward and of individual constituents;
 - (iv) respond to constituents' enquiries and representations, fairly and impartially;
 - (v) participate in the governance and management of the Council;
 - (vi) maintain the highest standards of conduct and ethics; and
 - (vii) be eligible to represent the Council on other bodies.
- (b) **Rights and duties**
 - (i) Councillors will have such 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 and this constitution.

- (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.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 Conduct

Councillors must at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.

References:

Part I, Part VA and Section 79, Local Government Act 1972

Chapter 2, DLTR Guidance

Section 18, Local Government and Housing Act 1989 and regulations thereunder

Section 7, Superannuation Act 1972 and regulations thereunder

[See further:-

On "Members' Code of Conduct" and "Protocol on Member/Officer Relations", see Part 5.]

Article 3 – Citizens and The Council

3.01 The Council is there to serve the people of Thanet

NB. These rights are subject to the provisions of the relevant legislation and, where applicable, to the provisions of this Constitution.

Citizens have a wide variety of rights which are conferred by law and by this Constitution. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected Mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the Cabinet when key decisions are being considered;
 - (iii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by Overview and Scrutiny Committees.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme provided that the complaint has been brought to the notice of the Council and that the Council has been afforded a reasonable opportunity to investigate and reply;
 - (iii) the Standards Board for England about a breach of the Members' Code of Conduct.

3.02 Citizens' responsibilities

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.

[See further:-

On "Key Decisions", see Article 13.

On "the Forward Plan", see Access to Information Procedure Rules in Part 4.

On "Overview and Scrutiny Committees", see Article 6 and Overview and Scrutiny Procedure Rules in Part 4.]

Article 4 – The Full Council

4.01 Meanings

- (a) **Policy Framework.** The "Policy Framework" means the following plans and strategies:

Statutory

- Best Value Performance Plan;
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Local Transport Plan;
- Plans and strategies which together comprise the Development Plan.

Non-statutory

- Council's Corporate Plan;
- Food Law Enforcement Service Plan;
- The plan and strategy which comprise the Housing Investment Programme;
- Local Agenda 21 Strategy.

The Council can adopt additional plans and strategies to form part of the Policy Framework.

- (b) **Budget.** 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 by way of the formulation of a plan or strategy relating to the control of the Council's borrowing requirement, investments or capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the full Council

Except as otherwise allowed by Article 13 and Article 15, only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer, including:
- (i) the giving of instructions requiring the Cabinet to reconsider any draft plan or strategy submitted by the Cabinet for the authority's consideration;
 - (ii) the amendment of any draft plan or strategy submitted by the Cabinet for the authority's consideration;
 - (iii) the approval, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; and

- (iv) the adoption (with or without modification) of the plan or strategy;
- (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 unless the appointment is an Executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area;
- (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 rather than the Cabinet; and
- (l) all other matters which, by law, must be reserved to Council.

4.03 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.04 Responsibility for functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

References:

Local Authorities (Functions and Responsibilities) (England) Regulations 2000
Chapter 2, DLTR Guidance

[See further:-

For decision making generally, see Article 13.]

Article 5 – Chairing The Council

5.01 Role and function of the Chairman

The Chairman of Council and in his/her absence, the Vice-Chairman, will have the following roles and functions:

- Ceremonial Role
- Chairing the Council Meeting

The Chairman will be elected by the Council annually. The Chairman will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. 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;
3. 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 Cabinet or hold Committee Chairs are able to hold the Cabinet and Committee Chairmen to account;
4. to support the promotion of public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

References:

Sections 3, 5, 245; schedule 2, 12; Local Government Act 1972

Schedule 3, Local Government Act 2000

Chapters 2 and 4, DLTR Guidance

[See further:-

On "the purposes of the Constitution", see Article 1.]

Article 6 – Overview and Scrutiny Committees

6.01 Terms of reference

The Council will always appoint at least one Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000. The current committee arrangement is set out in the Annex to this Article.

6.02 General powers

Within its terms of reference, the Overview and Scrutiny Committee may:

- (i) make reports or recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (ii) question members of the Cabinet and/or Committees and chief officers 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;
- (iii) question members of the Cabinet and/or Committees and chief officers about their views on issues and proposals affecting the area
- (iv) question and gather evidence from any person (with their consent);
- (v) exercise overall responsibility for the finances made available to them;
- (vi) exercise overall responsibility for the work programme of any officers employed to support their work.

6.03 Proceedings of Overview and Scrutiny Panels

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.

6.04 Annual Report

The Overview and Scrutiny Committee may report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

References:

Section 21 and schedule 1 (Paragraphs 7, 8, 10 and 11), Local Government Act 2000
Chapter 3, DLTR Guidance

Annex to Article 6 – Overview and Scrutiny Committee

Terms of Reference

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Cabinet
- (b) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet
- (c) to deal with all call-in matters arising under Overview and Scrutiny Procedure Rule 15 and Budget and Policy Framework Procedure Rule 6.
- (d) to deal with all overview and scrutiny policy matters contained within the constitution, having specific regard for (i) developing new approaches to policy and making appropriate recommendations to assist the Council and the Cabinet in the development of its policy framework by in-depth analysis of policy issues, and (ii) for budget development, budget review and spending performance issues and in order to assist the Council and the Cabinet in the development of its budget framework;
- (e) within the constraints of officer time and budgets, conduct research, community and other consultation in the analysis of policy issues and possible options;
- (f) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (g) 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;
- (h) to make reports or recommendation to the authority or the Cabinet on matters which affect the authority's area or the inhabitants of the area.
- (i) to review external partnership working and the performance of external service providers.
- (j) to undertake Best Value, Value for Money and other reviews, and review action plans arising from them, including progress on their implementation .
- (k) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet.
- (l) to 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 Cabinet.

Article 7 – The Executive ("The Cabinet")

7.01 Role

The Cabinet will carry out all of the local authority's functions apart from those responsibilities that either the law of England or this Constitution assigns to any other part or person within this Authority.

7.02 Form and composition

The Cabinet will consist of the Executive Leader together with at least 2, but not more than 9 other Members. The Executive Leader shall determine the number of Councillors to be so appointed and their portfolio responsibilities.

7.03 Leader

The Executive Leader will be a Councillor elected annually to the position of Leader by the Council. A Deputy Leader will be similarly elected annually to act whenever the Leader is absent or otherwise unable to act. The Leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by resolution of the Council.

7.04 Other Cabinet members

Other Cabinet members, including the Deputy Leader, shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the proper officer who shall immediately give a copy of the notice to the Cabinet member in question and to the Chief Executive (unless it is clear that this has already been done). The removal will take immediate effect upon receipt of the notice by the proper officer.

7.05 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

7.06 Responsibility for functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Executive functions.

References:

Section 11 and schedule 1, paragraphs 1, 2, 3, Local Government Act 2000

Chapters 4, 14 and 15, DLTR Guidance

[See further:-

On "proper officer", see list of proper officer functions in Appendix 1 to Part 7.

For powers of Leader, see Cabinet Procedure Rules in Part 4.

For election of Leader and Deputy Leader by Council, see Council Procedure Rule 1.1.]

Article 8 – Regulatory and other Committees

8.01 Regulatory and other Committees

The Council will appoint the Committees set out in Part 3 of this Constitution – ‘Responsibility for Council Functions’ – to discharge the functions described.

[Note:-

This note is added for information only and does not comprise part of this Constitution.

The Committees appointed as at the date hereof are as follows:-

- | | | | |
|----|--|---|--|
| 1. | Planning Committee | - | 15 Members |
| 2. | Licensing Board | - | 15 Members |
| 3. | Governance and Audit Committee | - | 8 Members |
| 4. | Standards Committee | - | 7 Thanet District Council Members plus 4 "independent" Members and 3 Parish/Town Council Member |
| 5. | Joint Transportation Board | - | 8 Thanet District Council Members plus the 8 Kent County Council Councillors representing Thanet wards |
| 6. | Constitutional Review Working Party | - | 5 Thanet District Council Members plus 2 "independent" Members |
| 7. | Standards Hearings & Referrals Sub Committee | | 2 Thanet District/Town/Parish Council Members plus 1 "independent" Member |
| 8. | Standards Appeals Sub-Committee | | 2 Thanet District/Town/Parish Council Members plus 1 "independent" Member |

Article 9 – The Standards Committee

9.01 Standards Committee

The Council will appoint a Standards Committee.

9.02 Composition

- (a) **Membership.** The Standards Committee will be composed of:
- seven Councillors other than the Leader;
 - four persons who are not a Councillor or an officer of the Council or any other body having a Standards Committee (“independent members”);
 - three members of a parish/town council wholly or mainly in the Council’s area (a Parish Member).
- (b) **Independent members.** Independent members will be entitled to vote at meetings and shall be appointed to act as Chairman and Vice-Chairman;
- (c) **Parish members.** At least one parish member must be present when matters relating to those parish councils or their members are being considered;
- (d) **Chairing the Committee.** A member of the Cabinet may not Chair the Committee.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted members;
- (b) assisting the Councillors and co-opted members to observe the Members’ Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members’ Code of Conduct;
- (d) monitoring the operation of the Members’ Code of Conduct;
- (e) advising, training or arranging to train Councillors and co-opted members on matters relating to the Members’ Code of Conduct;
- (f) granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members’ Code of Conduct;

- (g) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an ethical standards officer to the Monitoring Officer.
- (h) the exercise of (a) to (g) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.
- (i) overview of the whistleblowing policy.
- (j) overview of complaints handling and Ombudsman investigations including the power to make payments or provide other benefits in cases of maladministration.
- (k) oversight of the constitution.

9.04 Proceedings of the Standards Committee

Proceedings of the Standards Committee relating to complaints shall take place in accordance with the requirements of the Standards Board for England and such other procedures as may be adopted by the Standards Committee itself as required or authorised by law. Standards Committee Hearing Procedures are set out in Part 4 of this Constitution.

References:

Sections 53-55 and Section 81(5), Local Government Act 2000

[See further:-

On "the Members' Code of Conduct", see the Code in Part 5.]

9.05 Standards Referrals and Hearings Sub-Committee and a Standards Appeals Sub-Committee.

(a) Membership

Both the Standards Referrals and Hearings Sub-Committee and the Standards Appeals Sub-Committee will consist of an independent Member of the Standards Committee as chairman and two other Members of the Standards Committee.

These two additional Members will consist of either Thanet District Council Members, Parish Council Members or independent Members of the Standards Committee.

These Members will be appointed on a case by case basis in accordance with any guidance set out in the Standards Board for England Local assessment toolkit.

Until such guidance is received, the Council's Monitoring Officer will oversee the selection of Members to the Sub-committees.

Article 10 – Area Committees and Forums

10.01 Area Committees

The Council may appoint area Committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making. The Council will consult with relevant parish and town Councils and the Chairmen of relevant parish meetings when considering whether and how to establish area Committees.

10.02 Conflicts of interest – membership of area Committees and Overview and Scrutiny Committees

- (a) **Conflict of interest.** If an Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of any area Committee of which the Councillor concerned is a member, then the Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Committee.
- (b) **General policy reviews.** Where the Overview and Scrutiny Committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

10.03 Area Committees – access to information

Any Area Committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for area Committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

10.04 Cabinet members on area Committees

A member of the Cabinet may serve on an area Committee if otherwise eligible to do so as a Councillor.

References:

Part VA, Local Government Act 1972

Section 13, Local Government and Housing Act 1989

Reg. 4, 5 and 16A Local Government (Committee and Political Groups) Regulations 1990

Section 18, Local Government Act 2000

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000

Chapter 6, DLTR Guidance

Article 11 – Joint Arrangements

11.01 Arrangements to promote well being

The Council or the Cabinet, 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.

11.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives 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 a joint Committee with these other local authorities).
- (b) The Cabinet 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 Cabinet may only appoint Cabinet members to a joint Committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint Committee from outside the Cabinet in the following circumstances:
 - 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 Cabinet 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 joint Committee is between a county Council and a single district Council and relates to functions of the Executive of the county Council. In such cases, the Executive of the county Council may appoint to the joint Committee any Councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of these cases 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.

11.03 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) 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 Cabinet.
- (c) If the joint Committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.04 Delegation to and from other local authorities

- (a) The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Cabinet 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.

11.05 Contracting out

The Council (for functions which are not Executive functions) and the Cabinet (for Executive functions) may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of 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.

References:

Sections 2, 19, 20 Local Government Act 2000

The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000

Chapter 6, DLTR Guidance

Article 12 – Officers

12.01 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The full Council will engage persons for the following posts, who will be designated chief officers:

The full Council may delegate these functions to another body or officer.

Post	Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Corporate Programming and Executive Support Unit.
Corporate Director – "Section 151 Officer"	Resources and Community Services.
Corporate Director	Customer Services and Improvement & Performance.
Corporate Director	Commercial Services, Development Services, and Maritime Services.

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Corporate Director (Monitoring Officer)	Monitoring Officer
Corporate Director (Resources)	Chief Finance Officer

Such posts will have the functions described in Article 12.02–12.04 below.

The roles of these posts are underpinned by the fundamental principles of political neutrality and service to the whole Council

- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.
- (e) **Accountability.** Within the fundamental principles of political neutrality and service to the whole Council, the Head of Paid Service shall report to the Leader of the Council concerning the efficient and effective implementation of the Council's policies. The Chief Finance Officer shall similarly report to the Head of Paid Service. They shall both ensure that other Cabinet Members are appropriately briefed regarding matters relevant to their individual portfolio areas.

12.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** 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) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

12.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** 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) **Ensuring lawfulness and fairness of decision making in accordance with the powers and duties contained in the Local Government and Housing Act 1989.** 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 he/she considers 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) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** 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.
- (f) **Proper officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible in accordance with this Constitution.
- (g) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (h) **Providing advice.** 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.
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.04 Functions of the Chief Finance Officer ("Section 151 Officer")

- (a) **Ensuring lawfulness and financial prudence of decision making in accordance with the powers and duties contained in the Local Government Act 1972 and the Local Government Finance Act 1988.** 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 he/she considers 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) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** 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 any elected Mayor of the Council and will support and advise Councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

12.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

12.06 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.

12.07 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

Reference:
Chapter 8, DLTR Guidance

[See further:-

On "Management Structure", see Part 7 (and Appendix of Property Officer Functions).]

Article 13 – Decision Making

13.01 Responsibility for decision making

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 this Constitution.

13.02 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (see below for further details);
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

13.03 Types of decision

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) Key decisions.
 - (i) A key decision means an executive decision which is likely –
 - (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates; or
 - (b) to be significant in terms of its effects on communities living or working in an area of the district comprising two or more wards or electoral divisions in the district.
 - (ii) In determining what is “significant” regard shall be had to any guidance for the time being issued by the Secretary of State.
 - (iii) In order to assist potential decision makers within the Council reach consistent and democratic objective judgements and to ensure the public are clear about what is regarded as significant locally, the Council has set the following thresholds:-

Type of Decision	Threshold	Key Decision?
(a) Decisions involving expenditure within relevant budget approved by	None.	No, unless significant effect on communities.

Council		
---------	--	--

Type of Decision	Threshold	Key Decision?
(b) Decisions involving expenditure in excess of relevant budget approved by Council.	Any excess which exceeds the FPR virement rules.	Yes, if above threshold. If at or below threshold a key decision if significant effect on communities.
(c) Decisions on cash flow, investments and borrowings.	None.	No, unless significant effect on communities.
(d) Decisions to make savings.	None.	No, unless significant effect on communities.

- (iv) In determining what should be regarded as likely to be “significant” in terms of the effects of executive decisions on communities living or working in an area of the district, the following factors are to be taken into account:-
 - (a) decisions to propose any new policy or any change to an existing policy will be treated as a key decision;
 - (b) decisions which impact on communities living or working in one ward or electoral division will be treated as a key decision if that impact is likely to be significant in terms of its effects;
 - (c) in considering whether a decision is a key decision regard should be had, amongst other things, to the impact on amenity of a community and the quality of any service provided to a significant number of people; and
 - (d) decisions in respect of any emergency being dealt with under the Council’s emergency plan arrangements will not be regarded as a key decision unless required to be so regarded by law.
 - (v) 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.

13.04 Decision making by the full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision making by the Executive

Subject to Article 13.08, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.06 Decision making by Overview and Scrutiny Committees

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.07 Decision making by other Committees and Sub-Committees established by the Council

Subject to Article 13.08, other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.08 Decision making by Council bodies acting as tribunals

The Council, a Councillor or an officer acting as a tribunal 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 proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

References:

Chapter 7, DLTR Guidance

Regulations made under section 22, Local Government Act 2000

Article 14 – Finance, Contracts and Legal Matters

14.01 Financial management

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.

14.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

14.03 Legal proceedings

The Monitoring Officer and the Legal Services Manager are each authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions by or on behalf of the Council or the Cabinet or in any case where either considers that such action is necessary to protect the Council's interests. Legal proceedings may also be taken by or on behalf of the Head of Customer Services pertaining to revenues and/or benefit matters in accordance with the delegated powers contained in Part 3 of this Constitution.

14.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Legal Services Manager, Monitoring Officer, or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer or the Legal Services Manager. A decision of the Council, or of 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 Monitoring Officer or the Legal Services Manager should be sealed. The affixing of the Common Seal will be attested by a Member of the Council and one of the said officers or some other person authorised by him/her. An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by a person who has attested the seal.

References:

Sections 135, 151, 223 and 234, Local Government Act 1972
Part VIII, Local Government Finance Act 1988

Article 15 – Review and Revision of the Constitution

15.01 Duty to monitor and review the constitution

Protocol for monitoring and review of constitution by Monitoring Officer

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 better to achieve the purposes set out in Article 1.

In undertaking this task the Monitoring Officer may:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.02 Changes to the Constitution

- (a) **Approval.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by the Standards Committee,

PROVIDED THAT the Monitoring Officer may from time to time make and publish the following changes:-

- (i) such changes to Part 3 (Responsibility for Functions) as may be necessary to reflect any decision made by a person or body with the appropriate authority to delegate or sub-delegate powers to exercise executive or non-executive functions;
- (ii) such changes as may be necessary to reflect any changes to the details included in the List of Cabinet Members (whether as a result of a decision of the Leader of the Council or otherwise);
- (iii) such changes to Article 12 and/or Part 7 (Management Structure) as may be necessary to reflect any changes made by the Council, the Cabinet or otherwise, in the allocation of functions to officers;
- (iv) such changes as may be necessary to reflect any changes made to the Council's Committee structure;
- (v) such changes as may be necessary to reflect any changes agreed by Full Council to the Members' Allowances Scheme;

- (vi) such changes as may be necessary to reflect any changes made to the Proper Officer Functions;
- (vii) such changes as may be necessary to reflect or as may be necessary to comply with or give effect to any legislative changes or requirements; and
- (viii) such other changes of an editorial or consequential nature as may seem appropriate to make the Constitution internally consistent, up-to-date and readily understandable."

In addition any other means of publishing changes under (i) to (viii) above, the Monitoring Officer shall ensure that the changes are included on the next Standards Committee agenda for the Committee's information.

- (b) **Change within a Mayoral form of Executive.** Unless the change relates only to the operation of Overview and Scrutiny Committees, any resolution of the full Council to approve a change will have no effect without the written consent of the Mayor.
- (c) **Change from a Mayoral form of Executive to another form of Executive or to alternative arrangements, or from alternative arrangements to a Mayoral form of Executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the Mayor's term of office.
- (d) **Change from a Leader and Cabinet form of Executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

References:

Sections 30 and 37, Local Government Act 2000
Chapters 10 and 15, DLTR Guidance

Article 16 – Suspension, Interpretation and Publication of the Constitution

16.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless more than one half of the whole number of Councillors are 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.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01:
 - Council Procedure Rules
 - Access to Information Procedure Rules
 - Budget and Policy Framework Procedure Rules
 - Cabinet Procedure Rules
 - Overview and Scrutiny Procedure Rules
 - Financial Procedure Rules
 - Contracts Procedures Rules
 - Officer Employment Procedure Rules

16.02 Interpretation

The ruling of the Chairman of Council 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.

16.03 Publication

- (a) The Democratic Services Manager will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Democratic Services Manager will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Democratic Services Manager will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 10 (Area Committees and Forums) (where applicable);
4. Article 11 (Joint arrangements) (where applicable);
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).

Part 3

Responsibility for Functions

Responsibility for Functions

This Part of the Constitution deals with responsibility for Council and Executive functions and decision making. It should be read in conjunction with the rest of this Constitution, in particular Articles 4, 6, 7, 8, 9, 12 and 13.

This Part of the Constitution shall be interpreted in accordance with the relevant provisions of the Local Government Act 2000, in particular Section 13 (Functions which are to be the responsibility of an executive), and The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). In the event of any conflict between this Part and a provision in any piece of legislation, the latter shall prevail.

In any case where a function or decision making power is in this Part described in words (without reference to the Act or Statutory Instrument conferring that function or power) which are also used in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), those words shall be deemed to include a reference to the provision of the Acts or Statutory Instruments listed or referred to in those Regulations.

A number of the functions listed below as delegated to the various decision-making bodies listed are further delegated to officers and reference should be made to Section 4.

The Cabinet will be responsible for all executive functions as required by the Local Government Act 2000 in addition to those specific functions which are listed below.

Section 1. Responsibility for Local Choice Functions

Decision Making Body: The Cabinet

Membership: Up to 10 Members of the authority as determined by the Leader of the Council

Functions:

1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
 2. The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.
 3. Any function relating to contaminated land.
 4. The discharge of any function relating to the control of pollution or the management of air quality.
 5. The service of an abatement notice in respect of a statutory nuisance.
 6. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
 7. The inspection of the authority's area to detect any statutory nuisance.
 8. The investigation of any complaint as to the existence of a statutory nuisance.
 9. In connection with executive functions, the obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.
 10. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
 11. The determination of an appeal against any decision made by or on behalf of the authority relating to business rates.
-

Decision Making Body: Council
Membership: 56 Members of the authority

Functions:

1. The appointment of review boards under regulations under subsection of section 34 (determination of claims and reviews) of the Social Security Act 1998.
-

Decision Making Body: Planning Committee
Membership: 15 Members of the authority

Functions:

1. In connection with planning functions, the obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.
 2. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
-

Decision Making Body: Each Committee, Sub-Committee and Board, in connection with their functions.

Membership: (as set out respectively for each Committee, Sub-Committee and Board)

Function:

1. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
-

Section 2. Responsibility for Council Functions (which cannot be the responsibility of the Cabinet)

Decision Making Body: Planning Committee
Membership: 15 Members of the authority

Functions:

Planning and conservation

Functions relating to town and country planning and development control as specified below:

1. Power to determine applications for planning permission.
2. Power to determine applications to develop land without compliance with conditions previously attached.
3. Power to grant planning permission for development already carried out.
4. Power to decline to determine application for planning permission.
5. Duties relating to the making of determinations of planning applications.
6. Power to determine application for planning permission made by a local authority, alone or jointly with another person.
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.

8. Power to enter into agreement regulating development or use of land (if related to a planning application and not likely to have a substantial, district-wide impact).
9. Power to issue a certificate of existing or proposed lawful use or development.
10. Power to serve a completion notice.
11. Power to grant consent for the display of advertisements.
12. Power to authorise entry onto land.
13. Power to require the discontinuance of a use of land.
14. Power to serve a planning contravention notice, breach of condition notice or stop notice.
15. Power to issue an enforcement notice.
16. Power to apply for an injunction restraining a breach of planning control.
17. Power to determine applications for hazardous substances consent, and related powers.
18. Power to require proper maintenance of land.
19. Power to determine application for listed building consent, and related powers.
20. Power to determine applications for conservation area consent.
21. Duties relating to applications for listed building consent and conservation area consent.
22. Power to serve a building preservation notice, and related powers.
23. Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.
24. Powers to acquire a listed building in need of repair and to serve a repairs notice.
25. Power to apply for an injunction in relation to a listed building.
26. Power to execute urgent works.

Miscellaneous functions

1. Powers relating to the preservation of trees.
2. Powers relating to the protection of important hedgerows.
3. Powers relating to Building Regulations.

Note: The functions of the Planning Committee include the following:

Terms of Reference:

- P1 To keep under review current policies in respect of the work of this Committee, and to respond to all consultations by the Cabinet as to any necessary changes or new policies.
- P2 To make appropriate recommendations to the Council in respect of planning applications which:
- are likely to have a substantial and district-wide impact; or
 - would not accord with the policies and proposals of the draft or adopted Development Plan, if approved.
- P3 To advise the Council in respect of any proposed development by the Cabinet or a Cabinet Member holding the portfolio of that service, for which the Planning Committee is not prepared to pass the necessary resolution to carry out or authorise such proposed development.

Delegated Powers:

- P4 To consider annually the Scale of Fees and Charges, and to submit recommendations to the Cabinet or Council as appropriate.
- P5 To authorise legal proceedings arising out of the Committee's functions.
- P6 To deal with planning proposals referred to the Committee under agency agreements (if any), development proposed by Government departments, or by other Local Authorities.
- P7 To deal with the scheme of consultation for planning applications with Town and Parish Councils.

- P8 To make arrangements for publicity to be given to planning applications.
- P9 To deal with all other non-executive matters not specifically referred to in the Terms of Reference and Delegated Powers, arising from Town and Country Planning legislation, Listed Building legislation and Building Control legislation, and to establish broad guidelines on procedures for the benefit of applicants and Officers.
- P10 To review the performance of the Thanet Joint Transportation Committee on an annual basis, and advise the Council accordingly.
-

Decision Making Body: **Licensing Board**
Membership: 15 Members of the authority

Functions:

Taxi, gaming, entertainment, food and miscellaneous licensing

Functions relating to licensing and registration as set out below:

1. Power to issue licences authorising the use of land as a caravan site (“site licences”).
2. Power to license the use of sites.
3. Power to license hackney carriages and private hire vehicles.
4. Power to license drivers of hackney carriages and private hire vehicles.
5. Power to license operators of hackney carriages and private hire vehicles.
6. Power to register pool promoters.
7. Power to grant track betting licences.
8. Power to license inter-track betting schemes.
9. Power to grant permits in respect of premises with amusement machines.
10. Power to register societies wishing to promote lotteries.
11. Power to grant permits in respect of premises where amusements with prizes are provided.
12. Power to issue cinema and cinema club licences.
13. Power to issue theatre licences.
14. Power to issue entertainment’s licences.
15. Power to license sex shops and sex cinemas.
16. Power to license performances of hypnotism.
17. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.
18. Power to license pleasure boats and pleasure vessels.
19. Power to register door staff.
20. Power to license market and street trading.
21. Power to license dealers in game and the killing and selling of game.
22. Power of register and license premises for the preparation of food.
23. Power to license scrap yards.
24. Power to license premises for the breeding of dogs.
25. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.
26. Power to license zoos.
27. Power to license dangerous wild animals.
28. Power to license knackers’ yards.
29. Power to license persons to collect for charitable and other causes.
30. Power to grant consent for the operation of a loudspeaker.
31. Power to approve meat product premises.
32. Power to approve premises for the production of minced meat or meat preparations.
33. Power to approve dairy establishments.
34. Power to approve egg product establishments.

35. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.
36. Power to approve fish products premises.
37. Power to approve dispatch or purification centres.
38. Power to register fishing vessels on board which shrimps or molluscs are cooked.
39. Power to approve factory vessels and fishery product establishments.
40. Duty to keep register of food business premises.
41. Power to register food business premises.
42. All powers of the "licensing committee" under the Licensing Act 2003 (except, for the avoidance of doubt, powers relating to licensing policy under section 5 of the Act but including the power to issue licences and establish one or more sub-committees consisting of three members each and the power to arrange for the discharge of any functions of the licensing committee by such a sub-committee or sub-committees or by one or more officers and to arrange for such powers to be exercised concurrently.

Note: The functions of the Licensing Board include the powers to license: private places of entertainment, late night refreshment houses, riding establishments, petroleum spirit, sports entertainment, to make closing orders and variations in relation to food take-aways and to suspend revoke or refuse to renew any of the licences and registrations listed above.

Decision Making Body: Standards Committee

Membership: 5 members of the authority (other than the leader), and two independent members and one parish council representative

Functions:

The role and functions of the Standards Committees are set out in Article 9.

Standards Hearings & Referrals Sub-Committee

Standards Appeals Sub-Committee

Decision Making Body: Appeals Panel

Membership: 3 members of the authority, and 2 voting Unison representatives

Function:

1. To consider appeals by employees of the Council against .

Decision Making Body: Governance and Audit Panel

Membership: 8 members of the authority.

Function:

1. To be confirmed
-

Decision Making Body: **Joint Transportation Board**
Membership: 8 members of the authority, and the 8 Kent County Council Councillors representing Thanet Constituencies

Function:

Terms of Reference:

The JTB will consider:-

- (i) capital and revenue funded works programmes
- (ii) traffic regulation orders
- (iii) street management proposals

and will provide advice on these matters to the relevant Executive as appropriate

- Be a forum for consultation between KCC and the Council on policies plans and strategies related to highways road traffic and public transport
- Review the progress and out-turn of works and business performance indicators
- Recommend and advise on the prioritisation of bids for future programmes of work
- Receive reports on highways and transportation needs within the district

Decision Making Body: **Constitutional Review Working Party**
Membership: 5 Members of the Authority

Functions: To be Confirmed

Decision Making Body: **Council**
Membership: 56 Members of the Authority

Functions:

1. Duty to appoint an electoral registration officer.
2. Functions in relation to parishes and parish councils.
3. Power to dissolve small parish councils.
4. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.
5. Duty to appoint returning officer for local government elections.
6. Duty to divide constituency into polling districts.
7. Power to divide electoral divisions into polling districts at local government elections.
8. Powers in respect of holding of elections.
9. Power to fill vacancies in the event of insufficient nominations.
10. Duty to declare vacancy in office in certain cases.
11. Duty to give public notice of a casual vacancy.
12. Power to make temporary appointments to parish councils.
13. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.
14. Power to change the name of a county, district or London borough.
15. Power to change the name of a parish.
16. Power to confer title of honorary alderman or to admit to be an honorary freeman.
17. Power to petition for a charter to confer borough status.

18. Power to make, amend, revoke or re-enact byelaws
19. Power to promote or oppose local or personal Bills.
20. Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).
21. Power to make standing orders.
22. Power to appoint staff. (delegated to the Head of Paid Service or nominee where below Deputy Chief Officer level)
23. Power to make standing orders as to contracts.

East Kent (Joint Arrangements) Committee

Operating Arrangements

Canterbury City Council

Dover District Council

[Kent County Council]

Shepway District Council

Thanet District Council

together referred to as 'the Parties'

1. Key Principles

- 1.1 The Executive and full Council of each of the Parties has determined by resolution to establish this joint committee to become effective from 1 June 2008 for the purposes of exercising agreed functions over their 'combined administrative area'.
- 1.2 The joint committee will be established as the East Kent (Joint Arrangements) Committee (EKJAC).
- 1.3 The Parties are committed to a joint committee which provides streamlined decision making; and co-ordination of services across the combined administrative area through mutual co-operation.
- 1.4 The Parties are committed to open and transparent working and proper scrutiny and challenge of the work of the EKJAC.
- 1.5 Any new Parties to these arrangements after they become effective will have all the same rights and responsibilities under these arrangements.

2. Definitions

- 2.1 'Decisions' means those decisions of the Parties delegated from time to time to the EKJAC to discharge.
- 2.2 'A shared service' means a service delivering functions as agreed by two or more of the Parties.
- 2.3 'The combined administrative area' means the local government areas of the city and district authority Parties combined.
- 2.4 'The Parties' means the authorities listed above.
- 2.5 'Voting Member' means the appointed elected members of each of the Parties.
- 2.6 'Host Authority' means the local authority appointed by the Parties under these arrangements to lead on a specified matter or function as set out in paragraphs 14 and 19.

3. Objectives

- 3.1 The objectives of the East Kent (Joint Arrangements) Committee are to:
- (a) improve services, and secure economy, efficiency and effectiveness in their delivery across both tiers of government in the combined administrative area
 - (b) Streamline decision making where joint arrangements already exist
 - (c) Develop and agree new areas of joint working
 - (d) Enhance mutual co-operation and strategic partnering

4. Powers and Functions

- 4.1 The EKJAC is established under section 20 of the Local Government Act 2000 and Regulations 4, 11 and 12 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and sections 101(5) and section 102(1) of the Local Government Act 1972 enabling the Parties to perform the functions referred to in the Schedule in the manner set out in these arrangements.
- 4.2 The functions of the EKJAC shall be those functions or services that are delegated to it by the parties from time to time as approved by resolution of the executive and/or full Council (as appropriate) of such of the parties as are minded to participate in those joint functions and services.
- 4.3 Any delegations to the EKJAC shall be made in a common form and shall not take effect until agreed by the executive and/or full Council (as appropriate) of all those Parties participating in the services.

5. Terms of Reference

- 5.1 The terms of reference for the EKJAC are as set out in the Schedule.

6. Membership and Voting Rights

- 6.1 The EKJAC shall comprise the Leaders and Deputy Leaders of the Council of each of the Parties. The Leader of each Party may nominate two members of their Executive (who have been authorised by the respective Parties to act as substitutes) to substitute for either the Leader or Deputy Leader, as necessary.
- 6.2 Non-voting members may be co-opted onto the EKJAC from any or all of the Parties or from other public sector partner organisations as the EKJAC may unanimously decide. Co-optees may participate in the debate but may not vote.

7. Frequency of Meetings

- 7.1 The EKJAC will meet quarterly, but may change the frequency of meetings and call additional meetings as required.

8. Agenda Setting and Access to Meetings and Information

- 8.1 The agenda for the EKJAC shall be agreed by the chairman of the EKJAC following a briefing by relevant officers. Any member of the EKJAC may require that an item be placed on the agenda of the next available meeting for consideration.
- 8.2 There will be a standing item on the agenda of each meeting of the EKJAC for matters referred by the East Kent Joint Scrutiny Committee.
- 8.3 Notice of meetings and access to agendas and reports will be in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England)

Amendment Regulations 2000 and 2002 or sections 100A-K and Schedule 12A of the Local Government Act 1972, as appropriate.

9. Sub-Committees

9.1 The EKJAC may establish sub-committees as it may determine by unanimous agreement of the EKJAC.

9.2 When establishing a sub-committee the EKJAC will agree the:

- (a) terms of reference for the sub-committee
- (b) size and membership of the sub-committee including co-optees
- (c) period for which the sub-committee will remain constituted
- (d) chairman of the sub-committee or will delegate this decision to the sub-committee
- (e) mechanism for hosting the sub-committee and sharing the cost amongst the relevant Parties, as appropriate

10. Delegation to Sub-Committees and Officers

10.1 The EKJAC may arrange for the discharge of any of its functions by a sub-committee of the EKJAC or an officer of one of the Parties. Any such sub-committee may, subject to the terms of these arrangements and unless the EKJAC or any Voting Member directs otherwise, arrange for the discharge of any of its functions by such an officer.

11. Meetings and Procedure

11.1 The Chairman and Vice Chairman of the EKJAC will be appointed by the EKJAC on the basis of the position being rotated annually, as follows, and repeated each five years:

	Chairman and Host Authority	Vice Chairman
Year 1	Canterbury City Council	Shepway District Council
Year 2	Thanet District Council	Dover District Council
Year 3	Shepway District Council	Kent County Council
Year 4	Dover District Council	Canterbury City Council
Year 5	Kent County Council	Thanet District Council

11.2 In the absence of the chairman and the vice chairman at a meeting, the meeting will elect a chairman for that meeting.

11.3 The quorum of the EKJAC will be five with at least one member present from four of the five Parties. If the meeting is inquorate then it shall stand deferred for seven days to meet at the same time and in the same place when the quorum shall be five drawn from any of the Parties.

11.4 The EKJAC may approve rules for meetings and procedure from time to time.

12. Decision Making

12.1 Decisions of the EKJAC will normally be made by consensus. Alternatively, a vote shall be taken where the chairman or any Voting Member requests that a vote be

taken. The vote will be by way of a show of hands. A simple majority shall be required.

- 12.2 The EKJAC may recommend to the parties services and/functions which may be considered for joint working.
- 12.3 A service will only become a shared service after at least two of the parties have resolved to delegate the relevant functions to the EKJAC.
- 12.4 Where two or more parties have resolved to delegate as mentioned in 12.4, then:
- (a) The service will thereafter be a shared service only in relation to those Parties and
 - (b) Those Parties alone will have voting rights at the EKJAC in relation to further decisions as to how that shared service is jointly managed, provided or procured
 - (c) The Parties that did not delegate that shared service will not have voting rights in relation to that shared service until or unless they do delegate such service at some future date.

13. Forward Plan

- 13.1 Decisions of the EKJAC which will amount to a Key Decision of any Party shall be included within the Leader of that authority's Forward Plan.

14. Host Authorities and Allocation of Roles

- 14.1 In order to achieve the objectives of the EKJAC, the Parties will appoint a Host Authority which is for the time being the Authority shown as the Chairman and Host Authority in the table at clause 11.1.
- 14.2 Staff from the Host Authority who are commissioned to provide services, advice and support to the EKJAC will continue to be employees of the relevant Host Authority.
- 14.3 Responsibility for the following support services to the EKJAC will be allocated to the Host Authority:
- (a) the provision of legal advice and services
 - (b) the provision of financial advice and services
 - (c) secretariat support and services
 - (d) communications support and services.
- 14.4 The cost of the services and advice set out in this section will be paid for by the Host Authority.

15. Amendments to these Arrangements

- 15.1 These arrangements may be amended by the unanimous agreement of the EKJAC following a recommendation approved by the Executive and full Council of each of the Parties.

16. New Membership and Cessation of Membership

- 16.1 New Parties may join the joint committee provided that the Executive and full Council of the joining Party (ies) and of all the Parties to these arrangements for the time being so resolve.
- 16.2 Any of the Parties may cease to be a party to these arrangements following notice of cessation subsequent to a decision by the relevant Executive and full Council. A minimum of six months notice is required for any Party to leave the EKJAC and in any event, any notice of cessation can only be effective at the end of a municipal year. For the avoidance of doubt, where a Party wishes to withdraw from these arrangements but makes that decision and gives notice within six months of the end of the current municipal year, they may not withdraw from these arrangements until the conclusion of the subsequent municipal year.
- 16.3 On any of the Parties ceasing to be a party to these arrangements, these arrangements shall continue unless the remaining parties determine that those arrangements shall terminate. The benefits and burdens of such termination shall be agreed between the Parties and in default of such agreement shall be determined in accordance with 17.1.
- 16.4 Termination of these arrangements may occur by agreement of all the Parties.

17. Dispute Resolution

- 17.1 Any dispute between the Parties arising out of these arrangements shall be referred to a single arbitrator to be agreed between the Parties, or, where no agreement can be reached, and having regard to the nature of the dispute, by an arbitrator nominated by the chairman of the Local Government Association and will be carried out in accordance with the provisions of the Arbitration Act 1996 as amended or modified and in force for the time being.

18. Claims and Liabilities

- 18.1 The purpose of these arrangements and any actions taken under them is to assist all of the Parties (or those of the Parties as are engaged in any particular shared service). The Parties therefore have agreed that:
- (a) all of the costs attributable to the provision of any shared service shall be shared between those of the Parties that are engaged in the shared service and in such proportions as they shall agree (and if not otherwise agreed then in equal shares)
 - (b) where one of the Parties nominated by the EKJAC to act in respect of a shared service undertakes actions or incurs liabilities in respect of that shared service on behalf of the EKJAC then it shall be entitled to be indemnified by the other Parties engaged in that shared service for the appropriate proportion of all its costs and liabilities incurred in good faith
 - (c) where one of the Parties nominated by the EKJAC to act as Host Authority undertakes actions or incurs liabilities in that respect then it shall be entitled to

be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith

- (d) a Party carrying out actions in good faith on behalf of the EKJAC shall not (other than in the case of fraud and/or clear bad faith) be liable to claims from the other Parties (and there shall be no right of set-off against any claim for indemnity under (b) and/or (c) above) on the grounds that the actions that were taken were not the proper actions carried out properly or that the costs and liabilities incurred were not reasonably and properly incurred (as long as they were in fact incurred)

18.2 Each of the Parties shall at all times take all reasonable steps within its power to minimise and mitigate any loss for which it is seeking reimbursement from any of the other Parties.

19. Data Protection, Freedom of Information, Information Sharing & Confidentiality

19.1 Subject to the specific requirements of this clause, each of the Parties shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.

19.2 An authority will be appointed as a Host Authority for the purposes of ensuring compliance with any legislative or legal requirements relating to these issues should they arise directly in relation to the joint committee (as compared to information held by the Parties to these arrangements).

19.3 Each of the Parties shall:

- (a) treat as confidential all information relating to:
 - (i) the business and operations of the other Parties and/or
 - (ii) the business or affairs of any legal or natural person in relation to which or to whom confidential information is held by that Party("Confidential Information") and
- (b) not disclose the Confidential Information of any other of the Parties without the owner's prior written consent

19.4 Clause 19.3 shall not apply to the extent that:

- (a) such information was in the possession of the Party making the disclosure, without obligation of confidentiality, prior to its disclosure or
- (b) such information was obtained from a third party without obligation of confidentiality or
- (c) such information was already in the public domain at the time of disclosure otherwise than through a breach of these arrangements or
- (d) disclosure is required by law (including under Data Protection Legislation, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or disclosure is permitted by the Human Rights Act 1998

19.5 The Parties may only disclose Confidential Information of another of the Parties to staff who need to know by reason of their work. Each of the Parties shall ensure that

such staff are aware of, and comply with, these confidentiality obligations and that such information is not used other than for the purposes of the EKJAC.

- 19.6 If any of the Parties receives a request for information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 then the other Parties shall (at their own expense) assist and co-operate to enable the request to be dealt with.
- 19.7 If a request for information is received then the Party receiving it shall copy it to the other Parties and consider when making its decisions any views of the other Parties.
- 19.8 Notwithstanding the provisions of 19.6 and 19.7 it shall be the Party receiving the request that is responsible for determining at its absolute discretion how to reply to the request.
- 20. Exercise of Statutory Authority**
- 20.1 Without prejudice to these arrangements, nothing in these arrangements shall be construed as a fetter or restriction on the exercise by any of the parties of their statutory functions. The parties may continue to provide the whole or any part of a service at their own cost notwithstanding that the service is also a shared service being provided jointly.

The Schedule

TERMS OF REFERENCE of the EAST KENT (JOINT ARRANGEMENTS) COMMITTEE

1. To exercise the executive and non-executive functions of the parties in order to commission, co-ordinate, provide, procure and/or manage any shared services as are agreed from time to time by two or more of the Parties
2. To provide strategic direction to the officers advising the EKJAC
3. To exercise any of the functions or services that are determined to be a shared service in accordance with these arrangements
4. To develop work programmes and projects in relation to the functions which the parties are minded to be delegated to the EKJAC by the Parties
5. To regularly report to each of the Parties on its activities
6. To respond to reports and recommendations made by the East Kent Joint Scrutiny Committee
7. To monitor the operation of the EKJAC and of any shared service
8. To propose a budget for a shared service to the Parties and to monitor and manage any such budget once approved by them
9. To review these arrangements from time to time and make recommendations to the Parties for improvement and change and to propose (as appropriate) the creation of special purpose vehicles for the achievement of the Objectives, including companies, formal partnerships or consortia, the expansion of these arrangements to include

other local authorities, the conclusion of contracts with other persons and the provision of services, supplies and works to other persons

East Kent (Joint Scrutiny) Committee

Operating Arrangements

Canterbury City Council

Dover District Council

[Kent County Council]

Shepway District Council

Thanet District Council

together referred to as 'the Parties'

1. Key Principles for the Operation of the East Kent (Joint Scrutiny) Committee (EKJSC)

- 1.1 The members of the EKJSC will work together to maximise the exchange of information and views, to minimize bureaucracy and make best use of the time of members and officers of local and other authorities.
- 1.2 The guiding principle for the work of EKJSC is that it should be consensual and positive. The emphasis of the work should be on making proactive contribution to the development of policy and the discharge of EKJAC's functions. This is best achieved by an inclusive process covering members, the parties' partners, service users and officers.
- 1.3 The process of joint scrutiny will be open and transparent, designed to engage the parties, their residents and other stakeholders.

2. Objectives

- 2.1 The EKJSC is established under section 101 and 102 Local Government Act 1972 and Section 2 Local Government Act 2000 with the objective of acting as the single Scrutiny Committee for the monitoring, review and scrutiny of the East Kent (Joint Arrangements) Committee (EKJAC).

3. Terms of Reference

- 3.1 The terms of reference of the EKJSC are as set out in Schedule 1.
These arrangements will be reviewed regularly. No proposed amendments to these arrangements will take effect until they have been agreed and endorsed by each of the parties.

4. Call-In

- 4.1 The arrangements for the operation of call-in by the EKJSC shall be as set out in Schedule 2. The EKJSC shall have power to call-in any decision made by EKJAC, a sub-committee of EKJAC, or any member or officer with delegated authority from

EKJAC. The EKJSC will not have the power to call-in any decision of the Executive of any of the Parties.

- 4.2 Where there is a call-in by a statutory scrutiny committee of any of the Parties of any decision of the EKJAC, each of the other Parties will be notified forthwith. The call-in shall be heard by the call-in Party's statutory scrutiny committee in accordance with the call-in Party's own arrangements. Where there is more than one call-in on the same subject the parties shall endeavour to ensure that they are heard together at the same time and place.
- 4.3 The call-in procedure set out in clauses 4.1 and 4.2 above shall not apply where the decision being taken by or on behalf EKJAC is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of any of the Parties or the public interest. The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision maker, the decision is an urgent one and therefore not subject to call-in. The Chairman and the members of each of the Parties affected by the decision must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the consent of the Vice-Chairman shall be required. In the absence of both the Chairman and Vice-Chairman, the consent of the Head of Paid Service of that Party (or his/her nominee) shall be required. Decisions taken as a matter of urgency must be reported to the next available full Council meetings of each of the Parties, together with the reasons for urgency.

5. Membership and Terms of Office

- 5.1 The EKJSC will comprise three non-executive councillors from each of the Parties.
- 5.2 Each appointing Party shall appoint its three members on the basis of its overall political proportionality.
- 5.3 Members of the EKJSC shall be appointed by the Parties at their annual meetings of their respective Council and shall hold office until:
- (a) the next annual meeting of the Party that appointed them, save that the Party that appointed them may remove them from office, either individually or collectively, at an earlier date in the event of a change in political control of that Party; or
 - (b) they resign from office; or
 - (c) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)
- 5.4 Each Party may appoint substitutes to represent their authority in the absence of the appointed councillors. Nominated substitutes will be non-executive councillors and will be able to attend any meeting of EKJSC in order to familiarise themselves with the issues involved, but will not be able to participate in debate or vote unless they are formally acting as a substitute member.
- 5.5 Non-voting members may be co-opted onto the EKJSC from any or all of the Parties or from other public sector partner organisations as the EKJSC may unanimously decide. Co-optees may participate in the debate but may not vote.

6. Frequency of Meetings

6.1 The EKJSC will meet quarterly, but may change the frequency of meetings and call additional meetings as required.

7. Agenda Setting and Access to Meetings and Information

7.1 The agenda for the EKJSC shall be agreed by the chairman following a briefing by relevant officers. Any member of the EKJSC may require that an item be placed for consideration on the agenda of the next available meeting.

7.2 There will be a standing item on the agenda of each meeting of the EKJSC for matters referred by the EKJAC.

7.3 Notice of meetings and access to agendas and reports will be in accordance with sections 100A-K and Schedule 12A of the Local Government Act 1972.

8. Sub-Committees

8.1 The EKJSC may establish sub-committees as it may determine by unanimous agreement of the EKJSC.

8.2 When establishing a sub-committee the EKJSC will agree the:

- (a) terms of reference for the sub-committee
- (b) size and membership of the sub-committee including co-optees
- (c) period for which the sub-committee will remain constituted
- (d) chairman of the sub-committee or will delegate this decision to the sub-committee
- (e) mechanism for hosting the sub-committee and sharing the cost amongst the relevant Parties, as appropriate

9. Delegation to Sub-Committees

9.1 The EKJSC may arrange for the discharge of any of its functions by a sub-committee of the EKJSC.

10. Meetings and Procedure

10.1 The Chairman and Vice Chairman will be appointed by the EKJSC on the basis of the position being rotated annually, as follows, and repeated each five years:

	Chairman and Scrutiny Host Authority	Vice-Chairman
2008-9	Shepway	Dover
2009-10	Dover	Kent
2010-11	Kent	Canterbury
2011-12	Canterbury	Thanet
2012-13	Thanet	Shepway

10.2 The Chairman and Vice Chairman of EKJSC shall be drawn from any political group not forming part of the administration of the appointing Council.

10.3 In the absence of the chairman and the vice chairman at a meeting, the meeting will elect a chairman for that meeting.

10.4 The quorum of the EKJSC will be five with at least one member present from four of the five Parties.

- 10.5 The EKJSC may approve rules for meetings and procedure from time to time.
- 10.6 The EKJSC may ask organisations, individuals or groups to assist it from time to time and may ask independent professionals to advise it during the course of reviews. Such individuals or groups will not be able to vote.
- 10.7 The EKJSC may request the attendance of officers employed by the participating authorities to answer questions and give evidence to the committee. Such requests must be made via the Chief Executive of the relevant participating authority.
- 10.8 The EKJSC may invite any other person to attend its meetings to answer questions or give evidence; however, attendance by such persons cannot be mandatory.

11. Decision Making

- 11.1 Decisions of the EKJSC will normally be made by consensus. A vote shall be taken where the chairman or any Voting Member requests that a vote be taken. The vote will be by way of a show of hands. A simple majority shall be required.
- 11.2 Where a minimum number of two members express an alternative to the majority view, they will be permitted to produce a minority report.

12. Scrutiny Host Authorities and Allocation of Roles

- 12.1 In order to achieve the objectives of the EKJSC, the Parties will appoint a Scrutiny Host Authority which is for the time being the Authority shown as the Chairman and Scrutiny Host Authority in the table at clause 10.1.
- 12.2 Staff from the Scrutiny Host Authority who are commissioned to provide services, advice and support to the EKJSC will continue to be employees of the relevant Scrutiny Host Authority.
- 12.3 Responsibility for the following support services to the EKJSC will be allocated to the Scrutiny Host Authority:
- (e) the provision of legal advice and services
 - (f) the provision of financial advice and services
 - (g) secretariat support and services
 - (h) communications support and services
 - (i) data protection, freedom of information, information sharing and confidentiality issues in accordance with clause 17
 - (j) research
- 12.4 The cost of the services and advice set out in this section will be paid for by the Scrutiny Host Authority.

13. Amendments to these Arrangements

- 13.1 These arrangements may be amended by the unanimous agreement of the EKJSC following a recommendation approved by the full Council of each of the Parties.

14. New Membership and Cessation of Membership

- 14.1 New Parties may join the EKJSC provided that they are also a party to EKJAC and the full council of the joining Party(ies) and of all the Parties to these arrangements for the time being so resolve.
- 14.2 A Party ceases to be a member of these arrangements when it ceases to be a party to EKJAC.
- 14.3 Termination of these arrangements may occur by agreement of all the Parties.

15. Claims and Liabilities

- 15.1 The purpose of these arrangements and any actions taken under them is to assist all of the Parties. The Parties therefore have agreed that:
 - (a) where one of the Parties nominated by the EKJSC to act as Scrutiny Host Authority undertakes actions or incurs liabilities in that respect then it shall be entitled to be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith
 - (b) a Party carrying out actions in good faith on behalf of the EKJSC shall not (other than in the case of fraud and/or clear bad faith) be liable to claims from the other Parties (and there shall be no right of set-off against any claim for indemnity under (b) and/or (c) above) on the grounds that the actions that were taken were not the proper actions carried out properly or that the costs and liabilities incurred were not reasonably and properly incurred (as long as they were in fact incurred)
- 15.2 Each of the Parties shall at all times take all reasonable steps within its power to minimise and mitigate any loss for which it is seeking reimbursement from any of the other Parties.

16. Administration

- 16.1 The decisions and recommendations of the EKJSC will be communicated to EKJAC and the participating councils as soon as possible after the resolution of the committee.
- 16.2 Where working on forthcoming decisions of the EKJAC, the EKJSC will endeavour to carry out its functions as part of the EKJAC's process in order to ensure that its findings and recommendations can influence the final decision.
- 16.3 When considering items before it, the EKJSC will take account of whether an issue could more appropriately be dealt with by one of the Parties or elsewhere.

17. Data Protection, Freedom of Information, Information Sharing & Confidentiality

- 17.1 Subject to the specific requirements of this clause, each of the Parties shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.
- 17.2 A Party will be appointed as a Host Authority for the purposes of ensuring compliance with any legislative or legal requirements relating to these issues should they arise directly in relation to the EKJAC (as compared to information held by the Parties to these arrangements).

17.3 Each of the each Parties shall:

- (a) treat as confidential all information relating to:
 - (i) the business and operations of the other Parties and/or
 - (ii) the business or affairs of any legal or natural person in relation to which or to whom confidential information is held by that Party("Confidential Information") and
- (b) not disclose the Confidential Information of any other of the Parties without the owner's prior written consent

17.4 Clause 17.3 shall not apply to the extent that:

- (a) such information was in the possession of the party making the disclosure, without obligation of confidentiality, prior to its disclosure or
- (b) such information was obtained from a third party without obligation of confidentiality or
- (c) such information was already in the public domain at the time of disclosure otherwise than through a breach of these arrangements or
- (d) disclosure is required by law (including under Data Protection Legislation, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or disclosure is permitted by the Human Rights Act 1998

17.5 The Parties may only disclose Confidential Information of another of the Parties to staff who need to know by reason of their work. Each of the Parties shall ensure that such staff are aware of, and comply with, these confidentiality obligations and that such information is not used other than for the purposes of the EKJSC.

17.6 If any of the Parties receives a request for information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 then the other Parties shall (at their own expense) assist and co-operate to enable the request to be dealt with.

17.7 If a request for information is received then the Party receiving it shall copy it to the other Parties and consider when making its decisions any views of the other Parties.

17.8 Notwithstanding the provisions of 17.6 and 17.7 it shall be the Party receiving the request that is responsible for determining at its absolute discretion how to reply to the request.

18. Exercise of Statutory Authority

18.1 Without prejudice to these arrangements, nothing in these arrangements shall be construed as a fetter or restriction on the exercise by any of the parties of their statutory functions.

Schedule 1

TERMS OF REFERENCE of the EAST KENT (JOINT SCRUTINY) COMMITTEE

1. Monitor review and scrutinise the actions and decision of the EKJAC.
2. Make recommendations for reconsideration of any decisions made or actions taken and to make recommendations for improvement and/or changes in responsibilities and functions of the EKJAC.
3. Prepare reports and recommendations to the parties on the performance and delivery of the shared services provided by the EKJAC.
4. Propose an annual budget for the EKJSC in accordance with the requirements of the parties.
5. Prepare an annual report to the parties on the performance of these arrangements.
6. Facilitate the exchange of information about the work of the EKJSC and to share information and outcomes from reviews.

Schedule 2

ARRANGEMENTS FOR THE OPERATION OF CALL-IN by the EKJSC

1. When a decision is made by EKJAC, a sub-committee of EKJAC or an individual member with delegated authority from EKJAC, or a key decision is made by an officer with delegated authority from EKJAC, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of each of the Parties normally within two days of being made. The Chairman of the EKJSC (and all other members of each of the Parties) will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
2. 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 at 12.00 noon, on the fourth working day after the publication of the decision, unless it is called-in.
3. By 10.00 am on the fourth working day after publication of the decision, the proper officer of the Scrutiny Host Authority shall call-in a decision for scrutiny by the EKJSC if so requested by any member of the EKJSC, and shall then notify the decision maker of the call-in. A meeting of the EKJSC shall then be held within 15 working days of the decision to call-in. Reasons for calling-in a decision should be given and recorded in the agenda.
4. If, having considered the decision, the EKJSC 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 the full Council of all or any of the Parties. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
5. If, following an objection to the decision, the EKJSC does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the EKJSC meeting, or the expiry of that further 10 working day period, whichever is the earlier.
6. If the matter was referred to full Council of any of the Parties 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 maker, together with Council's views on the decision. That decision maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by EKJAC as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.
7. If the Council of any of the Parties to whom the matter has been referred does not meet, or if it does but does not refer the decision back to the decision maker, the

decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

Section 3. Responsibility for Executive Functions

A. General Delegations to all Portfolio Holders

1. In addition to acting collectively in the Cabinet, each Cabinet Member will have the general role of providing leadership and guidance in respect of all executive functions within the portfolio area for which he or she is accountable and the promoting and improving the Council's profile and public perception.
2. In accordance with the Secretary of State's guidance, Cabinet Members should amongst other things:
 - (i) ensure that they have sufficient time to focus on broad strategic issues (para 4.21 of the Guidance); and
 - (ii) seek advice from relevant officers before taking a decision within his or her own delegated authority; where appropriate this should include taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is a doubt about legal powers (para 4.44 of the Guidance).
3. Any matter within a Cabinet Member's delegated powers may be referred by him or her to Cabinet for decision.
4. To regularly review the effectiveness of policies and the performance of services for which the portfolio holder is responsible and make recommendations for continuous improvement to the Cabinet.
5. To monitor and review capital and revenue budgets in area of responsibility to ensure expenditure and income is consistent with the Council's agreed budget.
6. To liaise and work with other portfolio holders on cross cutting areas of responsibility and make recommendations to Cabinet as appropriate. [Note: Any matter relating to more than one portfolio area must be referred by the portfolio holders to Cabinet for decision.]
7. To annually review fees and charges where these are relevant to the responsibility areas and recommend changes in line with the Council's agreed budget strategy.
8. To make or agree recommendations to Cabinet in relation to new policy areas.
9. To consider and agree service plans for services for which responsible and regularly review these with appropriate officers to ensure agreed actions are taken.
10. To be accountable to the Cabinet for the implementation of agreed priorities and final recommendations from the Corporate Plan, Service Plans and reviews and to consider and act on reports received from officers monitoring progress. To authorise the making of applications for planning permission for proposed development relating to the Member's portfolio area.
11. To agree bids for additional funding, expenditure, variations to expenditure and the letting of contracts for works, goods and services, in accordance with the Council's Contract Procedure Rules, in support of individual projects within the Cabinet Member's portfolio area, provided such expenditure is within the overall project budget.

12. In any case where a matter is urgent and a decision cannot reasonably await the next meeting of the Cabinet and the relevant portfolio holder does not have a general or specific delegated power, the relevant portfolio holder may nevertheless make a decision on behalf of the Cabinet subject (except in the case of the Leader) to prior consultation with the Leader and subject to the decision being reported to Cabinet as soon as practicable. [Note: in the case of a key decision the Access to Information Procedure Rules must still be complied with.]

B. Portfolio – Leader of the Cabinet

Scope of Portfolio:

To oversee all major projects, staff related issues and Cabinet Co-ordination, including resolution of any inter portfolio issues. To represent the Council on external partnerships and other forums and undertake networking and other community leadership activities.

Specific Delegated Powers:

1. To deal with matters relating to official, courtesy, foreign or general hospitality and related activities of Members within an approved budget.
2. To consider and agree approaches to the management of external partnerships and recommend the preferred approach to Cabinet.
3. To act as the Council's lead Member on the development of the Thanet Local Strategic Partnership.
4. The appointment of Council Members to sit on external Partnership Boards related to regeneration and to monitor their performance in accordance with approved guidance.
5. To take any necessary executive decisions in respect of the Offshore Windfarm Development, Pleasurama, Margate Renewal Board and the Development of Port of Ramsgate Governance.
6. To nominate a Cabinet Member to act on his or her behalf on a specific project.
7. To appoint Members to fill vacancies on the approved list of outside bodies and consider and approve additional appointments to the list.
8. To exercise any specific delegated power of any Cabinet Member.

C. Deputy Leader of the Council

To act on behalf of the Leader when he or she is absent or unable to act. To work under the Leader's direction on Cabinet Co-ordination and ensure resolution of any inter portfolio issues.

D. Portfolio – Economy and Culture

Scope of Portfolio:

To advise the Cabinet on policy in relation to development and the built environment, including development control, building control, land charges, strategic planning, regeneration, economic development, cultural development, commercial property, licensing.

To advise Cabinet on all matters to do with Ramsgate Harbour (including the Port), Broadstairs Harbour and Margate Harbour.

Specific Delegated Powers:

1. To consider and agree policy responses to strategic planning matters prior to their submission to Cabinet and Council for adoption.
2. Reviewing, authorising and monitoring the making of bids for programme level funding and the provision of support to partner organisations in their bids for funding, provided such bids are in accord with the Council's agreed strategy for regeneration.
3. Reviewing and monitoring the achievement and organisation of partnerships for regeneration within Thanet through the development of annual Service Level Agreements and making such corrections to relationships as are necessary to ensure that Thanet maximises opportunities in accord with agreed Regeneration Strategies.
4. To agree bids for additional funding, expenditure, variations to expenditure and the letting of contracts for works, goods and services, in accordance with the Council's Contract Procedure Rules, in support of individual projects, provided such expenditure is within the project budget laid out within an agreed Business Plan in relation to Regeneration matters.
5. To receive and to agree a quarterly financial overview on the use of external and Council funding in respect of regeneration projects championed by the Council, and by partners, provided such financial statements shall indicate expenditure approximately in line with forecast expenditure profiles; any material variances to be reported to Cabinet.
6. To authorise the acquisition, sale, letting and granting of licences in connection with Council land and property.
7. To authorise the granting of easements, release of covenants, surrenders of leases, assignments or amendments of any terms of approved leases.
8. To keep under review the Council's land and property assets and maintain a register to enable the Council to comply with requirements of Central Government.
9. To keep under review the Council's land and property requirements.
10. To be responsible for the maintenance, repair and operation of all commercial Council property within the approved budgets and to directly administer the repairs budget.
11. To advise Cabinet on policy in relation to matters concerning Economic Development.
12. To agree such actions as necessary to take full advantage of Assisted Area Status.
13. To receive, liaise and foster relationships with inward investors, representatives of the business community and organised labour.
14. To agree ways in which the Council can promote and encourage all forms of business and commercial investment in the district.
15. To form, maintain and review annually a business strategy for Ramsgate Harbour, Broadstairs Harbour, Margate Harbour and any other harbours which at any time come within the Council's control, with a view to ensuring the efficient and effective operation of the harbours.

16. To provide from within approved budgets adequate marketing and publicity for the services provided and facilities available for the purpose of increasing the knowledge and reputation of the harbours under the Council's control and of encouraging their use.
17. To formulate proposals for the development and enhancement of the services and facilities at the harbours under the Council's control.
18. To consult with harbour users as appropriate.
19. To give approval for the use of Maritime Division property for the holding of events.
20. In conjunction with the Section 151 Officer and the Corporate Director and/or Head of Maritime Services, to authorise leisure boating rates and discounts to the published tariffs.

E. Portfolio – Communities, Health and Safer Neighbourhoods

Scope of Portfolio:

To advise the Cabinet on policy in relation to Community Safety and related community matters. To advise on all Parking and Licensing related matters. To advise Cabinet on all matters related to support for Healthy and Cohesive Communities in conjunction with the other services and partner agencies.

Specific Delegated Powers:

1. To develop and bring forward plans for to achieve safer neighbourhoods and to address low level crime and reduce residents' fear of crime.
2. To confirm or reject, following public consultation, all parking orders, taxi rank locations, street management schemes or such other orders.
3. To confirm or reject proposals for new resident parking schemes following public consultation.
4. To confirm any action in respect of temporary road closures related to the Town Police Clauses Act 1847.
5. To consider recommendations from Scrutiny and the Joint Transportation Board on traffic management and transportation matters and make decisions thereon.
6. To develop and bring forward plans for the review and development of leisure, play and community facilities as part of fostering healthy lifestyles.
7. To deal with the provision of facilities and services for the management of indoor leisure and external contracts.
8. To agree support for Museum Services in Thanet and to receive reports from the various Trusts operating the museums.
9. To act as Equalities and Diversity Champion
10. To promote and campaign for healthy and cohesive lifestyles in Thanet, across all ages and groups.

F. Portfolio – Commercial and Environmental Services

Scope of Portfolio:

To advise Cabinet on policy in relation to commercial and operational matters, including grounds maintenance, Environmental Action Programme, environmental enforcement, waste recycling and street sweeping, cemeteries and crematorium, leisure and foreshore.

Specific Delegated Powers:

1. To develop and bring forward plans and proposals for the review and development of all environmental related services and facilities
2. To decide any matters brought forward by officers for decision in relation to the following matters:-
 - Foreshore Management/Maintenance,
 - Pleasure grounds
 - Thanet Leisureforce Limited
3. To agree the content of a water safety plan.

G. Portfolio – Housing

Scope of Portfolio:

To advise the Cabinet on policy in relation to the housing matters, including private sector housing, HRA property and environmental health.

Specific Delegated Powers:

1. To agree recommendations to Cabinet concerning financial and other arrangements for the provision of land or accommodation to housing associations, for social housing.
2. To approve increases to rent levels for Council houses and garages in line with Government guidelines for social rent reform.
3. To approve proposals for new social housing developments delivered through the planning system.
4. To consider and agree in exceptional cases reduction or waiver of repayment of discount in Right to Buy cases where the property is re-sold within 3 years of purchase.
5. To consider and agree the purchase or selling of additional shares/equity in shared ownership properties.
6. To consider and agree the disposal of Housing Revenue Account areas of land which are no longer required for HRA purposes.
7. To approve proposals on the arrangements for the management and supervision of all Council owned housing stocks, including repairs, maintenance, improvements, transfers and arrangements for tenant involvement, following appropriate consultation with residents as required by the Housing Acts.
8. To agree the making of Demolition Orders

9. To agree to the making of Prohibition Orders where there are financial implications.
10. To determine appeals in respect of applications for rehousing, the allocation of housing or matters arising from the enforcement of the Council's conditions of tenancy.

H. Portfolio – Finance, Improvement and Customer Service

Scope of Portfolio:

To advise Cabinet on all matters to do with Finance, Continuous Improvement of Council services and Customer Service in conjunction with the appropriate service portfolio holders, and officers.

Specific Delegated Powers:

1. To consider approaches to all financial operational matters in conjunction with the Section 151 Officer.
2. To oversee with the Section 151 Officer the preparation and use of regular budget monitoring information and its improvement.
3. In conjunction with the Section 151 Officer to monitor the capital programme, HRA and revenue expenditure and advise the Executive thereon in relation to additional funding requests in excess of budget.
4. To review proposals from the Section 151 Officer in relation to the Council's Annual Budget and make recommendations to the Cabinet on overall financial strategy.
5. As Member Champion for risk management:
 - To promote risk management throughout the Authority.
 - To gain an understanding of risk management and its benefits.
6. To ensure Members take risk management into consideration when making decisions.
7. To consider and recommend, in conjunction with the Leader of the Council, changes to Member Services and the management of information to ensure the continuous improvement of democratic accountability and transparency of decision making.
8. To advise Cabinet, in consultation with the Leader of the Council, on approaches to public involvement and consultation and make recommendations to Cabinet.
9. To consider and recommend to Cabinet priorities for improvement of standards and quality across all Council services.
10. To consider workforce development initiatives and make recommendations to Cabinet.
11. To consider and recommend to Cabinet and Council changes to the Council employment and health and safety policy.
12. To oversee the Council's Best Value programme, Service Planning and Performance Management Framework and approve the Best Value Performance Plan by the end of June each year.

13. To consider and decide requests for use of Council premises and land for promotional use, concessions, etc in conjunction with the Cabinet Member responsible for Development Services where appropriate.
14. To consider and recommend to Cabinet the allocation of resources for information technology investment and e-government development.
15. To decide on matters brought forward by officers for decision in relation to the following matters:
 - Procurement
 - Information and Records Management
 - ICT
16. To oversee improvements to and integration of customer response including customer service standards and learning from complaints.

Cabinet Portfolio and Portfolio Holder	Responsibility for Corporate Plan theme	Operational accountability (functional alignment)
Cabinet Member for Economy and Culture (Councillor Roger Latchford)	Improving Thanet's Economic Prosperity (include Culture and Tourism)	Development Strategic Planning, Property Services, Port of Ramsgate/Royal Harbour, Cultural and Tourism Services, Café Society, Events
Cabinet Member for Commercial and Environmental Services (Councillor Shirley Tomlinson)	Keeping Thanet Beautiful	Street Cleansing, Refuse, Grounds Maintenance, Environmental Enforcement
Cabinet Member for Housing (Councillor Zita Wiltshire)	Decent Quality Housing	Housing Needs, HRA, Housing Renewal
Cabinet Member for Communities, Health & Safer Neighbourhoods (Councillor Jo Gideon)	Supporting Healthy and Cohesive Communities (include Sport and Leisure) Safer Neighbourhoods	Leisure Services Thanet Leisure Force, Youth Community Safety, Parking, Licensing
Cabinet Member for Finance, Improvement and Customer Services (Councillor Martin Wise)	Modern Council	Customer Services, Finance, Human Resources, Improvement and Performance, Grants

Section 4. Scheme of Officer Delegations

General

- 1.1 Where the Scheme of Delegation relates to specific Acts of Parliament, Regulations and Orders and other exercise of powers made thereunder, it is intended that such delegations shall extend to the powers and duties and functions under the Acts, Regulations and Orders as they exist at present and any subsequent re-enactment or amendment of the relevant statutory provisions or departmental exercise of powers.
- 1.2 Any decision taken under delegated duties shall be in accordance with policies approved by the Council and Standing Orders. When expenditure is involved such action shall be conditional upon the necessary financial provision being included in the approved estimates.
- 1.3 Wherever the Chief Executive, or a Corporate Director, or other specified Officer considers it appropriate he/she shall seek the approval of the Cabinet, or relevant Cabinet Member, or Committee notwithstanding the availability of a delegated power.
- 1.4 The acts of the Chief Executive, Corporate Directors, or other specified Officers under delegated powers shall be deemed to be the acts of the Council.
- 1.5 To the Chief Executive and Corporate Directors, and Heads of Service is delegated authority to:
 - (a) take all necessary action to gather and collate management information in order to develop policy options for decision making by Members.
 - (b) take all necessary action for the effective day to day management, administration and supervision of his or her department and of the service and premises for which he/she is responsible and for the efficient discharge of the Responsibilities of his/her office.
 - (c) authorise appropriate expenditure and take such action as may be necessary and appropriate thereon in respect of sums provided by the Revenue Estimates approved by the Council.
 - (d) let or authorise the use of premises under their control upon terms and conditions approved by the Council from time to time.
 - (e) issue any licence, permit, certificate of registration or similar document where the application conforms to statutory provisions and regulations and/or the requirements of the Council.
 - (f) apply for licences or permits or certificates to ensure the legal operation of land, buildings and facilities associated with the delivery of services.
 - (g) attend the Annual Conferences of their professional associations and to authorise the attendance of officers at conferences appropriate to the work of their Department and on training courses relevant to their employment.
 - (h) serve statutory notices to ascertain ownership and other interests in property where required to facilitate the work of the Council.

- (i) issue written authorities to individual officers to act as the Council's authorised officers in the performance of their statutory or other duties (as evidence of their bona fides); provided that any written authority to enter upon land or premises is in pursuance of a statutory power of entry or inspection.
 - (j) To amend fees and charges during the course of the year, subject to the requisite Member approval. All changes to Fees and Charges to be reported on the TDC News as soon as practical.
 - (k) To make alternative arrangements following risk management and business continuity planning for the continued effective delivery of services.
 - (l)
 - (m) To delegate their delegated powers to specified officers, in the interests of efficient, effective and timely management of services. *[existed before – moved]*
- 1.6 The Chief Executive or appropriate Corporate Director, or Head of Service excluding the Head of Development Services, be authorised to seek planning consent on behalf of the Council.
- 1.7 The Chief Executive, Corporate Directors, Heads of Service or other specified officers be authorised to further delegate their delegated powers to appropriate officers in the interests of efficient and effective management.
- 1.8 In the absence of the Chief Executive or a Corporate Director, Head of Service or other specified Officer his or her functions shall be deemed to be delegated to the appropriate senior Officers or another Director, and the appropriate Member of Cabinet advised of the said delegation.
- 1.9 To authorise, under the Regulation of Investigatory Powers Act, 2000, named council staff for the purpose of surveillance and covert intelligence gathering where considered appropriate for the effective discharge of investigatory duties vested in the district council (Authorisation to be in accordance with the current RIPA Toolkit and/or Guidance Notes. All time scales, renewal dates, forms & procedures contained within the Toolkit or Guidance Notes shall be fully complied with.) To nominate a suitably qualified officer to discharge the duties and responsibilities associated with a SPOC (Specific Point of Contact) for the purposes of RIPA.
- 1.10 To provide concise written reports to the appropriate Member of Cabinet covering the key aspects of the work of the department, including any delegation of powers.
- 1.11 To determine service levels and conditions of contract for Council services subject to voluntary contracting-out and the preparation and issue of tender documents.
- 1.12 To manage contracted services and to initiate such action, including the imposition of financial penalties, as may be necessary to ensure efficient operation of contracted services.
- 1.13 To authorise any additional works required and settle all claims or disputes arising from contracted services.
- 1.14 To initiate such changes or additions to existing contracts as may be mutually agreed with a contractor so as to improve contract performance, make the service more relevant to the client (recipient of the service), or cost effective.
- 1.15 To review the size and content of contracts and instigate such changes to size or contents as necessary to bring services closer to the user (subject to compliance with Contract Procedure Rules).

- 1.16 To design and manage specialist contracts and accept tenders and award contracts in line with Council Standing Orders.
- 1.17 Authorised to vire within budgets and write off debts in accordance with Finance Procedure Rules.

Human Resources Matters

- 2.1 The Chief Executive, Corporate Directors and Heads of Service be authorised to deal with all establishment matters within approved Council guidance and procedures and within approved budgets, including terminating the employment of Council Employees on the grounds of ill-health, where so certified by the Specialist in Community Medicine, save those specific cases which personally involve either the Chief Executive or Corporate Directors.
- 2.2 The Chief Executive or appropriate Corporate Director or Heads of Service, subject to consultation with the Human Resources team and approved guidance and procedures be authorised (within approved budgets) to -
- (a) fix starting salaries, grant accelerated increments and approve progression of staff beyond routine work or proficiency bars.
 - (b) approve performance related annual increments subject to a right of appeal within the terms of the Council's appraisal scheme.
 - (c) engage temporary and seasonal staff in the case of workload demands, sickness, holidays or other emergencies (within approved budgets and with staffing change approval where required).
 - (d) approve training courses for employees.
 - (e) approve essential and casual user allowances to Officers using private cars on official business in accordance with the approved scheme.
 - (f) approve applications for car purchase loans under the Assisted Purchase scheme.
 - (g) approve payment of removal etc, expenses to newly appointed Officers in accordance with the approved scheme.
 - (h) approve leave arrangements, including bereavement leave, the granting of compassionate leave with or without pay and the carrying over of leave from one year to another.
 - (i) to exercise functions in accordance with the Council's Employment Policy, the Conduct, Discipline and Grievance Procedures and other local agreements.
 - (j) approve unpaid leave appropriate to the employee's circumstances and the efficiency of the service.
 - (k) approve payment for employees' lost or damaged personal items (excluding loss of cash).
 - (l) keep the appropriate Cabinet Member informed of staffing issues affecting budgets and any problems affecting the department's ability to deliver its service targets.

- (m) agree arrangements for flexible working.

Chief Executive

- 3.1 Authorised to lead in all actions necessary to develop policy options for decision making by Members.
- 3.2 Authorised to implement in detail policies adopted for the regeneration, economic development and marketing of Thanet as a business location and visitor destination.
- 3.3 In the absence of the Legal Services Manager to consider, authorise and institute proceedings in respect of any offence for which the Council by virtue of the Local Government Act 1972, Section 222, or any other Act of Parliament, Regulation, Order or Byelaw, is now or may hereafter be empowered to prosecute or to authorise the institution of such proceedings.
- 3.4 Authorised to give consent to such Officers undertaking the work connected with the Census and for other government or local government related purposes.
- 3.5 Authorised to designate Polling Places in accordance with the provisions of the Representation of the People Acts.
- 3.6 To take any action in connection with any emergency being dealt with under the Council's Emergency Plan arrangements.
- 3.7 To take any urgent action as may be deemed necessary on behalf of the Cabinet or the Council during the period in any election year from the day upon which the term of office of existing Councillors ends to the day of the Annual Meeting of the Council, subject to:-
 - (a) prior consultation, so far as practicable, with Group Leaders; and
 - (b) a written report being made to the relevant body with responsibility for the function concerned, such report to be submitted to the first meeting of the body concerned taking place after the annual meeting of Council.
- 3.8 The Chief Executive, in consultation with the Leader of the Council be granted full-delegated authority to take forward all staff matters relating to the implementation of the Corporate Plan and the establishment of delivery arrangements to implement it (within available budgets).

Section 151 Officer

- 4.1 To make payments due and collect all sums due to the Council including taking the necessary legal proceedings in conjunction with Legal Services Manager
- 4.2 To pay salaries, wages, and all remuneration and deal with all statutory and non-statutory deductions without reference to Members.
- 4.3 To implement all salary or wage awards and other increases where no exercise of a discretion is involved.
- 4.4 To arrange and maintain adequate insurance cover in accordance with Council's policy.
- 4.5 To deal with the management of all transactions in connection with cash and financing resources of the Council in accordance with recognised practices.

- 4.6 Bankruptcies/liquidation - Authority to take necessary recovery action including taking the necessary legal proceedings in conjunction with the Head of Member and Democratic Services and/or the Legal Services Manager.
- 4.7 Authority to act in all dealings with the Council's bankers.
- 4.8 To deal with the declaration of the specified rate of interest. (Section 110 Housing Act 1980)
- 4.9 Where interest becomes payable on debts (other than mortgages) due to the Council under any statute, to determine the rates of interest payable.
- 4.10 Local Government and Housing Act 1989
- (a) Determination of any overspend for each financial year.
 - (b) Determination of amount of usable 1980 Act capital receipts to be set aside as provision for credit liabilities.
 - (c) Determination if expenditure for capital purpose which is to be reimbursed, or met out of money provided, by any other person, is to be capitalised.
 - (d) Determination if credit approval is to be used as authorisation to capitalise expenditure or to enter into a credit arrangement.
 - (e) Determination if credit approval is in whole or in part to be transferred to another authority.
 - (f) Determination if usable capital receipts are to be applied to meet expenditure for capital purposes or as voluntary provision for credit liabilities.
 - (g) Determination if voluntary provision for credit liabilities is made to provide credit cover for the entering into of a credit arrangement.
 - (h) Determination of what amount (being not less than the required minimum revenue provision for the year) is to be set aside from revenue account as provision for credit liabilities or as cover for a credit arrangement.
- 4.11 To take any necessary action under the Council's powers regarding Council Tax, community charge and rates in respect of the following:-
- (a) Collection and recovery of the business rate, in accordance with the provisions of the Local Government Finance Act 1988 (as amended).
 - (b) Collection and recovery of the Council Tax, in accordance with the provisions of the Local Government Finance Act 1992 (as amended).
 - (c) To administer the provisions of the Council Tax Benefit (General) Regulations 1992 (as amended), and to operate any appropriate discretions contained within them.
 - (d) To delegate the administration of the functions outlined above to appropriate Officers.
 - (e) Refund of overpayments.
 - (f) Issue of statutory certificates.

- (g) Applications to the Inland Revenue Valuation Officer for the apportionment of part empty properties.
 - (h) Mandatory relief for charitable and other organisations and discretionary relief in accordance with the Council's Scheme.
 - (i) To administer the provisions of the Housing Benefit (General) Regulations 1987 (as amended), and to operate any appropriate discretion contained within them.
- 4.12 To make applications to the Rent Officer under the Rent Act, 1977 (Section 68(1)) for consideration of the fair rent, where necessary, for any dwelling house where the tenant applies for a rent allowance.
- 4.13 Authorised to write-off debts in accordance with the Finance Procedure Rules.
- 4.14 To determine applications for occasional use of car parks by registered voluntary organisations.
- 4.15 To exercise the option to tax (elect to waive exemption) for Value Added Tax purposes, in consultation with the Leader.
- 4.16 In conjunction with Corporate Director (responsible for maritime services) to authorise commercial cargo wharfage and slipway rates.
- 4.17 Together with the Heads of Community Services and Legal Services Manager to proceed in rent arrears cases within the Council's existing policy – Housing Act 1980 Section 33.
- 4.18 To apply for suspension Orders for Possession – Housing Act 1985.
- 4.19 To employ a bailiff as and when necessary in order to recover rents.

Corporate Director (responsible for maritime services)

- 5.1 In conjunction with Section 151 Officer to authorise commercial cargo wharfage and slipway rates.
- 5.2 To be designated as Harbour Master for the purposes of the Harbour Docks and Piers Clauses Act 1847 and the Ramsgate Corporation Act 1934.
- 5.3 To be designated administrator of the Ramsgate Pilotage Function as the Competent Harbour Authority under the Pilotage Act 1987.
- 5.4 To be designated responsible for control of Dangerous Substances in the Harbour Area as set out under the Dangerous Substances Regulations 1987.
- 5.5 To issue and renew boat and boatmen's licences.
- 5.6 To issue and renew consents for landing and sale of fish.
- 5.7 In conjunction with the relevant Portfolio Holder, power to authorise the employment of additional Parking Attendants as necessary to meet all reasonable enforcement obligations. The posts to be funded from the decriminalisation budget and are subject to sufficient income being generated to cover the additional costs incurred.

Head of Commercial Services

- 6.1 To transfer the delegated powers set out in section 6 to officers in Commercial Services in the interests of efficient, effective and timely management.
- 6.2 To design and implement recycling services to meet statutory or agreed targets subject to finances and resources being available.
- 6.3 To make all arrangements (contractual or otherwise) for the effective delivery of services and Corporate Plan Projects within the remit of the post (and within approved policies and budgets), and in accordance with the duties imposed on the Council through acts of parliament, statutory instruments, codes of practice, guidance and case law, including the following areas:
- (i) Collections and disposal of municipal waste and recycling
 - (ii) Street, beach and open space cleansing
 - (iii) Public conveniences
 - (iv) Tourism development and marketing, visitors support services and events
 - (v) Indoor and outdoor leisure services and facilities, including sports
 - (vi) Coastal and foreshores, including the Thanet Coastal Project
 - (vii) Concessions on land within the control of the service
 - (viii) Museums
 - (ix) Parks, and open spaces (Council owned)
 - (x) Allotment management and letting
 - (xi) Grounds maintenance
 - (xii) Play facilities
 - (xiii) Public art
 - (xiv) Entertainment and catering
 - (xv) Cemeteries and crematorium facilities and services
 - (xvi) Parking management and enforcement
 - (xvii) Environmental Action Programme
 - (xviii) Residual highway functions (street naming and numbering, abandoned vehicles)
 - (xix) Environmental enforcement.
- 6.4 To manage and authorise payments to contractors in relation to the provision of services, including the imposition of penalties, agreement of variations, settlement of claims and disputes, transfer and cessation.
- 6.5 To develop and agree partnership arrangements with organisations (including voluntary and other residents' groups) for the effective delivery of services, including the use of Council facilities by these external organisations.
- 6.6 To develop and agree arrangements to provide additional one off or continuing sources of income to support and expand the delivery of services in agreement with the Section 151 Officer.
- 6.7 To temporarily waive fees for services (including Christmas parking charges) in special circumstances subject to the prior agreement of the Leader and relevant Cabinet Member.
- 6.8 To undertake all procurement to support the operations of the services set out in paragraph 6.2 by tender, quotation or negotiation to balance the best use of staffing and financial resources, ensuring compliance with national and European procurement rules. Where this procurement conflicts with contract procedure rules, this approach is to be agreed with the Corporate Director and the decision reported to the relevant Cabinet Member.

- 6.9 To undertake all alterations and developments at works depots, and other buildings and land associated with the delivery of services, subject to compliance with planning, environmental and building law.
- 6.10 To purchase equipment, plant and vehicles within the revenue, capital and prudential borrowing limits set for the services in paragraph 6.2 without specific recourse to additional approvals.
- 6.11 To undertake initiatives with service providers within the Council and with external partners, bodies and agencies for the effective delivery of the aims of the Environmental Action Programme.
- 6.12 To redirect human, material, property, building and technological resources within the control of the post for the support of emergency urgent and beneficial operations, including the support of external agencies (such as the Highway Authority).
- 6.13 To set up, monitor and use performance management systems and structures to make changes to service delivery, procedures and processes, and resource inputs provided these are within the overall aims of the Council, the budgetary limits for the service and ensuring compliance with staff policies and agreements.
- 6.14 To have freedoms and flexibility to make changes in the overall areas of service provision, procedural arrangements and partnerships to improve overall service outcomes for customers and residents, within established budgetary, human and material resources.
- 6.15 To agree the use of Council land, property and facilities within the remit of the post (including parks, open spaces, beaches and foreshores) for the staging of national, regional and local events and promotions, and for the provision of services.
- 6.16 To deal with fixed term employment contracts relating to professional, technical and administrative services associated with development, design and supervision of project specific schemes.
- 6.17 To deal with requests for the use of land and facilities for training and holding of local, regional and national facilities for events including the 2012 Olympics.
- 6.18 To introduce self-help arrangements at appropriate sport and leisure venues with suitable clubs and organisations, subject to consultation with the relevant Cabinet Member.
- 6.19 To manage and to make payments to contractors in accordance with the contract conditions of in-door and out-door recreation and entertainments and catering.
- 6.20 To take any decision or any action to protect the Council's interests or which is calculated to facilitate, or is conducive or incidental to, the carrying out or performance of Members' instructions as expressed in the Minutes of Council and Cabinet decisions.
- 6.21 To serve all relevant notices under appropriate Acts of Parliament (including the Environmental Protection Act 1990) to eliminate statutory nuisances.
- 6.22 To be able to delegate authority under this section to service managers acting under the supervision of the Head of Commercial Services.

Parking Manager

- 6.23 Authority to receive and progress urgent requests made by the Emergency Services for basic corner protection and access Orders on safety grounds as soon as is reasonably possible. The Parking Manager or his successor will report any objections and sensitive correspondence received following statutory public consultation in respect of the above to the relevant committee/board/Portfolio Holder in the usual way.
- 6.24 Authority to receive and progress requests for parking and waiting restrictions which are integral to the construction of approved developments. The Parking Manager or his successor will report any objections and sensitive correspondence received following statutory public consultation in respect of the above to the relevant committee/board/Portfolio Holder in the usual way.
- 6.25 Authority to receive and progress requests for charitable organisations to park in 'off street' car parks free of charge as may be appropriate. Also, to withdraw a permit on any occasion when the parking action does not accord with the safety and advice contained within the current Highway Code.

Head of Customer Services

- 7.1 To have freedoms and flexibility to make changes in the overall areas of budgets, human and material resources, procedural arrangements and partnerships to improve service outcomes for people, customers and society within established budgetary, human and material resources.
- 7.2 To develop and agree partnership arrangements with organisations (including voluntary and other residents' groups) for the effective delivery of services, including the use of Council facilities by the external organisations, through the provision of services available at Thanet's Gateway.
- 7.3 To have freedoms and flexibility to make changes in the overall areas of service provision, procedural arrangements and partnerships to improve overall service outcomes for customers and residents, within established budgetary, human and material resources.
- 7.4 To make alternative arrangements following risk management and business continuity planning for the continued effective delivery of services.
- 7.5 To set up, monitor and use performance management systems and structures to make changes to service delivery, procedures, processes and resource provided these are within the overall aims of the Council, the budgetary limits for the service and ensuring compliance with staff policies and agreements.
- 7.6 To take any necessary action under the Council's powers regarding Council Tax and rates in respect of the following;
- (a) To administer the provisions of the Council Tax Benefit (General) Regulations 1989 (as amended), and to operate any appropriate discretions contained within them.
 - (b) To delegate the administrations of the functions outlined above to appropriate Officers.
 - (c) Refund of overpayments.
 - (d) To authorise surveillance under the Regulation of Investigatory Powers Act 2000 (as amended) where they have undertaken training to do so.

7.7 Authorised to write-off debts in accordance with the Finance Procedure Rules.

7.8 Authorised to give Discretionary Housing Benefits payments.

Head of Development Services

General Fund Properties

8.1 Management of Properties:-

- (a) to serve Notices of Seeking Possession and Notices to Quit as considered necessary.
- (b) to deal with all assignments of tenancies.
- (c) to deal with amendments of tenancies/leases/licences.
- (d) supervision of caretaking and cleaning.
- (e) to programme the repairs and maintenance scheme.
- (f) to deal with trespassers in or on Council property.

8.2 To manage the Council's Asset Management Strategy, including periodic review, planned investment acquisition and managed disposal of property identified and agreed as surplus.

8.3 To maintain the Asset Register and Land Terrier, including cost/benefit data on each sector, and on major individual properties.

8.4 Estate management including rent reviews, leases and valuations.

8.5 To secure possession of Council owned land where occupied by unauthorised traveller encampment.

8.6 To administer the General Fund Properties repairs fund of the Council.

Development Control

8.7 To determine (including the power to refuse applications), all applications for planning permission, Listed Building consent, Conservation Area consent, consent to display adverts, and applications under Regulation 3 and 4 of the Town and Country Planning (General Regulations) in respect of development by, or on behalf of, Thanet District Council or Kent County Council, in accordance with policies contained in a draft or adopted Development Plan for the area, or other approved documents in the form of planning guidance for development, other than:

- (i) applications which the Corporate Director or Head of Development Services or Planning Applications Manager/or Planning (Strategic Sites) Manager, in consultation with the Chairman or Vice Chairman of the Planning Committee, considers to be of significant public interest;

- (ii) applications which Council Members have specifically requested to be referred to the Planning Committee;
 - (iii) applications submitted by a Member of the Council, or member of staff of the Council.
- 8.8 To give approval to amendments to permissions already issued by the Council where the form and content of the previous application are not significantly changed in the opinion of the Head of Development Services or Planning Applications Manager and/or Planning (Strategic Sites) Manager.
- 8.9 To add, correct, or amend conditions and reasons for refusal on all applications which are considered at Planning Committee, as are necessary to ensure that when a planning permission or refusal is issued, it expresses as clearly and completely as possible the intentions of the Members of the Committee in making that decision, and protects the interests of the Council as Local Planning Authority. The reason for the decision being accurately recorded in the Planning Committee minutes and on the Decision Notice.
- (In all cases, where differences arise between the published minutes and the conditions or reasons for refusal issued by the Head of Development Services, Planning Applications Manager or **Major Projects Planner**, the latter shall prevail and be the binding and effective decision of the Local Planning Authority.)
- 8.10 To make observations on proposals submitted for comment and/or determine applications for prior approval in accordance with Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any other relevant Development Order, including:
- Part 6 (Agricultural Buildings)
 - Part 24 (Telecommunications Code Systems Operators)
 - Part 31 (Demolition of Buildings)
- 8.11 To make observations in accordance with policies contained in a draft or adopted Development Plan for the area, or other approved documents in the form of planning guidance for development, on planning applications submitted to the County Planning Authority within the district for determination, and referred to the Council as Local Planning Authority for comment in accordance with Article 12 of the Town and Country Planning (General Development Procedure) Order 1995.
- 8.12 To negotiate in association with the Legal Services Manager, and within the context of Government Guidance and the Council's own policies, planning agreements under Section 106 of the Town and Country Planning Act 1990, and other legal agreements, where these are required in connection with the grant of planning permissions dealt with under delegated powers, and in other cases where such agreements are appropriate.

- 8.13 To provide scoping and screening opinions with regard to applications potentially requiring the submission of an Environmental Impact Assessment in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
- 8.14 To require further information in respect of applications for outline planning permission, under the Town and Country Planning (General Development Procedure) Order 1995, Article 3, (2).
- 8.15 To approve or refuse details submitted, in order to comply with Conditions attached to planning permissions and other relevant consents referred to in 8.8 above.
- 8.16 To determine applications for Hazardous Substance consent under the Planning (Hazardous Substances) Act 1990.

Strategic Planning

- 8.17 To publish the Local Plan and, in accordance with the Planning and Compulsory Purchase Act 2004, supervise and coordinate the production of documents comprising the Local Development Framework.
- 8.18 Following Cabinet approval, to implement Compulsory Purchase Orders under the terms of the Planning and Compulsory Purchase Act 2004.

Planning Enforcement

- 8.19 In cases of urgency, where action is necessary between meetings of the Planning Committee, following consultation with a Corporate Director, Legal Services Manager, and with the Chairman or Vice Chairman of the Planning Committee, to authorise the service of an Enforcement Notice and Stop Notice in accordance with the terms of the Town and Country Planning Act 1990.
- 8.20 Jointly with the Legal Services Manager and the Planning Applications Manager to determine applications for Certificates of Lawfulness of existing or proposed use or development under Sections 191 and 192 of the Town and Country Planning Act 1990.
- 8.21 In consultation with the Legal Services Manager, to instigate legal proceedings against the display of fly posted advertisement material, in accordance with Section 224 of the Town and Country Planning Act 1990.

Licensing Manager

- 8.22 Authorise the Licensing Manager to prosecute, defend and appear in Licensing prosecutions and proceedings before a magistrates' court.
- 8.23 Employ veterinary surgeons and other advisory officers as necessary in pursuance of the exercise of the Council's registration and licensing functions.
- 8.24 To make arrangements for carnival events:-
- (i) to collect money by tins at all events;
 - (ii) to play a barrel organ in various streets and collect money as above; and
 - (iii) to use loudspeakers and amplifying equipment at events during the week.

- 8.25 Be authorised to take action under the following provisions of the Local Government (Miscellaneous Provisions) Act 1976 in relation to the licensing of hackney carriage and private hire vehicles, drivers and operators:-
- (i) Inspection of Licences, Records and Suspension of Licences.
 - (ii) Testing and Inspection of Vehicles.
 - (iii) Return of Identification Plate or Disc.
 - (iv) Fitness of Vehicles.
- 8.26 Under the Licensing Act 2003:-
- (i) To deal with applications for personal licences where no objection is made;
 - (ii) To deal with applications for premises licences/club premises certificates, applications for provisional statements and applications to vary premises licences/club premises certificates where no relevant representation is made;
 - (iii) To deal with applications to vary designated premises supervisors, applications for transfers of premises licences and applications for interim authorities where there is no Police objection.
 - (iv) To deal with requests to be removed as designated premises supervisors and decisions on whether a complaint is irrelevant, frivolous, vexatious etc in all cases.
- 8.27 Under Sections 16 and 17 of the Local Government and Housing Act 1989, the power to appoint Members to sit on specific sub-committees established by the licensing committee, if necessary without such appointments being in accordance with the principles of political balance by reason of the non-availability of any Member through illness or any other cause whatsoever, including that of having a "prejudicial interest" in a matter to be dealt with (as defined in the Code of Conduct for Members).
- 8.28 Responsibility for all applications, registrations and enforcement regarding Sunday Trading laws.
- 8.29 To take any necessary action with a view to preventing the holding of any unlicensed pay parties within the district and to authorise such action.
- 8.30 To serve Notice of Intention to make Closing, Variation and Revocation Orders to enable the Council to control the hours of food take-away premises, pursuant to Sections 4-6 of the Local Government Act 1982.
- 8.31 All functions and responsibilities under the terms of the Gambling Act 2005.

Land Charges

- 8.32 Maintain the Land Charges database and process legal searches.

Conservation

- 8.33 To authorise, when urgent action is necessary, the serving of Building Preservation Notices in accordance with Section 3 of the Listed Building and Conservation Areas Act 1990, in consultation with the Chairman or Vice Chairman of Planning Committee (subject to a report being submitted thereafter to the Planning Committee).
- 8.34 To process, make offers and issue payments for grant works to Listed Buildings, buildings in Conservation Areas, and other buildings, structures and surfaces, in accordance with Council Procedures and those of partnership funders (in particular Heritage Lottery fund).
- 8.35 To issue, without reference to the Planning Committee, Section 54 Notices (urgent works to preserve unoccupied Listed Buildings) (in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, in consultation with the appropriate Cabinet portfolio holder.

Trees

- 8.36 To authorise, serve and confirm Tree Preservation Orders, and subsequently, on an annual basis to report to the Planning Committee for information.
- 8.37 To determine applications for works to protected trees (TPOs and Conservation Areas), including felling, and to impose conditions on any Consents.

Building Control

- 8.38 To determine, including the power to reject, all applications submitted under the Building Regulations and to serve any requisite notices in order to achieve compliance including institution of legal proceedings if necessary.
- 8.39 To register and enforce Initial Notices submitted under the Approved Inspector Regulations.
- 8.40 To receive Notice of Demolition under the Building Act and serve appropriate counter notice and enforcement.
- 8.41 To take urgent action, where required, in connection with dangerous structures and insecure properties; including action in Magistrates court to secure orders.
- 8.42 Building Act 1984, Sections 24, 71, 72 and 78 – service of notices in urgent cases for temporary orders for closure or restriction on use of buildings.
- 8.43 To exercise powers under the Building Act 1984, Section 79 in respect of ruinous and dilapidated buildings and neglected sites.
- 8.44 The service of all relevant notices under the provisions of Local Government (Miscellaneous Provisions) Acts, Building Act 1984 to secure urgent repairs, or render vacant buildings secure from trespass.
- 8.45 Serve notices under Building Act 1984 Section 79 requiring certain works to be undertaken in respect of derelict buildings subject to any action being reported to the next appropriate Committee.

Head of Community Services

Community Safety and Parking

- 9.1 To authorise the removal of abandoned and/or untaxed vehicles in accordance with the appropriate statutory provisions.
- 9.2 To issue fixed penalty notices in respect of parking, litter and dog fouling and undertake appropriate action to recover the payments of outstanding fines.
- 9.3 To authorise the use of covert surveillance under the RIPA regulations.
- 9.4 To approve the use of ASBO's, Crack house closures and dispersal orders.

Housing Needs and Homelessness

- 9.5 Housing Register and property allocation:-
 - (a) To manage the housing register in accordance with current statutory requirements and in line with the agreed policy of the Council.
 - (b) To accept applications to the housing register and assess the level of need according to the prescribed policy of the Council.
 - (c) To make offers of accommodation to persons/households on the housing register either in to the council's housing stock or through nominations to RSLs or through any mobility arrangements with other local authorities.
 - (d) To make determinations on cases of statutory homelessness.
- 9.6 Landlord Services:-
 - (a) To manage the council's housing stock including the letting of any maintenance contracts required to repair and improve the stock and council estates.
 - (b) To make decisions relating to the granting, management and termination of tenancies/licences/leases in the council's housing portfolio subject to the appropriate legislation and any policies determined by the council.
 - (c) To administer the Right to Buy Scheme, agreeing discounts and eligibility subject to the provisions of the 1985 Housing Act and subsequent legislation amending the scheme.
- 9.7 To agree the disposal of Housing Revenue Account areas of land to where no HRA need exists.
- 9.8 To approve an application for release of covenants contained within documentation and to take action against breach of covenant for which the Council has benefit.
- 9.9 To agree all payments in the disposition of acquisition of land granting easements, premiums, etc, in accordance with Financial Procedure Rules.
- 9.10 To approve the assignment, change of use, surrender or amendment of other terms of leases.
- 9.11 To determine land to be sold with a Council dwelling under the Right to Buy provisions of the Housing Act 1985.

Environmental Health

- 9.12 To implement the provisions of the Public Health Acts, Local Government (Miscellaneous Provisions) Acts, Building Act 1984 and Environmental Protection Act 1990 to eliminate statutory nuisances.
- 9.13 Employ veterinary surgeons and other advisory officers as necessary in pursuance of the exercise of the Council's registration and licensing functions.
- 9.14 To implement the provisions, including the service of all relevant notices and orders of the Food Safety Act 1990 (as amended) and: any subsequent legislation relating to the Council's statutory responsibility in respect of food safety:
- (a) any Orders or Regulations made thereunder or relating to the foregoing or having effect by virtue of the European Communities Act 1972, and
 - (b) any modification or re-enactment of the foregoing.
- 9.15 To act in such matters as specified by the Local Government (Miscellaneous Provisions) Act 1976 - Section 33 - Restoration or Continuation of Supply of Water, Gas or Electricity and in particular:-
- (i) negotiate terms with owners, occupiers and statutory undertakers;
 - (ii) pay accounts both for supplies and for the restoration of services where necessary;
 - (iii) serve demands for payments; and
 - (iv) serve notice on tenants and other occupiers under Section 33(4) requiring rent to be paid to the Council in settlement of the said accounts.
- 9.16 To implement the provisions of the Anti-Social Behaviour Act 2003, Part 8, in respect of the control and enforcement high hedges.
- 9.17 To implement the provisions of the Environmental Protection Act 1990 (stray dogs) and of the Dangerous Dogs Act 1991.
- 9.18 To implement the provisions of the Public Health (Control of Diseases) Act 1984, in respect of Welfare Burials.
- 9.19 Management and enforcement regarding unauthorised Traveller encampments on private land; and return of Gypsy Census statistics.
- 9.20 To carry out the functions as required by the Health and Safety (Enforcing Authority) Regulations 1989 and to approve, on behalf of the Council, the transfer of enforcement responsibility for any particular premises from the Health and Safety Executive to the Council or vice versa by mutual consent.
- 9.21 To act under Part III of the Food and Environmental Protection Act 1985 and under the Control of Pesticides Regulations 1986.
- 9.22 To implement the statutory responsibilities of the council in respect of noise nuisance and pollution including the provisions of the Noise Act 1996, the Noise and Statutory Nuisance Act 1993, the Clean Air Acts 1956, 1961 and 1993, the Control of Pollution Act 1974, the Control of Pollution (Amendment) Act 1989, the Pollution Prevention and Control Act 1999, the Environmental Protection Act 1990 and the Environment Act 1995

- and attendant Regulations and Orders so as to eliminate or minimise instances of environmental pollution.
- 9.23 To enforce the provisions of Sections 2 and 3 of the Local Government Act 2000 for promoting environmental well-being.
- 9.24 To implement and enforce the provisions of the Clean Neighbourhoods and Environment Act 2005.
- 9.25 To implement and enforce the provisions of the Anti Social Behaviour Act 2003.
- 9.26 To implement and enforce the provisions of the Caravan Sites and Control of Development Act 1960.
- 9.27 To implement and enforce the provisions of the Licensing Act 2003.
- 9.28 To issue all Authorisations under the provisions of the Environmental Protection Act 1990 for Schedule B industrial processes and the subsequent amendment and variation of these Authorisations.
- 9.29 To implement the provisions of the Environmental Protection Act 1990 and any subsequent amendments to the legislation or duties if the local authority.
- 9.30 To implement as required the provisions of Section 80 of the Water Industry Act 1991.
- 9.31 To enforce the statutory provisions relating to the health, safety and welfare of persons employed in offices and shops and the granting of exemptions.
- 9.32 To enforce the provisions of the Health and Safety at Work Act 1974 and:
- (a) any Orders to Regulations made thereunder or relating to the foregoing; and
 - (b) any modification or re-enactment of the foregoing.
- 9.33 To implement and enforce the provisions of the Health Act 2006 with regard to smoke-free premises and vehicles including the issuing of fixed penalty or Court proceedings.

Housing Improvement and Renewal

- 9.34 To implement the provisions of the Housing Act 2004 including the authorisation of enforcement actions and prosecutions where appropriate.
- 9.35 To determine closing orders are made under the terms of earlier Housing standards legislation where the dwellings have been brought up to a suitable standard for human habitation.
- 9.36 To authorise the use of the Council's compulsory purchase powers in respect of empty residential properties.
- 9.37 To implement the provisions of the Housing Act 2004 and Housing Act 1985 (as amended).
- 9.38 To administer the provisions of Housing (Grants, Construction and Regeneration) Act 1996 in respect of disabled facilities grants including the determination of grant applications and payments of grants.

- 9.39 To serve all relevant notices under the provisions of the Public Health Acts, Local Government (Miscellaneous Provisions) Acts, Building Act - 1984 and Environmental Protection Act 1990 to eliminate statutory nuisances.
- 9.40 To act in such matters as specified by the Local Government (Miscellaneous Provisions) Act 1976 – Section 33 – Restoration or Continuation of supply of water, gas or electricity and in particular:-
- (i) negotiate terms with owners, occupiers and statutory undertakers;
 - (ii) pay accounts both for supplies and for the restoration of services where necessary;
 - (iii) serve demands for payments; and
 - (iv) serve notice on tenants and other occupiers under Section 33(4) requiring rent to be paid to the Council in settlement of the said accounts.
- 9.41 To authorise the making of home – loss, disturbance and other statutory compensation payments in connection with the making of closing and demolition orders and the acceptance of undertakings relating to unfit/unsuitable premises pursuant to Housing Acts 1985 and 2004.
- 9.42 To serve all relevant notices and orders under the terms of Housing Act 2004 in respect of Empty Property Management orders from date of implementation of the Empty Property Management Order legislation (2006).
- 9.43 To serve all relevant notices under the provisions of the Local Government (Miscellaneous Provisions) Acts in respect of Requisitions for Information on properties.
- 9.44 To authorise the compulsory improvement of dwellings under the Housing Act 2004.
- 9.45 To authorise payments of grants to improve properties in line with the agreed council policy.

Head of Improvement and Performance

- 10.1 To carry out the necessary administrative functions as required by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended).
- 10.2 To carry out the functions required by the Local Government and Housing Act 1989 with respect to the Constitution of Committees and Group arrangements.
- 10.3 To take any decision or any action to protect the Council's interests or which is calculated to facilitate, or is conducive or incidental to, the carrying out or performance of Members' instructions as expressed in the Minutes of Council and Cabinet decisions.
- 10.4 To publish the Best Value Performance Plan in accordance with the statutory timetable.

Legal Services Manager and Monitoring Officer

- 11.1 To take all requisite action, including, where necessary, the institution of Proceedings to recover debts owed to the Council and to recover possession of Council land or property, including the taking of bankruptcy and company winding up Proceedings.

- 11.2 To take action under any enactment or at common law to protect public rights in respect of highways.
- 11.3 To sign on behalf of the Council contracts which do not require to be sealed.
- 11.4 To take any necessary action, including the institution of Proceedings for an injunction, with a view to preventing the holding of any unlicensed pay parties within the district and to authorise such action or Proceedings.
- 11.5 To authorise the service of Notices to Treat and Notices of Entry.
- 11.6 To authorise the making of advances for house purchase and improvement in accordance with any scheme approved by the Council.
- 11.7 To obtain Counsel's opinion and employ London or other Agents to ensure adequate advice is available to the Council and Committees and to authorise the appointment of Counsel to appear in any matter for which he/she considers it essential for the Council to be so represented.
- 11.8 To consider, authorise and institute Proceedings in respect of any offence for which the Council by virtue of the Local Government Act 1972, Section 222, or any other Act of Parliament, Regulation, Order or Byelaw, is now or may hereafter be empowered to prosecute or to authorise the institution of such Proceedings.
- 11.9 To negotiate in association with the Head of Development Services, planning agreements under Section 106 of the Town and Country Planning Act 1990, and other legal agreements, where these are required in connection with the grant of planning permissions dealt with under delegated powers, and in other cases where such agreements are considered necessary in order to facilitate or safeguard the Council's interest and/or instructions.
- 11.10 Jointly with the Head of Development Services and the Planning Applications Manager to determine applications for Certificates of Lawfulness of existing or proposed use or development under Sections 191 and 192 of the Town and Country Planning Act 1990.
- 11.11 To seal:-
 - (i) vacating receipts and discharges of mortgages; and
 - (ii) mortgages to secure the external borrowing of money.
- 11.12 Subject to the Head of Community Services confirming that the Council's security would not be prejudiced in respect of properties mortgaged to the Council:-
 - (i) to approve the transfer of mortgaged property to joint tenants by one of them or from joint tenants to one of themselves;
 - (ii) to approve applications for the consent of the Council to the grant of rights of way and other easements;
 - (iii) to approve applications by mortgagors for permission to carry out alterations to their property;
 - (iv) to agree to extensions of mortgage terms within the limits of the Council's scheme.

- (v) to approve requests for consent to letting (mortgaged properties), subject to suitable enquiries.
- 11.13 To institute proceedings for recovery of possession where mortgagors or Council tenants have made default in payments, or otherwise breached mortgage or tenancy conditions.
- 11.14 To make orders for the temporary closure of highways where recommended by the Head of Commercial Services.
- 11.15 To sign Certificates of Title to prospective purchasers under Section 154 of the Housing Act 1985.
- 11.16 To rely upon tenant's Statutory Declaration where after enquiry other evidence cannot be obtained (Housing Act 1980 - Section 7).
- 11.17 Together with the Head of Community Services and Head of Resources to proceed in rent arrears cases within the Council's existing policy - Housing Act 1980 Section 33.
- 11.18 In conjunction with the Head of Community Services be authorised to rely upon tenants Statutory Declaration where after enquiry other evidence cannot be obtained - Housing Act 1985 Section 129.
- 11.19 To serve notices of intention - Housing Act 1985 Section 83.
- 11.20 To apply for suspension Orders for Possession -Housing Act 1985.
- 11.21 In the event of his/her not reaching agreement with mortgagors to pay off arrears or for the making of regular interest payments during periods of illness or unemployment, authorised to obtain compliance with the Possession Orders granted and dispose of the properties.
- 11.22 To deal with assignment of leases as authorised by or on behalf of the Council.
- 11.23 To serve Notices to Complete under the provisions of the Housing Act 1985 (Section 140 and 141) and agree any extensions of time as appropriate to the circumstances.
- 11.24 To employ a bailiff as and when necessary in order to recover rents.
- 11.25 To make complaints to a magistrates' court to seek orders relating to any matter in respect of which the Council is empowered to act.
- 11.26 To take any decision or any action to protect the Council's interests or which is calculated to facilitate, or is conducive or incidental to, the carrying out or performance of Members' instructions as expressed in the Minutes of Council and Committee decisions.

Note: In respect of matters falling within the responsibility of the Cabinet, the Legal Services Manager shall exercise delegated powers in consultation with the Cabinet Member, whose portfolio includes legal matters, in cases of unusual difficulty or where any request for legal action is considered by those officers to be likely to involve action which may be contrary to law or involve maladministration or is otherwise inappropriate.

Clinical Director (Health Protection Agency)

- 13.1 National Assistance Act 1948 - Section 47 and National Assistance (Amendment) Act 1951 - Section 1

To secure the necessary care and attention for persons who -

- (a) are suffering from grave chronic diseases or
- (b) being aged, infirm or physically incapacitated and living in insanitary conditions;
and
- (c) are unable to devote to themselves and are not receiving from other persons proper care and attention

(Such authority to vest in the following authorised deputies in the absence of the Consultant in Communicable Disease Control:-

- (i) Consultant in Communicable Disease/Health Protection
- (ii) Such other doctors authorised to act as deputies in the absence of the above)”

List of Cabinet Members

Name	Address	Ward
Councillor S Ezekiel	17 Crow Hill, Broadstairs CT10 1HN	Cliftonville East
Councillor R Latchford	10 Seaview Road, Birchington CT7 9LB	Birchington North
Councillor Shirley Tomlinson	26 Nash Court Road, Margate	Garlinge
Councillor Mrs Wiltshire	76 Stanley Road, Broadstairs CT10 1BN	St Peter's
Councillor M Wise	57 Cornwall Gardens, Cliftonville, Margate CT9 2JE	Cliftonville East
Councillor J Gideon	14 Central Road, Ramsgate, CT11 7SE	Cliffsend and Pegwell

Part 4

Rules of Procedure

Council Procedure Rules

(See also Prescribed and Other Standing Orders in Part 4.)

1.0 Annual Meeting of the Council

1.1 Timing and business

In a year when there is an ordinary election of Councillors, the annual meeting will take place on a Thursday within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (i) elect a person to preside if the Chairman of Council is not present;
- (ii) elect the Chairman of Council;
- (iii) elect the Vice-Chairman of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman and/or head of the paid service;
- (vi) elect the Leader and deputy Leader (a casual vacancy in the office of Leader or deputy Leader shall be filled for the remainder of the Council's year at the next meeting of the Council);
- (vii) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions (as set out in Part 3 of this Constitution);
- (viii) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (ix) approve a programme of ordinary meetings of the Council for the year;
- (x) receive any declarations of interest from members; and
- (xi) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (i) decide which Committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those Committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;

- (iv) ensure as far as possible that every member of the Council receives an allocation of one seat on a standing Committee of the Council unless that member indicates that he/she does not wish to have that seat;
- (v) receive nominations of Councillors to serve on each Committee and outside body; and
- (vi) at the first annual meeting of a new term appoint to those Committees and outside bodies except where appointment to those Committees or bodies has been delegated by the Council or is exercisable only by the Cabinet and thereafter approve any changes.

2.0 Ordinary Meetings

2.1 Order of Business

Ordinary meetings of the Council shall commence at 7.00 pm unless otherwise agreed with the Chairman and will take place on a Thursday in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chairman and Vice Chairman are not present;
- (ii) deal with any business required by statute to be done before any other business;
- (iii) approve the minutes of the last meeting;
- (iv) receive any announcements from the Chairman, Leader, members of the Cabinet or the Head of Paid Service;
- (v) receive any declarations of interest from members;
- (vi) receive petitions from the public;
- (vii) receive questions from, 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;
- (viii) deal with any business from the last Council meeting;
- (ix) receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- (x) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xi) consider motions; and
- (xii) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate.

2.2 Variation

Except for items under (i), (ii) or (iii) of Rule 2.1 the order of business may be varied at the Chairman's discretion or by a resolution passed on a motion that has been moved and seconded which shall be put without discussion.

2.3 Related Items

The Chairman shall also have discretion to decide that related items of business may be dealt with in accordance with such procedure as the Chairman shall consider is most conducive to the despatch of business.

2.4 Application to Committees

The Chairman of any Committee or Sub-Committee shall have the discretion to vary the order of business and decide on related items of business in accordance with such procedure as the Chairman shall consider is most conducive to the despatch of business.

3.0 Extraordinary Meetings

3.1 Calling extraordinary meetings

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Chairman of the Council;
- (iii) the Monitoring Officer; and
- (iv) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 Business

No matter shall be dealt with at any extraordinary meeting of the Council other than that specified in the request or requests received by the proper officer under Rule 3.1 for the meeting in question.

3.3 Timing

Extraordinary meetings shall be held on such dates and at such times as the proper officer may determine after consultation with the Chairman of the Council.

4.0 Committees and Sub-Committees

4.1 Functions

Every Committee and Sub-Committee shall continue to discharge the functions delegated to them until the Council or relevant Committee resolve otherwise.

4.2 Recommending Delegated Powers

A Committee or Sub-Committee may decide to recommend any matter (for which it has been given delegated powers) to the Council or its parent Committee as the case may be.

4.3 Duration of Appointment

Subject to Section 102(5) of the Local Government Act 1972, (Councillor not re-elected to cease to be a member of a Committee) and paragraph 4.5 below, every person appointed as a member of a Committee shall continue as such until the appointment is terminated by the Authority. This Rule shall also apply to Sub-Committees and Working Parties.

4.4 Political Balance

(i) Whenever:

- (a) the Council, resolves or is required to review the allocation of seats between political groups, or
- (b) a Committee resolves or is required to review the allocation of seats on a Sub-Committee between political groups

the Proper Officer shall submit a report to the Council, the Cabinet or Committee (as the case may be), showing what allocation of seats would meet the requirements of Section 15(4) of the Local Government and Housing Act 1989.

(ii) In the light of such a report, the Council or relevant Committee shall determine the allocation of seats to political groups.

4.5 Allocation of Seats to Political Groups

Whenever an appointment of a member of a Committee or Sub-Committee falls to be made in accordance with the wishes of a political group to whom the seat has been allocated, and whenever such an appointment falls to be determined in accordance with such wishes, then the Council or relevant Committee at a meeting at which the wishes of the political group are expressed, or at the next meeting after those wishes are expressed, shall endorse those wishes accordingly.

4.6 Appointment of Sub-Committees and Working Parties

Subject to any resolutions by the Council, every Committee may appoint Sub-Committees or Working Parties for such purposes as they think fit within the remit of the responsibilities of the Committee, and may make arrangements for a Sub-Committee to discharge any of the functions for the authority which the Committee may discharge.

4.7 Parent Committees

Every Member, except co-opted members, of a Sub-Committee shall be a Member of its Parent Committee.

5.0 Appointment of Substitute Members of Committees, Sub-Committees and Working Parties

5.1 Allocation

The Council will appoint as substitute members of Committees and Sub-Committees those members nominated by each political group. Political groups may nominate every other member of the group provided that neither the Chairman nor Vice-Chairman of Council nor any member of the Cabinet shall be eligible to be a substitute member at any Committee or Sub-Committee on which either the Chairman or Vice-Chairman or a member of the Cabinet may not sit.

5.2 Powers and duties

Substitute members will have all the powers and duties of any ordinary member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

5.3 Substitution

- (i) It shall be the duty of Groups themselves to arrange for the attendance of substitute Members.
- (ii) The Member Services Officer must be notified of the attendance of a substitute member before the commencement of any item of business.
- (iii) If a substitute Member is present at any meeting and the appointed Member subsequently attends during the course of the proceedings, the substitute Member shall withdraw from taking any further part in the meeting at the conclusion of the item under discussion.
- (iv) No substitute Member should be eligible to Chair a meeting if an appointed Member of the Committee or Board is present and willing to take the Chair.
- (v) In relation to the determination of any applications made under the Licensing Act 2003, no Member shall be eligible to be a substitute on the Licensing Board or on a sub-committee established by it.

5.4 Working Parties.

These rules shall also apply to Working Parties.

6.0 Election of Chairman and Vice-Chairman of Committees

6.1 Appointment of Chairmen and Vice-Chairmen

Subject to Rules 6.2 and 6.3, the Chairmen and Vice-Chairmen of Committees shall be appointed by Council at its Annual Meeting.

6.2 Sub-Committees, Advisory Groups and Working Parties

All Sub-Committees, Advisory Groups and Working Parties shall elect at their first meeting after the Annual Council Meeting, before proceeding to other business, from

amongst their Members a Chairman for the ensuing year, and shall then appoint a Vice-Chairman for the ensuing year.

6.3 Appointment of Chairmen and Vice-Chairmen of Scrutiny Panels

The Chairman and Vice-Chairman of any panel shall not both be from the same political group. The ruling group will nominate the Chairman of the Policy Development Panel and the Vice-Chairmen of two other Panels of their choice and the largest opposition group should nominate the Chairmen of the Executive Scrutiny Panel and the Finance, Best Value and Performance Review Panel and the Vice-Chairman of the remaining Panel.

In the event of two or more opposition groups having the same number of members the matter shall be decided by a majority of the opposition Members in Council and in the event of default by the Council itself.

6.4 Members not eligible to stand for election

- (i) The Chairman and Vice-Chairman of the Council shall not be eligible for election as Chairman or Vice-Chairman of a Standing Committee, Sub-Committee or Working Party.
- (ii) No Member shall be Chairman of more than one Standing Committee.

6.5 Vacancies

A casual vacancy in the Office of Chairman or Vice-Chairman of a Committee, Sub-Committee, Advisory Group or Working Party shall be filled as soon as practicable and by the relevant Committee.

7.0 Time and Place of Meetings

The time and place of meetings will be determined by the Corporate Programme Manager and notified in the summons. The following guidelines will apply:

- (i) The days of the week shall be utilised as follows:-

<u>Tuesdays to</u>	-	Meetings of Committees, Sub-Committees,
<u>Thursdays</u>		Advisory Groups and Working Parties and adjourned, special or additional meetings thereof.
- (ii) The Monday following Council Meetings, or the Tuesday if the Monday is a Bank Holiday, shall be kept clear of meetings to facilitate adjournment of Council to that day.
- (iii) The weeks in which scheduled Council Meetings fall will normally be kept clear of other meetings.
- (iv) The Calendar of Meetings shall generally include a two-week recess at Christmas and no meetings in August.

8.0 Notice of and Summons to Meetings

The Corporate Programme Manager will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least three clear days before a meeting, the Corporate Programme Manager will send a

summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. 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.

9.0 Chair of Meeting

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of Committees and Sub-Committees.

10.0 Quorum

The quorum of a meeting will be one quarter of the whole number of members except for meetings of the Scrutiny Committee and Governance and Audit Committee where the quorum shall be one half of the whole number of members. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

11.0 Duration of Meeting

11.1 Adjournment

Unless it is resolved to complete the item under discussion, meetings shall stand adjourned at 10.30 pm unless in the opinion of a majority of the Members thereof the business remaining to be dealt with can be concluded by 11.30 pm in which case the meeting may continue until 11.30 pm at which time it shall automatically stand adjourned.

11.2 Remaining Business

Consideration of any business not transacted shall be continued on the following Monday evening and thereafter on consecutive evenings at 7.00 pm except where Monday is a Bank Holiday in which case the business shall be continued on the following Tuesday evening and thereafter on consecutive evenings at 7.00 pm.

12.0 Petitions from the Public

12.1 General

Members of the public may present petitions, supported by at least 25 signatories, and make a verbal statement introducing the petition to ordinary meetings of the Council. No petition will be supported by more than one statement. The total time devoted to petitions shall not exceed 30 minutes.

12.2 Order of petitions

A list of petitions received in accordance with this Rule shall be printed within the agenda papers in the order in which the same were received by the Council.

12.3 Notice of petitions

A petition may only be presented if it has been delivered to the Member Services Manager at least ten working days before the day of the meeting.

12.4 Scope of petitions

A petition shall relate to a matter in relation to which the Council has powers or duties or which affects the District.

12.5 Timing

No statement will exceed three minutes. Any petition listed within the Agenda papers which cannot be dealt with within the time permitted shall be automatically referred to the Cabinet or the relevant Committee(s) and any statement in support may be given at such meeting in accordance with this Rule. If there are insufficient petitions to fill the time allocated then Council business shall proceed.

12.6 Response

Without debate, petitions shall be referred to the Cabinet or the appropriate Committee(s) for report to the Council within three ordinary meetings.

13.0 Questions by the Public and Press

13.1 General

Members of the public may ask questions of members of the Cabinet at ordinary meetings of the Council. The total time devoted to questions shall not exceed 30 minutes.

13.2 Order of questions

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

13.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Corporate Programme Manager at least five full working days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

13.4 Number of questions

At any one meeting no person may submit more than one question, limited to fifty words.

13.5 Scope of questions

The Chief Executive will reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the district;

- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information;
- If the questioner is not a resident of Thanet; or
- If a question relates to an individual planning or licensing application.

13.6 Record of questions

The Corporate Programme Manager will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

13.7 Asking the question at the meeting

The Chairman will invite the questioner to put the question to the member named in the notice. If the questioner is not present the question shall not be put and shall be answered in writing.

13.8 Absence of Member Named and Written answers

Any question which cannot be dealt with during public question time because of lack of time will be dealt with by a written answer. If the member to whom the question is directed is not present, the question will be answered by the Leader or another Member nominated by the Leader for the purpose unless it is inappropriate for the Leader to give an oral answer or to nominate another Member to give an oral answer, in which case the question will be dealt with by a written answer.

14.0 Questions by Members

14.1 On reports of the Cabinet or Committees

A member of the Council may during his or her speech ask the Leader or Chairman of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

14.2 Questions on notice at full Council

Subject to Rule 14.4, a member of the Council may ask:

- a member of the Cabinet; or
- the Chairman of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects the district.

14.3 Questions on notice at Committees and Sub-Committees

Subject to Rule 14.4, a member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the district and which falls within the terms of reference of that Committee or Sub-Committee.

14.4 Notice of questions

A member may only ask a question under Rule 14.2 or 14.3 if they have given at least five working days notice in writing of the question, limited to fifty words, to the Member Services Manager. No Member shall submit more than one question.

14.5 Scope of questions

A question shall not be:

- defamatory, frivolous or offensive;
- substantially the same as a question which has been put at a meeting of the Council in the past six months;
- such as to require the disclosure of confidential or exempt information; or
- related to an individual planning or licensing application.

14.6 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated within three working days to the questioner.

14.7 Supplementary question

A member asking a question under Rule 14.2 or 14.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

14.8 Timing

The questioner shall have two minutes for the initial question and one minute for the supplementary and the respondent shall have five minutes for the initial reply and two minutes for the supplementary.

14.9 Written questions

Where a member does not wish to put a question verbally the member may, subject to Rule 14.5, submit a question in writing to the Corporate Programme Manager, by 10.00 am on the Friday before a Council meeting, any question to be asked of a

member of the Cabinet or the Chairman of any Committee on any matter in relation to which the Council have powers or duties or which affects the District. This rule is subject to the following:

- (i) The number of questions which may be asked by any one Member under this Rule at any one meeting shall be limited to one.
- (ii) There shall be no discussion of any question or answer.
- (iii) Any answer may take the form of:-
 - (a) A written answer circulated to Members of the Council at the Council Meeting or as soon as possible thereafter. Provided that where a question cannot be answered at the Council Meeting and in all cases where the member concerned exercises his/her right not to answer under Rule 14.9 (vi) the question and an explanation of the member's inability to answer or the reasons for his/her decision not to answer shall be circulated to all Members at the Council Meeting.
 - (b) Where the desired information is contained in a publication of the Council, a reference to that publication.
- (iv) All questions and answers shall be recorded in a Register to be maintained by the Corporate Programme Manager.
- (v) The member concerned shall have power to decide that a question shall be not answered if he/she is satisfied that the public interest would not be served by it being raised or pursued or on any other ground which he/she may deem sufficient.
- (vi) The Chairman shall not allow any question containing unbecoming language, imputation of improper motives or reflections of a personal character.

15.0 Reports from the Cabinet and Committees

15.1 General

Any Member wishing to speak on any recommendation of the Cabinet or a Committee to be considered by the Council shall, before 10.00 am on the day of the Council Meeting, notify the Member Services Manager of the number or other reference of the minute in question. Such minutes are in this Rule referred to as "Reserved Minutes".

15.2 Notice of Reserved Minutes

The Corporate Programme Manager shall not later than 12 noon on the day of any Council meeting notify the Leader and any relevant Chairmen (or in their absence the member acting) together with one nominated representative from each of the other groups which minutes have been reserved for debate and shall cause a list of the reserved minutes to be printed and placed before all Members at the Council meeting. No discussion shall be permitted on any minute which is not a reserved minute.

15.3 Adoption of Recommendations of the Cabinet

When at a Council Meeting the agenda item for considering the recommendations of the Cabinet and Committees is reached the Chairman and Vice-Chairman of the Council (or the members acting in that capacity if they or either of them is absent) shall propose and second the adoption of the recommendations of the Cabinet and Committees. The Chairman shall then put to the vote the adoption of the said recommendations with the exception of the reserved minutes.

After the vote on the adoption of the recommendations of the Cabinet and Committees have been taken the reserved minutes shall be dealt with.

15.4 Dealing with Reserved Minutes

After any debate on a reserved minute the Chairman shall then, if no amendment is made, put to the vote the adoption of the recommendation. The adoption of the recommendation shall in all cases be the substantive motion and any proposed alteration shall be by way of an amendment and be subject to the rules relating to amendments. The right of reply under Rule 19.9 and 19.11 shall be exercised by a member of the Cabinet or Chairman of the Committee whose recommendation is under discussion and that member shall not otherwise speak on the amendment.

16.0 Motions On Notice

16.1 Notice

Except for motions which can be moved without notice under Rule 17, written notice of every motion, signed by at least one member, must be delivered to the Corporate Programme Manager not later than noon on the Tuesday in the week before the date of the meeting. These will be entered in a book open to public inspection.

16.2 Motion set out in agenda

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 notice states, in writing, that they propose to move it to a later meeting or withdraw it.

16.3 Putting the Motion at the Meeting

The Member whose name appears first on the Notice will move the motion during his or her speech and call for a second. If seconded, the motion shall then stand referred without discussion to the Cabinet or appropriate Committee for determination or report unless the Council decides to debate the motion in accordance with Rule 19.

16.4 Scope

(a) Motions must:

- (i) be about matters for which the Council has a responsibility or which affect the district.
- (ii) be expressed in such a form that it shall conform with the requirements of the Council Procedure Rules and be competent for the Council if it so desires to pass it as a lawful and valid resolution. If it is not so expressed the Chairman shall rule it out of order.

- (b) No Member shall subscribe to more than two notices of motion on an agenda at the same time.
- (c) Motions submitted to Committees must be in the name of a member of the Committee.

17.0 Motions Without Notice

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) to change the order of business in the agenda;
- (c) to refer something to an appropriate body or individual;
- (d) to appoint a Committee or member arising from an item on the summons for the meeting;
- (e) to receive reports or adoption or rejection of recommendations of Committees or officers and any resolutions following from them;
- (f) to withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) that the meeting continue beyond 3 ½ hours in duration;
- (m) to suspend a particular Council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 27.3 or to exclude them from the meeting under Rule 27.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

18.0 Motions Affecting Persons Employed by the Council

If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, the Council shall:

- (a) Consider whether to exclude the public for the debate on the particular item on the ground that exempt information under paragraph 1 of Schedule 12A of the Local Government Act 1972 is likely to be disclosed.

- (b) If it considers the matter should be taken in private, pass the appropriate resolution in the form set out in Rule 17(o) (with a reference to paragraph 1 of the said Schedule 12A) to exclude the public; and
- (c) Debate the item at the end of the meeting, together with any other items containing exempt or confidential information after the public have been excluded.

19.0 Rules of Debate

19.1 No speeches until motion seconded

No further debate shall take place after the mover has moved a proposal and spoken on the item until the motion has been seconded. This rule shall not apply to the Standards Committee or Licensing Board.

19.2 Right to require motion in writing

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

19.3 Secunder's speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

19.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Speeches made by the Leader, members of the Cabinet and Chairmen of Committees when presenting items or by a member winding up the debate may not exceed five minutes without the consent of the Chairman. No other speech may exceed three minutes without the consent of the Chairman. This rule shall not apply to the Standards Committee or Licensing Board or the Non-Executive Functions Committee (when it is dealing with appeals).

19.5 When a member may speak again

A member who has spoken on a motion shall not speak again without the consent of the Chairman 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 he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

19.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words.as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) 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.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) 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 are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

19.7 Alteration of motion

- (a) A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

19.8 Withdrawal of motion

A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's 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.

19.9 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

19.10 Motions which may be moved during debate

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) that the meeting continue beyond 3 ½ hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a member named under Rule 27.3 or to exclude them from the meeting under Rule 27.4.

19.11 Closure motions

- (a) A member who has not spoken on that item may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote.

If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

19.12 Point of order

A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

19.13 Personal explanation

A member may make a 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 or the correction of a erroneous reference to him/her in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

20.0 Previous Decisions and Motions

20.1 Motion to rescind a previous decision

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 more than 50% of the membership. This Rule shall not apply to motions moved following a recommendation to the Council made by the Cabinet or a Committee.

20.2 Motion similar to one previously rejected

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 more than 50% of the membership or supported by the Chairman (or in his/her absence the Vice-Chairman). Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

21.0 Voting

21.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put. No Member may cast a vote for another Member who is not present at the time the question is put.

21.2 Chairman's casting vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

21.3 Show of hands

Unless a recorded vote is demanded under Rule 21.4, the Chairman will take the vote by show of hands (and a count if requested), or by means of an electronic voting system, or if there is no dissent, by the affirmation of the meeting.

21.4 Recorded vote

If a majority of members present at the meeting demand it before the vote is taken, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

21.5 Right to require individual vote to be recorded

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.

21.6 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

22.0 Minutes

22.1 Signing the minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record.

22.2 Accuracy of minutes

The only part of the minutes that can be discussed is their accuracy, provided that any question of their accuracy has been raised by motion of which 24 hours' notice has been given to the Corporate Programme Manager. Such notice shall only be required when a copy of the Minutes has been circulated to each Member of the Council. If no such question is raised or if it is raised then as soon as it has been disposed of the Chairman shall sign the Minutes.

22.3 No requirement to sign minutes of previous meeting at extraordinary meeting

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 signing of minutes.

22.4 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

23.0 Record of Attendance

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.

24.0 Attendance at Meetings

24.1 General

Any Member of the Council who is not a member of the body in question may nevertheless attend any meeting of the Cabinet or of any Committee, Sub-Committee or Working Party. He/she may speak once only on any item if permission has been given by the Cabinet, Committee, Sub-Committee or Working Party before the commencement of debate on the item. The member shall not occupy a seat provided for members of the body in question until requested to do so by the person Chairing the meeting. The member may speak on one additional occasion on a point of order or by way of personal explanation.

This Rule shall not apply to the following bodies:-

Management Appraisal Board (when acting)
Licensing Board
Appeals Panel

24.2 Attending meetings when Motions under Rule 16.3 will be discussed

A Member of the Council in whose name a motion under Rule 16.3 has been referred by Council to another Committee shall have notice of the meeting of the Committee, Sub-Committee or Working Party at which it is proposed to consider the motion and he/she, or in his/her absence his/her seconder, shall have the opportunity of speaking to explain the motion and taking part in the debate.

24.3 Attendance of Chairmen/Vice-Chairmen of Committees

The Chairman, or in his/her absence, the Vice-Chairman, of any Committee, may invite the Chairman, or in his/her absence the Vice-Chairman, of any other Committee of the Council to attend the meeting and take part in the debate when matters directly affecting the work of that other Committee are being discussed, provided that they shall have no voting rights.

24.4 Meetings of the Cabinet

This Rule shall also apply to meetings of the Cabinet and the Leader shall have a similar power to invite attendance at meetings of the Cabinet.

25.0 Special Meetings of Committees

Subject to the provisions of Rules 7 and 20:

25.1 Calling special meetings

Those listed below may call a special meeting of a Committee on any occasion in addition to ordinary meetings:

- (i) the Chairman (or in his or her absence the Vice-Chairman) of a Committee;
- (ii) the Chairman of the Council;
- (iii) the Chief Executive
- (iv) the Democratic Services Manager; and
- (v) any five members of the Committee (or at least one third of the number of members of the Committee if that is less than five) if they have signed a requisition presented to the Corporate Programme Manager (the time and date (provided it is within 14 days of the receipt of the request) and the place of the meeting to be decided by the Chairman or Vice-Chairman of the Committee).

25.2 Business

No matter shall be dealt with at any special meeting of a Committee other than that specified in the request or requests received under Rule 25.1 for the meeting in question, except in accordance with Section 100B(4) of the Local Government Act 1972.

25.3 Timing

Special meetings shall be held on such dates and at such times as the proper officer may determine after consultation with the Chairman or Vice-Chairman of the Committee.

26.0 Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 28 (Disturbance by Public).

27.0 Members' Conduct

27.1 Standing to speak

When a member speaks at full Council they must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation. However, if a Member is unable to stand through illness or disability, the Chairman will ensure that they are given full and equal access to participation and debate.

27.2 Chairman standing

When the Chairman stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

27.3 Member not to be heard further

If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move

that the member be not heard further. If seconded, the motion will be voted on without discussion.

27.4 Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the Chairman 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.

27.5 General disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

28.0 Disturbance by Public

28.1 Removal of member of the public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

28.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

29.0 Suspension and Amendment of Council Procedure Rules

29.1 Suspension

All of these Council Rules of Procedure except Rule 21.6 and 22.2 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.

29.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

30.0 Application to Committees and Sub-Committees

Unless otherwise stated in these Rules, all of the Council Rules of Procedure apply to meetings of full Council and Rules 2.4, 4, 7–11, 14, 16–28 (but not 22.2 or 27.1) and Rule 30 apply to meetings of Committees and Sub-Committees. None of the Rules apply to meetings of the Cabinet except for Rule 24.

31.0 Members' Correspondence

All correspondence from Members to persons or bodies outside of the Council shall be endorsed with the following wording (unless otherwise agreed by or on behalf of the Council):-

This letter is the personal responsibility of the writer; it has not been authorised by the Council and so nothing in this letter shall be taken as creating any legal or other obligation on the part of the Council.

32.0 Urgent Action by or on Behalf of Committees/Boards

- (1) If urgent action, which cannot await the next scheduled meeting, is necessary, such action may be taken by the Chief Executive or a Corporate Director or a Head of Service after consultation with the Chairman of the Committee, Board or relevant body holding the delegated power. The action and the reason for it will be reported in writing to the next meeting of the Committee or Board, etc. In addition such action will be reported on the TDC News unless it is the opinion of the relevant officer that to do so would be prejudicial to the interests of the Council and in that event an explanation of that opinion shall be reported to the appropriate Committee/Board, etc. The Corporate Programme Manager shall keep a register of all such decisions and reasons which shall be open to inspection by Council Members during normal office hours.
- (2) In the absence of the Chairman the Vice-Chairman shall be authorised to act in his/her place.
- (3) The Corporate Programme Manager shall ensure that a copy of every decision taken under this Rule is sent as soon as possible to the Chairman of each of the Council's Scrutiny Panels.

Access to Information Procedure Rules

1.0 Scope

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, area Committees (if any), the Standards Committee and regulatory and other Committees and meetings of the Cabinet (together called meetings).

2.0 Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law., including the Freedom of Information Act 2000

3.0 Rights to Attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these rules.

4.0 Notices of Meeting

Unless the Meeting is called at shorter notice, the Council will give at least five clear working days notice of any meeting by posting details of the meeting at the Council's main offices in Cecil Street, Margate (the designated office).

5.0 Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting except that:

- a) where the meeting is convened at shorter notice, copies of the agenda and report shall be open to inspection from the time the Meeting is convened; and
- b) where an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for the time the item was added to the agenda.

6.0 Items of Business

6.1 An item of business may not be considered at a meeting unless either:

- a) a copy of the agenda including the item (or a copy of the item) is open to inspection by a member of the public for at least five clear days before the meeting or, where the Meeting is convened at shorter notice, from the time the meeting is convened; or

- b) by reason of special circumstances, which shall be specified in the minutes, the Chairman of the Meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

6.2 "Special circumstances" justifying an item being considered as a matter of urgency will relate to both why the decision could not be made by calling a Meeting allowing the proper time for inspection as well as why the item or report could not have been available for five clear days before the meeting.

6.3 Where the item of business relates to a Key Decision, Rules 15, 16 and 17 also apply.

7.0 Supply of Copies

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Corporate Programme Manager or Democratic Services Manager thinks fit, any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other costs or electronically at no charge.

8.0 Access to Minutes etc After the Meeting

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (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.

9.0 Background Papers

9.1 List of background papers

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

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political advisor.

9.2 Public inspection of background papers

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

10.0 Public's Rights

A copy of the Access to Information Procedure Rules, which sets out the public's rights to attend meetings and to inspect and copy documents, shall be kept at and available to the public at the Council's main offices for inspection. A member of the public shall be entitled to a copy of these Rules on request.

11.0 Exclusion of Access by the Public to Meetings

11.1 Confidential information – requirement to exclude public

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

11.2 Exempt information – discretion to exclude public

Subject to Article 6 of the Human Rights Act 1998 (right to a fair trial) 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 would be disclosed.

11.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

11.4 Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to any condition):

N.B. The full rules are set out in Part V and Schedule 12A Local Government Act 1972 (as Amended) and the Relevant Authorities (Standards Committees) Regulations 2001.

Category	Condition
1. Information relating to any individual.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
2. Information that is likely to reveal the identity of an individual.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing

Category	Condition
	the interests.
Category	Condition
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<ol style="list-style-type: none"> 1. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests; 2. Information is not exempt if it is required to be registered under: <ul style="list-style-type: none"> • Companies Act 1985; • Friendly Societies Acts 1974 and 1992; • Industrial and Provident Societies Acts 1965 to 1978; • Building Societies Act 1986; • Charities Act 1993. 3. The rights of access by Members are contained in Section 1007 of the 1972 Act.
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.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
6. Information which reveals that the authority proposes a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or b) to make an order or direction under any enactment.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

Information falling within any of the paragraphs above is not exempt by virtue of that paragraph 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.

Disclosure by Members

Members will not make public Confidential or Exempt Information without the consent of the Authority or divulge information given in confidence to anyone other than a Member or Officer entitled to know it.

12.0 Exclusion of Access by the Public to Reports

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

13.0 Application of Rules to the Cabinet

Rules 14 – 25 apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a key decision then it must also comply with Rules 1 – 12 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution.

If the Cabinet or its Committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 – 12 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

14.0 Procedure Before Taking Key Decisions

Subject to Rule 16 (general exception) and Rule 17 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 3 clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

15.0 The Forward Plan

15.1 Period of forward plan

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

15.2 Contents of forward plan

The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual members of the Cabinet, officers, area Committees or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker 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) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered.

The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;

- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

16.0 General Exception

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the proper officer has informed the Chairman of a relevant Overview and Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 3 clear days have elapsed since the proper officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public.

17.0 Special Urgency

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman will suffice.

18.0 Report to Council

18.1 When an Overview and Scrutiny Committee can require a report

If the Executive and Policy Scrutiny Panel thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or

- (c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chairman, or the Chairman/Vice Chairman of the Council under Rule 16;

the Committee may require the Cabinet 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 proper officer, who shall require such a report on behalf of the Committee when so requested by (the Chairman or any 5 members). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

18.2 Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

18.3 Quarterly reports on special urgency decisions

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

19.0 Record of Decisions

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

20.0 Decisions by Individual Members of the Cabinet

20.1 Reports intended to be taken into account

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 3 clear days after receipt of that report.

20.2 Provision of copies of reports to Overview and Scrutiny Committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of every relevant Overview and Scrutiny Committee or Sub-Committee as soon as reasonably practicable, and make it publicly available at the same time, unless it contains confidential or exempt information.

20.3 Record of individual decision

As soon as reasonably practicable after a Cabinet decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to 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 Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

21.0 Overview and Scrutiny Committees Access to Documents

21.1 Rights to copies

Subject to Rule 20.2 below, an Overview and Scrutiny Committee (including its Sub-Committees) will be entitled on request to copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to

- (a) any business transacted at meeting of the Cabinet or its Committees; or
- (b) any decision taken by an individual member of the Cabinet.

21.2 Limit on rights

An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form; or
- (b) the advice of a political adviser.

21.3 Additional rights

The rights described in Rule 20.1 and 20.2 shall apply also in relation to non Executive functions dealt with by the Council and any regulatory or other Committees and Sub-Committees.

22.0 Additional Rights of Access for Members

22.1 Material relating to previous business

All members will be entitled to inspect and have a copy of any document which is in the possession or under the control of the Cabinet or its Committees (including agenda and reports) and contains material relating to any business previously transacted at a meeting unless either (a) or (b) below applies:

- (a) it is a document that is in draft form (unless it is a document that was intended to be published in draft form); or
- (b) it contains the advice of a political adviser.

22.2 Material relating to key decisions

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

22.3 Agendas and Reports

All members of the Council entitled, on request, to copies of all agenda and reports when published whether relating to Executive or non Executive functions.

22.4 Nature of rights

These rights of a member are additional to any other right he/she may have.

Budget and Policy Framework Procedure Rules

1.0 The Framework for Executive Decisions

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

2.0 Process for Developing the Framework

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

- (a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Cabinet will draw up initial proposals in relation to any plan, strategy or budget which forms part of the Council's budget and policy framework. Once drawn up the proper officer will serve copies of them on the Chairmen of relevant Overview and Scrutiny Committees together with dates when the Cabinet will consider them further, which shall be at least 6 weeks after service of the notice on the Chairman (unless the relevant Overview and Scrutiny Committee concludes its consideration of the matter in a shorter time in which case the following shall apply:-
 - (i) if there are no scrutiny representations the matter shall be deemed to be a recommendation of the Cabinet and shall be referred direct to Council, unless the Leader or relevant portfolio holder requests that the matter be returned to Cabinet first; or
 - (ii) if there are any scrutiny representations the Cabinet may consider them at its next meeting.
- (b) The relevant Overview and Scrutiny Committee will be generally convened within 7 working days to consider whether to respond to the Cabinet's initial proposals and whether any consultation by it is appropriate, unless the Democratic Services Manager, in consultation with the relevant Overview and Scrutiny Committee Chairman, agrees to put the matter on the agenda for the next scheduled meeting. If so the Overview and Scrutiny Committee will conduct a consultation exercise and will reflect any representations made to it in its response to the Cabinet within the timescale set for decision by the Cabinet.
- (c) The Cabinet will finalise its proposals for the Council to consider having taken into account the comments from the Overview and Scrutiny Committee. The report to Council will show the Cabinet's response to those comments.
- (d) The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.

- (e) The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposal without amendment) or (if the Cabinet's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader formally objects in that period.
 - (f) If the Leader objects to the decision of the Council, he/she shall give written notice to the proper officer 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 proper officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
 - (g) The Council meeting must take place within 10 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
 - (h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.
 - (i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, 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.
- NB. In order to allow sufficient time to adequately consider the development of the budget framework, the relevant scrutiny panel should normally ensure that any necessary Budget Working Parties are established or other arrangements made by mid-September in each year.

3.0 Decisions Outside the Budget or Policy Framework

- (a) Subject to the provisions of paragraph 5 (virement) the Executive, Committees of the Cabinet, individual members of the Cabinet and any officers, area Committees or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes 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 Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers, area Committees or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either

of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4.0 Urgent Decisions Outside the Budget or Policy Framework

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

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

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

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

5.0 Virement

(a) The scheme of virement is intended to enable the Cabinet, Chief Officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Full Council, and therefore to optimise the use of resources.

(b) Key controls for the scheme of virement are:

- (i) it is administered by the Section 151 Officer within guidelines set by the Full Council who must approve any variation from this scheme.
- (ii) the overall budget is proposed by the Cabinet for approval by the Full Council. Chief Officers and budget holders are therefore authorised to incur expenditure in accordance with the estimates that make up the budget as amended by any virement agreed under the Financial Procedure Rules which set out the relevant limits.
- (iii) virement does not create additional overall budget liability. Chief Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. In particular, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments,

including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers must plan to fund such commitments from within their own budgets.

- (c) No virement relating to a specific financial year should be made after 31st March of that year.
- (d) Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
 - (i) the amount is used in accordance with the purposes for which it has been established.
 - (ii) the Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet.

6.0 Call-In of Decisions Outside the Budget or Policy Framework

- (a) Where the Executive & Policy Scrutiny Panel is of the opinion that a decision of the Cabinet 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 Financial Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial 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 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 Financial Officer. The Council may either:
 - (i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
 - (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual

responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Financial Officer.

Cabinet Procedure Rules

1.0 How Does the Cabinet Operate?

1.1 Who may make Executive decisions?

The Leader may provide for Executive functions to be discharged by:

- (i) the Cabinet as a whole;
- (ii) a Committee of the Cabinet ;
- (iii) an individual member of the Cabinet ;
- (iv) an officer;
- (v) an area Committee;
- (vi) joint arrangements; or
- (vii) another local authority.

1.2 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- (i) the names, addresses and wards of the people appointed to the Cabinet by the Leader;
- (ii) the extent of any portfolio, including any authority delegated to portfolio holders individually, with details of any limitation on their authority;
- (iii) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet members appointed to them;
- (iv) the nature and extent of any delegation of Executive functions to area Committees, any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint Committee for the coming year; and
- (vi) 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.

In the event of such a document not being so presented those matters within (ii) to (vi) previously in place shall continue in effect, and appointments under (i) shall be made accordingly, until any changes are made subsequently in accordance with these Rules and reported to a meeting of the Council.

1.3 Sub-delegation of Executive functions

- (a) Where the Cabinet, a Committee of the Cabinet or an individual member of the Cabinet is responsible for an Executive function, they may delegate further to an area Committee, joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an officer.
- (c) Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's scheme of delegation and Executive functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader is able to decide whether to delegate Executive functions, and he/she 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 proper officer 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 Cabinet as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chairman.

1.5 Conflicts of Interest

- (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 Cabinet 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 Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.6 Cabinet meetings – when and where?

The Cabinet will meet at least 12 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

1.7 Public or private meetings of the Cabinet?

Meetings of the Cabinet shall be public except as permitted under Rule 10 of the Access to Information Procedure Rules.

1.8 Quorum

The quorum for a meeting of the Cabinet, or a Committee of it, shall be one half of the total number of members.

1.9 How are decisions to be taken by the Cabinet?

- (a) Executive decisions which have been delegated to the Cabinet 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 Cabinet, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

2.0 How are Cabinet Meetings Conducted?

2.1 Who presides?

The Leader will preside at any meeting of the Cabinet or its Committees at which he/she is present, or may appoint another person to do so and if the Leader does not appoint another person to preside, then the Deputy Leader will preside. If he/she is also absent, then a person appointed to do so by those present shall preside.

2.2 What business?

At each meeting of the Cabinet the Leader (or the person acting in his or her absence) will decide the order of business to be conducted.

2.3 Consultation

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

2.4 Who can put items on the Cabinet agenda?

The Leader, or Cabinet member nominated by the Leader, will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any

Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any member or officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.

The proper officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet .

Any member of the Council may ask the Leader, in writing, to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting.

The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

[See further:-

For election of Leader, see Article 7.

For role of Deputy Leader, see Article 7.

For Overview and Scrutiny Committees, see Article 6.]

Overview and Scrutiny Procedure Rules

1.0 What will be the Number of and Arrangements for Overview and Scrutiny Committees?

- (a) Unless the Council decides otherwise under Article 6, the Council will always have at least one Overview and Scrutiny Committee, which will perform all Overview and Scrutiny functions on behalf of the Council.

(NB. Scrutiny arrangements effective from 1st October 2002 are detailed in the Annex to Article 6.)

- (b) Unless otherwise provided in Article 6, the terms of reference of the Overview and Scrutiny Committee will be:

- (i) the performance of all Overview and Scrutiny functions on behalf of the Council;
- (ii) the appointment of such Sub-Committees and working parties as it considers appropriate to fulfil and assist with Overview and Scrutiny functions;
- (iii) to receive any reports from the Leader on the Cabinet's priorities for the coming year and its performance in the previous year;
- (iv) to approve an annual Overview and Scrutiny work programme, including the programme of any Sub-Committees it appoints so as to ensure that the Committee's and Sub-Committee's time is effectively and efficiently utilised;
- (v) where matters fall within the remit of more than one Overview and Scrutiny Sub-Committee, to determine which of those Sub-Committees will assume responsibility for any particular issue;
- (vi) to put in place a system to ensure that referrals from Overview and Scrutiny to the Cabinet either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
- (vii) in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet, to make decisions about the priority of referrals made.

(NB. Current scrutiny arrangements are detailed in the Annex to Article 6.)

- (c) Any Overview and Scrutiny Committee may discontinue any Sub-Committee and/or appoint alternative or additional Sub-Committees. The Committee may also amend the terms of reference of any Sub-Committee as appropriate.
- (d) Where any Committee seeks to discontinue or appoint Sub-Committees, it may do so provided that it has consulted with interested parties, if

appropriate. The extent and nature of consultation will depend on the nature of the proposed alterations. Any change will be reported to the proper officer and then to the next meeting of the Council by the Chairman of the Overview and Scrutiny Committee, so that the Constitution may be amended accordingly.

2.0 Who May Sit on Overview and Scrutiny Committees?

- (a) All Councillors except members of the Cabinet and the Chairman and Vice Chairman of Council are eligible to be members of an Overview and Scrutiny Committee.
- (b) Any Overview and Scrutiny Committee or Sub-Committee or Working Party shall be entitled to appoint up to three people who are not Members of the Council as non-voting co-optees. Such persons shall not be disqualified from being a Member of the Council (but need not be qualified to be a Member of the Council).
- (c) They shall also be entitled to appoint up to three additional Members of the Council from among those members who are eligible to assist with their work where those additional members are considered to have particular skills, knowledge or experience relevant to the matter assigned to the Sub-Committee or Working Party. Such additional Members shall not be entitled to vote on matters arising.

3.0 Scrutiny Requirements

- (a) No member, co-optee or additional member may be involved in scrutinising a decision in which he/she has been directly involved.
- (b) Co-optees shall be required to declare any interest, pecuniary or otherwise, as if they were a Member of the Council.
- (c) Co-optees shall comply with the Council's Rules.

4.0 Meetings of the Overview and Scrutiny Committee

There shall be at least 6 ordinary meetings of each Overview and Scrutiny Committee and of each standing Sub-Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the relevant Overview and Scrutiny Committee, by any 5 members of the Committee or by the proper officer if he/she considers it necessary or appropriate.

5.0 Quorum

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

The quorum for a Sub-Committee or Working Party shall be one-half of the membership provided that a quorum shall never be less than two.

6.0 Who Chairs Overview and Scrutiny Committee Meetings?

- (a) Any Overview and Scrutiny Committee will be Chaired by a Councillor in accordance with the Council Procedure Rules.
- (b) Chairmen of Overview and Scrutiny Sub-Committees and working parties will be drawn from among the Councillors sitting on the Sub-Committee or Working Party and subject to this requirement the Sub-Committee or Working Party may appoint such a person as it considers appropriate as Chairman.

7.0 Work Programme

Any Overview and Scrutiny Committee will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.

NB. In order to allow sufficient time to adequately consider the development of the budget framework, the relevant scrutiny panel should normally ensure that any necessary Budget Working Parties are established or other arrangements made by mid-September in each year.

8.0 Agenda Items

- (a) Any member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Democratic Services Manager that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request not later than two weeks prior to the meeting in question identifying the subject matter and briefly stating the reasons why it is suggested it is an appropriate subject for scrutiny the Democratic Services Manager will ensure that it is included on the next available agenda and copy the same as soon as practicable to the Chairman of the Committee for information.
- (b) Any Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within 6 weeks of receiving it.

9.0 Policy Review and Development

- (a) The role of the relevant Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework the relevant Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

- (c) The relevant Overview and Scrutiny Committee may 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. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

10.0 Reports from Overview and Scrutiny Committees

- (a) Once it has formed recommendations on proposals the relevant Overview and Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (eg, if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) The Council or Cabinet shall consider the report of any Overview and Scrutiny Committee within 6 weeks of it being submitted to the proper officer.

11.0 Making Sure that Overview and Scrutiny Reports are Considered by the Cabinet

- (a) Once an Overview and Scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of 6 weeks from the date the report was adopted by the Overview and Scrutiny Committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny report within 6 weeks then the matter will be referred to Council for review, and the proper officer will call a Council meeting to consider the report and make a recommendation to the Cabinet.
- (b) Where an Overview and Scrutiny Committee prepares a report for consideration by the Cabinet in relation to a matter where an individual member of the Cabinet has delegated decision making power, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the proper officer and the Leader (unless it is the Leader who has the delegated decision making power). If the member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and he/she may attend a future meeting to respond.

- (c) Not more than 6 reports in any three-month period may be submitted by any Overview and Scrutiny Committee to the Cabinet.
- (d) Any Overview and Scrutiny Committee will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

12.0 Rights of Overview and Scrutiny Committee Members to Documents

In addition to their rights as Councillors, members of Overview and Scrutiny Committees 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. Nothing in this paragraph prevents more detailed liaison between the Cabinet and any Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

13.0 Members and Officers Giving Account

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

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

- (b) Where any member or officer is required to attend an Overview and Scrutiny Committee or Sub-Committee under this provision, the Chairman will inform the proper officer. The proper officer shall inform the member or officer in writing giving reasonable notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee or Sub-Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Chairman of the Overview and Scrutiny or Sub-Committee shall in consultation with the member or officer arrange an alternative date for attendance.

14.0 Attendance by Others

- (a) An Overview and Scrutiny Committee or Sub-Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.
- (b) Working parties may invite attendance by those mentioned in 13 and 14 (a) above.

15.0 Call-In

- (a) Call-in should only be used in exceptional circumstances, for example, where members of the appropriate Overview and Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).
- (b) When a decision is made by the Cabinet, an individual member of the Cabinet or a Committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or an area Committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. The Chairman of the relevant Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (c) 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 5 working days after the publication of the decision, unless the relevant Overview and Scrutiny Committee objects to it and calls it in.
- (d) During that period, the proper officer shall call-in a decision for scrutiny by the Committee if so requested in writing (including e-mail) specifying the decision in question with a brief statement of reasons for the call-in by the Chairman or any five members of the Committee (who shall not all be from the same political group), and shall then notify the decision-taker in writing of the call-in. He/she shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case within 15 working days of the decision to call-in.
- (e) If, having considered the decision, the 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 within a further 15 working days from the date of the meeting, amending the decision or not, before adopting a final decision.
- (f) If following an objection to the decision, the Committee does not hold a valid meeting in the period set out in (d) above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take

effect on the date of the Overview and Scrutiny meeting, or the expiry of that period, whichever is the earlier.

- (g) If the matter is 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 on the date of the Council Meeting. However, if the Council does object, it has no locus to make decisions in respect of a Cabinet 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. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 15 working days of the Council meeting. Where the decision was made by an individual, the individual will reconsider within 15 working days of the Council meeting.
- (h) If the Council does not meet within 15 working days of the day on which the matter was referred to full Council the decision will become effective on the expiry of that period.
- (i) Where a Cabinet decision has been taken by an area Committee then the right of call-in shall extend to any other area Committee which resolves to refer a decision which has been made but not implemented to a relevant Overview and Scrutiny Committee for consideration in accordance with these provisions. An area Committee may only request the proper officer to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised by members of a relevant Overview and Scrutiny Committee.

Call-in and urgency

- (j) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet 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 interests. 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 Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (k) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

16.0 The Party Whip

When considering any matter in respect of which a member of an Overview and Scrutiny Committee, Sub-Committee or Working Party is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the Committee, Sub-Committee or Working Party's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

17.0 Procedure at Overview and Scrutiny Committee Meetings

- (a) Overview and Scrutiny Committees shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
 - (iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee; and
 - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where any Overview and Scrutiny Committee conducts investigations (eg, with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
 - (i) that the investigation be conducted fairly and all members of the Committee 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 shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public unless involving confidential or exempt information.
- (d) These rules shall apply to Sub-Committees and working parties. Their reports shall be referred to the Committee in the first instance.

18.0 Confidential and Exempt Information

Until reported to any Overview and Scrutiny Committee, the work of any Sub-Committee or Working Party dealt with when the public have been excluded from the meeting shall be treated as being subject to a requirement not to disclose the same in any way to any third party, unless there is a legal requirement to disclose such information. [For the purposes of this rule a "third party" shall not include any Member or officer of the Council nor any person co-opted as a member of a Sub-Committee or Working Party.]

Hearing Procedures for the Standards Committee

Interpretation

1. *'Member'* means the Member of the Authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member's nominated representative.
2. *'Investigator'* means the Ethical Standards Officer (ESO) who referred the report to the Authority, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the investigator mean the Monitoring Officer or other investigating officer, and his or her nominated representative.
3. *'Committee'* also refers to 'a standards sub-committee'.
4. *'Legal advisor'* means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the Authority, or someone appointed for this purpose from outside the Authority.

Representation

5. The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another person.

Legal Advice

6. The Committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the Member and the investigator if they are present.

Setting the Scene

7. After all the Members and everyone involved have been formally introduced, the Chair should explain how the Committee is going to run the hearing.

Preliminary Procedural Issues

8. The Committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

Making Findings of Fact

9. After dealing with any preliminary issues, the Committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the investigator's report.
10. If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.

11. If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The Committee may give the Member an opportunity to challenge any evidence put forward by any witness called by the investigator.
12. The Member should then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.
13. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the Member.
14. If the Member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.
15. If the Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the investigator is not present, the Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:
 - (a) continue with the hearing, relying on the information in the investigator's report;
 - (b) allow the Member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if he or she is not already.
16. The Committee will usually move to another room to consider the representations and evidence in private.
17. On their return, the Chair will announce the Committee's findings of fact.

Did the Member Fail to Follow the Code?

18. The Committee then needs to consider whether or not, based on the facts it has found, the Member has failed to follow the Code of Conduct.
19. The Member should be invited to give relevant reasons why the Committee should not decide that he or she has failed to follow the Code.
20. The Committee should then consider any verbal or written representations from the investigator.
21. The Committee may, at any time, question anyone involved on any point they raise in their representations.
22. The Member should be invited to make any final relevant points.
23. The Committee will then move to another room to consider the representations.
24. On their return, the Chair will announce the Committee's decision as to whether or not the Member has failed to follow the Code of Conduct.

If the Member has not Failed to Follow the Code of Conduct

25. If the Committee decides that the Member has not failed to follow the Code of Conduct, the Committee can move on to consider whether it should make any recommendations to the Authority.

If the Member has Failed to Follow the Code

26. If the Committee decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the Member as to:
- (a) whether or not the Committee should set a penalty; and
 - (b) what form any penalty should take.
27. The Committee may question the investigator and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
28. The Committee will then move to another room to consider whether or not to impose a penalty on the Member and, if so, what the penalty should be.
29. On their return, the Chair will announce the Committee's decision.

Recommendations to the Authority

30. After considering any verbal or written representations from the investigator, the Committee will consider whether or not it should make any recommendations to the Authority, with a view to promoting high standards of conduct among Members.

The Written Decision

31. The Committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare the full written decision in draft on the day of the hearing, before people's memories fade.

NB: This note is not part of the Hearing Procedures. The penalties which the Standards Committee may impose are prescribed by law. Any of the following, or a combination of the following, may be imposed where it is decided a Member has, failed to follow the Code of Conduct:-

- ◆ censure of the Member.
- ◆ restrict the Member's access to the resources of the Council, including the premises of the Council.
- ◆ suspend or partly suspend the Member for up to three months.
- ◆ suspend or partly suspend the Member for up to three months on condition that the suspension or partial suspension will end if the Member apologises in writing, receives any training, or takes part in any conciliation ordered.

Financial Procedure Rules

The Status of the Financial Procedure Rules

1.0 What are Financial Procedure Rules?

1.1 Financial Procedure Rules (the Rules) are a set of regulations which provide the framework for managing the Council's affairs. They identify the financial responsibilities of Full Council, the Cabinet, the Section 151 Officer, Heads of Service and other employees.

2.0 Who do the Rules apply to?

2.1 They apply to every Member and officer of the Council, and anyone acting on the Council's behalf.

3.0 What are the general responsibilities under the Rules?

3.1 Financial management covers all financial accountabilities in relation to the running of the Council including the policy framework and budget. It is not possible to draft regulations or rules that cover every eventuality or circumstance. Consequently, the principles of sound financial management, proper exercise of responsibility, and accountability, as set out in the Rules, should be applied in all circumstances, even where any particular circumstance is not specifically referred to.

3.2 All Members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.

3.3 Cabinet Members and Heads of Service must maintain a written record where decision making has been delegated to others, including any seconded staff. Where decisions have been delegated or devolved to any other person, references to the Head of Service in the Rules should be read as referring to them.

3.4 The Section 151 Officer is responsible for reviewing the Rules and for submitting any additions or changes necessary to Full Council for approval. The Section 151 Officer is also responsible for reporting, where he/she thinks appropriate, breaches of the Rules to the Council and/or to the Cabinet.

3.5 The Section 151 Officer is responsible for issuing procedure notes, advice and guidance to underpin the Rules that Members, officers and others acting on behalf of the Council are required to follow.

3.6 Heads of Service are responsible for ensuring that all staff in their departments are aware of the existence of, and, in consultation with the Section 151 Officer, trained in the use and content of the Rules and other internal regulatory documents and that they are complied with at all times. They must also ensure that an adequate number of copies are available for reference within their departments.

3.7 If a Member or officer is unclear about any aspect of these rules they should seek advice before acting. Normally they should seek guidance from their line manager, but are also free to approach their Head of Service, Section 151 Officer, Head of Resources or the Financial Services Manager direct.

3.8 The Rules also place specific responsibilities on :

- Line Managers, for the day to day financial operation of their section;
 - The Resources service, for promoting high financial standards;
 - Heads of Service, for monitoring the overall financial state of their business group and advising the appropriate Cabinet Member on proposals that have a financial impact.
- 3.9 All Members and officers have a duty to act if they believe there is a possibility of fraud, corruption or poor value for money taking place or if the Rules are being broken. In such cases they must inform their line manager (unless that person is suspected of being involved) and the Monitoring Officer and the Section 151 Officer.
- 4.0 What happens if the Rules are broken?**
- 4.1. The Section 151 Officer's approach is that all Members and officers must exhibit the highest standards of probity when they deal with the Council's finances. These Rules present the processes that should be followed, and individuals are expected to exercise their common sense and judgement, particularly in any unusual or urgent situation. Breaches may however be serious enough to warrant disciplinary action.
- 4.2. Heads of Service must report any breaches to the Section 151 Officer.
- 4.3. The Section 151 Officer has a responsibility to report breaches of the Rules where he/she thinks appropriate to the Council or the Cabinet.
- 5.0 What happens in an emergency situation?**
- 5.1. On rare occasions, officers are faced with an emergency and may need to act swiftly. It is recognised that in these circumstances officers need to use their best judgement, balancing the need of the service, severity of the emergency and the financial consequences of their actions. Detailed notes of actions taken must be kept and wherever possible officers should seek clearance from their Head of Service or the Section 151 Officer before proceeding.
- 5.2. Officers must seek retrospective approval for their actions. They must contact their Head of Service who will be responsible for co-ordinating such information, and report the matter to the Section 151 Officer.
-

Regulation A: Financial Management

Introduction

- A.1 Financial Management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.

Full Council

- A.2 Full Council is responsible for adopting the Council's Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in the Constitution. Full Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.

- A.3 Full Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its committees, details of which are set out in the Constitution.

The Cabinet

- A.4 The Cabinet is responsible for proposing the policy framework and budget to Full Council, and for discharging Cabinet functions in accordance with the policy framework and the budget.
- A.5 Cabinet decisions can be delegated to a committee of the Cabinet, an individual Cabinet Member, an officer or a joint committee.
- A.6 The Cabinet is responsible for establishing protocols to ensure that individual Cabinet Members consult with relevant officers before taking a decision within his/her delegated authority. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

Committees of the Council

Overview and Scrutiny Committees (see Article 6 of Constitution)

- A.7 The Overview and Scrutiny Committees are responsible for scrutinising executive (both Member and officer) decisions before or after they have been implemented and for holding the Cabinet to account. These committees are also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.
- A.8. The Finance, Best Value and Performance Review Panel is responsible for scrutinising the Budget and financial management arrangements of the Council.

Standards Committee (see Article 9 of Constitution)

- A.9 The Standards Committee is established by Full Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members' Code of Conduct and for monitoring the operation of the Code.

Regulatory and other Committees (see Article 8 of the Constitution)

- A.10 The Governance and Audit Committee is a sub Committee of Full Council and is responsible for:
- Receiving and approving the annual Internal Audit Plan.
 - Receiving regular reports on progress against the Plan.
 - Receiving reports on “unsatisfactory” audits.
 - Approving the Council’s Financial Statements.

The Statutory Officers

The Head of Paid Service (Chief Executive)

- A.11 The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. He/she must report to and provide

information for the Cabinet, Full Council, the Overview and Scrutiny committees and the other committees. He/she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all Council's decisions.

The Monitoring Officer

- A.12 The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to Full Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.
- A.13 The Monitoring Officer must ensure that executive decisions and the reasons for them are made public. He/she must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by officers under delegated authority.
- A.14 The Monitoring Officer is responsible for advising all Councillors and officers about who has the authority to make a particular decision. Should a situation arise whereby the Section 151 Officer is not a member of the Corporate Management Team, then an appropriate protocol will be submitted for approval by Council to facilitate access to this group to allow him/her to fulfil his/her statutory duties.
- A.15 The Monitoring Officer is responsible for advising the Cabinet or Full Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the policy framework.
- A.16 The Monitoring Officer is responsible for advising the Cabinet or Full Council about whether a decision is likely to be considered contrary to, or not wholly in accordance with the budget. Actions that may be "contrary to the budget" include:
- Initiating a new policy.
 - Committing expenditure in both the current and future years to above the budget level.
 - **Incurring transfers above the virement limits.**
- A.17 The Monitoring Officer is responsible for maintaining an up-to-date constitution.

The Section 151 Officer

- A.18 The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Council. This **statutory responsibility cannot be overridden**. The statutory duties arise from:
- Section 151 of the Local Government Act 1972
 - The Local Government Finance Act 1988
 - The Local Government and Housing Act 1989
 - The Local Government Act 2003

- The Accounts and Audit Regulations 2003
- The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003

A.19 The Section 151 Officer is responsible for:

- The proper administration of the Council's financial affairs
- Setting and monitoring compliance with financial management standards
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- Providing financial information
- Preparing the revenue budget and capital programme.

A.20 Section 114 of the Local Government Finance Act 1988 requires the Section 151 Officer to report to Full Council, Cabinet and the Council's external auditor if the Council or one of its officers:

- Has made, or is about to make, a decision which involves incurring unlawful expenditure
- Has taken, or is about to take, an unlawful action which has resulted, or would result in a loss or deficiency to the Council
- Is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- The Section 151 Officer to nominate a properly qualified member of staff to deputise should he/she be unable to perform the duties under Section 114 personally
- The Council to provide the Section 151 Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114. Should a situation arise whereby the Section 151 Officer is not a member of the Corporate Management Team, then an appropriate protocol will be submitted for approval by Council to facilitate access to this group to allow him/her to fulfil his/her statutory duties.

Heads of Service

A.21 Heads of Service are responsible for:

- Ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Section 151 Officer
- Signing contracts on behalf of the Council.
- Controlling and monitoring income and expenditure within the approved budget.

- A.22 It is the responsibility of Heads of Service to consult with the Corporate Director (Resources) and seek approval on any matter liable to affect the Council's finances materially, before any commitments are made.

Other Financial Accountabilities

Virement

- A.23 Full Council is responsible for agreeing procedures for virement of expenditure between budget heads. The approved scheme is:

Budget Holders can (subject to the conditions outlined in the Budget Holders Handbook) vire up to £10,000 within a budget heading.

Heads of Service can (subject to the conditions outlined in the Budget Holders Handbook) vire funds within a budget heading without the requirement to seek Cabinet approval. Where the virement transfers money between different services under their control, there is a limit of £20,000.

Section 151 Officer in consultation with the Corporate Management Team can (subject to the conditions outlined in the Budget Holders Handbook) authorise any transfer between budget headings of between £20,000 and £50,000.

Cabinet approval should be sought for all virements between budget headings which are in excess of £50,000.

For the purposes of this, a budget heading is a line in the estimates, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA in its Service expenditure Analysis. For capital schemes, the budget headings are considered to be the scheme budgets.

Virements will only be permitted where the expenditure is in accordance with the Budget and Policy Framework agreed by Full Council, unless Full Council agrees the virement. There can be no virements between the General Fund and the Housing Revenue Account or from reserves, building maintenance budgets or central recharges.

Treatment of year-end balances on budgets

- A.24 The Section 151 Officer is responsible for agreeing any procedures for carrying forward under and overspendings on budget heads.

Accounting Policies

- A.25 The Section 151 Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

Accounting Records and Returns

- A.26 The Section 151 Officer is responsible for determining the accounting procedures and records for the Council

The Annual Statement of Accounts

- A.27 The Section 151 Officer is responsible for ensuring that the annual Statement of Accounts is prepared in accordance with *the 'Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice'*

(CIPFA/LASAAC) and the 'Best Value Accounting Code of Practice' (BVACOP), which constitute proper practices as set out in the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

- A.28 The Governance and Audit Committee, a sub-committee of Full Council, is responsible for approving the annual Statement of Accounts.

Procedure Note

- A.29 A Procedure Note in relation to Regulation A is attached as Appendix A and forms part of the Rules.
-

Regulation B: Financial Planning

Introduction

- B.1 Full Council is responsible for agreeing the Council's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- The Community Plan.
 - The Corporate Plan.
 - The Medium Term Financial Strategy and Capital Investment Strategy.
 - The General Fund and Housing Revenue Account (HRA) Budget and the Capital Programme.

Policy Framework

- B.2 Full Council is responsible for approving the policy framework and budget. The policy framework comprises those plans and strategies set out in Article 4 of the Constitution.
- B.3 Full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.
- B.4 Full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

Preparation of the Community and Corporate Plans

- B.5 The Head of the Paid Service is responsible for proposing the Community Plan and Corporate Plan to the Cabinet for consideration before its submission to Full Council for approval.

Preparation of the Best Value Performance Plan (BVPP)

- B.6 The Head of Improvement and Performance is responsible for proposing the BVPP to the Cabinet for consideration before its submission to Full Council for approval.

Budgeting

Budget Format

- B.7 The general format of the budget will be approved by Full Council and proposed by the Cabinet on the advice of the Section 151 Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

Budget Preparation

- B.8 The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a general revenue plan on a three-yearly basis for consideration by the Cabinet, before submission to Full Council. Full Council may amend the budget or ask the Cabinet to reconsider it before approving it. The Section 151 Officer also has a responsibility under Section 25 of the Local Government Act 2003 to comment on:

- The robustness of the annual estimates submitted to Council for approval, and
- The adequacy of the proposed financial reserves.

- B.9 The Section 151 Officer is responsible for issuing guidance on the general content of the budget as soon as possible following approval by Full Council.

- B.10 It is the responsibility of Extended Corporate Management Team to ensure that the budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.

Budget Monitoring and Control

- B.11 The Section 151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He/she must arrange for expenditure and income to be controlled and monitored against budget allocations and report to the Cabinet on such regular basis as it may determine.

- B.12 It is the responsibility of Heads of Service to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Section 151 Officer. They must report on variances within their own areas. They must also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer of any problems, or potential problems, at the earliest opportunity

Resource Allocation

- B.13 The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of Full Council's policy framework.

Preparation of the Capital Programme

- B.14 The Section 151 Officer is responsible for ensuring that a rolling 5 year Capital Programme is prepared on an annual basis for consideration by the Cabinet before submission to Full Council. Full Council may amend the Capital Programme or ask the Cabinet to reconsider it before approving it.

Budget guidelines

- B.15 Guidelines on budget preparation are issued to Members and Heads of Service by the Cabinet following agreement with the Section 151 Officer. The guidelines will take account of:
- Legal requirements
 - Medium-term planning prospects
 - The Corporate Plan
 - Available resources
 - Spending pressures
 - Best value and other relevant Government guidelines
 - Other internal policy documents
 - Relevant cross-cutting issues.

Maintenance of Reserves

- B.16 It is the responsibility of the Section 151 Officer to advise Full Council on prudent levels of reserves for the Council in accordance with Section 25 of the Local Government Act 2003.

Procedure Note

- B.17 A procedure note in relation to Regulation B is attached as Appendix B and forms part of the Rules.
-

Regulation C: Risk Management and Control of Resources

Introduction

- C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- C.2 Regulation 4 of the Accounts and Audit Regulations 2003 requires the Council to be responsible for ensuring that its financial management is adequate and that it has a sound system of internal control which facilitates the effective exercise of its functions including arrangements for the management of risk.

Risk Management

- C.3 The Cabinet is responsible for approving the Council's Risk Management Policy and Strategy, reviewing it on an annual basis and for reviewing the effectiveness of risk management. The Cabinet is also responsible for designating a Member to act as a 'risk management champion' to support the integration of risk management into the culture of the Council.

- C.4 The Cabinet is also responsible for ensuring that proper insurance exists, where appropriate, to mitigate any risks identified.
- C.5 The Section 151 Officer is responsible for preparing the Council's risk management policy statement, for promoting it throughout the Council and for advising the Cabinet on proper insurance cover where appropriate.

Internal Control

- C.6 Internal Control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C.7 The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C.8 It is the responsibility of Heads of Service to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

Audit Requirements

- C.9 The Accounts and Audit Regulations 2003 require every local authority to maintain an adequate and effective internal audit.
- C.10 The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- C.11 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise, the Inland Revenue and Government offices or personnel working on their behalf, who have statutory rights of access.

Preventing Fraud and Corruption

- C.12 The Section 151 Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

Assets

- C.13 Heads of Service must ensure that records and assets are properly maintained and securely held. They must also ensure that contingency plans for the security of assets and continuity of service in the event of a disaster or system failure are in place.

Treasury Management

- C.14 The Council has adopted CIPFA's '*Code of Practice for Treasury Management in Local Authorities*' (the Code).

- C.15 Full Council is responsible for approving the Treasury Management Policy Statement, recommended by Cabinet, setting out the matters detailed in paragraph 15 of the Code. The Section 151 Officer has delegated responsibility for implementing and monitoring the Statement.
- C.16 All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972.
- C.17 All executive decisions on borrowing, investment or financing shall be delegated to the Section 151 Officer, who is required to act in accordance with the Code.
- C.18 The Section 151 Officer is responsible for submitting a report to the Cabinet on the proposed treasury management strategy for the coming financial year at, or before, the start of each financial year and, at least once in each financial year, on the activities of the treasury management operation and the exercise of his/her delegated treasury management powers.

Staffing

- C.19 Full Council is responsible for determining how officer support for executive and non-executive roles within the Council will be organised.
- C.20 The Chief Executive as Head of Paid Service is responsible for providing overall management to staff, and for ensuring compliance with the Council's employment policies.
- C.21 Heads of Service are responsible for controlling total staff numbers by:
- Advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
 - Adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
 - The proper use of appointment procedures.

Procedure Note

- C.22 A Procedure Note in relation to Regulation C is attached as Appendix C and forms part of the Rules.
-

Regulation D: Systems and Procedures

Introduction

- D.1 Sound systems and procedures are essential to an effective framework of accountability and control.

General

- D.2 The Section 151 Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Heads of Service to the existing financial systems or the establishment of new systems must be approved in advance by the Section 151 Officer. Heads of

Service however are responsible for the proper operation of financial processes in their individual departments.

- D.3 Any changes to agreed procedures by Heads of Service to meet their own specific service needs must be agreed in advance with the Section 151 Officer.
- D.4 Heads of Service must ensure that their staff receive relevant financial training that has been approved by the Section 151 Officer.
- D.5 Heads of Service must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Heads of Service must also ensure that their staff are aware of their responsibilities under Data Protection and Freedom of Information legislation.

Income and Expenditure

- D.6 It is the responsibility of Heads of Service to ensure that a proper scheme of delegation has been established within their department and that it is operating effectively. The scheme of delegation must identify staff authorised to act on the Head of Service's behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority.

The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

Payments to Employees and Members

- D.7 The Section 151 Officer is responsible for making all payments of salaries, wages and allowances to all staff, and for making payments of allowances to Members.

Taxation

- D.8 The Section 151 Officer is responsible for advising Heads of Service, in the light of guidance issued by appropriate bodies and relevant legislation, on all taxation issues that affect the Council.
- D.9 The Section 151 Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving any tax credits and submitting tax returns by their due date.

Trading Accounts/Business Units

- D.10 It is the responsibility of the Section 151 Officer to advise on the establishment and operation of any trading accounts and business units within the Council.

Procedure Note

- D.11 A Procedure Note in relation to Regulation D is attached as Appendix D and forms part of the Rules.
-

Regulation E: External Arrangements

Introduction

- E.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of the area.

Partnerships

- E.2 The Cabinet is responsible for approving delegations, including frameworks for partnerships, which the Council is involved in. The Cabinet is the focus for forming partnerships with other public, private, voluntary and community sector organisations to address local needs.
- E.3 The Cabinet can delegate functions – including those relating to partnerships – to officers. Those that exist are set out in the Scheme of Delegation within Part 3 of the Council's Constitution. Where functions are delegated, the Cabinet remains accountable for them to Full Council.
- E.4 Representation of the Council on partnerships and external bodies will be decided in accordance with the Scheme of Delegation.
- E.5 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- E.6 The Section 151 Officer must ensure that the accounting arrangements to be adopted in relation to partnerships and joint ventures are satisfactory. The Chief Executive in consultation with the Section 151 Officer must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. The Section 151 Officer in consultation with the relevant Head of Service must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- E.7 Heads of Service are responsible for ensuring that the Section 151 Officer is consulted on the progress of negotiations and that the appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

External Funding

- E.8 The Cabinet is responsible for approving all applications for external funding unless otherwise provided for within the Council's external funding strategy.
- E.9 The Section 151 Officer is responsible for the preparation of an external funding protocol which shall be submitted to the Cabinet for approval.
- E.10 The Section 151 Officer has overall responsibility for external funding and is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- E.11 The Section 151 Officer also has overall responsibility for ensuring that appropriate records and supporting documentation in relation to any output measures are kept to enable him/her to submit funding claim forms at the relevant times.

Work for Third Parties

- E.12 The Cabinet is responsible for approving the contractual arrangements for any work undertaken for third parties or external bodies unless this is delegated to officers in accordance with the Scheme of Delegation.

Procedure Note

- E.13 A Procedure Note in relation to Regulation E is attached at Appendix E and forms part of the Rules.

Appendix A: Financial Procedure Note – Financial Management

1.0 Financial Management Standards

1.1 General

All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

1.2 Responsibilities of Section 151 Officer:

- To ensure the proper administration of the Council's financial affairs.
- To set the financial management standards and to monitor compliance with them.
- To ensure that proper professional practices are adhered to and to act as the head of profession in relation to the standards, performance and development of finance staff throughout the Council.
- To advise on the key strategic controls necessary to secure sound financial management.
- To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local performance indicators.
- To advise upon financial considerations before any agreement is entered into on behalf of the Council.

1.3 Responsibilities of Heads of Service:

- To promote the financial management standards set by the Section 151 Officer in their services and to monitor adherence to the standards and practices, liaising as necessary with the Section 151 Officer.
- To promote sound financial practices in relation to the standards, performance and development of staff in their departments.
- To submit monthly forecasts in line with the Council's budget monitoring arrangements.
- To ensure budgetary provision exists for all expenditure incurred.
- To seek advice upon financial considerations before any agreement is entered into on behalf of the Council.

2.0 Managing Expenditure

2.1 Scheme of virement

Virement is the switching of resources between approved estimates or heads of expenditure. The scheme is intended to enable the Cabinet, Heads of Service and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by Full Council, and therefore to optimise the use of

resources. For the purposes of the scheme a budget head is considered to be a line in the approved estimates, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis.

2.1.2 Responsibilities of Section 151 Officer:

- To administer the scheme of virement within the guidelines set by Full Council.
- To notify Heads of Service of changes to the scheme of virement.

2.1.3 Responsibilities of Heads of Service:

- Heads of Service are expected to exercise their discretion in managing their budgets responsibly and prudently. For example they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full year effects of decisions made part way through a year, for which they have not identified future resources. Heads of Service must plan to fund such commitments from within their own budgets.
- A Head of Service may exercise virement on budgets under his/her control for amounts up to a limit that is notified to them from time to time by the Section 151 Officer.

2.2 Treatment of year-end balances

The rules below cover arrangements for the transfer of resources between accounting years, i.e. a carry forward. For the purposes of this a budget heading is a line in the estimates, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA in its Service expenditure Analysis.

2.2.1 Responsibilities of Section 151 Officer:

- To administer any scheme of carry forward.

2.2.2 Responsibilities of Heads of Service:

- To notify the Section 151 Officer of any actual or potential over or underspendings on their service estimates immediately they become evident.

3.0 Accounting Policies

3.1 General

The Section 151 Officer is responsible for the preparation of the Council's Statement of Accounts in accordance with proper practices as set out in the '*Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice*' and the '*Best Value Accounting Code of Practice*' for each financial year ending 31 March.

3.2 Responsibilities of Section 151 Officer:

- To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the Statement of Accounts, which is prepared at 31 March each year.

3.3 Responsibilities of Heads of Service:

- To adhere to the accounting policies and guidelines approved by the Section 151 Officer.

4.0 Accounting Records and Returns

4.1 General

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

4.2 Responsibilities of Section 151 Officer:

- To determine the accounting procedures and records for the Council.
- To arrange for the compilation of all accounts and accounting records under his/her direction.
- To comply with the following principles when allocating accounting duties (these are known as "separation of duties"):
 - (a) Separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting and disbursing them;
 - (b) Employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit Regulations 2003.
- To ensure that all claims for funds, including grants are made by the due date.
- To prepare the accounts, have them approved by Full Council and publish the audited accounts in accordance with statutory timetables.
- To administer the Council's arrangements for under- and overspendings.
- To ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention schedule.

4.3 Responsibilities of Heads of Service:

- To consult and obtain the approval of the Section 151 Officer before making any changes to accounting records and procedures.
- To comply with the principles of "separation of duties" as set out in 4.2.
- To maintain adequate records to provide a clear audit trail leading from the source of income or expenditure through to the accounting statements.

- To supply information required to enable the statement of accounts to be completed in accordance with any guidelines issued by the Section 151 Officer.

5.0 The Annual Statement of Accounts

5.1 General

The Council has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Governance and Audit Committee is responsible for approving the accounts as a sub-committee of Full Council.

5.2 Responsibilities of Section 151 Officer:

- To select suitable accounting policies and to apply them consistently.
- To make judgements and estimates that are reasonable and prudent.
- To comply with the SORP and the BVACOP.
- To sign and date the statement of accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March.
- To draw up a timetable each year for the preparation of the accounts and advise staff and external auditors accordingly.

5.3 Responsibilities of Heads of Service:

- To comply with accounting guidance provided by the Section 151 Officer and to supply him/her with information when required.

Appendix B: Financial Procedure Note- Financial Planning

1.0 Performance Plans

1.1 General

Each local authority has a statutory responsibility to publish various performance plans, including best value performance plans, crime reduction strategies, community strategies, etc. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. The Council is required to publish annually the best value performance plan (BVPP), which summarises its performance and position in relation to best value. The BVPP is a key element in the Council's programme of engaging with the public. External audit is required to report on whether the Council has complied with statutory requirements in respect of the preparation and publication of the BVPP.

1.2 Responsibilities of the Section 151 Officer:

- To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- To contribute to the development of corporate and service targets and objectives and performance information.

1.3 Responsibilities of the Head of Improvement and Performance:

- To produce and publish the Best Value Performance Plan which summarises its performance and position in relation to best value.

1.4 Responsibilities of Heads of Service:

- To contribute to the development of performance plans in line with statutory requirements.
- To contribute to the development of corporate and service targets and objectives and performance information.
- To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
- To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

2.0 Budgeting

2.1 Format of the budget

The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

2.2 Responsibilities of the Section 151 Officer:

- To advise the Cabinet on the format of the budget that is approved by Full Council.

2.3 Responsibilities of Heads of Service:

- To comply with accounting guidance provided by the Section 151 Officer.

3.0 Revenue Budget Preparation, Monitoring and Control**3.1 General**

Budget management ensures that once the budget has been approved by Full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget (budget holders).

By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre.

3.2 Responsibilities of the Section 151 Officer:

- To establish an appropriate framework of budgetary management and control that ensures that:
 - (a) budget management is exercised within annual cash limit unless Full Council agrees otherwise;
 - (b) each Head of Service has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
 - (c) expenditure is committed only against an approved budget head;
 - (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations;
 - (e) each cost centre has a single named manager, determined by the relevant Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure;
 - (f) significant variances from approved budgets are investigated and reported to Members by budget managers regularly.
- To administer the Council's scheme of virement.

- To submit reports to the Cabinet and to Full Council, in consultation with the relevant Head of Service, where a Head of Service is unable to balance expenditure and resources within existing approved budgets under his or her control.
- To prepare and submit reports on the Council's projected income and expenditure compared with the budget on a regular basis.

3.3 Responsibilities of Heads of Service:

- To maintain budgetary control within their departments, in accordance with the Financial Procedure Rules, and to ensure that all income and expenditure are properly recorded and accounted for.
- To ensure that an accountable budget holder is identified for each item of income and expenditure under the control of the Head of Service (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- To prepare and submit to the Cabinet reports on the service's projected expenditure compared with its budget, in consultation with the portfolio-holder.
- To ensure prior approval by Full Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
 - (a) create financial commitments in future years
 - (b) change existing policies, initiate new policies or cease existing policies
 - (c) materially extend or reduce the Council's services.
- To ensure compliance with the scheme of virement.
- To agree with the relevant Head of Service where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Head of Service's level of service activity.

4.0 Budgets and Medium-Term Planning

4.1 General

The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.

A report on new proposals should explain the full financial implications, following consultation with the Section 151 Officer. The Cabinet will decide whether additional

revenue funding is made available for any new proposal, subject to Full Council approval or from within virement rules.

The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of Full Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for a local authority to budget for a deficit.

Medium-term planning (5 year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Council is always preparing for events in advance.

4.2 Responsibilities of the Section 151 Officer:

- To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by Full Council, and after consultation with the Cabinet and Heads of Service.
- To prepare and submit reports to the Cabinet on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- To advise on the medium-term implications of spending decisions.
- To encourage the best use of resources and value for money by working with Heads of Service to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- To advise Full Council on Cabinet proposals in accordance with his/her responsibilities under section 151 of the Local Government Act 1972.
- To prepare and maintain a Medium-Term Financial Strategy.
- To undertake the responsibilities contained in Section 25 of the Local Government Act 2003 regarding:
 - (a) the robustness of the annual estimates submitted to Council for approval, and
 - (b) the adequacy of the proposed financial reserves.

4.3 Responsibilities of Heads of Service:

- To prepare estimates of income and expenditure, in consultation with the Section 151 Officer, to be submitted to the Cabinet.
- To prepare budgets that are consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Cabinet. The

format should be prescribed by the Section 151 Officer in accordance with Full Council's general directions.

- To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- In consultation with the Section 151 Officer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the Cabinet.
- When drawing up draft budget requirements, to have regard to:
 - (a) spending patterns and pressures revealed through the budget monitoring process
 - (b) legal requirements
 - (c) policy requirements as defined by Full Council in the approved policy framework
 - (d) initiatives already under way.

5.0 Resource Allocation

5.1 General

A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

5.2 Responsibilities of the Section 151 Officer:

- To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- To assist in the allocation of resources to budget managers.

5.3. Responsibilities of Heads of Service

- To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

6.0 Capital Programmes

6.1 General

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

The Government places strict controls on the financing capacity of a local authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

6.2 Responsibilities of the Section 151 Officer:

- To prepare 5-year rolling capital estimates jointly with Heads of Service and the Head of Paid Service and to report them to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to Full Council.
- To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.
- To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques and the Capital Protocol. The definition of 'capital' will be determined by the Section 151 Officer, having regard to government regulations and accounting requirements.
- To obtain authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than a specified amount.
- To calculate prudential indicators to be used in connection with the Capital Programme.

6.3 Responsibilities of Heads of Service:

- To comply with guidance for example the Capital Protocol concerning capital schemes and controls issued by the Section 151 Officer.
- To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Section 151 Officer.
- To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the Section 151 Officer .
- To ensure that adequate records are maintained for all capital contracts.
- To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Section 151 Officer, where required.
- To prepare and submit reports, jointly with the Section 151 Officer, to the Cabinet, of any variation in contract costs greater than the approved limits.
- To prepare and submit reports, jointly with the Section 151 Officer, to the Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the specified amount.
- To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the and, if applicable, approval of the scheme through the capital programme.

- To consult with the Section 151 Officer and to seek Cabinet and where appropriate Full Council approval where the Head of Service proposes to bid for supplementary credit approvals to be issued by government departments to support expenditure that has not been included in the current year's capital programme.

7.0 Maintenance of Reserves

7.1 General

The Council must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

7.2 Responsibilities of the Section 151 Officer:

- To advise the Cabinet and/or Full Council on prudent levels of reserves for the Council, and to take account of the advice of the external auditor in this matter.
- To comment on the adequacy of the proposed financial reserves in accordance with Section 25 of the Local Government Act 2003.

7.3 Responsibilities of Heads of Service:

- To ensure that resources are used only for the purposes for which they were intended
- To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local performance indicators.

Appendix C: Financial Procedure Note: Risk Management and Control of Resources

1.0 Risk Management

1.1 General

All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

It is the overall responsibility of the Cabinet to approve the Council's Risk Management Policy and Strategy, review it on an annual basis and to promote a culture of risk management awareness throughout the Council. The Cabinet is also responsible for designating a Member to act as a 'risk management champion' to support the integration of risk management into the culture of the Council.

1.2 Responsibilities of the Section 151 Officer:

- To prepare and promote the Council's risk management policy statement.
- To chair any officer working group which has responsibility for risk management.
- To develop risk management controls, including the maintenance of appropriate risk registers, in conjunction with other Heads of Service.
- In conjunction with Heads of Service, to ensure that all staff are given training and guidance as to how to manage risks in their areas of work.
- To include all appropriate employees of the Council in a suitable fidelity guarantee insurance.
- To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

1.3 Responsibilities of Heads of Service:

- To ensure that risk is managed effectively in each service area under their control.
- To notify the Section 151 Officer immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Council's insurers.
- To take responsibility for risk management, having regard to advice from the Section 151 Officer and other specialist officers (eg crime prevention, fire prevention, health and safety).

- To ensure that there are regular reviews of risk within their departments, and that all their staff are given training and guidance as to how to manage risk in their areas of work.
- To maintain operational risk registers for all service areas under their control.
- To notify the Corporate Governance Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- To consult the Section 151 Officer and the Legal Services Manager on the terms of any indemnity that the Council is requested to give.
- To ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

2.0 Internal Controls

2.1. General

The Council is a complex organisation which requires internal controls to manage and monitor progress towards strategic objectives. The Council has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations. The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

The system of internal controls is established in order to provide measurable achievement of:

- efficient and effective operations
- reliable financial information and reporting
- compliance with laws and regulations
- risk management.

2.2 Responsibilities of the Section 151 Officer:

- To assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

2.3 Responsibilities of Heads of Service:

- To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- To review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Section 151

Officer. This includes formally removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.

- To ensure staff have a clear understanding of the consequences of lack of control.

3.0 Audit Requirements

3.1 Internal audit

The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 1996 (SI 1996/590), regulation 5, more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems”.

Regulation 4 of the Accounts and Audit Regulations 2003 states that “the relevant body shall be responsible for ensuring that the financial management of the body is adequate and that the body has a sound system of internal control which facilitates the effective exercise of that body’s functions and which includes arrangements for the management of risk.”

Accordingly, internal audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources. In Thanet the internal audit function is currently provided under a partnership agreement with Dover and Shepway District Councils.

3.2 Responsibilities of the Section 151 Officer:

- To ensure that internal auditors have the authority to:
 - (a) access the Council’s premises at reasonable times
 - (b) access all assets, records, documents, correspondence and control systems
 - (c) receive any information and explanation considered necessary concerning any matter under consideration
 - (d) require any employee of the Council to account for cash, stores or any other Council asset under his or her control
 - (e) access records belonging to third parties, such as contractors, when required
 - (f) directly access the Head of Paid Service, the Cabinet and any committee which has responsibility for audit.
- To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

3.3 Responsibilities of Heads of Service:

- To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- To consider and respond promptly to recommendations in audit reports.
- To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- To notify the Section 151 Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Head of Service should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Section 151 Officer prior to implementation.

4.0 External Audit

4.1 General

The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.

The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in March 2000 sets out the auditor's objectives to review and report upon:

- the financial aspects of the audited body's corporate governance arrangements
- the audited body's financial statements
- aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the BVPP.

The Council's accounts are scrutinised by external auditors, who must be satisfied that the Statement of Accounts 'presents fairly' the financial position of the Council and its income and expenditure for the year in question and complies with the legal requirements.

4.2 Responsibilities of the Section 151 Officer:

- To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- To ensure there is effective liaison between external and internal audit.
- To work with the external auditor and advise Full Council, Cabinet and Heads of Service on their responsibilities in relation to external audit.

4.3 Responsibilities of Heads of Service:

- To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- To ensure that all records and systems are up to date and available for inspection.

5.0 Preventing Fraud and Corruption

5.1 General

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council. The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and will take reasonable actions to prevent fraud and corruption.

5.2 Responsibilities of the Section 151 Officer:

- To develop and maintain an anti-fraud and anti-corruption policy.
- To maintain adequate and effective internal control arrangements.
- To ensure that all confirmed irregularities are reported to the Head of Paid Service, the Cabinet and any committee with responsibility for audit.

5.3 Responsibilities of Heads of Service:

- To ensure that all suspected irregularities are reported to the Section 151 Officer.
- To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- To ensure that where financial impropriety is discovered, the Section 151 Officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.

- To maintain a departmental register of interests, gifts and hospitality.

6.0 Assets

6.1 Security

The Council holds assets in the form of land and property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

6.2 Responsibilities of the Section 151 Officer:

- To ensure that an asset register is maintained in accordance with the SORP and other good practice for all fixed assets. The function of the asset register is to provide the Council with information about fixed assets so that they are:
 - (a) safeguarded
 - (b) used efficiently and effectively
 - (c) adequately maintained.
- To receive the information required for accounting, costing and financial records from each Head of Service.
- To ensure that assets are valued in accordance with the "Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice"(CIPFA/LASAAC).

6.3 Responsibilities of Heads of Service:

- The Head of Development Services shall maintain a property database in a form approved by the Section 151 Officer for all properties, plant and machinery and moveable assets currently owned or used by the Council. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- The Head of Development Services must arrange for this database to be physically checked on an annual basis to ensure that the records are up to date.
- To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Head of Development Services in consultation with the Section 151 Officer, has been established as appropriate.
- To ensure the proper security of all buildings and other assets under their control.
- Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a report by the Head of Service, incorporating the Section 151 Officer's comments.

- To pass title deeds to the appropriate Head of Service who is responsible for custody of all title deeds.
- To ensure that no Council asset is subject to personal use by an employee without proper authority.
- To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- To ensure that the department maintains a register of moveable assets in accordance with arrangements defined by the Section 151 Officer.
- To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- To consult the Section 151 Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- To ensure cash holdings on premises are kept to a minimum.
- To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Section 151 Officer as soon as possible.
- Assets should normally be disposed of by competitive tender or public auction, unless the agreement of the Section 151 Officer is obtained.
- To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer .
- To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.
- To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £5,000 in value.
- To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.
- To make sure that property is only used in the course of the Council's business, unless the Head of Development Services has given permission otherwise.
- To make arrangements for the care and custody of stocks and stores in the department.
- To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

- To investigate and remove from the Council's records (ie write off) discrepancies as necessary, or to obtain Cabinet approval if they are in excess of £5,000.

7.0 Intangible Assets

7.1 General

Intangible assets is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various Acts of Parliament cover different types of intellectual property.

Certain activities undertaken within the Council may give rise to items that may be patentable, for example, software development. These items are collectively known as intangible assets.

7.2 Responsibilities of the Section 151 Officer:

- To develop and disseminate good practice through the Council's intellectual property procedures.

7.3 Responsibilities of Heads of Service:

- To ensure that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware of an employer's rights with regard to intellectual property.

8.0 Asset Disposal

8.1 General

It would be uneconomic and inefficient for the cost of holding assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the Council.

8.2 Responsibilities of the Section 151 Officer:

- To issue guidance from time to time on the practice for the disposal of assets.
- To ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.

8.3 Responsibilities of Heads of Service:

- To seek advice when appropriate from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.
- To ensure that income received for the disposal of an asset is properly banked and accounted for.
- To advise the Corporate Governance Officer so that the disposed asset can be deleted from the insurance schedule.

9.0 Treasury Management

9.1 General

Many millions of pounds pass through the Council's books each year. To ensure proper control the Codes of Practice aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's money. The Council has adopted the CIPFA "Code of Practice on Treasury Management".

9.2 Responsibilities of Section 151 Officer – Treasury Management and Banking:

- To arrange the borrowing and investments of the Council in such a manner as to comply with the CIPFA "Code of Practice on Treasury Management" and the Council's Treasury Management policy statement and strategy, CIPFA's Standard of Professional Practice on Treasury Management and the Council's agreed Treasury Management practices.
- To report to the Cabinet annually regarding:
 - (a) The treasury management performance in the previous year, and
 - (b) The Treasury Management Policy Statement for the forthcoming year.
- To report at least once a year on treasury management activities to the Cabinet.
- To open, operate and close such bank accounts as are considered necessary.

9.3 Responsibilities of Heads of Service – Treasury Management and Banking:

- To follow the instructions on banking issued by the Section 151 Officer .

9.4 Responsibilities of Section 151 Officer – Investments and Borrowing:

- To ensure that all investments of money are made in the name of the Council or in the name of nominees approved by Full Council.
- To ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate Head of Service.
- To effect all borrowings in the name of the Council.
- To act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.

9.5 Responsibilities of Heads of Service – Investments and Borrowing:

- To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of Full Council, following consultation with the Section 151 Officer .

9.6 Responsibilities of Heads of Service – Trust Funds and Funds Held for Third Parties:

- To arrange for all Trust Funds to be held, wherever possible, in the name of the Council. All officers acting as trustees by virtue of their official position shall

deposit securities, etc relating to the trust with the Section 151 Officer unless the deed otherwise provides.

- To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Section 151 Officer , and to maintain written records of all transactions.
- To ensure that Trust Funds are operated within any relevant legislation and the specific requirements for each trust.

9.7 Responsibilities of the Section 151 Officer – Imprest Accounts:

- To provide employees of the Council with cash or bank imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. Expenditure should not exceed the prescribed amount.
- To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- To reimburse imprest holders as often as necessary to restore the imprests, but normally less than monthly.

9.8 Responsibilities of Heads of Service – Imprest Accounts:

- To ensure that employees operating an imprest account:
 - (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained.
 - (b) make adequate arrangements for the safe custody of the account.
 - (c) produce upon demand the cash and all vouchers to the total value of the imprest amount.
 - (d) record transactions promptly.
 - (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder.
 - (f) provide the Section 151 Officer with a certificate of the value of the account held at 31 March each year.
 - (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made.
 - (h) on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Section 151 Officer for the amount advanced to him or her.

10.0 Staffing

10.1 General

In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level. The statutory posts of Head of Paid Service, Monitoring Officer and Section 151 Officer must be established within the Council.

10.2 Responsibilities of the Head of Paid Service:

- To provide overall management to staff.

10.3 Responsibilities of the: Section 151 Officer:

- To ensure that budget provision exists for all existing and new employees.

10.4 Responsibilities of Heads of Service:

- To produce an annual staffing budget.
- To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).
- To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
- To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- To ensure that the Head of Paid Service and the Section 151 Officer are immediately informed if the staffing budget is likely to be materially over or underspent.
- To adhere to the Authority's approved Human Resources policies and practices.
- To ensure that all records relating to sums payable to employees as remuneration or allowances are authorised and to provide specimen signatures to the Section 151 Officer of all officers to whom this responsibility is delegated.

Appendix D: Financial Procedure Note – Financial Systems and Procedures

1.0 Systems and Procedures

1.1 General

Departments have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. Departments are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

The Section 151 Officer has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes.

1.2 Responsibilities of the Section 151 Officer:

- To make arrangements for the proper administration of the Council's financial affairs, including to:
 - (a) issue advice, guidance and procedures for officers and others acting on the Council's behalf
 - (b) determine the accounting systems, form of accounts and supporting financial records
 - (c) establish arrangements for audit of the Council's financial affairs
 - (d) approve any new financial systems to be introduced
 - (e) approve any changes to be made to existing financial systems.

1.3 Responsibilities of Heads of Service:

- To ensure that accounting records are properly maintained and held securely.
- To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Section 151 Officer .
- To ensure that a complete audit trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- To incorporate appropriate controls to ensure that, where relevant:
 - (a) all input is genuine, complete, accurate, timely and not previously processed
 - (b) all processing is carried out in an accurate, complete and timely manner
 - (c) output from the system is complete, accurate and timely.

- To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- To ensure that systems are documented and staff trained in operations.
- To consult with the Section 151 Officer before changing any existing system or introducing new systems.
- To establish a scheme of delegation identifying officers authorised to act upon the Head of Service's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- To supply lists of authorised officers, with specimen signatures and delegated limits, to the Section 151 Officer, together with any subsequent variations.
- To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- To ensure that relevant standards and guidelines for computer systems issued by the Head of Service are observed.
- To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- To ensure that staff do not divulge their password and do not misuse any computer system. Officers who misuse computer systems may be judged guilty of gross misconduct and may be disciplined.
- To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
 - (a) only software legally acquired and installed by the Council is used on its computers
 - (b) staff are aware of legislative provisions
 - (c) in developing systems, due regard is given to the issue of intellectual property rights.

2.0 Income

2.1 General

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services

as this improves the Council's cashflow and also avoids the time and cost of administering debt recovery.

2.2 Responsibilities of the Section 151 Officer:

- To agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- To order and supply to departments all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- To ensure that appropriate accounting adjustments are made following write-off action.

2.3 Responsibilities of Heads of Service:

- To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- Except where charges are set by statute, to seek Cabinet approval to any new external charges and revisions to existing ones in consultation with the Section 151 Officer.
- To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- To issue official receipts or to maintain other documentation for income collection.
- To ensure that there are secure and appropriate controls in place for opening post which may contain payments, so that all income due to the Council is collected and properly accounted for.
- To hold securely receipts, tickets and other records of income for the appropriate period.
- To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- To ensure that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- To ensure income is not used to cash personal cheques or other payments.
- To supply the Section 151 Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Section 151 Officer to record correctly the sums due to the Council and to ensure accounts are sent out promptly. To do this, Heads of Service should use established performance management systems to monitor recovery of income and flag up areas of concern to the Section 151 Officer. Heads of Service have a

responsibility to assist the Section 151 Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf. Only up to approved levels of cash can be held on the premises.

- To keep a record of every transfer of money between employees of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy.
- To recommend to the Section 151 Officer all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- To notify the Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer.

3.0 Ordering and Paying for Work, Goods and Services

3.1 General

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Local authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council's Procurement Code of Practice on tenders and contracts.

Every officer and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.

Official orders must be in a form approved by the Section 151 Officer. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Section 151 Officer.

Apart from petty cash and other payments from advance accounts, the normal method of payment from the Council shall be by cheque or other instrument or approved method, drawn on the Council's bank accounts by the Section 151 Officer. The use of direct debit shall require the prior agreement of the Section 151 Officer.

Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

3.2 Responsibilities of the Section 151 Officer:

- To ensure that all the Council's financial systems and procedures are sound and properly administered.
- To approve any changes to existing financial systems and to approve any new systems before they are introduced.

- To approve the form of official orders and associated terms and conditions.
- To notify Heads of Service from time to time of any exemptions to the need for placing orders.
- To make payments from the Council's funds on the Head of Service's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- To make payments to contractors on the certificate of the appropriate Head of Service, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- To provide advice and encouragement on making payments by the most economical means.
- To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

3.3 Responsibilities of Heads of Service:

- To adhere to the Council's Contract Procedure Rules and the Procurement Code of Practice
- To ensure that unique pre-numbered official orders are used for all goods and services, other than for exceptions specified by the Section 151 Officer.
- To ensure that orders are only used for goods and services provided to the department. Individuals must not use official orders to obtain goods or services for their private use.
- To ensure that official orders are raised for goods and services supplied to the Council at the time of order and not issued retrospectively.
- To ensure that only those staff authorised by him/her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary.
- To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
 - (a) receipt of goods or services

- (b) that the invoice has not previously been paid
 - (c) that expenditure has been properly incurred and is within budget provision
 - (d) that prices and arithmetic are correct and accord with quotations or contracts and discounts have been taken where available
 - (e) correct accounting treatment of tax
 - (f) that the invoice is correctly coded
 - (g) that appropriate entries will be made in accounting records.
- To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
 - To ensure that the department maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Section 151 Officer.
 - To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of duplicate payments should be reported to the Section 151 Officer.
 - To encourage suppliers of goods and services to receive payment by the most economical means for the Council. It is essential, however, that payments made by direct debit have the prior approval of the Section 151 Officer.
 - To ensure that the department obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice principles and guidelines set out in the Council's Procurement Code of Practice.
 - To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Section 151 Officer . This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
 - To notify the Section 151 Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the Final Accounts timetable produced by the Section 151 Officer.
 - With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Head of Financial Services the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
 - To notify the Section 151 Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

- To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the Council's document retention policies.

4.0 Payments to Employees and Members

4.1 General

Staff costs are the largest item of expenditure for most local authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by Full Council.

4.2 Responsibilities of the Section 151 Officer:

- To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him/ her, on the due date.
- To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- To make arrangements for paying Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.
- To publish details of allowances paid to Members in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003.

4.3 Responsibilities of Heads of Service:

- To ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.
- To notify the Section 151 Officer of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Section 151 Officer .
- To ensure that adequate and effective systems and procedures are operated, so that:
 - . payments are only authorised to bona fide employees
 - . payments are only made where there is a valid entitlement
 - . conditions and contracts of employment are correctly applied

- employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- To send an up-to-date list of the names of officers authorised to sign records to the Section 151 Officer, together with specimen signatures. Any payroll provider should have signatures of personnel officers and officers authorised to sign timesheets and claims.
- To ensure that payroll transactions are processed only through the payroll system. Heads of Service should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Section 151 Officer.
- To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Section 151 Officer is informed where appropriate.
- To ensure that the Section 151 Officer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

4.4 Responsibilities of Members:

- To submit claims for Members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

5.0 Taxation

5.1 General

Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

5.2 Responsibilities of the Section 151 Officer:

- To complete all Revenue and Customs returns regarding PAYE.
- To complete a monthly return of VAT inputs and outputs to Revenue and Customs.
- To provide details to Revenue and Customs regarding the Construction Industry Tax deduction scheme.
- To maintain up-to-date guidance for Council employees on taxation issues in the accounting manual and the tax manual.
- To review the Council's VAT partial exemption status on at least an annual basis.

5.3 Responsibilities of Heads of Service:

- To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with Revenue and Customs regulations.
- To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary Construction Industry Tax deduction requirements.
- To ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- To follow the guidance on taxation issued by the Section 151 Officer in the Council's accounting manual and VAT manual.

6.0 Trading Accounts and Business Units

6.1 General

Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in the BVPP.

6.2 Responsibilities of the Section 151 Officer:

- To advise on the establishment and operation of trading accounts and business units.

6.3 Responsibilities of Heads of Service:

- To consult with the Section 151 Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
- To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.
- To ensure that each business unit prepares an annual business plan.

Appendix E: Financial Procedure Note – External Arrangements

1.0 Partnerships

1.1 General

Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

The main reasons for entering into a partnership are:

- the desire to find new ways to share risk
- the ability to access new resources
- to provide new and better ways of delivering services
- to forge new relationships.

A partner is defined as either:

- an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
- a body whose nature or status give it a right or obligation to support the project.

Partners participate in projects by:

- acting as a project deliverer or sponsor, solely or in concert with others
- acting as a project funder or part funder
- being the beneficiary group of the activity undertaken in a project.

Partners have common responsibilities:

- to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
- to act in good faith at all times and in the best interests of the partnership's aims and objectives
- be open about any conflict of interests that might arise
- to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors

- to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- to act wherever possible as ambassadors for the project.

1.2 Responsibilities of the Section 151 Officer:

- To advise on effective controls that will ensure that resources are not wasted.
- To advise on the key elements of funding a project. They include:
 - (a) a scheme appraisal for financial viability in both the current and future years
 - (b) risk appraisal and management
 - (c) resourcing, including taxation issues
 - (d) audit, security and control requirements
 - (e) carry-forward arrangements.
- To ensure that the accounting arrangements are satisfactory.

1.3 Responsibilities of Heads of Service:

- To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Section 151 Officer.
- To consult with the Section 151 Officer, as necessary, on a scheme's appraisal for financial viability in both the current and future years
- To maintain a register of all contracts and service level agreements entered into with external bodies in accordance with procedures specified by the Section 151 Officer.
- To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.
- To ensure that all agreements and arrangements are properly documented.
- To provide appropriate information to the to enable a note to be entered into the Council's statement of accounts concerning material items.
- To ensure that Cabinet approval is sought for all external funding bids.
- To comply with the External Funding Protocol.

2.0 External Funding

2.1 General

External funding is potentially a very important source of income, but funding conditions need to be carefully considered and monitored to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the Single Regeneration Budget provide

additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's Corporate Plan.

2.2 Responsibilities of the Section 151 Officer:

- Maintain and review of the Council's External Funding Protocol.
- To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- Where he/she is specifically responsible for submitting grant claims, to ensure that all claims for funds are made by the due date.
- To ensure that audit requirements are met.

2.3 Responsibilities of Heads of Service:

- To consult with the Section 151 Officer on any application for external funding prior to its submission to Cabinet in accordance with the Council's external funding strategy.
- Where he/she is specifically responsible for submitting grant claims, to ensure that all claims for funds are made by the due date.
- To ensure that the project progresses in accordance with the agreed project plan, conditions and project outcomes and that all expenditure is properly incurred and recorded.
- To maintain adequate supporting documentation to enable claims for funding to be fully evidenced and maximised.
- To comply with the External Funding Protocol.

3.0 Work for Third Parties

3.1 General

Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is not ultra vires.

3.2 Responsibilities of Section 151 Officer:

- To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

3.3 Responsibilities of Heads of Service:

- To consult with the Section 151 Officer prior to obtaining the approval of the Cabinet before any negotiations are concluded in regard to third parties arrangements.
- To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Section 151 Officer .
- To ensure that appropriate insurance arrangements are made.
- To ensure that the Council is not put at risk from any bad debts.
- To ensure that no contract is subsidised by the Council without the approval of the Cabinet.
- To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- To ensure that the department/unit has the appropriate expertise to undertake the contract.
- To ensure that such contracts do not impact adversely upon the services provided for the Council.
- To ensure that all contracts are properly documented.
- To provide appropriate information to the Section 151 Officer to enable a note to be entered into the Statement of Accounts.

Contract Procedure Rules

NB. These Rules are Standing Orders for the purposes of Section 135 of the Local Government Act 1972.

Introduction

Statutory basis

The Council is obligated by Section 135 Local Government Act 1972 to adopt Standing Orders for contracts in regard to the supply of goods or services for the execution of works. Standing Orders have to include provision for securing competition for such contracts and for regulating the manner in which tenders are invited. They may exempt from any such provision contracts below a price specified in Standing Orders and may authorise the Council to exempt any such provision where the Council is satisfied that the exemption is justified by special circumstances.

These Contract Procedure Rules are considered Standing Orders for the purposes of Section 135 of the Local Government Act 1972.

Objectives

Compliance with Standing Orders is vital to demonstrate probity in the procurement process. Equally important is the delivery of economy, efficiency and effectiveness through competition and the avoidance of practices that may restrict, distort or prevent competition. The Standing Orders set out minimum standards.

It follows that any negotiation process has to be robustly justified, in particular to avoid any contravention of state aid rules, any allegation of corruption, and to ensure that value for money can be demonstrated. The Council needs also to be aware that its monopoly or dominant position as a purchaser in a particular market needs to inform the practices it adopts in order to maintain healthy competition.

Best practice in procurement

The Council's procurement framework consists of a number of controls, as follows:

- The Contract Procedure Rules;
- Advice from legal, financial and other appropriate technical officers;
- The Procurement Strategy;
- The Procurement Code of Practice; and
- The Financial Procedure Rules.

The Council and its Officers must not only follow the procedures laid down in the Contract Procedure Rules but also have due regard to best practice as set out in the Procurement Code of Practice.

1.0 Application and Interpretation

1.1 Definitions

In these Standing Orders:

“Approved List” means a list of contractors maintained by the Council that is regularly reviewed and admission to which is the outcome of a selection process that verifies the financial soundness and technical competence of a Contractor.

“Authorised Officer” means the officer who has delegated authority to exercise a relevant function in accordance with the Council’s Scheme of Delegation as set out in Part 3 of the Council’s Constitution.

“Authorised Recipient” means the Democratic Services Manager or Legal Services Manager, or any officer authorised by them.

“Best Value” means the Council's duty under Section 3 Local Government Act 1999 to make arrangements to secure continuous improvement in the way its functions are exercised having regard to a combination of economy, efficiency and effectiveness and having regard also to any statutory guidance issued by the Secretary of State under the 1999 Act.

“Closing Date” means the time and date specified in the invitation to tender, quote or negotiate (or any later date that is notified to all persons invited to tender, submit a quote or negotiate at least 24 hours before the previous Closing Date).

“Contract” means a contract for supplies, services, or for the execution of any works which the Council is procuring and also includes a Framework Agreement. It excludes contracts for the acquisition or disposal of an interest in land, and the grant of a licence.

“Contractor” means any person on or applying to be on an Approved List or Select List or on a European List or invited to tender or negotiate or to submit a quotation or to whom a Contract has been awarded.

“Decision Maker” means the Council, Cabinet, Cabinet Member, Cabinet Committee, Committee, Sub-Committee or officer to whom a function has been delegated in accordance with the Council’s Constitution.

“E-mail Protocol” means such protocol which the Head of Customer Services certifies as representing the Council’s latest published best practice governing security and confidentiality in the use of e-mails.

“Estimated Total Cost” means the aggregate total cost of the supplies or services to be provided or works to be performed under a Contract (as distinct from the annual value) estimated prior to its procurement. This is the gross cost before the deduction of the value of any consideration or money's worth from the sum payable by the Council.

“European Directives” means the procurement directives of the European Union and any regulations that implement them within the United Kingdom.

“European List” means a list of Contractors compiled by another contracting authority, including the Office of Government Commerce, in accordance with European Directives admission to which is the outcome of a selection process which verifies the financial soundness and technical competence of a Contractor.

“European Threshold” means the threshold at which supplies and services Contracts are subject to the European Directives and the Public Contracts

Regulations 2006 and subsequent amendments that may be issued from time to time.

“Local Newspaper” means a newspaper circulating within the locality of Thanet District Council excluding any newspaper published by, or on behalf of, the Council.

“PFI Contracts” means a contract to which HM Treasury's rules on the standardisation of PFI contracts applies.

“Procurement Code of Practice” means the Code of Practice issued from time to time by the Head of Customer Services.

“Procurement Strategy” means the procurement strategy approved from time to time by the Council.

“Select List” means a list of contractors prepared by the Council for a particular Contract only and admission to which is the outcome of a selection process that verifies the financial soundness and technical competence of a Contractor.

“Tender Address” means PO Box 9, Cecil Street, Margate, Kent CT9 1XZ in respect of tenders, and such other addresses as may be designated by the Authorised Officer in respect of quotations.

“Unforeseen Priority” means a situation where all the following criteria are satisfied namely there is an overwhelming and immovable requirement to complete an item of work, such requirement could not have been foreseen within sufficient time to have allowed a competitive procurement, and the adverse consequences of delaying the completion of such work significantly outweigh the consequences of not securing effective competition.

1.2 Compliance

1.2.1. Every Contract made by the Council or on its behalf shall comply with these Contract Procedure Rules with the exception of the following:

- (a) Contracts formalising the funding of particular voluntary sector bodies, where the purpose of the contract is to establish the general conditions whereby the body may be funded by the Council.
- (b) Contracts for the engagement of Counsel.
- (c) Contracts of employment relating to agency, temporary and permanent staff.
- (d) Where the supply of goods or services or the carrying out of work is through a bulk purchasing agent or consortium of which the Council is a member or through a joint purchasing agreement entered into by the Council and where all necessary tendering requirements of the Council have already been satisfied and completed by the consortium.
- (e) Post entry training schemes.

1.2.2. Anyone who is not an officer of the Council, but who is authorised to carry out any of the Council's contracts function is required to comply with these Contract Procedure Rules.

1.2.3. The Head of Customer Services shall, in consultation with the Section 151 Officer, issue and maintain a Procurement Code of Practice providing

guidance on the procurement processes to be followed on all tendering and contract procedures.

1.2.4. The Section 151 Officer is responsible for compiling and maintaining the Contract Procedure Rules and for advise on their implementation and interpretation.

1.2.5 Where the Council participates in a consortium where another party in the Consortium acts as agent, these Contract Procedure Rules shall not apply provided the Consortium abides by the Contract Procedure Rules for Tenders and Contracts of the agent body.

1.3 European Union

Every Contract made by the Council shall comply with European Directives. In the event of any conflict between the Contract Procedure Rules and European Directives, the European Directives shall prevail.

1.4 Aggregation of Orders

No Contract shall be subdivided or intentionally split into smaller contracts or packages so as to circumvent or avoid compliance with Standing Orders.

1.5 Acts of Parliament

Any reference to any Act of Parliament or subordinate legislation shall include by reasonable implication, any amendment, repeal or substitution of the same.

2.0 Exemption

Exemption from any Contract Procedure Rule may be authorised by the Decision Maker or Head of Service provided that:

2.1 Special Circumstances

The Decision Maker, or relevant Head of Service is satisfied that the exemption is justified by special circumstances and in the case of Heads of Service that the prior approval of both the Portfolio Holder and Cabinet Leader is obtained. Special circumstances may include the following:

- (a) That only one contractor is able to carry out the work or service or to supply the goods for technical or artistic reasons or because of exclusive rights;
- (b) That the time limits for tendering cannot be met for reasons of extreme urgency (and in the case of EC contracts, the reasons were unforeseen and unattributable to the Council);
- (b) That additional works or services (not exceeding 50% of the value of the original contract in the case of EC contracts) are required which, through unforeseen circumstances, were not included in the original contract and which either are strictly necessary for the completion of the contract or, for technical or economic reasons, cannot be carried out separately without great inconvenience;
- (c) That goods are required as a partial replacement for or additional to existing goods or installations and obtaining them from another contractor would result

- in incompatibility or disproportionate technical difficulties in operation or maintenance;
- (d) The contract is for the supply of computer software where the technical considerations of such supplies are of primary importance in determining suitability provided that the Head of Service is satisfied that value for money is achieved.

2.2 Written report

The exemption is reported in writing, to Cabinet specifying the circumstances justifying the exemption.

Exemptions shall not be sought retrospectively, unless due to the urgent nature of the contract the prior agreement to apply for an exemption retrospectively is obtained from the Section 151 Officer.

2.3 Record

Each Head of Service shall keep a record of any exemption granted in respect of any contract for which they responsible.

3.0 Quotations

3.1 Value

Where the value of goods and services are not expected to exceed £75,000, officers are not required to undertake a full tendering exercise but shall instead invite quotations. A quotation exercise involves seeking competitive quotes from a number of contractors evidenced in writing or letting a contract through properly structured competitive negotiation. The following rules must apply:

Contract Sum	Minimum Number of Quotations Required	Acceptance Procedures
£0 – £10,000	Written quotes not required however considered good practice to do so. For contracts in excess of £4,000 the process and results should be documented as set out in 3.5	Head of Service must make best efforts to secure probity and value-for-money.
£10,001 – £75,000	Four written quotes or invite tenders by one of the procedures prescribed in section 4.	Head of Service must make best efforts to secure probity and value-for-money

3.2 Responsibility

Heads of Service are responsible for establishing appropriate arrangements for seeking and assessing quotations, in conjunction with Financial Services.

3.3 Contracts below £75,000

For contracts below £75,000, Heads of Service shall compile and maintain a scheme of delegation specific to their area of responsibility, detailing the names and grades of

staff approved for the purpose of letting contracts and placing orders and the maximum contract value allocated to each member of staff for these purposes. This information *must be provided by the Head of Service to Financial Services who will maintain a comprehensive scheme of delegations.*

3.4 Order

In all cases a written quotation from the successful supplier shall be obtained before an order is placed.

3.5 Record

The Authorising Officer shall record contractors approached, their responses (including willingness to quote), details of quotations provided, the subject matter of the quotation, the name of the contractor quoting, the date and time of the quote, the price offered and any other relevant trading terms, the name of the Authorising Officer processing the quotation, the name of the contractor offering the most favorable quotation and the reasons why the quotation was accepted.

4.0 Tenders

No Contract whose Estimated Total Cost exceeds £75,000 shall be entered into unless tenders have been invited in accordance with either the Open, Select List, Approved List, European List Procedure or exemption agreed.

4.1 Open Procedure

Contracts shall be advertised in accordance with Standing Order 4.5:

- 4.1.1 describing the scope of the Contract;
- 4.1.2 inviting Tenders for their execution;
- 4.1.3 stating what Contractors have to do to tender; and
- 4.1.4 stating the Closing Date.

4.2 Select List Procedure

Contracts shall be advertised in accordance with Standing Order 4.5 inviting interested parties to apply for inclusion on a Select List by a specified date. All Contractors who request inclusion within the timescale and who complete any prescribed application form shall be considered for inclusion on the Select List. Tenders shall be invited from all Contractors on the Select List. The minimum number for a Select List is 4, where at least 4 Contractors satisfy the requirements specified by the Authorised Officer.

4.3 Approved List Procedure

This procedure applies where either the Decision Maker maintains Approved Lists of Contractors which are managed by an Authorised Officer to be invited to tender for Contracts of specified categories or where lists are sourced from appropriate accredited services, such as Construction Line.

- 4.3.1 The Approved List shall contain the names of all Contractors who are approved by the Decision Maker and indicate, where applicable, the categories of Contracts and the maximum values in respect of those categories for which approval has been given.
- 4.3.2 Before compiling an Approved List for the first time a check shall be made to ascertain if there is already an adequate list managed by the Head of Customer Services or Head of Development Services. At least 4 weeks before an Approved List is compiled or reviewed, notices inviting applications for inclusion in the list shall be published in one or more Local Newspapers or on the Council's website and in one or more relevant national technical journals. All applications for inclusion shall be reported to the Decision Maker.
- 4.3.3 Approved Lists may be revised at any time and shall be reviewed at least once every five years but on receiving adverse reports on work standards, financial stability, or other circumstances affecting a Contractor's ability to satisfactorily perform approved categories of Contracts the Decision Maker may take such steps as it considers necessary, including suspension and removal from an Approved List.
- 4.3.4 Invitations to tender for a Contract shall be sent to not less than four Contractors who appear on an Approved List as being approved for a Contract of the relevant category or value and a record shall be kept of the Contractors invited to tender for each Contract.
- 4.3.5 Approved Lists shall be operated so as to ensure that the selection of Contractors to whom invitations to tender are sent is made in such manner as to give all Contractors on a list reasonable opportunity of submitting tenders for appropriate Contracts.

4.4 European List Procedure

Invitations to tender for a Contract shall be sent to not less than four Contractors who appear on a European List as being approved for a Contract of the relevant category of work and a record shall be kept of the Contractors invited to tender for each Contract.

4.5 Advertising Requirements

Where a Contract has to be advertised under Standing Order 4.1 or 4.2, then:

- 4.5.1 at least 14 days public notice shall be given in a Local Newspaper or on the Council's web site; and
- 4.5.2 where the Estimated Total Cost exceeds the European Threshold, at least 14 days public notice shall also be given in a relevant national technical journal.

4.6 Equal Opportunities

Contractors will be required to comply with all legislation on Equal Opportunities.

4.7 Pre-Estimate of Tender Sum

No tender shall be invited for a Contract unless:

- 4.7.1 the Authorised Officer has prepared an estimate in writing of the probable expense of obtaining the supplies or services or of executing the works; and
- 4.7.2 in the case of a tender for the execution of any work, the Authorised Officer has prepared an estimate of the annual running costs after completion.

4.8 Freedom of Information Act 2000

No tender shall be invited for a contract under the Open, Select, Approved or European List Procedure unless such tender document sets out the Council's statement, in a form approved by the Legal Services Manager, concerning the confidentiality of the tender and the Contractor's participation in the tender process and the Council's intention to comply with the Freedom of Information Act 2000.

5.0 Negotiated Contracts

5.1 Negotiation Application

An application to the Section 151 Officer to use the Multiple Contractor Negotiation Procedure under Standing Order 5.2 or the Single Negotiation Procedure under Standing Order 5.3 shall justify its adoption and demonstrate how value for money will be secured.

5.2 Multiple Contractor Negotiations

5.2.1 A Contract may be negotiated with three or more prospective contractors where the Section 151 Officer has certified in writing following the submission of an application under Standing Order 5.1 and prior to the commencement of such negotiations that:

5.2.1.1 the method of procurement satisfies Best Value; and

5.2.1.2 Contractors would be likely to submit a qualified tender or quotation.

5.2.2 Where a certificate has been issued under Standing Order 5.2.1, Standing Orders 3 and 4 (except Standing Order 4.7) shall not apply to that Contract.

5.2.3 No invitation to negotiate under a negotiated Contract shall be invited unless such invitation to negotiate sets out the Council's statement in a form approved by the Legal Services Manager, concerning the confidentiality of the invitation to negotiate and the Contractor's participation in such process and the Council's intention to comply with the Freedom of Information Act 2000.

5.3 Single Contractor Negotiations

5.3.1 A Contract may be negotiated with a single contractor where the Legal Services Manager or the Section 151 Officer has certified in writing following the submission of an application under Standing Order 5.1 and prior to the commencement of such negotiations that:

5.3.1.1 as a result of a market investigation there is only one contractor that can meet the Council's requirements for that Contract; or

5.3.1.2 there is an Unforeseen Priority.

5.3.2 Where a Certificate has been issued under Standing Order 5.3.1, Standing Orders 3, 4 (except Standing Order 4.7) and 7 shall not apply to that Contract but Standing Order 5.2.3 shall apply.

6.0 Submission of Quotations and Tenders

6.1 Method of Submission

All invitations to tender or quote shall state that no tender or quotation shall be considered unless it is:

6.1.1 enclosed in a plain sealed envelope addressed to the Authorised Recipient at the Tender Address;

6.1.2 sent by e-mail conforming to the E-mail Protocol addressed to the Authorised Recipient where the invitation specifically allows; or

6.1.3 submitted electronically at a reverse auction where the invitation specifically allows;

and in all cases envelopes, discs and covering e-mails shall bear only the words 'Tender' or 'Quotation' followed by the subject to which it relates and the date and time by which it is due.

6.2 Media

Tenders or quotations shall be in writing or, where the invitation specifically allows, may be submitted electronically on e-mail or in a disc conforming to such format as the Authorised Recipient may specify.

6.3 Closing Date

No tender or quotation received after the Closing Date shall be accepted or considered under any circumstances.

6.4 Opening of Tenders

6.4.1 All tenders submitted in accordance with Standing Order 6 shall be opened at the same time and in the presence of an elected Member appointed for the purpose and the Authorised Recipient (or his or her representative) who then shall prepare and sign a written record of such tenders.

6.4.2 All tenders will be checked for arithmetical accuracy immediately after being opened. Where examination of tenders reveals errors that would affect the tender figure, the tenderer shall be given details of such errors and the opportunity to confirm, amend or withdraw the tender. The tender will then be evaluated in accordance with section 7.

7.0 Evaluation

7.1 Disclosure of principles

All invitations to tender or quote shall specify whether the award of a Contract is to be awarded on the basis of an offer which: -

7.1.1 offers the lowest price / highest income; or

7.1.2 is the most advantageous whether by reference to criteria including price, period for completion or delivery, running costs, profitability, technical merit, aesthetic and functional characteristics, after sales services, technical assistance or otherwise and shall set out the relevant criteria in descending order of importance.

7.2 Evaluation

7.2.1 All tenders or quotations submitted in accordance with Standing Order 6 shall be evaluated in accordance with the principles disclosed in the invitation in Standing Order 7.1 and in accordance with any model prepared by the Authorised Recipient.

7.2.2 The process for evaluating tenders submitted following the Open Procedure under Standing Order 4.1 shall require the Contractor to answer the questions prescribed by the Secretary of State under Section 18(5) Local Government Act 1988 or any other relevant Act.

7.2.3 Contracts will only be awarded to Contractors where the Section 151 Officer deems the financial health of the company to be appropriate for the contract under consideration.

7.3 Contract Negotiation

The appropriate Head of Service may negotiate with a tenderer for the reduction of the tender provided that the tenderer has submitted a tender which is the lower tender and which could otherwise be accepted and that full details of the negotiation process (including the extent to which reductions have been achieved) are reported to the next appropriate meeting of the Decision Maker.

7.4 Reporting

A report on the evaluation of tenders including the outcome of negotiations for negotiated contracts shall be issued to the Decision Maker to make a decision on the award of a Contract.

7.5 Acceptance of Tenders

No contract may be awarded unless the expenditure involved has been included in approved estimates or has been otherwise approved by or on behalf of the Council. The Authorising Officer shall ensure that evidence of authority to spend and the budget cost to be used is recorded on the contract file.

8.0 Content of Contracts

All contracts over £10,000 shall be in writing and shall specify:

8.1 Specification

Details of the services to be supplied, the supplies to be delivered or the works to be undertaken.

8.2 Price

The price to be paid, or the rates on which the price is to be calculated, any milestones for payments and a statement of discounts or other deductions, and an appropriate price fluctuations clause by reference to a published index if the term exceeds 12 months.

8.3 Time

The time or times within which the outputs of the Contract are to be completed.

8.4 Remedy

8.4.1 The remedy/remedies for non-performance, including liquidated damages, other financial deductions and termination.

8.4.2 Every Contract, which exceeds £10,000 in value and is for the execution of works, shall provide for liquidated damages to be paid by the Contractor in respect of any delay in performing such work.

8.4.3 Standing Order 8.4.2 shall not apply where the Authorised Officer, having consulted with the appropriate Director who is to administer the Contract, determines that such remedy is not appropriate for a particular type of works Contract.

8.5 Standards

Every Contract for supplies or for the performance of works shall require that such supplies or works comply with the appropriate European Specification or where no European Specification exists, the appropriate British technical specification.

8.6 Performance Bond

A bond shall be required from the contractor for all contracts where the value is £500,000 or above the amount and form to be approved by the Section 151 Officer.

9.0 Execution

9.1 Sealing

Contracts of £75,000 and above shall be sealed or alternatively, with the prior approval of the Legal Services Manager, signed by a Head of Service and another Officer of the Council. Contracts under this amount may be sealed if the Legal Services Manager considers it necessary due to the complexity of the contract. Orders should not be placed or payments authorised until the contract is sealed (or otherwise properly executed) unless, in exceptional circumstances, the Section 151 Officer agrees.

9.2 Signing

Subject to Standing Order 9.1 every Contract shall be signed on behalf of the Council by two officers one of whom shall be the Authorised Officer or any senior lawyer in the employment of the Council who is duly authorised by the Council for the purposes of this Standing Order under the Scheme of Delegation for Officers.

9.3 Members

No Member of the Council shall enter either orally or in writing into any Contract on the Council's behalf.

10.0 Operation of the Contract

Authorising Officers shall place on the contract file at the completion of Works or at appropriate intervals (being no less than six months apart) an assessment of the performance of any contractor engaged by them. Incidents of poor performance shall be raised with the contractor in writing or at a meeting where notes are made and sent to the contractor. In cases of consistent poor performance, or particularly poor performance, the Authorising Officer shall consider whether to suspend or exclude the contractor from future tendering exercises.

11.0 Contract Variations

No increase in the amount payable by the Council will be permitted except as specifically provided for in the Contract.

12.0 Standard Clauses

Each contract shall include standard clauses on

Anti Fraud and Corruption
Prevention of Assignment
Equal Opportunities
Health and Safety

These standard clauses will be determined and maintained by the Legal Services Manager who may authorise variations from these standard clauses when appropriate.

Contract Procedure Rules Relating to the Disposal of Land

- NB. 1. *These Rules are Standing Orders for the purposes of Section 135 of the Local Government Act 1972.*
2. *The numbers in square brackets refer to the Guidance Notes at the end.*

1.0 Application and Definitions

1(1) These Contract Standing Orders shall apply to every contract entered into for the voluntary disposal of land. [1]

1(2) In these Contract Standing Orders the following definitions apply:-

“contract” means a contract to which these Contract Standing Orders apply and the expression “contractor” shall be construed accordingly.

“Director” means the head of a Council Department.

“disposal” means disposal by way of sale, lease, licence, tenancy or other grant of rights or interests in land.

“land” means all real property owned by the Council and includes all easements, rights and other interests in, on, over or under or in relation to land.

“nominated officer” means an officer who has authority or responsibility delegated to him/her.

“value” means the total consideration for the disposal or in the cases of leases, licences and other disposals of that type, the rent or other consideration per annum.

2.0 Compliance and Exemptions

2(1) Every contract shall comply with these Contract Standing Orders and no exemption from any of the provisions of these Contract Standing Orders shall be made otherwise than by direction of the Council, the Cabinet or the Head of Service and only if satisfied that the exemption is justified by special circumstances. Before the Head of Service directs that any exemption be made, the Director who is responsible for the letting of the contract shall have ascertained that neither the Leader nor any other relevant Cabinet Member object to the proposed exemption.

2(2) In every case where the Cabinet or Head of Service direct that an exemption from these Contract Standing Orders shall be made, the Director who is responsible for the Contract shall report the exemption to the next meeting of the Cabinet provided however that the letting of the contract is not dependent upon the Committee receiving that report. [2]

2(3) Standing Order 2(2) shall not be suspended except by the Council.

3.0 Best Consideration

3(1) No contract shall provide for a consideration which is less than the best consideration that can reasonably be obtained.

4.0 Method of Disposal

4(1) Land shall be disposed of only by way of the following methods:-

- (i) inviting sealed offers following public advertisement which shall have been placed in at least one local newspaper and, in addition, where the estimated value of the land exceeds £50,000, in such other publication or publications as the Head of Service shall deem appropriate,
- (ii) public auction, or
- (iii) private treaty (provided such method of disposal shall first have been authorised by the Cabinet in all cases where the value exceeds £10,000).

5.0 Receipt of Sealed Offers

- 5(1) Where sealed offers are invited under Contract Standing Order 4, no offer will be considered unless contained in a securely sealed plain envelope (that is, it shall not bear anything that will distinguish it or indicate the identity of the sender) and which shall bear the word "Offer" followed by the subject to which the offer relates and shall be addressed to the Democratic Services Unit. [3]
- 5(2) Offers shall be kept in the Democratic Services Unit until they are opened.
- 5(3) Persons that may submit offers shall be notified of the requirements of Contract Standing Order 5(1) and 5(2).

6.0 Opening and Acceptance of Sealed Offers

- 6(1) Offers shall be opened at a specified time on a day which is at least the second day after the closing date that is specified in the tender document.
- 6(2) Offers shall be opened by not less than two officers, one being a nominated officer from the relevant department and one authorised officer from the Member Services Unit. The Leader, Deputy Leader and Cabinet Member with responsibility for the service or function to which the offer relates, or their nominee, shall be invited to attend at the opening of tenders.
- 6(3) The nominated officer shall have authority to accept on behalf of the Council the highest offer unless he/she is required to report the offers to the Cabinet prior to acceptance.
- 6(4) A record shall be made of all offers received and of the offer accepted and a copy shall be supplied immediately to the Head of Resources and the Legal Services Manager.
- 6(5) When the contract has been signed, the following action shall be taken:-
 - (a) persons who submitted unsuccessful offers shall be advised that they have not been successful and,
 - (b) the Cabinet Member with responsibility for the service or function to which the offer relates shall be advised of the person who submitted the successful offer, and the amounts of the unsuccessful offers. [4]

7.0 Invalid Sealed Offers

- 7(1) The nominated officer may declare a sealed offer to be invalid where:-

- (a) it does not comply with the notes of guidance,
- (b) it has not been properly completed and the offer could subsequently be varied against the interests of the Council.

8.0 Late Sealed Offers

- 8(1) Any sealed offer received after the specified date and time must not be opened except where an authorised officer from the Democratic Services Unit is satisfied that there is evidence that the tender was despatched in time for delivery by the closing date by the normal postal service and the other tenders have not been opened.
- 8(2) Where a late sealed offer is excluded from the opening of sealed offers, an authorised officer from the Democratic Services Unit shall, after the other sealed offers have been opened, open it only to establish the identity of the person submitting the offer and must not disclose any other details.
- 8(3) The authorised officer from the Democratic Services Unit shall advise the person who submitted the late sealed offer that his/her offer has not been considered.

9.0 Errors and Discrepancies

- 9(1) Where examination of the successful sealed offer reveals errors or discrepancies other than arithmetical ones which would affect the amount of the offer, the person submitting the offer is to be given details of the errors or discrepancies and given the opportunity of withdrawing the offer or confirming the amount of the offer as submitted or, at the option of the Head of Service, amending the amount of the offer.
- 9(2) If the person submitting the offer withdraws his/her offer the next highest offer shall be accepted subject to examination.

10.0 Acceptance of Another Sealed Offer

- 10(1) No sealed offer may be accepted other than in accordance with Standing Order 6(3) above, unless specific approval has been obtained from the Cabinet or Head of Service.

11.0 All Contracts In Writing

- 11(1) Every contract for the disposal of land and subsequent amendment shall be in writing and be signed by all parties.

12.0 Matters to be Included in Contracts

- 12(1) For every contract, there shall be specified the land to be disposed of, the method of disposal, the consideration to be received and the date that the interest in the land passes to the purchaser.
- 12(2) There shall be inserted in every contract for the disposal of land a clause empowering the Council to cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation if the purchaser shall have acted corruptly in relation to the contract. [5]

13.0 Contract Signatory

- 13(1) Every contract for the disposal of land shall be in a form approved by the Legal Services Manager or the Monitoring Officer and shall be signed on behalf of the Council by the officer giving approval or executed under his/her direction save for such licences as the Head of Service may be authorised to grant under delegated powers.

9.0 Guidance Notes

- [1] 1. *These Standing Orders do not apply to housing land that is disposed of pursuant to Right to Buy legislation nor to disposals that are pursuant to compulsory purchase procedures.*
2. *Hirings of Council halls or other buildings or land are not to be regarded as land disposals.*
- [2] *The report to the Cabinet must include full details about the contract, which Contract Standing Orders have been suspended, why it is necessary and the effect of so doing*
- [3] *Persons submitting offers should be advised that:-*
- (a) *an offer sent by post is at the risk of the person submitting it,*
 - (b) *an offer that is hand-delivered must be handed to the reception desk where a receipt should be obtained and not put through the letter box,*
 - (c) *if Datapost or a similar service is used, then clear instructions should be given to the counter staff or collector to ensure that the sender's name and address does not appear on the Datapost label otherwise the offer will be invalidated,*
 - (d) *the use of TELEX or FAX is not permissible.*
- [4] *Unsuccessful offers shall be advised by the Democratic Services Unit.*
- Reports to the Cabinet Member shall be prepared by the appropriate nominated officer.*
- [5] *The suggested wording for the anti-corruption clause is:-*
"The Council may cancel the Contract and recover from the purchaser the amount of any loss resulting from such cancellation ,if the purchaser shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Council or if the like acts shall have been done by any person employed by him/her or acting on his/her behalf (whether with or without the knowledge of the Contractor), or if in relation to any contract with the Council, the Contractor or any person employed by him/her or acting on his/her behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972."
(Note: Such a clause need not be inserted in any conveyance or transfer document which shall have been preceded by a contract containing such a clause.)

Exemptions From Contracts Procedure Rules

10.0 A Code Of Practice

(This Code of Practice has effect by virtue of Contract Standing Order 18 in order to guide the implementation and operation of Contracts Procedure Rules)

1. The Council anticipates that every contract that is entered into on its behalf shall comply with Contract Standing Orders.
2. However it is recognised that there are situations in individual contracts where it may be impossible, inappropriate or prejudicial to the Council's interests to comply with every Contract Standing Order that applies to a given contract. Consequently Contract Standing Order 2(1) makes provision for application to be made to the Heads of Service Group for approval to suspend some or all of the Contract Standing Orders. (This supposes that approval has not already been obtained from the appropriate committee to use a certain supplier for a particular reason.)
3. In order to assist Heads of Service in the task of appraising each application for the suspension of all or some Contract Standing Orders, a standard request form (as appended to this Code of Practice) should be used. The submission must describe fully the reason why suspensions of Contract Standing Orders are required and must be absolutely explicit about which Contract Standing Orders are being suspended. Care must be taken to identify all those Contract Standing Orders that need suspension to achieve the desired aim.
4. It is envisaged that in the vast majority of situations, only a certain aspect of Contract Standing Orders will need to be suspended rather than all of the requirements.
5. The aspect of Contract Standing Orders that most commonly needs to be suspended is that relating to obtaining quotations or tenders. The reasons for this are most likely to be one of the following:-
 - (a) you are purchasing something that is only supplied by one supplier or contractor and there is no other alternative source of supply,
 - (b) you are purchasing from another public sector body (e.g. a public sector supplies consortium) that has already undertaken a competitive exercise,
 - (c) you are purchasing something that is required so urgently that there is not the time to undertake a full competitive exercise.
 - (d) you wish to extend a contract that already exists and there are very clear operational and cost advantages to retaining the same contractor.
6. There may be instances where you require other aspects of Contract Standing Orders to be suspended or you may be selling something and you wish to effect the sale other than by advertising for competitive bids. The same procedures apply in that the full circumstances and the precise Contract Standing Order to be suspended must be fully described.
7. It should also be noted that the requirement to suspend any aspect of Contract Standing Orders must be approved by the Head of Service even if the contract in question is of a lower value only requiring the submission of quotations rather than tenders.

THANET DISTRICT COUNCIL

APPLICATION FOR EXEMPTION FROM CONTRACT PROCEDURE RULES

Once signed, please provide a copy to the Corporate Programme Manager

Contact Officer:	Tel Ext:	Date:
Portfolio:		
Contract: (Title and brief description)		
Contractor (if known):		
Amount of contract (estimated or actual):		
Budget Code: <small>(Please enter the cost centre and account code)</small>	Budget value:	
Is this applying for exemption retrospectively? <small>(If yes, please attach authorisation from the S151 Officer)</small>	YES / NO	

Please outline the CPRs you wish to suspend. (Please quote the CPR number)

Please describe why you want to suspend the above CPRs .

This should explain the circumstances that have lead you to require the CSO suspension e.g. there are only two specialist contractors in Europe who will provide this service and therefore an advertisement will be pointless.

What impact will these exemptions have on the contracting process and what evidence do you have to demonstrate value for money?

This should explain what will happen when the specified CSO's are suspended e.g. if you have requested suspension of CSO 4 the effect is that no contractors will be given the opportunity to bid or express interest in the contract. In addition a list of information which you have relied upon to help reach the conclusion that you have achieved value for money.

APPROVAL

The information provided on this form is correct. The proposed expenditure is within the Budget and Policy Framework and I have read the Council's Contract Procedure Rules and have complied with all the requirements of the Rules, with the exception of those for which an exemption has been applied for.

Signature of officer completing form:	Date:
Signature of the Head of Service:	Date:

I have read the above form, have no objections to exemptions sought and am satisfied that value for money can be demonstrated.

Signature of the Cabinet Leader:	Date:
Signature of Portfolio Holder:	Date:

To be completed by the Corporate Programme Manager only	
Date reported to Cabinet	

Post-Tender Negotiation

A Code of Practice

(This Code of Practice has effect by virtue of Contract Standing Order 18 in order to guide the implementation and operation of Contract Procedure Rules)

11.0 Introduction

- 1.1. This Code of Practice provides guidance on the provisions of Contract Standing Order 7(3) which requires the lowest tender (or highest offer) to be accepted as tendered.
- 1.2. The situation that should normally prevail in any quotation or tendering exercise is that the lowest price as initially submitted shall be the accepted contract sum. It is important that tenderers shall continue to tender on this basis and that a culture of “negotiation” is not fostered so that tenderers automatically build in an appropriate negotiation margin. **It is anticipated that post-tender negotiation will only be used in occasional special circumstances** and only embarked upon after approval has been obtained from the Heads of Service Group.
- 1.3. However this code of practice recognises that there are circumstances where it is not in the Council’s interests to simply accept the tendered figure.
- 1.4. The term “post-tender negotiation” in this code refers to any situation where by agreement a tenderer reduces his/her price after the opening and ranking of tenders. The term “nominated officer” refers to an officer that has been charged with the responsibility of letting the contract.
- 1.5. References in this code to “tenders” or “tenderers” should also be applied to quotations and references to “the lowest price” or “reductions in price” or similar phrases shall also be applied to “the highest offer” etc.

12.0 2.0 Circumstances in which Post-Tender Negotiation can be Applied

- 2.1. If post-tender negotiation is to be employed, it will always be with the lowest tenderer after tenders have been opened and properly recorded. In no circumstances should post-tender negotiation be undertaken with any other tenderer unless for some reason the lowest tenderer has withdrawn.
- 2.2. Post-tender negotiation must only be employed if it has been clearly indicated in the tender document for the information of the tenderer that the Council may wish to reduce the tendered sum in certain circumstances. Suggested wording of such a clause is as follows:-

“Post-tender negotiation on price is not the usual practice of the Council and tenderers must make their best offer on this tender by the closing date. However tenderers may be asked to agree to reducing their tender price where it is unacceptably high and/or where the Council may wish to delete certain parts of the specified work or goods”.

2.3. The situations in which post-tender negotiation may be applied are as follows:-

- (a) where the price of the lowest tenderer is unacceptably high and the tenderer agrees to reduce the price without any changes to specification, methods, outputs or time-scale.
- (b) where the lowest tenderer has made an error, the correction of which will reduce the price and where it may therefore be necessary to negotiate the basis and amount of that reduction,
- (c) where, in order to reduce the price to the level of a pre-tender estimate, certain items are deleted from the specified works or goods that are to be supplied and the price is reduced accordingly. **However the deletions must represent items that will genuinely not be provided in any other form in that contract.** It is anticipated that negotiations to establish a reduced price in this situation will only be with the lowest tenderer. However other tenders may be reviewed for the possibility of reductions if the following applies:-
 - (i) the original tenders are built up from detailed bills of quantities which enables the deleted items to be priced from the bill **without reference to the contractor**. Where this can be done purely as an arithmetic exercise, it is permissible to recalculate other tenders to see if the effect of the reductions changes the tender ranking.
 - (ii) if the results of this exercise lead to a need to accept a tender other than the original lowest, the full facts should be reported to Heads of Service Group for approval to accept the revised lowest tender.
- (d) Financial Procedure Rules require “material modifications” to projects to be reported and it is anticipated that in most cases the omission of parts of a project to obtain a tender price that matches the pre-tender estimate will result in material modifications.

13.0 Circumstances in which Post-Tender Negotiation should not be Used

- 3.1. Post-tender negotiation should not be used to vary the content of a specification by the substitution of one product, design or construction method for another in order to reduce costs. In this situation it is essential that the tendering exercise must be repeated so that all tenderers have the opportunity of bidding against the revised specification.
- 3.2. Post -tender negotiation should never be used in a situation where it would undermine the confidence of tenderers in the Council’s ability to act in an ethical manner or where it would lay the Council open to accusations of unfairness.

14.0 Procedures for Post-Tender Negotiation

- 4.1. It is absolutely essential that the following practices and controls are in place when post-tender negotiation is applied:-
 - (a) one nominated officer should be responsible for leading the negotiations and for all ultimate decisions that result from the negotiations,

- (b) the nominated officer must never undertake negotiations alone but should always be accompanied by at least one appropriately graded independent officer.
- (c) all negotiations should be properly documented to provide a management trail of the decisions made, including how each decision will affect the contract price and how each decision is evaluated in monetary terms, the documented decisions to be agreed by both parties.
- (d) negotiation meetings must always be held formally at a place of business and never in an informal setting or in any way associated with entertainment or hospitality.
- (e) the decisions and proposed actions that result from negotiations must always be approved in accordance with Contract Standing Order 11 (i.e. approval obtained from the Cabinet, a Committee, Board or Heads of Service Group).

Errors and Discrepancies in Tenders

A Code of Practice

(This Code of Practice has effect by virtue of Contract Standing Order 18 in order to guide the implementation and operation of Contracts Procedure Rules)

15.0 1.0 Introduction

- 1.1. After tenders are opened the lowest valid tender is normally subjected to appraisal and checking.
- 1.2. Sometimes as a result of this, errors may be found that, if corrected, could affect the tender sum. Alternatively, a tenderer may find that he/she has made an error which he/she wishes to correct.
- 1.3. This Code of Practice outlines the procedure that should be followed in dealing with errors and discrepancies in this situation.

16.0 2.0 Errors notified by tenderers

- 2.1. If a tenderer seeks because of error to amend his/her tender after it has been opened but before it is accepted then the following course of action should be taken:-
 - (a) Such an approach from a tenderer who has not submitted the lowest valid tender should not be considered in any way.
 - (b) If the lowest tenderer wishes to increase his/her tendered sum then he/she must be informed that the Council will only accept the original figure except where the error is solely due to a mistake in arithmetic extension, cast or carry over and where the correction of that mistake will still retain that tenderer at the lowest position. (See para. 2.2.).
 - (c) If the tenderer wishes to reduce his/her tender then the tender sum shall be reduced accordingly.

17.0 3.0 Errors found during checking

- 3.1. The general principle to be followed as indicated in Contract Standing Order 10 is that a tenderer should be informed of errors and required to either stand by his/her original tender bid or withdraw.
- 3.2. Where however purely arithmetic errors have been found in the tender, then the tender sum is to be corrected. If this results in the tender no longer being the lowest, then the alternative lowest tender must be checked and if there are no errors, accepted instead.
- 3.3. The correction however must be in relation to an error that can be clearly demonstrated as such and about which there can be no element of argument or negotiation with the tenderer.

Officer Employment Procedure Rules

(see also Standing Orders relating to Staff)

18.0 1.0 Recruitment and Appointment

(a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment.

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor will seek support for any person for any appointment with the Council.
- (iii) Paragraphs (i) and (ii) above preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

19.0 2.0 Recruitment of Head of Paid Service and Chief Officers

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

(a) draw up a statement specifying:

- (i) the duties of the officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed;

(b) 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

(c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

20.0 3.0 Appointment of Head of Paid Service

- (a) The full Council will appoint the Head of Paid Service.
- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

21.0 4.0 Appointment of Chief Officers and Deputy Chief Officers

- (a) A Committee or Sub-Committee of the Council will appoint chief officers and deputy chief officers. That Committee or Sub-Committee must include at least one member of the Cabinet.
- (b) An offer of employment as a chief officer or deputy chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received.

A list of Chief Officers and Deputy Chief Officers is appended.

22.0 5.0 Other Appointments

- (a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

23.0 6.0 Disciplinary Action

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- (c) Councillors will not be involved in the disciplinary action against any officer below deputy 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 disciplinary action.

24.0 7.0 Dismissal

Councillors will not be involved in the dismissal of any officer below deputy 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.

List of chief officers and deputy chief officers for the purposes of Officer Employment Procedure Rule 4

Chief Executive
Corporate Director
Corporate Director
Corporate Director

Head of Resources
Head of Community Services
Head of Customer Services
Head of Commercial Services
Head of Development Services
Head of Improvement and Performance

Chief Finance Officer (*if postholder not otherwise included in this list*)
Monitoring Officer (*if postholder not otherwise included in this list*)

Prescribed and Other Standing Orders

25.0 Part I – Prescribed Standing Orders

Introduction, Application and Interpretation

1. The following Standing Orders shall be known as 'Prescribed Standing Orders', and shall form part of the Council's Standing Orders. The Council's Standing Orders other than Prescribed Standing Orders shall be known as 'Ordinary Standing Orders'.
2. In the event of any conflict or inconsistency between Ordinary Standing Orders and Prescribed Standing Orders the latter shall prevail.
3. Any word or phrase contained within Prescribed Standing Orders shall, if such word or phrase is given a meaning by The Local Authorities (Standing Orders) Regulations 1993, have that same meaning for the purposes of Prescribed Standing Orders.

Appointment of Chief Officers

4. Where the authority propose to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among their existing Officers, they shall:-
 - (a) draw up a statement specifying:-
 - (i) the duties of the Officer concerned, and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
 - (b) 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
 - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
5. (1) Where a post has been advertised as provided in standing order 4 (b) the authority shall:-
 - (a) interview all qualified applicants for the post, or
 - (b) select a short list of such qualified applicants and interview those included on the short list.

(2) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with standing order 4 (b).
6. Every appointment of a Chief Officer shall be made by the authority unless made by any duly authorised Committee, Action/Sub-Committee, or a relevant Joint Committee.
7. The steps under Prescribed Standing Orders 4 and 5 above may be taken by any Committee, Action/Sub-Committee or Chief Officer of the authority if duly authorised in that behalf.

8. Where the duties of a Chief Officer include the discharge of functions of two or more local authorities in pursuance of Section 101 (5) of the Local Government Act 1972:-
 - (a) the steps under prescribed standing orders 4 and 5 above may be taken by any duly authorised joint committee of those authorities, sub committee of such a committee or a chief officer of any of the authorities concerned, and
 - (b) any chief officer may be appointed by such a duly authorised joint committee, sub committee of such a committee or a committee or sub committee of any of those authorities.
9. Excluded from the application of prescribed standing orders 4 to 6 shall be any appointment in pursuance of Section 9 (assistants for political groups) of the Act.

Disciplinary Action Against Head of Paid Service and Others

10. (1) No disciplinary action in respect of the head of the authority's paid service (unless he/she is also a council manager of the authority), its monitoring officer, or its chief finance officer, except joint action described in paragraph 2, may be taken by the authority, or by a committee, a sub-committee, a joint committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigate of alleged misconduct).
- (2) The action mentioned in paragraph 1 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

(Note: in paragraph (1), "chief finance officer", "council manager", "disciplinary action", "head of authority's paid service" and "monitoring officer", have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 and "designated independent person" has the same meaning as in regulation 7 of those Regulations).

Recording of Votes at Meetings

11. (1) Where immediately after a vote is taken at a meeting of a relevant body any member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his/her vote for the question or against the question or whether he/she abstained from voting.
- (2) In this paragraph 'relevant body' means the authority, a committee or sub committee of the authority or a relevant joint committee or sub committee of such a committee.

Signing Minutes - Extraordinary Meetings

12. Where in relation to any meeting of the authority the next such meeting is a meeting called under paragraph 3 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following meeting of the authority (being a meeting

called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41 (1) and (2) (signing of minutes) of that Schedule.

Variation and Revocation

13. Otherwise than to incorporate options allowed by the Regulations these prescribed standing orders shall not be revoked or amended.

26.0 Part II – 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 II of the 2000 Act;

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

“proper officer” means the Human Resources Manager or his or her nominee.

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

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

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

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

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

5. (1) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
 - (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until:
 - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the proper officer has notified every member of the executive of the authority of:
 - (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
 - (c) either:
 - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointee that neither he/she nor any other member of the executive has any objection to the making of the offer;
 - (ii) the proper officer has notified the appointor that no objection was received by him/her within that period from the executive leader; or
 - (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
6. (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until:
 - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;

- (b) the proper officer has notified every member of the executive of the authority of –
 - (i) the name of the person who the dismisser wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismisser has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
 - (c) either:
 - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismisser that neither he/she nor any other member of the executive has any objection to the dismissal;
 - (ii) the proper officer has notified the dismisser that no objection was received by him/her within that period from the executive leader; or
 - (iii) the dismisser is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
 - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

27.0 Part III – Standing Orders relating to Executive Plans, Strategies and Estimates

1. In this Part:

“executive” and “executive leader” have the same meaning as in Part II of the Local Government Act 2000; and

“plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

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

3. Before the authority:

- (a) amends the draft plan or strategy;
- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her 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/her instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

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

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

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

- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
- (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or

not in the form of a draft or revised draft) of which any part is required to be so submitted; or

- (c) adopting (with or without modification) the plan or strategy,

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

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

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

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

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

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

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

9. When the period specified by the authority, referred to in paragraph 8, has expired, the authority must, when making calculations (whether originally or by way of

substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

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

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

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

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

Part 5

Codes and Protocols

Members Code of Conduct

PART 1

GENERAL PROVISIONS

Introduction and interpretation

1. (1) This Code applies to **you** as a member of an authority.
(2) You should read this Code together with the general principles prescribed by the Secretary of State.
(3) It is your responsibility to comply with the provisions of this Code.
(4) In this Code —
"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, joint sub-committees, or area committees;"member" includes a co-opted member and an appointed member.
(5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you: -
 - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of your authority,and references to your official capacity are construed accordingly.
(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority —

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3. (1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not —

(a) 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 consent of a person authorised to give it;

(ii) you are required by law to do so;

- (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—
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
6. You —
- (a) must not 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; and
 - (b) must, when using or authorising the use by others of the resources of your authority—
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
 - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
- (a) your authority's chief finance officer; or
 - (b) your authority's monitoring officer,
- where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

PART 2

INTERESTS

Personal interests

8. (1) You have a personal interest in any business of your authority where either—
- (a) it relates to or is likely to affect—

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of —
- (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

Prejudicial interest generally

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business —

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of —

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) 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 the child attends;

(iii) 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;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) 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.

PART 3

REGISTRATION OF MEMBERS' INTERESTS

Registration of members' interests

- 13.** (1) Subject to paragraph 14, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
 - (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

- 14.** (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation"

Working Protocol on Probity Matters

15.0 Introduction

- 15.1** From time to time Members may encounter issues which they feel reflect badly on the Council. Where these issues relate to Council policy or formal decisions taken they are

matters for legitimate debate in the Council Chamber and, potentially, in Public. Alongside the legitimate role of ensuring effective public accountability, all Members have a shared accountability for upholding the Council's general good name and reputation. All members and officers are trustees of that reputation.

Probity is a broad term and is intended to relate to all areas of financial, contractual and correctness in the Council's business dealings and Governance arrangements. It is about the fundamental integrity and honesty of the Council's business dealings and decision making processes. Probity may also cover alleged misconduct, financial or procedural irregularity or other matters that could undermine public confidence in the integrity of the Council.

15.2 Raising Probity Matters

On occasions, questions may be raised in relation to the probity of a decision, course of action or set of circumstances. In general terms, matters of probity are not suitable for public airing and debate (for example, in Council Meetings or in the press) unless the facts of any such matters have been clearly established. In general terms, there is an expectation that, if Members believe that a matter of probity exists, then that concern, together with any and all related evidence, will be presented to one or more of the Council's three statutory officers:-

- Chief Executive and Head of Paid Service
- Section 151 Officer/Head of Financial Services
- Monitoring Office/Corporate Director

15.3 Review and/or Investigation of Probity Matters

These Officers will arrange the appropriate review and/or investigation of the matters raised within a timescale that is reasonable to the subject matter. A written response will then be made available to the Member concerned and to the relevant Cabinet portfolio holder(s) and, possibly Group Leaders.

Such matters will be dealt with promptly, although timescales may vary, depending on the nature of the probity issue that has been raised. In general terms though, officers commit to keeping Members advised of progress on any investigations and to secure early completion and report.

15.4 Confidentiality

Throughout any period of investigation it is imperative that the matter remains confidential as failure to do so could impede any investigation.

Disclosure and reporting in the local press may not only impede the investigation it could also prejudice the Council in any subsequent disciplinary and/or employment dispute.

15.5 Public Disclosure – Public Interest Test

Whilst there is a general expectation of confidentiality, for sound operational reasons, this cannot override circumstances where a Member may feel that Public disclosure is justified or necessary. The circumstances for – and test of reasonableness of such a disclosure – is set out in the Standards Board's guidance on the Code of Conduct.

In weighing up such public interest test Members must weigh in the balance the potential down-side of any disclosure, including the impact on any subsequent investigation and the potential risk through contractual or employee claims.

Sanction

The Council is committed to improving its corporate reputation and to improving public confidence in the governance arrangements on the Isle of Thanet. This requires that the facts of any probity matter raised by a Member should be properly established before placing them in the public arena or with the Press.

Failure to comply with this protocol will be considered by the Council to be a breach under the Code of Conduct and, depending on the severity of the breach, will attract suitable sanction.

15.7 Council Agreement

This protocol was agreed by the Council on 8 May 2008.

Protocol for the Guidance of Planning Committee Members and Officers

1.0 General Role and Conduct of Councillors and Officers

- 1.1 Councillors are accountable to the electorate while Officers are accountable to the Council as a whole. Officers advise Councillors and Council also carry out the Council's work.
- 1.2 Both Councillors and Officers are governed by Codes of Conduct. The Authority's Code of Conduct for Members (the Authority's Code) provides guidance and standards for Councillors. Breaches of the Authority's Code may be regarded by the local Ombudsman as maladministration and may result in a complaint being made to the Standards Board for England or to the Council's Standards Committee.
- 1.3 Officers who are members of professional bodies are subject to rules of conduct, breaches of which may result in disciplinary actions.
- 1.4 In addition to the above codes, Councillors and Officers must carry out their duties in accordance with the Council's Standing Orders and Rules which set down the actual rules which govern the conduct of Council business and of course there is the legislation contained in the Local Government Acts themselves.
- 1.5 Some Councillors may in addition to the above find that there are still more codes of conduct which affect them individually such as the advice notes issued by the Co-operative Union Ltd in respect of Co-operative Councillors Pecuniary and Non-pecuniary Interests.
- 1.6 It is important for Councillors to understand who they represent and whose views they should consider. Whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. Councillors must therefore represent their constituents as a body and vote in the interests of the whole district.
- 1.7 Councillors should not favour any individuals or groups and although they may be influenced by the opinions of others they alone have the responsibility to decide what view to take and the manner in which they cast their votes.

2.0 Training

- 2.1 There is a strong expectation that members of the Planning Committee (including Substitute members) will undertake training every two years updated by internal training.

Lobbying

Problems should not arise if Councillors simply listen to a point of view about a planning proposal and provide procedural advice (in particular referring the person to Officers if he or she is a member of the public and not professionally represented). Those members of the public who have sought professional representation should be encouraged to make any points concerning their application through their professional advisor.

Planning Councillors could find themselves in a difficult situation at a later date if they indicate or give the impression of support or opposition to a proposal or declare their voting intention before a decision is to be taken as this could be taken to be pre-determination of

the outcome. It is important that all decisions should be made after all relevant information and views have been taken into consideration.

Planning Councillors should not organise support or opposition, lobby other Councillors or act as an advocate or put pressure on Officers for a particular recommendation (although a Councillor may address a Planning Committee under Council Procedure Rule 24.1).

Planning Committee Members who find themselves in a situation which is developing into lobby should actively take steps to prevent this happening or at least explain that whilst they can listen to what is being said they are constrained from expressing their point of view or an intention to vote one way or another, otherwise they may well have to declare an interest and not take part in the subsequent Committee decision. In a case where this has actually happened the Member should declare accordingly.

Councillors who are unsure whether an interest should be declared or not should seek legal advice (which may be obtained from the Council's Monitoring Officer), although the ultimate decision rests with the individual councillor and nobody can make the decision on their behalf.

4.0 Site Visits

- 4.1.1 A site visit should only be necessary if the impact of the proposed development is difficult to visualise from the plans and supporting material (including photographs taken by Officers) and is primarily to allow Members to see the site for themselves.
- 4.2 Site visits may cause delay and additional costs and should only be used where strictly necessary.
- 4.3 Planning Committee Members should endeavour to keep together as a group and not engage individually in discussion with applicants or objectors or their professional representatives. Any discussion by Members should be confined to any explanation of things seen on site. Any other discussion should take place within the Committee meeting at which the application is being considered.
- 4.4 A site visit should consist simply of an inspection by viewing Members with Officer assistance in the presence of the applicant and any objectors, or even an unaccompanied visit (ie without applicant and objectors), as the main purpose of a site visit is to see the subject matter of the application.
- 4.5 Any discussion at a site visit other than pure explanation of things seen may be construed as lobbying (see above).
- 4.6 No public speaking will be permitted at site visits but a Ward Member (or another designated Member) and a representative of Parish/Town Councils may be permitted to share information.
- 4.7 A statement will be read out before the commencement of a site visit, making it clear what the purpose of the visit is, and the limitations that exist on the business that can be transacted during that visit.

5.0 Hospitality and Gifts

- 5.1 The basis of the planning system is the consideration of private proposals against wider public interests and opposing views are often strongly held by those involved. Whilst Councillors should take account of those views they should not favour any person, Company, group or locality, nor put themselves in a position where they appear to do so.

5.2 Any offer of hospitality or offer of gifts to either Councillors or Officers should in the first instance be declined politely. If receipt of hospitality of a gift is unavoidable declaration of its receipt should be made as soon as possible.

5.3 Any gifts and/or hospitality should be logged and entered in the registers kept by the Council's Democratic Services Unit and reviews regularly.

6.0 Declarations of Interest

6.1 The law and the Authority's Codes set out requirements and guidance for declaration of personal and prejudicial interests (see 1.0 above – General Role and Conduct of Councillors and Officers). Councillors must note that not only should impropriety be avoided but also any appearance of grounds for suspicion of improper conduct. The responsibility for this rests individually with each Councillor. (The Standards Board for England provides helpful advice).

6.2 Councillors who have substantial property interest or other interests which will prevent them voting on a regular basis should avoid serving on the Planning Committee.

6.3 Councillors should not use their position to further a private or personal interest rather than the general public interest or give grounds for such suspicion.

6.4 The law and the guidelines set out in the Authority's Code provide that an interest should be declared when a member of the public knowing all the facts would reasonably think that the Councillor might be influenced by it. If a prejudicial interest is declared not only must the interest be disclosed but the Councillor should not take part in any vote on the matter. At Planning Committee meetings where members of the public are able to express an opinion on an application, a Member with a prejudicial interest can provide information to the Committee. However, that Member should leave the meeting after such information has been provided, and may not take any further part in the process of the application. It is for the individual Councillor to declare an interest and as a general guideline, if in doubt it is safer to declare an interest.

7.0 Members' Applications

7.1 Serving Councillors and Officers should never act as agents for people pursuing a planning matter with their Authority. Should they submit their own proposals to the Authority they serve they should take no part in its processing.

7.2 Such a proposal should be readily identified and a Senior Officer should be informed of any such proposal.

7.3 Such proposals should be reported to the Planning Committee as main items and not dealt with by Officers under delegated powers.

8.0 Officers' Applications

8.1 As soon as an officer submits a planning application, they should inform the Council's Monitoring Officer in writing. A copy of the notification will be placed on the register of officer's interests.

8.2 Applications by officers are always considered by the Planning Committee, which will be informed of the fact that the application is made by or on behalf of an officer.

9.0 Committee Membership

- 9.1 Care should be taken to ensure (so far as is practicable) that membership of the Planning Committee avoids a "concentration" of Members to a particular area of the island.
- 9.2 Where a Councillor is not a Member of the Planning Committee and makes representations on an application under Council Procedure Rule 24.1 he or she must disclose whether there has been contact with the applicant or the applicant's agent or any objectors, making it clear if only one side of the argument has been heard.
- 9.3 Councillors must confine their contribution to the debate on planning applications to purely planning matters and not aspects affecting the application which fall under the area of responsibility of any other Committee or Board or the Cabinet.

10.0 Substitutions

- 10.1 Substitutions at a Planning Committee Shall only be permitted from a designated pool of substitute Members, to be agreed at the Annual Meeting of Council each year (and updated as required at subsequent meetings of Council). [NOTE: Annual council will be asked to determine the size/composition of such a pool.]
- 10.2 It shall be the responsibility of the Member unable to attend the Planning Committee meeting to appoint a substitute Member from the pool and inform the Democratic Services Manager, in accordance with the Council's constitution.

11.0 Guidelines of Public Speaking

- 11.1 Public speaking is permitted at Planning Committee with (for minor applications) one speaker for the application and one speaker raising points of concern,
- 11.2 In the case of major planning applications (as defined by the Town and Country Planning (General Development Procedure) Order 1995, a maximum number of three members of the public will be permitted to speak against the application, provided they have different points to make to the Committee. It shall only be necessary for one speaker to represent the applicant.
- 11.3 The applicant will speak first and the objector(s) will speak afterwards.

12.0 Recording of Decisions Against Officer Recommendations

- 12.1 The Committee will receive a report from the Planning Officer on each planning application it considers. The application report will include a recommendation from Officer.
- 12.2 The Officer will briefly introduce the report. After which there will be public speaking. The Chairman will then ask the Officer to comment. *{Amended by Standards Committee on 22 April 2008.}*
- 12.3 If it is evident from debate that the Committee is minded not to agree the Officer recommendation the Chairman will invite members to either; move an alternative recommendation or, an amendment. In moving that amendment the mover and/or seconder must provide supporting reasons.
- 12.4 The Chairman will ask the Head of Development Services, or the Senior Planning professional in his absence, to comment on the supporting reasons. Then either:-
- a vote will be taken to agree the alternative recommendation/amendment;

or

- if satisfactory reasons have not been given for the alternative recommendation/amendment the Committee will return to the Officer recommendation which will be agreed or another motion debated.
- if, following further debate, the Committee still wishes to take a decision against officer advice, even though the Head of Development Services (or in his absence a Senior Planning Professional) cannot agree that the reasons for that decision are justified, then it shall be entitled to do so, provided that the decision directly against officer advice is so minuted. (Added by Standards Committee on 22 April 2009.)

12.5 In exceptional cases; where material considerations not covered in the Planning Officer report are raised in public speaking, or in questions from Committee Members, the application will be deferred so that further information is included.

13.0 Development Plan Departures

13.1 All applications not in accordance with the development plan must be identified as soon as possible.

13.2 If approval is recommended, all material considerations must be clearly identified and how members justify overriding the development plan clearly demonstrated.

13.3 If the Officer's report recommends approval of a departure the justification for such a departure must be included in full in the report.

13.4 Any decision of the Planning Committee to approve such a departure must be referred to full Council. The application may then have to be referred to the Secretary of State for the Environment depending on the type and scale of development proposed.

13.5 Addenda and conditions may be attached to an application at the request of Members but as in 12.4 any such conditions must be fully minuted with the mover and seconder recorded.

14.0 Changes to an Application

14.1 No material change (i.e. one likely to affect any consultee) to any planning application shall be considered at Committee unless it has been the subject of a written appraisal by Officers, and has had adequate public consultation, and has been published in the agenda for the relevant meeting.

14.2 No minor change to any planning application shall be considered at Committee unless it has been published in the agenda for the relevant meeting.

15.0 Briefing Meetings

15.1 If a briefing meeting is held prior to any meeting of the Planning Committee it shall normally be attended only by the Chairman, Vice Chairman and Officers and shall be for the purpose of Officers informing the Chairman and Vice Chairman of any additional matters since publication of the agenda that do not appear in the reports.

15.2 The briefing meeting would enable notification of concerns or amendments to any application and enable the Chairman and Vice-Chairman to consider if such amendments constitute a material change, or whether a verbal report from the Officer or Officers is

acceptable and within the Standing Orders governing the conduct and management of a meeting.

16.0 Conduct of Planning Committee and Planning Committee Members

- 16.1 All Members of the Planning Committee are to avoid personal abuse of Members or Officers or mention of party political matters during meetings of the Committee. The Chairman of the meeting shall warn any Member breaching this rule and in the case of repetition require him or her to leave the meeting. Such behaviour shall be considered to be a breach of the Council's Code of Conduct.
- 16.2 Any objection to an elected members' actions or behaviour shall be made in writing to the Chief Executive or to the Council's Monitoring Officer.
- 16.3 Any criticism of Officers by Members of the Planning Committee in relation to the handling of any planning application shall, in the first instance, be addressed informally to the Head of Development Services or the relevant Corporate Director. If this does not resolve the matter then it should be made in writing in accordance with procedures laid down in Standing Orders.
- 16.4 If any Officers feels or suspects that pressure is being exerted upon him/her by any elected Member in relation to a particular application he or she shall forthwith notify the matter in writing to the Chief Executive, relevant Corporate Director or the Council's Monitoring Officer.

17.0 Recorded Votes

- 17.1 No record shall be made at the time of voting of the votes of individual Members on any item whether they be for or against the proposal or the abstaining from voting of a particular Member except that in accordance with 12.4 and 13.5.
- 17.2 A Member shall be entitled to have his or her vote recorded following the voting on any particular item in accordance with prescribed Standing Orders 11 (1) and (2).

Officers' Code of Conduct

28.0 Introduction

The public is entitled to expect the highest standards of conduct from all employees who work for local government. It is recognised that the integrity of the Council rests on mutual trust and respect between elected Members and employees of the Council. The Chief Executive places particular emphasis on the quality of this relationship and undertakes to maintain a climate in which mutual trust and respect can thrive.

This Code outlines the existing laws, regulations and conditions of service and provides further guidance to assist employees in their day-to-day work. The Code is produced in the light of the challenges that employees face in the new "modernised" local authority environment.

This Code lays down minimum standards for employees which will help maintain and improve standards and protect employees from misunderstanding or criticism. Failure to meet such standards can result in adverse public comment to the detriment of the Council and the service and in certain circumstances can have serious consequences for the employee and put their job at risk.

Although this Code cannot be exhaustive, it contains sufficient guidance to make employees aware of what is required. If circumstances arise which leave an employee in doubt as to what should be done, they should immediately arrange to obtain advice from their appropriate manager or an appropriate senior officer.

1.0 Standards

- 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 other employees and members with impartiality.
- 1.2 Employees will be expected, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service.
- 1.3 Employees must report to the appropriate manager any impropriety or breach of procedure.

NB: A copy of the Council's "Whistleblowing" Policy may be obtained from Human Resources.

2.0 Disclosure of Information

- 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. The Authority itself may decide to disclose other types of information when the law permits such disclosure. Employees must be aware of the information their Authority must make available, the information that it is prepared to make openly available, and that which it is not prepared to disclose.
- 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 otherwise than might reasonably be expected in the normal course of their duties. Any particular information received by an employee

from a Member which is personal to that Member and does not belong to the Authority should not be divulged by the employee without the prior approval of that Member, except where such disclosure is required or sanctioned by law.

- 2.3 All confidential or exempt information and material (oral and written) must be treated accordingly unless it becomes public in the course of the Authority's business.
- 2.4 Information concerning an employee's private affairs shall be treated sensitively and confidentially and shall not be supplied to any person outside the service of the Authority unless the consent of such employee is first obtained.
- 2.5 In certain circumstances, employees may have a legal or professional duty to disclose information to a third party (e.g. in the course of legal proceedings). Disclosure within the service shall only take place for proper purposes and in connection with the function concerned.

3.0 Political Neutrality

- 3.1 Employees service the Authority as a whole. It follows that they must serve all Members not just members of any controlling group, and it must be ensured that the individual rights of Members are respected.
- 3.2 Employees shall not be required to advise any political group of the Authority either as to the work of the group or as to the work of the Authority, neither shall they be required to attend any meeting of any political group.
- 3.3 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.
- 3.4 Any political assistants appointed in accordance with the Local Government and Housing Act 1989 shall be exempt from the standards set in paragraphs 3.1 to 3.3.

4.0 Political Restrictions

- 4.1 Some specific posts are legally barred from political activity. The employees affected are informed of these facts and the restrictions are contained and detailed within their individual employment contracts. These restrictions ban these employees from:
 - (a) Holding elected office as a Member of Parliament, Member of the European Parliament, any Local Authority (except a Town or Parish Council);
 - (b) Acting as an Election Agent or Sub-Agent;
 - (c) Holding office in a political party;
 - (d) Canvassing at elections; and
 - (e) Speaking or writing publicly on matters of party political controversy where there is an apparent intention to effect political support.

5.0 Relationships

Members

- 5.1 Employees are responsible to the Authority through its senior managers. For some, their job is to give support to Members and senior managers and all are there to carry

out the Authority's work. Mutual respect between employees and Members is essential to good local government. Close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees and Members, and should therefore be avoided.

- 5.2 Individual Members must not involve themselves in any matter relating to the appointment, promotion, dismissal, salary, superannuation, conditions of service, discipline, grievance or any industrial relations matters except through the official channels of the Council.

The Local Community and Service Users

- 5.3 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 the community as defined by the policies of the Authority.

Contractors

- 5.4 All relationships of a business or of a private nature with external contractors (ie those working for and doing business with the Council), or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no favouritism 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.

- 5.5 Employees who engage or supervise contractors or have any other official relationships with contractors and have previously had, or currently have a relationship of a business or of a private nature with contractors, should declare that relationship to the appropriate manager.

6.0 Appointment and other Employment Matters

- 6.1 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 work. 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 personal relationship outside work with them.

- 6.2 Normally, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative or partner etc.

- 6.3 However, circumstances may arise whereby a relative employed by Thanet District Council could represent an employee in a disciplinary case.

7.0 Outside Commitments

- 7.1 Employees' off-duty hours are their personal concern, but they should not subordinate their employment relationship with the Authority to their private interests or put themselves in a position where there is a conflict of interests. However, exceptions will be made with a Union official is carrying out official Union duties which may result in a conflict of interests.

- 7.2 The Authority will not normally prevent an employee from undertaking additional employment or other commitments, but any such employment must demonstrably not

conflict with, or in any way weaken public confidence in, the conduction of the Authority's business.

7.3 Employees should be aware of specific items of ownership of intellectual property or copyright created during their employment. All creative ideas or designs produced during employment shall be in the Authority's ownership.

7.4 Employees above Local Grade 6 shall normally be expected to devote their whole time service to the work of the Authority and shall not engage in any other additional employment without the express consent of the Authority.

8.0 Personal Interests

8.1 Employees must give notice in writing of any financial or non-financial interests which are clear and substantial and which could bring about a conflict with the Authority's interests. Any change must be similarly notified.

8.2 In addition, membership or acting as an officer (honorary or otherwise) of any secret society (as defined below) should be notified in writing as in 8.1 above whether or not a demonstrable conflict of interest with the Authority's interests arises or may arise.

8.3 For the purposes of this Code, a secret society is defined as being:

"Any lodge, chapter, society, trust, regular gathering or meeting, which;

(a) is not open to members of the public who are not members of that lodge, chapter, society, trust, regular gathering or meeting;

(b) includes in the grant of membership an obligation on the part of the member with a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society, trust, regular gathering or meeting; and

(c) includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, regular gathering or meeting."

9.0 Equality

9.1 All employees should ensure that the Authority's Equal Opportunities Policy is complied with in addition to the requirements of the law. All members of the community and other employees have a right to be treated with fairness and equity.

10.0 Separation of Roles During Tendering

10.1 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.

10.2 Employees in contractor or provider units must exercise fairness and impartiality when dealing with customers, suppliers, contractors and sub-contractors.

10.3 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.

10.4 Employees contemplating a management buy-out should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.

10.5 Employees should ensure that no special favour is shown in awarding contracts to businesses.

11.0 Corruption

11.1 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, the employee will be expected to be able to demonstrate that any such rewards have not been corruptly obtained.

11.2 Local Government Act 1972 – Section 117 – Interests in Contracts. This provides that if an employee knows that a contract in which the individual has a pecuniary interest is before the Authority, notice of this interest must be given to the Authority. This interest must be recorded by the Democratic Services Manager in the Register of Disclosures by Officers.

12.0 Financial Regulations

12.1 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. Actions should at all times be in compliance with the Authority's Financial Regulations and Standing Orders.

13.0 Gifts and Hospitality

13.1 The general guidance is that, as employees in the public service, officers should question the need for gifts or hospitality. Clearly, a member of the public would rightly be suspicious of any employee who received gifts or excessive hospitality in the course of their normal working relationship.

13.2 A particular source of conflict between the private and public interest is the offer of gifts, hospitality and other benefits. Whatever common practice may be in the commercial world, public employment requires a standard of its own. The situations concerned are so diverse that no precise rule can cover all eventualities. The following guidance is given on that basis; however, the practice should always be to err on the side of caution.

13.3 Hospitality is a difficult area to define and a lot will depend on the common-sense of the employee. Generally, hospitality received as part of the need to impart information to employees in the line of their duties is acceptable, or where an officer is representing the Authority at an information gathering event. Offers of hospitality where the main purpose of the invitation is hospitality, should generally be politely declined. This would include invitations to social or sporting functions where there is no specific work related agenda or where the work element is incidental to the invitation.

13.4 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

must be properly authorised, and if an employee is in any doubt they should take advice from their appropriate manager.

- 13.5 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Authority.
- 13.6 When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to discussion which the Authority may be taking affecting those providing the hospitality. If there is any risk of conflict or criticism, the hospitality must be declared.
- 13.7 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable when it is clear that the hospitality is corporate rather than personal, or where the Authority gives consent in advance and where any purchasing decisions will not be compromised. Where visits to inspect equipment are required, employees should ensure that the Authority meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 13.8 The rule should be that gifts, no matter how well intentioned, are not acceptable. A firm but polite refusal is rarely misconstrued by the person offering the gift.
- 13.9 Employees or their families must not accept significant personal gifts from contractors, outside suppliers, or other persons or bodies who have or who are known to be seeking dealings of any kind whatsoever with the Authority, and the fact of such an offer should be disclosed to their appropriate manager.
- 13.10 Where the gift is only of token value, e.g. an official or trade calendar or diary, it may be accepted, and in other cases where it is considered that refusal would give unnecessary offence, employees must consult their appropriate manager and take advice accordingly.
- 13.11 No employee may seek, for their own use or for the use of another person, goods or services from the Authority's suppliers and contractors as a result of their employment with the Authority.
- 13.12 Any gifts/hospitality received should be reported to the appropriate manager and recorded in a register.

14.0 Sponsorship – Giving and Receiving

- 14.1 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 given when dealing with contractors or potential contractors.
- 14.2 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 any way without there being full disclosure to an appropriate manager 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

1.0 Introduction

- 1.1 Mutual respect between Members and Officers is essential to good local government. The relationship between Members and Officers is an essential ingredient that goes into the successful working of the organisation, and is characterised by mutual respect, informality and trust. Members and Officers feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is rather to help Members and Officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Head of Paid Service.
- 1.2 The Protocol must be read and operated in the context of any relevant legislation and national and local Codes of Conduct and any procedure for confidential reporting.

2.0 Roles of Members and Officers

2.1 Roles of Members and Officers

The respective roles of Members and Officers can be summarised as follows:-

Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members of the Authority, and to carry out the Authority's work under the direction and control of the Council, the Cabinet, and relevant committees, etc.

2.2 Members

Members as councillors have four main areas of responsibility:

- (a) determining the policy of the Authority and giving it political leadership;
- (b) monitoring and reviewing the performance of the Authority in implementing that policy and delivering services;
- (c) representing the Authority externally; and
- (d) acting as advocates on behalf of their constituents.

It is not the role of Members to involve themselves in the day to day management of the Authority's services.

2.3 Members of the Cabinet, Chairmen and Vice-Chairmen

Members of the Cabinet and chairmen and vice-chairmen of committees, boards, panels etc. have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than those of other councillors without those responsibilities, and this is recognised in the expectations they are entitled to have.

Cabinet councillors are politically accountable to the Council and the electorate for the functions contained within their individual portfolio of responsibilities, severally and jointly. It is therefore necessary for Cabinet councillors to have timely access to advice, support and relevant information to fulfil this role effectively. However, such Members must still respect the impartiality of Officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the Authority.

Where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship and degree of contact between Officers, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

It is clearly important that there should be a professional working relationship between the chairman of a committee and chief officers and other senior officers of any unit. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other councillors and other party groups.

2.4 Opposition Councillors

As individual councillors, all councillors have the same rights and obligations in their relationship with Officers and should be treated equally. This principle is particularly important in the context of the work of scrutiny committees.

In addition to any other rights which Members of the opposition groups have under this Constitution or under the law, such Members shall have the right to meet with Officers for the purposes of discussing matters as follows:-

- ◆ ward issues
- ◆ published reports (before meeting)
- ◆ after meetings (implications of decision etc.)
- ◆ with the approval of the Cabinet Member
- ◆ Council press releases or items included in TDC News
- ◆ matters of fact (e.g. level of grant settlement, formal letters from government/official agencies).

2.5 Officers

The role of Officers is to give advice and information to Members upon which they may determine policy issues and to implement the policies determined by the Authority, and to provide advice to Members as to how this might properly be done.

In giving such advice to Members, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an Officer may report the views of individual Members on an issue, if the Member wishes to express a contrary view he/she should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view.

Certain Officers, e.g. Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Authority and to individual Members, and Members must respect these obligations, must not obstruct Officer in the discharge of these responsibilities, and must not victimise Officers for discharging these responsibilities.

3.0 Expectations

3.1 Members can expect from Officers:-

- (a) a commitment to the Authority as a whole, and not to any political group;
- (b) an understanding of and support for respective roles, workloads and pressures;
- (c) a timely response to enquiries and complaints;
- (d) professional advice not influenced by political views or preference, which does not compromise the political neutrality of Officers;
- (e) regular, up to date information on matters which can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- (f) awareness of and sensitivity to the political environment;
- (g) respect, dignity and courtesy;
- (h) training and development in order to carry out their role effectively;
- (i) integrity, mutual support and appropriate confidentiality;
- (j) not to have personal issues raised with them by Officers outside the agreed procedures;
- (k) that employees will not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- (l) that Officers will at all times comply with the relevant Code of Conduct;
- (m) that where it is necessary for an Officer to copy his/her correspondence to another Member this will be made clear to the original Member. In other words, "silent" or "blind" copies should not be employed; and
- (n) support for the role of Members as the local representatives of the Authority, within any scheme of support for Members, which may be approved by the Council. This support shall only be provided with the approval of the Chief Executive who shall be entitled to inspect any documents produced.

3.2 Officers can expect from Members:

- (a) an understanding of and support for respective roles, workloads and pressures;
- (b) political leadership and direction;
- (c) respect, dignity and courtesy;

- (d) integrity, mutual support and appropriate confidentiality;
- (e) not to be subject to bullying or to be put under undue pressures. Members should have regard to the seniority of Officers in determining what are reasonable requests, having regard to the power relationship between Members and Officers, and the potential vulnerability of Officers, particularly at more junior levels;
- (f) that Members will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
- (g) that Members will at all times comply with the relevant Code of Conduct
- (h) that party groups will not call on Officers to support and contribute to party group deliberations; and
- (i) that Members will not ask Officers to act in any way which would conflict with the employee's code of conduct or which would affect or be seen to affect the political impartiality of Officer.

3.3 Limitations upon Behaviour

The distinct roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list;

- (a) close personal relationships between Members and Officers can confuse their separate roles and get in the way of proper discharge of the Authority's functions, not least in creating the perception in others that a particular Member or Officer may secure advantageous treatment;
- (b) the need to maintain the separate roles means that there are limits to the matters on which the Members may seek the advice of Officers, both in relation to personal matters and party political issues; and
- (c) relationships with a particular individual or party group should not be such as to create public suspicion that an employee favours that Member or group above others. The issue of officer attendance and advice to political groups is specifically covered below.

4.0 When Things Go Wrong

4.1 Procedure for Officers

From time to time the relationship between Members and Officers may become strained or break down. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Members, Officers will have recourse to the Council's Grievance Procedure or to the Council's Monitoring Officer, as appropriate to the circumstances. In the event of the basis for a grievance or complaint being found, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate group leader, will refer it to the Standards Committee for consideration and determination, unless a breach of the Code of Conduct for Members is involved in which case the Chief Executive shall report the matter to the Standards Board for England.

4.2 Procedure for Members

In the event that a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Head of Service. Where the Officer concerned is a Head of Service or Corporate Director the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Corporate Director (Resources). If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure and, where appropriate, act in accordance with a report of a "designated independent person" (see Prescribed Standing Order 10).

5.0 Overview and Scrutiny

- 5.1 Councillors on the Overview and Scrutiny Panels are entitled to expect the same level of help and advice from Officers as is given to the Cabinet or the other non-executive committees.
- 5.2 When attending Overview and Scrutiny Panels Officers should be questioned only on facts and explanations relating to policies and decisions.
- 5.3 Officers may be asked to explain and justify advice they have given to councillors on the Cabinet and may also be asked to explain and justify decisions taken under delegated powers.
- 5.4 However, any questions should avoid drawing into question Officers' impartiality, and questions on the merits of alternative policies should be avoided where they are politically contentious.
- 5.5 Where the Council engages Officers to support the overview and scrutiny functions, councillors should recognise that these Officers continue to be responsible to the Council as a whole and not to one particular part of it.

6.0 Councillors' Access to Information and to Council Documents

- 6.1 The legal rights of councillors to inspect Council documents are covered partly by statute and partly by common law. The Access to Information Procedure Rules and The Overview and Scrutiny Procedure Rules also give access rights.
- 6.2 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Legal Team or the Democratic Services Manager.
- 6.3 Any Council information provided to a councillor must only be used by the councillor for the purpose for which it was provided i.e. in connection with the proper performance of the councillor's duties as a Member of the Council.
- 6.4 Whenever an open public meeting is organised by the Council to consider a local issue, all the councillors representing the ward or wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue the ward councillors should be notified at the outset of the exercise.
- 6.5 In dealings with local groups Officers should as far as possible respect the representational role that councillors have in their wards.

7.0 The Media

- 7.1 All official dealings with the media on behalf of the Council must be dealt with through the Council's Communications team.

CONSTITUTION AND CODE OF CORPORATE GOVERNANCE

PART 3 – CODES AND PROTOCOLS

WORKING PROTOCOL ON MEMBER BRIEFINGS, ENQUIRIES, CONTACT AND CORRESPONDENCE

8.0 Introduction

- 8.1 The relationship between Councillors and officers is an essential ingredient that is at the heart of the successful working of the organisation. This relationship within the authority is characterised by mutual respect, informality and trust. Councillors and officers should feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is rather to help Councillors and officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. These obligations are set out in the Council's approved Code of Conduct for Members and for officers.

- 8.2 The approved Protocol on Member/ Officer relations also gives guidance on what to do on the rare occasions when things go wrong. All Members and officers should operate in compliance with the protocol. Responsibility for upholding the protocol rests with Group Leaders in relation to elected Members and with the Chief Executive in relation to officers.

- 8.3 This Protocol seeks to provide additional clarification at a practical level to working procedures that will operate, following the election of a new Council in May 2007. It specifically seeks to set out a framework for key areas of work and interaction between senior officers and Members.

- Planning of Council business
- Enquiries and complaints
- Correspondence
- Briefing meetings
- Media relations
- Public meetings
- Notification of Ward Members

- 8.4 Operation of this Working Protocol will be reviewed and any concerns of officers and/or members will be discussed between Group Leaders.

- 8.5 There are 56 Councillors in Thanet, representing a ratio of almost 1 Councillor to 10 Members of staff. The Management Team now comprises just nine senior officers. Hence, the need for a clear understanding of frameworks which make working arrangements productive and workable.

9.0 Councillors' Roles

Councillors have four main areas of responsibility:

- (a) Determining the policy of the authority and giving it political leadership
- (b) Monitoring and reviewing the performance of the authority in implementing that policy and delivering services
- (c) Representing the authority externally, and
- (d) Acting as advocates on behalf of their constituents.

It is not the role of Councillors to involve themselves routinely in the day to day management of the authority's services.

9.1 **Members of the Cabinet, Chairmen and Vice-Chairmen**

Members of the Cabinet and Chairmen and Vice-Chairmen of Committees and other bodies have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and be more complex than those of Councillors without those responsibilities, and this is recognised in the expectations they are entitled to have. However, such Councillors must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the authority.

9.2 **Opposition Councillors**

As individual Councillors, all Councillors have the same rights and obligations in their relationship with officers and should be treated equally. This principle is particularly important in the context of the work of Overview and Scrutiny Panel. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship and degree of contact between officers, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

Opposition Spokespersons are specifically recognised under Thanet's Constitution and receive a Special Responsibility Allowance and are therefore entitled to appropriate consideration and briefing arrangements. They are also expected to operate within accepted frameworks and working arrangements agreed by the Council.

9.3 **Officers**

The role of officers is to give advice and information to Councillors and to implement the policies determined by the authority.

In giving such advice to Councillors, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer may report the views of individual Councillors on an issue, if the Councillor wishes to express a contrary view he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view.

Certain officers e.g. Chief Executive, Monitoring officer and Section 151 officer have responsibilities in law over and above their obligations to the authority and to individual Councillors, and Councillors must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

10.0 Expectations

10.1 Councillors can expect from officers:

- (a) A commitment to the authority as a whole, and not to any political group
- (b) A working partnership
- (c) An understanding of and support for respective roles, workloads and pressures
- (d) Timely response to enquiries and complaints
- (e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers
- (f) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- (g) Awareness of and sensitivity to the political environment
- (h) Respect, dignity and courtesy
- (i) Training and development in order to carry out their role effectively
- (j) Integrity, mutual support and appropriate confidentiality
- (k) Not to have personal issues raised with them by officers outside the agreed procedures
- (l) That employees will not use their relationship with Councillors to advance their personal interests or to influence decisions improperly
- (m) That officers will at all times comply with the relevant Code of Conduct
- (n) Support for the role of Councillors as the local representatives of the authority

10.2 Officers can expect from Councillors:

- (a) A working partnership
- (b) An understanding of and support for respective roles, workloads and pressures
- (c) Political leadership and direction
- (d) Respect, dignity and courtesy
- (e) Integrity, mutual support and appropriate confidentiality
- (f) Not to be subject to bullying or to be put under undue pressure. Councillors should have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between Councillors and officers, and the potential vulnerability of officers, particularly at junior levels
- (g) That Councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly

(h) That Councillors will at all times comply with the relevant code of Conduct

11.0 Key areas of contact and Communication

11.1 Forward planning of Council business

The Council's main items of business and decision making will be properly ordered and made known to all members in good time. Published agendas will, as far as possible contain all agenda papers, with reports only being circulated late for good reason. The key planning documents available to Members via the Members' Portal will include: -

- **The Forward Plan** – The Forward Plan sets out and anticipates Cabinet's consideration and decision on important matters facing the Council and the Community. The Leader of the Council, Deputy leader and the Chief Executive will meet regularly to review and update this document as a basis for programming the Council's core work programme. The Forward plan will be discussed with the Chairman of the Overview and Scrutiny Panel and placed on the agenda for each Panel meeting for consideration by all Members of the Panel. It will be updated on a monthly basis and will be published on the Member Portal.
- **Agenda Running lists** - In addition to the Forward plan, the above Group will review agenda running lists for Cabinet and Scrutiny meetings. The advance lists will be published on the Member Portal at least one week before the final agenda and reports are published and on the Council's web site. Any Member of the Council may request information as to the purpose of an item on an advance list for a public meeting of the Cabinet, an Overview and Scrutiny Committee, Regulatory Committee, the Standards Committee or other Body from the appropriate Director or Head of Service. Officers will need to decide whether this can best be dealt with by discussion, a written briefing note or a meeting. Copies of any information issued to other Members will be supplied to the Chairman of that body.
- **Overview and Scrutiny Work Plan** – The Overview and Scrutiny Panel will prepare, progress and report on an Annual Work programme. This will aim to address key issues facing the Council; such as critical investment decisions, performance issues and Value for Money.

11.2 Responding to Enquiries and Complaints from Councillors/Members of Parliament/Members of the European Parliament

(a) Response Times

Enquiries, correspondence and complaints from Members and Members of Parliament will be acknowledged promptly, and in any event within three working days. Where possible, an indication of response time will be given. A full reply will normally be sent within ten working days.

An immediate response to complaints or enquiries will frequently not be possible because of the need to collect information or to consult other officers or services. The following stages recognise that different circumstances can delay the sending of full replies but require that Members/MPs/MEPs/GLA Members are kept informed of their enquiries being dealt with.

Whilst a full reply should be sent within ten working days, if this should not prove possible, then an interim reply should be sent. This should explain why it is not possible to give a full reply e.g. need for research, obtaining

information from another department/section etc, and should state when it is expected that a full reply will be sent. Members should be aware that some, particularly more complex matters involving assembly of information across services and partners may take longer to deal with.

In submitting enquiries Members are requested to make clear to whom the enquiry has been sent and not to submit multiple enquiries on the same subject.

The same rules and response times should apply to e-mail

(b) Circulation of replies to correspondence/enquiries

Copies of officers' replies will be circulated to other Members and officers in the following circumstances:

<i>If the original is sent to:</i>	<i>A copy will be sent to:</i>
<p>1. Any Councillor on a subject which is:</p> <p>(a) controversial</p> <p>(b) politically sensitive</p> <p>(c) involves criticism of Members/officers</p> <p>(d) relates to any item which has or may come to the Cabinet</p> <p>(e) relates to any item which may directly involve a Cabinet Member.</p>	<p>Leader of the Council and Chief Executive/Director</p> <p>As in (a) - (c) above plus all Cabinet Members</p> <p>As in (a) - (c) above plus the relevant Cabinet member and other Cabinet Member(s) within his/her service area (if this is felt to be relevant to their area(s) of responsibility - copies of routine correspondence will not need to be copied to the other member(s)) within the service area</p>
<p>2. A Member of an Overview and Scrutiny, Regulatory Committee, the Standards Committee or other Body on a matter which has been discussed or is likely to be brought before that body, or relates to the business of the body and which relates to policy issues/development or matters of a sensitive nature.</p>	<p>As in (a) - (c) above plus the relevant Cabinet Member(s), and the Chairman of that Committee/ Panel. This requirement shall not apply to non-sensitive or purely operational matters.</p>
<p>3. The Chairman of an Overview and Scrutiny, Regulatory Committee, the Standards Committee or Other Body on a matter which relates to policy issues/development or matters of a sensitive nature.</p>	<p>Cabinet Member(s) if likely to be relevant to that Member's area of responsibility. This requirement shall not apply to non-sensitive or purely operational matters.</p>
<p>4. The Leader of a political Group</p>	<p>Chief Executive</p>
<p>5. MP's / MEP's / GLA Member</p>	<p>Leader of the Council, appropriate Cabinet Member(s) and Chairmen of Committees and Chief Executive</p>

Note: Correspondence which has been copied to other Members should be endorsed to indicate who has received copies. Matters personal to an individual Member should not be copied to other Members. Members receiving copies of correspondence should treat this as "privileged" information and should not refer to such information if the subject of the correspondence is discussed at any meetings unless the primary recipient of the correspondence first makes reference to its contents. Correspondence concerning routine business matters and Ward issues and routine case work or on behalf of constituents shall not be copied to other Members unless covered by category 1 above. Correspondence with Members seeking information or advice to develop policy proposals on behalf of their Group should not be disclosed to other Groups but treated as confidential in the same way as information discussed at ad hoc briefings.

For the purposes of these Working Conventions the same rules will apply to emails as for all other forms of written correspondence.

It may be appropriate to include the Leader of the Opposition and Leader of the Independent Group in circulation under 1 (a)-(c), depending on the issue.

(c) Confidentiality

Correspondence marked Private and Confidential must be treated as such. If any Member feels that there is a need to disclose a Private and Confidential item to third parties or in a public meeting, they must advise the author of the item immediately. Failure to do so will amount to a breach to the Code of Conduct.

In addition, exchanges not marked Private and Confidential should not be considered automatically capable of public disclosure and distinctions should be drawn between policy, ward, probity or personal advice. In general terms it is felt to be good practice to check with the sender of correspondence before disclosing correspondence to third parties, particularly the press or other media. This is particularly so in relation to personal advice to Members from officers from the Chief Executive, Monitoring Officer or Section 151 Officer.

11.3 Scheduled and Ad Hoc Briefing Meetings

This aspect of the Protocol is based on the principle that an officer's duty is to all Members of the Council as a single corporate body irrespective of their political persuasion and whether they are carrying out Executive or Overview and Scrutiny functions. Officers have therefore to provide information, offer advice and give assistance in the formulation of policy proposals impartially to all political groups who request such information, advice and assistance. Briefings by officers will occur both within and outside the formal decision making process.

(a) Facility for Scheduled Briefing for Leader of the Opposition Group / Opposition Spokespersons

Opposition Spokespersons will be offered the facility of a regular, scheduled 2-hour monthly briefing by the relevant Director and/or Head of Service. This briefing is intended to: -

- Discuss key issues within portfolio and policy implications of any published reports
- Discuss progress on key Corporate Plan items and progress against associated projects and Project plans that will appear in the Corporate Performance Pack
- Discuss details contained in the relevant Performance Pack(s). These will be issued to Opposition Spokesperson a month 'in arrears'
- Identifying major issues likely to emerge at meetings in the next month or so.

- Any other relevant issues identified by the Leader/Spokesperson and notified in reasonable time
- Scheduled Briefings will not discuss detail of policy under development by the Executive, unless specifically authorised by the Cabinet Member

Opposition Spokespersons are requested to ensure that demands for information outside this forum are realistic and measured. Operation of this arrangement will be reviewed and any concerns of officers and/or Members will be discussed between Group Leaders. Critical to the success or otherwise of these arrangements is the manner in which information is used.

In addition to the agenda briefing arrangements above, the Leader of the Opposition, Group Spokespersons may request a private and confidential briefing from the Chief Executive or the appropriate Director/Head of Service on matters of policy which have already been or may be discussed by the Council or the Cabinet. Officers will maintain strict confidentiality in respect of matters discussed with Members at such briefings and will not divulge information to any other party Group.

(b) Agenda Briefing Meetings

Cabinet Meetings

The Leader of the Council may ask for a briefing for himself and/or Cabinet members from the Chief Executive, appropriate Director or Head of Service. This is in addition to the rights of any Cabinet Member to seek guidance and advice from appropriate officers.

Regulatory Committees and the Standards Committee

Prior to the despatch of any agenda of a Regulatory Committee or of the Standards Committee a briefing meeting will be arranged on a date and time agreed with the appropriate Chairman and Vice-Chairman. Copies of the draft agenda and reports for discussion at briefing meetings will be sent only to the Members invited to attend as set out above.

Overview and Scrutiny Panel

Agenda briefings will be provided for the Chairman and Vice-Chairman of Overview and Scrutiny Panel, who may involve other Members if relevant to items under review or the reports of Working Groups. They may also seek advice from the relevant Corporate Director or Head of Service where they feel this may assist in programming the business of the meeting and briefings from the appropriate Director or other senior officer on major reviews and other items coming before the Panel.

(c) Briefing for and attendance at Party Groups

The Leader of the Council or Leader of the other political Groups represented on the Council may ask the Chief Executive or relevant Director/Head or Service to give or arrange a briefing for the party Group on a matter of relevance to the Council.

Any briefing offered to or requested by a party Group will be offered to the other Party Groups. Where possible such briefings should be to all or a combination of Party Groups. When briefings are held without all party groups being represented, officers will maintain strict confidentiality in respect of comments made by Members during the briefings and will not divulge them to other party Groups.

No officer of the Council shall attend any political Group meeting which includes non-Council members.

11.4 **Media Relations and Press Releases**

The Council's Press Office deals with all the Council's corporate press relations, including issuing of press releases about the Council's work and responding to press enquiries. The Press Office ensures that the reputation of the Council and its members is protected and also ensures the government's Code of Recommended Practice on Local Authority Publicity is met.

This recognises that "local authorities need to tell the public about services which they provide" and that "good, effective publicity, aimed at improved public awareness of a council's activities is to be welcomed". It states that it is inappropriate for public resources to be used to publicise individual councillors, but goes on to state:

"Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided. Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals."

All press releases issued by the Council are approved by the relevant officer, to ensure factual accuracy, and the relevant Cabinet Member, who will usually be quoted. The exception to this is in the period prior to elections, when approvals are only sought from officers and only officers are quoted. Press releases are not produced by the Council's Press Office about the work of individual members.

All press enquiries into the Council are directed to the Press Office. They are then logged into a database, which provides an important record, should there be any issues with misinformation. No Member, who is representing the Council at a corporate level, should speak directly to the press about a corporate issue without first speaking to the Press Office. This helps to protect the Council's corporate reputation and ensures that the Council gives out a consistent message and the Council has a record of what is being said to the media.

The Press Office is available to offer advice to any Member, who is contacted by the press, about a corporate issue. Members frequently contact the Press Office before responding to a journalist's call and this approach often allows the Press Office to brief them about the stories the media may be calling about.

All responses to enquiries and letters to the press on policy matters are issued in the name of the Leader or relevant Cabinet Member, except in the period prior to elections.

If enquiries come into the Press Office that are judged to be “political”, the journalist will be asked to contact Members of the individual parties directly. Equally, if Members approach the Press Office with requests for publicity that are deemed to be political, they will be asked to speak to a journalist directly.

At Thanet Council, Councillors usually speak on behalf of the Council. Cabinet Members will talk on their portfolio, while the Chairs of the Planning Committee, Licensing Board and Scrutiny Panels may also be called upon to speak to the media on issues that come before their Committees and Panels. The Chairman of the Council may also speak to the media on civic matters.

Council officers may be called upon to do interviews on behalf of the Council. These include:

- When Councillors specifically request that an officer should do an interview.
- When Councillors are unavailable and an interview has to be given on a positive story or the Council will lose the opportunity for some good publicity.
- In the period prior to elections.
- When a major emergency is declared.

Photo opportunities are usually arranged with the relevant Cabinet Member and may involve any combination of the following: relevant officers, Ward Member, Chairman or Mayors, depending on the individual story. No Member should arrange a photocall with the press that involves a Council officer without first involving the Press Office.

For more information about media handling, please contact the Council’s Press Office on 01843 577034 or e-mail press.office@thanet.gov.uk

11.5 Public meetings

Requests for officer attendance at significant public or high profile residents meetings will be notified to Cabinet Members. Ward Councillors will be notified of Public Meetings and of significant events taking place in their Ward. In return, Ward Councillors are requested to ensure that due notice is given of meetings at which Officer and/or Cabinet Member presence is desired. Where such meetings relate to significant policy or sensitive issues, the Cabinet Member should determine attendance in discussion with Senior Officers.

11.6 Notification of Ward Members on Ward matters

Open meetings, consultation meetings and significant events taking place in wards should be made known to ward Councillors. They should be invited to such events and, in dealings with local groups, officers should seek, as far as possible, to respect the representational role that Councillors have in their ward.

Part 6

Members' Allowances Scheme

Members' Allowances Scheme 2008/2009

29.0 Introduction

- 29.1 This scheme is made in exercise of the powers conferred by The Local Authorities (Members' Allowances) (England) Regulations 2003 and of all other enabling powers, the Council having had regard to the recommendations made to it by an independent remuneration panel.
- 29.2 This scheme shall take effect on and from the 1 April 2008 and is made and shall remain effective for the purposes of the determination and payment of any allowances to Members until the 31 March 2009 (unless revoked or amended).
- 29.3 Where a Member of the Council is also a Member of another authority, that Member may not receive allowances from more than one authority in respect of the same duties.
- 29.4 This scheme shall be construed in accordance with the meanings contained within the above Regulations.

30.0 Basic Allowance

- 30.1 The annual entitlement to Basic Allowance for each Member is the amount detailed in Schedule 1.

31.0 Special Responsibility Allowance

- 31.1 The annual entitlement to a Special Responsibility Allowance for each Member having a special responsibility is the relevant amount in relation to that responsibility detailed in Schedule 1.
- 31.2 Where a Member would otherwise be entitled to claim more than one Special Responsibility Allowance only the higher or highest may be claimed.
- 31.3 Where Members of the Council are divided into at least two political groups and a majority belong to the same political group a Special Responsibility Allowance shall be paid to at least one person who is not a member of the controlling group.

32.0 Dependants' Carers' Allowance

- 32.1 Members are entitled to claim Dependants' Carers' Allowance for expenses necessarily incurred in arranging care on account of any 'Approved Duty'. The current allowance is included in Schedule 1.
- 32.2 The definition of a dependant for the purpose of payment of this allowance is that used in S57A (3) of the Employment Rights Act 1996. This is a spouse or partner, a child, a parent, a person who lives in the same household but who is not an employee, tenant, lodger or boarder.
- 32.3 Additionally the secondary carer must not be a member of the claimant's immediate family i.e. spouse or partner, other children of the Member or the Member's spouse or any member of the Member's family who lives at the same address as the Member. Nor can it be an employee, tenant, lodger or boarder who lives at that address.

32.4 Payment of Dependants' Carers' Allowances will be on the production of invoices and is limited to no more than one hundred hours per quarter. **[Note: To avoid excess administration in processing claims, these should be submitted on a quarterly basis.]**

33.0 Travelling and Motor Mileage Allowances

33.1 Members will be reimbursed car mileage only from their home to place of duty and return in respect of attendance at Approved Duties, or as the Council's representative, in accordance with the rates set out in Schedule 1.

33.2 If a Member visits the vicinity of the place of duty for some other purpose and then goes directly to the approved duty, a claim should not be made.

33.3 For journeys outside the District the second-class rail fare is paid (irrespective of whether the Member chooses to use a car), together with taxi fares, parking charges and underground fares incurred.

33.4 Where it is impracticable for a Member to travel by train because the venue is difficult to get to within the time allowed, or extra passengers/luggage have to be taken, car mileage may be allowed at the appropriate rate specified in Schedule 1, provided approval from the Democratic Services Manager for this exception is obtained.

33.5 Travelling and motor mileage allowances may be payable for attendance at any official meetings of the Council to which members of more than one party are invited to attend and also for representation on those bodies included in Schedule 2.

34.0 Subsistence

34.1 Payment of subsistence allowances in connection with any approved duty shall be in accordance with the provisions, including the maximum amounts payable, set out in Schedule 1.

35.0 Explanation of "Approved Duty"

35.1 Approved Duties comprise the following:-

- (a) a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee of such a body;
- (b) any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and one or more other authorities, or a sub-committee of such a joint committee, provided that –
 - (i) where the authority is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited, or
 - (ii) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
- (c) a meeting of any association of authorities of which the authority is a member.
- (d) the carrying out of any other duty approved by the Council, or any duty of a class so approved, for the purpose of or in connection with the discharge of the functions of the Council or any of its committees or sub committees. **[Attendances at meetings of the bodies listed in Schedule 2 have been approved.]**

- (e) There is also a general duty permitting the Leader or nominated deputy to represent the Council at formal meetings not specified elsewhere, with other authorities, official bodies or agencies for the purposes of any function of the Council, but excluding meetings organised by private individuals or commercial organisations.
- 35.2 Scrutiny Panel Members attending meetings of the Cabinet and the Non-Executive Functions Committee are entitled to claim travelling allowance and any Member speaking on an issue relevant to their Ward at a meeting of the Cabinet with the consent of the Leader or in accordance with Council rules is also entitled to claim travelling allowance.
- 35.3 If any Overview or Scrutiny Panel requires a Member of the Cabinet to attend before it in relation to matters within that Member's remit, then that Member is entitled to claim travelling expenses.
- 35.4 Where Cabinet Members attend non-executive meetings to observe only this is not deemed to be an approved duty and travelling expenses will not be paid.
- 35.5 Where any Member attends any Committee to speak on an item with the Chairman's consent, this attendance will be an approved duty for payment of travelling expenses.
- 35.6 Members are entitled to claim travelling expenses for Committee briefings and for all Partnership meetings or Chairman and Vice-Chairman meetings with the Lead Officer and these meetings are therefore approved duties.
- 35.7 This Scheme does not allow for travelling expenses to be paid to individual Members arranging meetings with officers as this is deemed to be part of the Member's role and Members' allowances paid are calculated to reflect these extra duties.
- 35.8 For any other ad hoc briefings e.g. on major developments, Members from all political groups with in excess of 5 Members will need to be invited to these briefings in order for travelling allowances to be paid.
- 35.9 No allowance shall be payable if such payment would be contrary to provision made by or under any enactment.
- 35.10 Members who attend committee meetings of which they are not a member (under Council Procedure Rule 24(1)) shall be entitled to claim travelling expenses.
- 35.11 Co-opted and Independent members shall be treated as Members of the Council for the purposes of Approved Duties.
- 36.0 Renunciation**
- 36.1 A Member may, by notice in writing given to the Democratic Services Manager, elect to forego any part of his/her entitlement to an allowance under this scheme.
- 37.0 Part Year Entitlements**
- 37.1 The provisions of this paragraph shall have effect to regulate the entitlements of a Member to Basic and Special Responsibility Allowances where in the course of the year
- The scheme is amended; or
 - That Member becomes, or ceases to be, a Member, or

- He/she accepts or relinquishes a special responsibility in respect of which a Special Responsibility Allowance is payable

37.2 If an amendment, or amendments, to this Scheme change(s) the amount of the Basic Allowance or a Special Responsibility Allowance to which a Member is entitled, then for each period in a particular year during which the relevant amounts are applicable, the entitlement to such allowance(s) shall be calculated on the basis of the equivalent daily rate(s) that is/are applicable to the relevant periods.

37.3 Where the term of office of a Member begins or ends at any time other than at the beginning or end of a year, the entitlement of that Member to a Basic Allowance shall be calculated on the basis of the equivalent daily rate that is applicable to the relevant period.

37.4 Where both:

- this Scheme is amended as described in sub-paragraph 9.2; and
- the term of office of a Member begins and/or ends as described in paragraph 9.3; then
- the entitlement of any such Member to a basic allowance shall be calculated on the basis of the equivalent daily rate that is applicable to the relevant periods.

37.5 Where a Member has during part of, but not throughout, a year such special responsibilities as entitle him/her to one or more Special Responsibility Allowances, that Member's entitlement shall be calculated on the basis of the equivalent daily rate(s) that is/are applicable to the relevant periods.

37.6 Where this scheme is amended as mentioned in paragraph 9.2 and a Member has during part, but does not have throughout the whole, of any period mentioned in paragraph 9.3 any such special responsibilities as entitle him/her to one or more Special Responsibility Allowances, that Member's entitlements shall be calculated on the basis of the equivalent daily rate(s) that is/are applicable to the relevant periods.

38.0 Repayment and Withholding of Allowances

38.1 Where payment of any Basic Allowance or Special Responsibility Allowance has already been made in respect of any period during which the Member concerned is suspended or partially suspended from their responsibilities or duties as a Member, ceases to be a Member of the Council or is in any other way not entitled to receive any such allowance in respect of that period, the Council may require that such part of the allowance as relates to any such period be repaid.

38.2 Where a Member is suspended or partially suspended from their responsibilities or duties as a Member, the part of Basic Allowance and/or Special Responsibility Allowance in respect of the period of suspension may be withheld by the Council as may any travelling or subsistence allowance in respect of such responsibilities or duties (and, for the avoidance of doubt, any of the same may be withheld if a Member ceases to be a Member of the Council or is in any other way not entitled to receive any such allowance).

39.0 Payments and Claims

39.1 Allowances will be paid in instalments of one-twelfth of the amounts specified in this scheme by BACS transfer on the 19th of the month, one month in arrears.

39.2 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 Member receiving more than the amount to which, by virtue of paragraph 9, he/she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he/she is entitled.

39.3 Claims for Dependants' Carers' Allowances, Travel and Subsistence Allowances and Co-optee's Allowance (if applicable) shall be made within three months from the date on which an entitlement arises.

39.4 Nothing in the above paragraph shall prevent the Council from making a payment where an allowance is not claimed within that period.

40.0 Pensions

40.1 It is hereby provided, the Independent Remuneration Panel having recommended that all Members of the Council should be eligible for pensions, that:-

- (a) as from 1st May 2003, all Members of the Council are to be entitled to pensions in accordance with a scheme made under Section 7 of the Superannuation Act 1972; and
- (b) both Basic Allowance and Special Responsibility Allowance shall be treated as amounts in respect of which such pensions are payable in accordance with a scheme made under Section 7 of the said Act of 1972.

With effect from the 1st day of April 2008 pursuant to a resolution of the Thanet District Council passed on the 8 May 2008.

SCHEDULE 1

41.0 MEMBERS' ALLOWANCES SCHEME – 2008/2009

Special Responsibility Allowances

Position	Number	Allowance £	Possible maximum expenditure £
Executive			
Leader	1	18,082	18,082
Deputy Leader	1	10,776	10,776
Cabinet Portfolio Holder	5	7,990	39,950
Non-Executive			
Opposition Group Leader	1	5,204	5,204
Opposition Deputy Group Leader	1	2,304	2,304
Shadow Cabinet	5	2,304	2,304
Overview and Scrutiny Committee Chairman	1	7,990	7,990*
Overview and Scrutiny Committee Vice-Chairman	1	3,216*	3,216*

Planning Committee Chairman	1	5,204	5,204
Planning Committee Vice-Chairman	1	1,216	1,216
Licensing Committee Chairman	1	3,216	3,216
Licensing Committee Vice-Chairman	1	805	805
Governance and Audit Committee - Chairman	1	5,204	5,204
Governance and Audit Committee – Vice-Chairman	1	1,216	1,216
Standards Committee - Chairman	1	1,216	1,216
Standards Committee – Vice-Chairman	1	279	279
Standards Committee – other Independent Member	2	139	278
JTB Chairman	1	1,216	1,216*
TOTAL			363,052

* Payment to be reviewed by independent Remuneration Panel, report to further meeting of Thanet District Council.

(1)Co-optees and "independent" Members shall be treated as Members of Thanet District Council for this purpose

Attendance Allowance – Licensing Sub-Committee

All Members of the Licensing Board are entitled to claim an allowance of £15.50 per case for attendance at meetings of the Licensing Sub-Committee. This payment is outside the scope of the rules relating to Special Responsibility Allowances and as such, the Chairman and Vice-Chairman are entitled to claim this allowance.

Basic Allowance

£4,360 each Member

Dependants' Carers' Allowances

An allowance for any approved duty of £5.56 per hour subject to the conditions set out in paragraph 4 of the 'Members' Allowances Scheme'.

Motor Mileage Allowance

Payable in accordance with the rates published annually by the National Joint Council restricted to category 2 vehicles.

For the duration of this scheme the rates are as follows:-

- (i) For journeys within the District (casual user rate)

up to 999 cc	42.9p per mile
over 999 cc	46.9p per mile

- (ii) In exceptional circumstances and provided approval of the Democratic Services Manager is obtained prior to the journey (see paragraph 5.4 of the Scheme) for journeys outside the District (essential user rate)

up to 999 cc	34.0 p per mile
over 999 cc	36.9 p per mile

Subsistence

Actual expenditure only will be reimbursed subject to maximum subsistence allowances which will be paid for day and overnight stays as follows. All receipts should be produced to enable the Council to reclaim VAT where appropriate.

Day Subsistence

- (i) Breakfast allowance (more than 4 hours away from normal place of residence or where the authority permits, a lesser period, before 11.00am) - £5.88
- (ii) Lunch allowance (more than 4 hours away from normal place of residence or, where the authority permits, a lesser period, including the lunchtime between 12 noon and 2.00pm) - £8.13
- (iii) Tea allowance (more than 4 hours away from normal place of residence or, where the authority permits a lesser period, including the period 3.00pm to 6.00pm - £3.21; and
- (iv) Evening meal allowance (more than 4 hours away from normal place of residence, or where the authority permits, a lesser period, ending after 7.00pm) - £10.06.

Where main meals (i.e. breakfast, lunch or dinner but not tea) are taken on trains during a period for which there is an entitlement to a day subsistence allowance, the reasonable cost of the meals (including VAT), may be reimbursed in full in place of the entitlement to subsistence allowance.

Overnight Subsistence

- (v) In the case of absence overnight from the usual place of residence - £75.00 including all meal allowances;
- (vi) For such an absence overnight in London or for the purposes of attendance at an annual conference of the Local Government Association or similar association of bodies approved by the Secretaries of State for this purpose - £100.00 including all meal allowances.

Note: Any rate determined above is deemed to cover a continuous period of absence of 24 hours.

The subsistence allowances above shall be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates.

- 2.8** Council may choose whether or not to increase these allowances and by how much. Some Councils do not set specific limits for overnight subsistence, but instead require that any such expenses be “reasonable”. Council also has the option to require overnight subsistence costs to be reasonable. If that approach were taken, some tests of reasonableness would need to be applied.

[Note: Any rate determined above is deemed to cover a continuous period of absence of 24 hours.]

[Note: For hotel accommodation, the Council can obtain discounted rates from certain hotel chains. Councillors should contact the Council's Democratic Services Team on telephone extension 7590 who will make the booking on their behalf.]

SCHEDULE 2

DUTIES WHICH ARE APPROVED FOR THE PURPOSE OF CLAIMING TRAVELLING & SUBSISTENCE

Representation on the following bodies

Age Concern, Margate (T)
Age Concern, Ramsgate (T)
Agricultural and Rural Life Museum Management Committee (T)
Airport Consultation Committee(T)
Association of Civic Hosts (TS)
Boat Shows (where the Council is exhibiting) (TS)
British Ports Association (TS)
British Resorts Association (AGM, Annual Conference and Executive meetings) (TS)
Canterbury and Thanet Council (East Kent) for Voluntary Service (T)
Canterbury Festival (T)
Citizens' Advice Bureau, Thanet (T)
Coalfield Communities Campaign (TS)
Concorde Youth Centre (T)
Council for the Protection of Rural England (T)
East Kent Primary Care Trust (T)
East Kent Relate (T)
Friends of Margate Cemetery (T)
Hyde Housing Association (Kent Regional Committee) (T)
Kent Rural Community Council (T)
Kent Rural Development Partnership: RDP Strategic Panel (T)
Kent Superannuation Fund Committee (T)
LGA (AGM and Annual Conference) (TS)
LGA (Executive meetings) (TS)
LGA (General Assembly) (TS)
LGA (Rural Commission) (TS)
LGA (Tourism and Leisure Conference) (TS)
LGA (Urban Commission) (TS)
Local Agenda 21 Steering Group (T)
Margate Open Bowls Committee (T)
Margate Town Partnership (T)
Multiple Sclerosis Society (T)
National Parking Adjudication Service Joint Committee (TS)
National Yacht Harbours Association (AGM) (TS)
Oasis - Women's Refuge (T)
Powell Cotton Museum and Quex House (T)
RAF Manston Museum (T)
Ramsgate Town Partnership (T)
River Stour (Kent) Internal Drainage Board (T)
Safer Kent Forum (T)
Sandwich Bay Reserve Management Committee (T)
South East Employers (TS)
South East England Regional Assembly (TS)
South East England Regional Chamber (Executive Committee meetings (TS)*)
South East England Tourist Board (TS)
Spatial Development Company (T)
Supporting People in Kent – Commissioning Body (T)
Sure Start Board (T)
Thanet Archaeological Trust (T)
Thanet Arts Council (T)
Thanet Care and Repair Agency (T)

Thanet Community Development Trust (T)
Thanet Community Housing Association (T)
Thanet Community Safety Partnership (T)
Thanet Community Transport Association (T)
Thanet Countryside Trust (T)
Thanet Early Years Project (T)
Thanet Harbour Users' Groups (T)
Thanet Indoor Bowls (T)
Thanet Leisureforce Board (T)
Thanet Local Strategic Partnership Board (T)
Thanet Nature Conservation Group (T)
Thanet Sports Council (T)
Thanet Telecom Advisory Committee (T)
Thanet Volunteer Bureau (T)
Thanet Youth Advisory Group (T)
Theatre Royal Management Committee (T)
Turner Centre Steering Group (T)

(TS) Travel and Subsistence allowance may be claimed.
(T) Travel allowance only may be claimed.

* If elected onto this body

RESPONSIBILITY FOR FUNCTIONS – EXECUTIVE DELEGATIONS
ANNEX 1

Cabinet Portfolio and Portfolio Holder	Responsibility for Corporate Plan theme	Operational accountability (functional alignment)
Cabinet Member for Economy and Culture	Improving Thanet's Economic Prosperity (include Culture and Tourism)	Development Strategic Planning, Property Services, Port of Ramsgate/Royal Harbour, Cultural and Tourism Services, Café Society, Events
Cabinet Member for Commercial and Environmental Services	Keeping Thanet Beautiful	Street Cleansing, Refuse, Grounds Maintenance, Environmental Enforcement
Cabinet Member for Housing	Decent Quality Housing	Housing Needs, HRA, Housing Renewal
Cabinet Member for Communities, Health & Safer Neighbourhoods	Supporting Healthy and Cohesive Communities (include Sport and Leisure) Safer Neighbourhoods	Leisure Services Thanet Leisure Force, Youth Community Safety, Parking, Licensing
Cabinet Member for Finance, Improvement and Customer Services	Modern Council	Customer Services, Finance, Human Resources, Improvement and Performance, Grants

42.0 ANNEX 2

43.0 Responsibility for Executive Functions

A. General Delegations to all Portfolio Holders

1. In addition to acting collectively in the Cabinet, each Cabinet Member will have the general role of providing leadership and guidance in respect of all executive functions within the portfolio area for which he or she is accountable and the promoting and improving the Council's profile and public perception.
2. In accordance with the Secretary of State's guidance, Cabinet Members should amongst other things:
 - (i) ensure that they have sufficient time to focus on broad strategic issues (para 4.21 of the Guidance); and
 - (ii) seek advice from relevant officers before taking a decision within his or her own delegated authority; where appropriate this should include taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is a doubt about legal powers (para 4.44 of the Guidance).
3. Any matter within a Cabinet Member's delegated powers may be referred by him or her to Cabinet for decision.
4. *To regularly review the effectiveness of policies and the performance of services for which the portfolio holder is responsible and make recommendations for continuous improvement to the Cabinet.*
5. To monitor and review capital and revenue budgets in area of responsibility to ensure expenditure and income is consistent with the Council's agreed budget.
6. To liaise and work with other portfolio holders on cross cutting areas of responsibility and make recommendations to Cabinet as appropriate. [Note: Any matter relating to more than one portfolio area must be referred by the portfolio holders to Cabinet for decision.]
7. To annually review fees and charges where these are relevant to the responsibility areas and recommend changes in line with the Council's agreed budget strategy.
8. To make or agree recommendations to Cabinet in relation to new policy areas.
9. To consider and agree service plans for services for which responsible and regularly review these with appropriate officers to ensure agreed actions are taken.
10. To be accountable to the Cabinet for the implementation of agreed priorities and final recommendations from the Corporate Plan, Service Plans and reviews and to consider and act on reports received from officers monitoring progress. To authorise the making of applications for planning permission for proposed development relating to the Member's portfolio area.
11. To agree bids for additional funding, expenditure, variations to expenditure and the letting of contracts for works, goods and services, in accordance with the Council's Contract Procedure Rules, in support of individual projects within the

Cabinet Member's portfolio area, provided such expenditure is within the overall project budget.

12. In any case where a matter is urgent and a decision cannot reasonably await the next meeting of the Cabinet and the relevant portfolio holder does not have a general or specific delegated power, the relevant portfolio holder may nevertheless make a decision on behalf of the Cabinet subject (except in the case of the Leader) to prior consultation with the Leader and subject to the decision being reported to Cabinet as soon as practicable. [Note: in the case of a key decision the Access to Information Procedure Rules must still be complied with.]

B. Portfolio – Leader of the Cabinet

Scope of Portfolio:

To oversee all major projects, staff related issues and Cabinet Co-ordination, including resolution of any inter portfolio issues. To represent the Council on external partnerships and other forums and undertake networking and other community leadership activities.

Specific Delegated Powers:

1. To deal with matters relating to official, courtesy, foreign or general hospitality and related activities of Members within an approved budget.
2. To consider and agree approaches to the management of external partnerships and recommend the preferred approach to Cabinet.
3. To act as the Council's lead Member on the development of the Thanet Local Strategic Partnership.
4. The appointment of Council Members to sit on external Partnership Boards related to regeneration and to monitor their performance in accordance with approved guidance.
5. To take any necessary executive decisions in respect of the Offshore Windfarm Development, Pleasurama, Margate Renewal Board and the Development of Port of Ramsgate Governance.
6. To nominate a Cabinet Member to act on his or her behalf on a specific project.
7. To appoint Members to fill vacancies on the approved list of outside bodies and consider and approve additional appointments to the list.
8. To receive and progress requests for charitable organisations to park in 'off street' car parks free of charge as may be appropriate. [NOT NEW was added by Council, February 2008]
9. To withdraw a permit on any occasion when the parking action does not accord with the safety and advice contained within the current Highway Code". [NOT NEW was added by Council, February 2008]
10. To exercise any specific delegated power of any Cabinet Member.

C. Deputy Leader of the Council

To act on behalf of the Leader when he or she is absent or unable to act. To work under the Leader's direction on Cabinet Co-ordination and ensure resolution of any inter portfolio issues.

D. Portfolio – Economy and Culture

Scope of Portfolio:

To advise the Cabinet on policy in relation to development and the built environment, including development control, building control, land charges, strategic planning, regeneration, economic development, cultural development, commercial property, licensing.

To advise Cabinet on all matters to do with Ramsgate Harbour (including the Port), Broadstairs Harbour and Margate Harbour.

Specific Delegated Powers:

1. To consider and agree policy responses to strategic planning matters prior to their submission to Cabinet and Council for adoption.
2. Reviewing, authorising and monitoring the making of bids for programme level funding and the provision of support to partner organisations in their bids for funding, provided such bids are in accord with the Council's agreed strategy for regeneration.
3. Reviewing and monitoring the achievement and organisation of partnerships for regeneration within Thanet through the development of annual Service Level Agreements and making such corrections to relationships as are necessary to ensure that Thanet maximises opportunities in accord with agreed Regeneration Strategies.
4. To agree bids for additional funding, expenditure, variations to expenditure and the letting of contracts for works, goods and services, in accordance with the Council's Contract Procedure Rules, in support of individual projects, provided such expenditure is within the project budget laid out within an agreed Business Plan in relation to Regeneration matters.
5. To receive and to agree a quarterly financial overview on the use of external and Council funding in respect of regeneration projects championed by the Council, and by partners, provided such financial statements shall indicate expenditure approximately in line with forecast expenditure profiles; any material variances to be reported to Cabinet.
6. To authorise the acquisition, sale, letting and granting of licences in connection with Council land and property.
7. To authorise the granting of easements, release of covenants, surrenders of leases, assignments or amendments of any terms of approved leases.
8. To keep under review the Council's land and property assets and maintain a register to enable the Council to comply with requirements of Central Government.
9. To keep under review the Council's land and property requirements.

10. To be responsible for the maintenance, repair and operation of all commercial Council property within the approved budgets and to directly administer the repairs budget.
11. To advise Cabinet on policy in relation to matters concerning Economic Development.
12. To agree such actions as necessary to take full advantage of Assisted Area Status.
13. To receive, liaise and foster relationships with inward investors, representatives of the business community and organised labour.
14. To agree ways in which the Council can promote and encourage all forms of business and commercial investment in the district.
15. To form, maintain and review annually a business strategy for Ramsgate Harbour, Broadstairs Harbour, Margate Harbour and any other harbours which at any time come within the Council's control, with a view to ensuring the efficient and effective operation of the harbours.
16. To provide from within approved budgets adequate marketing and publicity for the services provided and facilities available for the purpose of increasing the knowledge and reputation of the harbours under the Council's control and of encouraging their use.
17. To formulate proposals for the development and enhancement of the services and facilities at the harbours under the Council's control.
18. To consult with harbour users as appropriate.
19. To give approval for the use of Maritime Division property for the holding of events.
20. In conjunction with the Section 151 Officer and the Corporate Director and/or Head of Maritime Services, to authorise leisure boating rates and discounts to the published tariffs.

E. Portfolio – Communities, Health and Safer Neighbourhoods

Scope of Portfolio:

To advise the Cabinet on policy in relation to Community Safety and related community matters. To advise on all Parking and Licensing related matters. To advise Cabinet on all matters related to support for Healthy and Cohesive Communities in conjunction with the other services and partner agencies.

Specific Delegated Powers:

1. To develop and bring forward plans for to achieve safer neighbourhoods and to address low level crime and reduce residents' fear of crime.
2. To confirm or reject, following public consultation, all parking orders, taxi rank locations, street management schemes or such other orders.
3. To confirm or reject proposals for new resident parking schemes following public consultation.
4. To confirm any action in respect of temporary road closures related to the Town Police Clauses Act 1847.

5. To consider recommendations from Scrutiny and the Joint Transportation Board on traffic management and transportation matters and make decisions thereon.
 6. To develop and bring forward plans for the review and development of leisure, play and community facilities as part of fostering healthy lifestyles.
 7. To deal with the provision of facilities and services for the management of indoor leisure and external contracts.
 8. To agree support for Museum Services in Thanet and to receive reports from the various Trusts operating the museums.
 9. To act as Equalities and Diversity Champion
 10. To promote and campaign for healthy and cohesive lifestyles in Thanet, across all ages and groups.
- f. To receive and progress requests for charitable organisations to park in 'off street' car parks free of charge as may be appropriate. [NOT NEW was added by Council, February 2008]
 - g. To withdraw a permit on any occasion when the parking action does not accord with the safety and advice contained within the current Highway Code". [NOT NEW was added by Council, February 2008]

F. Portfolio – Commercial and Environmental Services

Scope of Portfolio:

To advise Cabinet on policy in relation to commercial and operational matters, including grounds maintenance, Environmental Action Programme, environmental enforcement, waste recycling and street sweeping, cemeteries and crematorium, leisure and foreshore.

Specific Delegated Powers:

1. To develop and bring forward plans and proposals for the review and development of all environmental related services and facilities
2. To decide any matters brought forward by officers for decision in relation to the following matters:-
 - Foreshore Management/Maintenance,
 - Pleasure grounds
 - Thanet Leisureforce Limited
3. To agree the content of a water safety plan.

G. Portfolio – Housing

Scope of Portfolio:

To advise the Cabinet on policy in relation to the housing matters, including private sector housing, HRA property and environmental health.

Specific Delegated Powers:

1. To agree recommendations to Cabinet concerning financial and other arrangements for the provision of land or accommodation to housing associations, for social housing.
2. To approve increases to rent levels for Council houses and garages in line with Government guidelines for social rent reform.
3. To approve proposals for new social housing developments delivered through the planning system.
4. To consider and agree in exceptional cases reduction or waiver of repayment of discount in Right to Buy cases where the property is re-sold within 3 years of purchase.
5. To consider and agree the purchase or selling of additional shares/equity in shared ownership properties.
6. To consider and agree the disposal of Housing Revenue Account areas of land which are no longer required for HRA purposes.
7. To approve proposals on the arrangements for the management and supervision of all Council owned housing stocks, including repairs, maintenance, improvements, transfers and arrangements for tenant involvement, following appropriate consultation with residents as required by the Housing Acts.
8. To agree the making of Demolition Orders
9. To agree to the making of Prohibition Orders where there are financial implications.
10. To determine appeals in respect of applications for rehousing, the allocation of housing or matters arising from the enforcement of the Council's conditions of tenancy.

H. Portfolio – Finance, Improvement and Customer Service

Scope of Portfolio:

To advise Cabinet on all matters to do with Finance, Continuous Improvement of Council services and Customer Service in conjunction with the appropriate service portfolio holders, and officers.

Specific Delegated Powers:

1. To consider approaches to all financial operational matters in conjunction with the Section 151 Officer.
2. To oversee with the Section 151 Officer the preparation and use of regular budget monitoring information and its improvement.
3. In conjunction with the Section 151 Officer to monitor the capital programme, HRA and revenue expenditure and advise the Executive thereon in relation to additional funding requests in excess of budget.

4. To review proposals from the Section 151 Officer in relation to the Council's Annual Budget and make recommendations to the Cabinet on overall financial strategy.
5. As Member Champion for risk management:
 - To promote risk management throughout the Authority.
 - To gain an understanding of risk management and its benefits.
6. To ensure Members take risk management into consideration when making decisions.
7. To consider and recommend, in conjunction with the Leader of the Council, changes to Member Services and the management of information to ensure the continuous improvement of democratic accountability and transparency of decision making.
8. To advise Cabinet, in consultation with the Leader of the Council, on approaches to public involvement and consultation and make recommendations to Cabinet.
9. To consider and recommend to Cabinet priorities for improvement of standards and quality across all Council services.
10. To consider workforce development initiatives and make recommendations to Cabinet.
11. To consider and recommend to Cabinet and Council changes to the Council employment and health and safety policy.
12. To oversee the Council's Best Value programme, Service Planning and Performance Management Framework and approve the Best Value Performance Plan by the end of June each year.
13. To consider and decide requests for use of Council premises and land for promotional use, concessions, etc in conjunction with the Cabinet Member responsible for Development Services where appropriate.
14. To consider and recommend to Cabinet the allocation of resources for information technology investment and e-government development.
15. To decide on matters brought forward by officers for decision in relation to the following matters:
 - Procurement
 - Information and Records Management
 - ICT
16. To oversee improvements to and integration of customer response including customer service standards and learning from complaints.

45.0 ANNEX 4

Shadow Cabinet Portfolio Holders 2008/09

Cabinet Portfolio	Responsibility for Corporate Plan theme	Shadow Cabinet portfolio holder
Cabinet Member for Economy and Culture	Improving Thanet's Economic Prosperity (include Culture and Tourism)	Councillor C Hart (Deputy Leader of the Opposition)
Cabinet Member for Commercial and Environmental Services	Keeping Thanet Beautiful	Councillor J Watkins
Cabinet Member for Housing	Decent Quality Housing	Councillor Mrs I Johnston
Cabinet Member for Communities, Health & Safer Neighbourhoods	Supporting Healthy and Cohesive Communities (include Sport and Leisure) Safer Neighbourhoods	Councillor Mrs M Fenner
Cabinet Member for Finance, Improvement and Customer Services	Modern Council	Councillor D Green

SCHEDULE 1**46.0 MEMBERS' ALLOWANCES SCHEME – 2008/2009****Special Responsibility Allowances**

Position	Number	Allowance £	Possible maximum expenditure £
Executive			
Leader	1	18,082	18,082
Deputy Leader	1	10,776	10,776
Cabinet Portfolio Holder	5	7,990	39,950
Non-Executive			
Opposition Group Leader	1	5,204	5,204
Opposition Deputy Group Leader	1	2,304	2,304
Shadow Cabinet	5	2,304	2,304
Overview and Scrutiny Committee Chairman	1	7,990	7,990*
Overview and Scrutiny Committee Vice-Chairman	1	3,216*	3,216*
Planning Committee Chairman	1	5,204	5,204
Planning Committee Vice-Chairman	1	1,216	1,216
Licensing Committee Chairman	1	3,216	3,216
Licensing Committee Vice-Chairman	1	805	805
Governance and Audit Committee - Chairman	1	5,204	5,204
Governance and Audit Committee – Vice-Chairman	1	1,216	1,216
Standards Committee - Chairman	1	1,216	1,216
Standards Committee – Vice-Chairman	1	279	279
Standards Committee – other Independent Member	2	139	278
JTB Chairman	1	1,216	1,216*
TOTAL			363,052

* Payment to be reviewed by independent Remuneration Panel, report to further meeting of Thanet District Council.

(1) Co-optees and "independent" Members shall be treated as Members of Thanet District Council for this purpose

Attendance Allowance – Licensing Sub-Committee

All Members of the Licensing Board are entitled to claim an allowance of £15.50 per case for attendance at meetings of the Licensing Sub-Committee. This payment is outside the scope of the rules relating to Special Responsibility Allowances and as such, the Chairman and Vice-Chairman are entitled to claim this allowance.

Basic Allowance

£4,360 each Member

Dependants' Carers' Allowances

An allowance for any approved duty of £5.56 per hour subject to the conditions set out in paragraph 4 of the 'Members' Allowances Scheme'.

Motor Mileage Allowance

Payable in accordance with the rates published annually by the National Joint Council restricted to category 2 vehicles.

For the duration of this scheme the rates are as follows:-

- (i) For journeys within the District (casual user rate)

up to 999 cc	42.9p per mile
over 999 cc	46.9p per mile

- (ii) In exceptional circumstances and provided approval of the Democratic Services Manager is obtained prior to the journey (see paragraph 5.4 of the Scheme) for journeys outside the District (essential user rate)

up to 999 cc	34.0 p per mile
over 999 cc	36.9 p per mile

Subsistence

Actual expenditure only will be reimbursed subject to maximum subsistence allowances which will be paid for day and overnight stays as follows. All receipts should be produced to enable the Council to reclaim VAT where appropriate.

Day Subsistence

- (i) Breakfast allowance (more than 4 hours away from normal place of residence or where the authority permits, a lesser period, before 11.00am) - £5.88
- (ii) Lunch allowance (more than 4 hours away from normal place of residence or, where the authority permits, a lesser period, including the lunchtime between 12 noon and 2.00pm) - £8.13
- (iii) Tea allowance (more than 4 hours away from normal place of residence or, where the authority permits a lesser period, including the period 3.00pm to 6.00pm) - £3.21; and

- (iv) Evening meal allowance (more than 4 hours away from normal place of residence, or where the authority permits, a lesser period, ending after 7.00pm) - £10.06.

Where main meals (i.e. breakfast, lunch or dinner but not tea) are taken on trains during a period for which there is an entitlement to a day subsistence allowance, the reasonable cost of the meals (including VAT), may be reimbursed in full in place of the entitlement to subsistence allowance.

Overnight Subsistence

- (v) In the case of absence overnight from the usual place of residence - £75.00 including all meal allowances;
- (vi) For such an absence overnight in London or for the purposes of attendance at an annual conference of the Local Government Association or similar association of bodies approved by the Secretaries of State for this purpose - £100.00 including all meal allowances.
- (vii) Overnight subsistence rates be set at a reasonable amount to cover accommodation and full board, not to exceed the English Tourist Board's three-star rating (or equivalent); exceptions to this limit only being permitted with the prior approval of the Council's Chief Executive, section 151 officer or monitoring officer.

Note: Any rate determined above is deemed to cover a continuous period of absence of 24 hours.

The subsistence allowances above shall be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates.

- 2.8** Council may choose whether or not to increase these allowances and by how much. Some Councils do not set specific limits for overnight subsistence, but instead require that any such expenses be "reasonable". Council also has the option to require overnight subsistence costs to be reasonable. If that approach were taken, some tests of reasonableness would need to be applied.

[Note: Any rate determined above is deemed to cover a continuous period of absence of 24 hours.]

[Note: For hotel accommodation, the Council can obtain discounted rates from certain hotel chains. Councillors should contact the Council's Democratic Services Team on telephone extension 7590 who will make the booking on their behalf.]

SCHEDULE 2

DUTIES WHICH ARE APPROVED FOR THE PURPOSE OF CLAIMING TRAVELLING & SUBSISTENCE

Representation on the following bodies

Age Concern, Margate (T)
Age Concern, Ramsgate (T)
Agricultural and Rural Life Museum Management Committee (T)
Airport Consultation Committee(T)
Association of Civic Hosts (TS)
Boat Shows (where the Council is exhibiting) (TS)
British Ports Association (TS)
British Resorts Association (AGM, Annual Conference and Executive meetings) (TS)
Canterbury and Thanet Council (East Kent) for Voluntary Service (T)
Canterbury Festival (T)
Citizens' Advice Bureau, Thanet (T)
Coalfield Communities Campaign (TS)
Concorde Youth Centre (T)
Council for the Protection of Rural England (T)
East Kent Primary Care Trust (T)
East Kent Relate (T)
Friends of Margate Cemetery (T)
Hyde Housing Association (Kent Regional Committee) (T)
Kent Rural Community Council (T)
Kent Rural Development Partnership: RDP Strategic Panel (T)
Kent Superannuation Fund Committee (T)
LGA (AGM and Annual Conference) (TS)
LGA (Executive meetings) (TS)
LGA (General Assembly) (TS)
LGA (Rural Commission) (TS)
LGA (Tourism and Leisure Conference) (TS)
LGA (Urban Commission) (TS)
Local Agenda 21 Steering Group (T)
Margate Open Bowls Committee (T)
Margate Town Partnership (T)
Multiple Sclerosis Society (T)
National Parking Adjudication Service Joint Committee (TS)
National Yacht Harbours Association (AGM) (TS)
Oasis - Women's Refuge (T)
Powell Cotton Museum and Quex House (T)
RAF Manston Museum (T)
Ramsgate Town Partnership (T)
River Stour (Kent) Internal Drainage Board (T)
Safer Kent Forum (T)
Sandwich Bay Reserve Management Committee (T)
South East Employers (TS)
South East England Regional Assembly (TS)
South East England Regional Chamber (Executive Committee meetings (TS)*)
South East England Tourist Board (TS)
Spatial Development Company (T)
Supporting People in Kent – Commissioning Body (T)
Sure Start Board (T)
Thanet Archaeological Trust (T)
Thanet Arts Council (T)
Thanet Care and Repair Agency (T)

Thanet Community Development Trust (T)
Thanet Community Housing Association (T)
Thanet Community Safety Partnership (T)
Thanet Community Transport Association (T)
Thanet Countryside Trust (T)
Thanet Early Years Project (T)
Thanet Harbour Users' Groups (T)
Thanet Indoor Bowls (T)
Thanet Leisureforce Board (T)
Thanet Local Strategic Partnership Board (T)
Thanet Nature Conservation Group (T)
Thanet Sports Council (T)
Thanet Telecom Advisory Committee (T)
Thanet Volunteer Bureau (T)
Thanet Youth Advisory Group (T)
Theatre Royal Management Committee (T)
Turner Centre Steering Group (T)

(TS) Travel and Subsistence allowance may be claimed.

(T) Travel allowance only may be claimed.

* If elected onto this body

Part 7

Management Structure

(including "proper officer" functions.)

Management Structure

Council's Management Structure to be inserted here.

Appendix 1

Proper Officer Functions

Proper Officer Appointments for Specified Purposes

Act and Section	Proper Officer's Function	Proper Officer	Officer Appointed to Act in Absence of Proper Officer
47.0 Local Government Act 1972			
13(3)	Parish Trustee	Chief Executive	Democratic Services Manager
83	Witness and receipt of declaration of acceptance of office	Chief Executive	Democratic Services Manager or Nominee
84	Receipt of declaration of resignation of office	Chief Executive	Democratic Services Manager or Nominee
88(2)	Convening of meeting of Council to fill casual vacancy in the office of Chairman	Corporate Programme Manager	Nominee
89(1)(b)	Receipt of notice of casual vacancy from 2 local government electors	Chief Executive	Democratic Services Manager
96(1)	Receipt of notices of pecuniary interest	Democratic Services Manager	Nominee
96(2)	Keeping record of disclosures of pecuniary interest under Section 94 and of notices under Section 96(1)	Democratic Services Manager	Nominee
100(B)(2)	Circulation of Reports and Agendas	Corporate Programme Manager (for Cabinet and Council)	Nominee
		Democratic Services Manager (for other meetings)	
100(B)(7)(C)	Supply of Papers to the Press	Corporate Programme Manager (for Cabinet and Council)	Nominee
		Democratic Services Manager (for other meetings)	

Act and Section	Proper Officer's Function	Proper Officer	Officer Appointed to Act in Absence of Proper Officer
100(C)(2)	Summaries of Minutes	Corporate Programme Manager (for Cabinet and Council) Democratic Services Manager (for other meetings)	Nominee
100(D)(1)(a) 100(D)(5)(a)	The compilation of Lists of Background Papers for Agenda items and reports and identification thereof	Relevant Director/Head of Service	Nominee
100(F)(2)	Papers not open to Members	Chief Executive	Monitoring Officer
146(1)(a) and (b)	Declarations and certificates with regard to securities	Head of Resources	Nominee
151	Administration of Financial Affairs	Corporate Director (Resources)	Head of Resources
204(3)	Receipt of application for licence under Sch. 2, Licensing Act 1964	Head of Resources	Legal Services Manager
210(6) and (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authority, or, if there is no such office, to proper officers	Democratic Services Manager	Nominee
225(1)	Deposit of documents	Head of Resources	Legal Services Manager
229(5)	Certification of photographic copies of documents	Legal Services Manager	Any solicitor employed by the Council
234(1) and (2)	Authentication of documents	Relevant Officer with delegated power to give, make or issue documents	Nominee
236(9) and (10)	To send copies of byelaws to County Council and Parish Councils	Head of Resources	Legal Services Manager
238	Certification of byelaws	Head of Resources	Legal Services Manager

Act and Section	Proper Officer's Function	Proper Officer	Officer Appointed to Act in Absence of Proper Officer
Schedule 12 Para 4(2)(b)	Signature of summonses to Council meetings	Corporate Programme Manager	Nominee
Schedule 12 Para 4(3)	Receipt of notices regarding address to which summons to meetings is to be sent	Democratic Services Manager	Nominee
Para 25(7)	Certification of resolutions under para 25 of Schedule 14. (Relating to Public Health Acts 1875-1925)	Head of Resources	Legal Services Manager
48.0 Representation of the People Act 1983			
8	Electoral Registration Officer	Chief Executive	Democratic Services Manager
83	Returning Officer for District, Parish & Community Council Elections	Chief Executive	Democratic Services Manager
49.0 Local Elections (Parishes and Communities) Rules 1986			
Rule 8	Receipt of request by 10 local government electors for the electoral area to hold an election to fill a casual vacancy in the office of Parish Councillor	Chief Executive	Democratic Services Manager
50.0 Local Government (Miscellaneous Provisions) Act 1976			
41	Evidence of resolutions and Minutes of Proceedings, etc	Corporate Programme Manager (for Cabinet and Council)	Nominee
		Democratic Services Manager (for other meetings)	
51.0 Public Health (Control of Diseases) Act 1984		Clinical Director of Health Protection Agency	Consultant in Communicable Disease /Health Protection or such other doctors authorised to act as deputies in the absence of Proper Officer
52.0 Rent (Agricultural) Act 1976			
Schedule 4	Determination of the standard of housing which may be offered by a farmer as	Head of Community Services	Nominee

Act and Section	Proper Officer's Function	Proper Officer	Officer Appointed to Act in Absence of Proper Officer
	alternative accommodation for his or her present employees when they cease to be employed by him/her		
53.0 Local Government Finance Act 1988			
114	Compilation of reports on actual or contemplated unlawful expenditure or if the Authority's expenditure, including proposed expenditure, is likely to exceed its resources	Corporate Director (Resources)	Head of Resources
54.0 Local Government and Housing Act 1989			
4	Head of the Council's Paid Service	Chief Executive	Nominee
5	Monitoring Officer	Corporate Director (Paul Moore)	Deputy Monitoring Officer (nominated by Monitoring Officer)
15-17	Political Balance on Committees, etc	Corporate Programme Manager	Nominee
19	Members' Interests	Democratic Services Manager	Nominee
55.0 National Assistance Act 1948 and National Assistance (Amendment) Act 1951			
47 and 1	<p>To secure the necessary care and attention for persons who:-</p> <p>(a) are suffering from grave chronic diseases, or</p> <p>(b) being aged, infirm or physically incapacitated and living in insanitary conditions; and</p> <p>(c) are unable to devote themselves, and are not receiving from other persons, proper care and attention.</p>	<p>Clinical Director of Health Protection Agency</p>	<p>Consultant in Communicable Disease /Health Protection or such other doctors authorised to act as deputies in the absence of Proper Officer</p>

Act and Section	Proper Officer's Function	Proper Officer	Officer Appointed to Act in Absence of Proper Officer
Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000			
4	Publishing of Verification Number for Petitions	Chief Executive	Democratic Services Manager

Proper Officer/Monitoring Officer Roles

(NB. Some proper officer functions are mentioned specifically by reference to the relevant officer in the text of the Constitution and in the list below. Where the text refers to the “proper officer” without identifying the relevant officer, that officer is identified in the list below.)

			Proper Officer	Deputy
56.0	Articles			
P20	7.04	– Receipt of notice of removal of Cabinet member.	Corporate Programme Manager	Nominee
P29	12.03 (f)	– Public availability for Cabinet decisions.	Monitoring Officer	Corporate Programme Manager
57.0	Council Procedure Rules			
P92	3.1	Calling extraordinary meetings.	Corporate Programme Manager	Nominee
P92	3.3	Determination of date and time of extraordinary meetings.	Corporate Programme Manager	Nominee
P93	4(iv)	Report re: allocation of politically balanced seats.	Corporate Programme Manager	Nominee
P95	7	Determination of time and place of (ordinary) meetings.	Corporate Programme Manager	Nominee
P95	8	Notice of and summons to meetings.	Corporate Programme Manager (for Cabinet and Council)	Nominee
			Democratic Services Manager (for other meetings)	
P97	13.3	Receipt of questions from press and public.	Corporate Programme Manager	Nominee
P97	13.5	Rejection of questions.	Chief Executive	Nominee

			Proper Officer	Deputy
P98	13.6	Record of questions	Corporate Programme Manager	Nominee
P99	14.4	Receipt of notice of Members' questions.	Corporate Programme Manager	Nominee
P99	14.9	Receipt of notice of written questions.	Corporate Programme Manager	Nominee
P100	14.9(v)	Register of questions.	Corporate Programme Manager	Nominee
P100	15.1	Receipt of notice of reserved items.	Corporate Programme Manager	Nominee
P100	15.2	Notification of Reserved Minutes.	Corporate Programme Manager	Nominee
P101	16	Motions on notice.	Corporate Programme Manager	Nominee
P107	22.2	Receipt of notice questioning accuracy of minutes.	Corporate Programme Manager	Nominee
P108	25.1(v)	Receipt of requisitions for special meetings of Committees.	Democratic Services Manager	Nominee
P109	25.3	Date and time of special Committee meetings (in consultation with Chairman or Vice-Chairman).	Democratic Services Manager	Nominee
58.0 Access to Information Procedure Rules				
P112	6(c)	Supply of documents	Corporate Programme Manager (for Cabinet and Council)	Nominee
			Democratic Services Manager (for other meetings)	

			Proper Officer	Deputy
P113	8.1	List of background papers.	Officer making report	Nominee
P116	11	Exclusion of access to reports.	Officer making report	Nominee
P117	14.2	Publication of forward plan particulars (after receipt from relevant Directors).	Corporate Programme Manager	Nominee
P118	15(b)	Key decisions not in forward plan – informing relevant Chairman.	Relevant Director/Head of Service	Nominee
P118	15(c)	Key decisions not in forward plan – availability of copies for public.	Relevant Director/Head of Service	Nominee
P119	17.1(c)	Reports requested on key decisions.	Corporate Programme Manager	Nominee
P119	18	Record of Cabinet decisions taken with officer(s) present.	Corporate Programme Manager	Nominee
P120	19.3	Record of decisions by individual Cabinet members on reports received.	Relevant Director/Head of Service	Nominee
59.0 Budget and Policy Framework Procedure Rules				
P122	2(a)	Service of copies of Cabinet Budget and policy proposals.	Corporate Programme Manager	Nominee
P123	2(f)	Written notices of Leader’s objection to Council decision on budget/policy.	Corporate Programme Manager	Nominee
60.0 Cabinet Procedure Rules				
P128	1.4(b)	Notices/reports on delegation of Executive functions.	Corporate Programme Manager	Nominee
P129	2.4	Placing items on agendas at request of Leader and others (including the calling of meetings.)	Corporate Programme Manager	Nominee

			Proper Officer	Deputy
61.0 Overview and Scrutiny Procedure Rules				
P132	1(d)	Receipt of reports of changes to O/S Sub-Committees.	Democratic Services Manager	Nominee
P132	4	Extraordinary meetings of Overview and Scrutiny Committee.	Chief Executive and/or Monitoring Officer	Nominee
P133	8(a)	Inclusion of agenda items at Members' request.	Democratic Services Manager	Nominee
P134	10(a)	Receipt of recommendations to be put to Cabinet.	Corporate Programme Manager	Nominee
P134	11(a)	Calling Council meetings.	Corporate Programme Manager	Nominee
P134	11(b)	Receipt of Overview and Scrutiny Committee report to be put to individual Cabinet member and response of that Cabinet member.	Corporate Programme Manager	Nominee
P135	13(b)	Notification of requirement to attend meeting.	Democratic Services Manager	Nominee
P136/7	15(d) and (i)	Receipt and notification of call-in requests.	Corporate Programme Manager	Nominee
P136/7	15(d) and (i)	Calling of Scrutiny Meeting on account of call in.	Democratic Services Manager	Nominee
Standards Committee			Monitoring Officer	Deputy Monitoring Officer
Declarations of Members' Interests.			Democratic Services Manager	Nominee
Any proper officer function not dealt with elsewhere.			Monitoring Officer	Deputy Monitoring Officer