CONSTITUTION

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Part 1 – Summary and Explanation

This summary gives a short description of the main aspects set out in the Council's Constitution. It should not be relied on for detailed procedures or definitions, which are contained in the full Constitution.

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1. The Canterbury City Council Constitution

The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed. Its aim is to ensure that the Council is efficient, transparent and accountable to citizens. Some of the processes are required by law, while others are a matter for the Council to choose.

2. What is in the Constitution?

The Constitution is divided into articles, parts and appendices. Briefly, the ‘articles’ (set out in Part 2) cover the basic rules governing the Council's business. They form the principles under which the Council operates and outline the rights elected councillors and citizens have.

The ‘parts’ of this Constitution explain which bodies or officers are responsible for the various activities of the Council.

The ‘appendices’ set out various protocols and detailed rules for how decision making takes place and how this should be monitored and scrutinised. These appendices also include codes of practice.

3. How the Council operates

The Council is composed of 39 councillors, elected by residents every four years. Each councillor is democratically accountable to the residents of their ward. While the overriding duty of councillors is to the whole community, they have a special duty to their constituents, including those who did not vote for them.

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

All councillors meet together as the Full Council several times each year. Meetings of the Full Council are normally open to the public. Here, councillors decide the Council's overall policies, set the annual budget and are responsible for electing the Council’s Leader. Meetings of the Full Council also allow councillors to question the Cabinet about its activities, and chairs of committees about their work.

The Council’s paid staff, or ‘officers’, give advice, implement decisions and carry out the day-to-day delivery of services. Some officers have a specific duty to ensure that the Council, its Cabinet and committees acts within the law and uses its resources wisely. A protocol governs the relationships between officers and councillors.

4. How decisions are made

The Cabinet, also known as ‘the executive’, is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader, who is elected by the Council, and a small number of councillors whom the Leader appoints. The Leader will appoint a deputy from the cabinet members to act as leader in their absence.

When major decisions, known as ‘key decisions’, are to be made or discussed, details of these are published before they are considered. If these key decisions are to be discussed with Council officers at a meeting of the Cabinet, this meeting will generally be open for the public to attend, except when it is not in the public interest to do so.

The Cabinet has to make decisions 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.

Councillors also make up some more specialist decision-making committees, such as the Planning and Licensing Committees.

5. Overview Committee and Scrutiny Committee

The Overview Committee and Scrutiny Committee supports the work of the Cabinet and the Council as a whole. The committees allow citizens to have a greater say in Council matters, by requesting reviews into matters of local concern. These lead to reports and recommendations which advise the Cabinet, and the Council as a whole, on its policies, budget and services.

The Scrutiny Committee considers topics under different themes throughout the year and monitors the decisions of the Cabinet, including consideration of any cabinet decision called-in by three or more councillors.

The Overview Committee may be consulted by the Cabinet, or the Council, on forthcoming decisions and the development of policy.

6. Joint working

The Council has agreed arrangements with other councils to work together on important activities. It has created the East Kent Services Committee with Dover and Thanet District Councils to work jointly on areas such as HR payroll.

The Council’s building control functions are overseen by the South Thames Gateway Partnership Committee, which is a shared service arrangement with Gravesham Borough Council, Medway Council and Swale Borough Council.

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Article 1 – The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

This constitution, in all its parts, is the Constitution of the Canterbury City Council.

1.3 Purpose

The aims of the Constitution are to:

(a) enable the Council to provide leadership to the community in partnership with citizens, businesses and other organisations;

(b) provide a means of improving the delivery of services to the community;

(c) support the active involvement of citizens in the process of local authority decision making;

(d) help councillors represent their constituents effectively;

(e) enable decisions to be taken efficiently and effectively;

(f) create a powerful and effective means of holding decision-makers to public account;

(g) ensure that those responsible for decision making are clearly identifiable to citizens and that they explain the reasons for decisions;

(h) enable the Council to provide services and opportunities that are available to all and fairly allocated.

1.4 Interpretation and review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option it thinks is closest to the purposes stated above. The powers of the Lord Mayor in interpreting the Constitution are set out in Article 5.

The Council will monitor and evaluate the operation of the Constitution, as set out in Articles 14 and 15.

References: Section 37, The Local Government Act 2000 (Constitutions) (England) Direction 2000

Article 2 – All councillors

2.1 Composition of the Council and eligibility to serve

2.1.1 Composition of the Council

The Council will comprise 39 members, otherwise called councillors. One, two or three councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State.

2.1.2 Eligibility

A person shall be qualified to be elected as a member of the Council if they are at least 18 years old, meet citizenship requirements and:

a. are a local government elector for the area of the authority; or

b. during the whole of the twelve months preceding election day, have occupied, as owner or tenant, any land or other premises in the area of the authority; or

c. their principal, or only, place of work during that twelve months has been in the area of the authority; or

d. during the whole of the twelve months preceding the election, they have resided in the area of the authority.

2.2 Election and terms of councillors

The regular election of councillors will be held on the first Thursday in May, every four years.

The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and functions of councillors

2.3.1 Key Roles of councillors:

(a) To act collectively as the ultimate policy-makers and carry out a number of strategic and corporate management functions;

(b) To contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;

(c) To maintain the highest standards of public conduct and ethics;

(d) To balance different interests identified within the ward they represent;

(e) To represent the interests of their ward and of individual constituents;

(f) To campaign for the improvement of the quality of life of the community, acting in the overall public interest;

(g) To respond to constituents' enquiries and representations, fairly and impartially;

(h) To participate, constructively, in the governance of the Council;

(i) To be available to represent the Council on other bodies.

2.3.2 Rights and duties:

(a) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law. These rights are set out in more detail in the Access to Information Rules in Appendix D of this Constitution, and the Guidance on the disclosure of confidential information by Councillors, set out at Appendix D.1.

(b) Councillors will not release confidential or exempt information to the public without the consent of the Council; nor divulge information given in confidence to anyone other than a councillor or officer entitled to know it. The advice of the Monitoring Officer should be sought prior to any disclosure of exempt or confidential information.

For these purposes, 'confidential' and 'exempt' information are defined, and further guidance on access to and disclosure of such information provided, in Appendix D of this Constitution.

(c) Councillors will at all times observe the Members' Code of Conduct set out in Appendix B, and the Protocol for councillor and officer relations, set out in Appendix G of this Constitution.

It is also expected that all councillors will attend Code of Conduct training at least once in every four year cycle.

(d) All councillors will take responsibility for their training and development and will attend appropriate courses, briefings and seminars.

No councillor will be permitted to sit on a meeting of the Planning or Licensing Committee until they have received appropriate training. Treasury management training is compulsory for members of the Audit Committee.

2.4 Allowances

Councillors will be entitled to receive allowances in accordance with the Councillor and Co-opted Members Allowances Scheme set out in Appendix L of this Constitution.

2.5 Political groups

Councillors usually organise themselves into political groups. Seats on committees are allocated based on the size of the various groups. Councillors who are not part of a political group will not be included in the political balance calculations.

Article 3 – Citizens and the Council

3.1 **Citizens' rights**

Citizens have the following rights (their rights to information, and to participate, are explained in more detail in the Access to Information procedure rules set out in Appendix D of this Constitution):

3.1.1 Voting and petitions

Citizens who are on the electoral roll for the District have the right to vote at elections and to sign a petition to request a referendum for a change from one form of governance to another. The petition scheme in Appendix H of this Constitution sets out more detail about types of petitions and how we process them.

3.1.2 Information

Citizens have the right to:

(a) observe meetings of the Council, Cabinet and committees, except where confidential or exempt information is to be disclosed and the meeting decides to hold that discussion in private;

(b) find out, from the notice of key decisions, what such decisions will be taken by the Cabinet and when;

(c) see non-confidential or exempt reports and background papers, and any records of decisions made by the Council and the Cabinet; and

(d) inspect the Council's accounts and make their views known to the external auditor.

3.1.3 Participation

Citizens have the right to contribute by exercising a time-limited right to speak at certain meetings. The rules are set out in ‘Public Participation at Meetings’, Appendix I of the Constitution.

Citizens and interest groups may be invited to participate in working group activity where their expertise is relevant to the topic.

The council will consult with citizens on a range of topics each year to inform policy development.

3.1.4 Representations and complaints

Citizens wishing to complain have the right to make representations to:

a. their ward councillors in the first instance, or to any other councillor, or to members of the Cabinet;

b. the authority itself under its complaints scheme;

c. the Local Government Ombudsman, after using the Council's own complaints scheme;

d. the Monitoring Officer, about a breach of the Members' Code of Conduct by a councillor.

3.2 Citizens' responsibilities

3.2.1 Citizens can contribute to a flourishing democratic local authority and civic culture, which the Constitution is intended to support, by:

a. assisting the Council with the compilation of the electoral register (including meeting their obligations to provide information about themselves and members of their household) and respecting any requirements for proper use of this information;
b. exercising their right to vote in local, regional and national elections and referenda;
c. respecting and valuing the diversity of communities and their views;
d. behaving in socially and morally responsible ways towards those in authority and towards each other;
e. meeting their obligations in relation to the Council, such as paying their council tax.

3.2.2 Citizens must not be violent, abusive or threatening to councillors or officers, and must not wilfully harm property owned by the Council, councillors or officers.

Article 4 – The Full Council

The Local Government Act 2000 (as amended) gives the Council responsibility for approving the budget and policy framework. The items denoted 'statutory' are required to be approved by Council.

4.1 Meanings: Policy framework, budget, housing land transfer

4.1.1 The Council's policy framework is comprised of the following:

- Corporate Plan;
- Local Development Plan (statutory);
- Transportation Plan (statutory);
- Licensing Policy (statutory);
- Gambling Policy (statutory);
- Treasury Management Strategy (statutory);
- Crime and Disorder Reduction Strategy (statutory);
- Whitstable Harbour Strategic Plan;

and such other plans and strategies that the council may decide or that are required by law.

4.1.2 **The budget** includes the allocation of financial resources to different services and projects, proposed reserve balances, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, investment of funds, the control of its capital expenditure and the setting of virement limits.

4.1.3 **Housing land transfer** means the approval, or adoption of applications (whether in draft form or not) to be submitted 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 (as amended) or to dispose of land use for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985 (as amended).

4.2 Functions of the Full Council

Only the Council will exercise the following functions:

a. changing governance arrangements and adopting and changing the Constitution (except as set out in Article 14);

b. approving or adopting the policy framework, the budget and any applications to the Secretary of State in respect of any housing land transfer;

c. making decisions where the planned decision-maker (i.e. Cabinet) is minded to make it in a manner which would be contrary to the policy framework or not wholly in accordance with the budget, subject to the urgency procedure rules set out in Part 6 and under the council delegation of powers to officers in Part 8;

d. appointing and removing the Leader;

e. appointing the
   i. Lord Mayor; and
   ii. Sheriff

f. agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;

g. appointing representatives to outside bodies, except where this has been delegated or relates to a cabinet function;

h. adopting an allowance scheme;

i. changing the name of the area, or conferring the freedom of the city;

j. designating an officer as the council's Head of Paid Service in accordance with s4, Local Government and Housing Act 1989.

k. designating an officer as the Council's Monitoring Officer in accordance with s5, Local Government and Housing Act 1989

l. designating an officer to be responsible for the proper administration of the council's financial affairs in accordance with s6(1)(b) of the Local Government and Housing Act 1989 and s151 of the Local Government Act 1972. This role is referred to in the Local Authorities (Standing Orders) (England) Regulations 2001 as the 'Chief Finance Officer'.

m. confirming the appointment and dismissal of a Head of Paid Service, Chief Executive or Joint Chief Executive.

n. confirming the dismissal of the Monitoring Officer or Chief Finance Officer (Section 151 officer).

o. appointing the Local Auditor in accordance with the Local Audit and Accountability Act 2014;

p. making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal bills;

q. all local choice functions set out in Parts 3 and 4 of the Constitution, except where those functions have been delegated by the Council;

r. all other matters which, by law, must be reserved to Council.

In addition, the Council will have a key role in representing the views of the local residents of the District on matters of significance to them.

Note: Full Council is chaired by the Lord Mayor, with the Sheriff acting as Vice-Chair. These civic roles are incompatible with executive office and therefore Cabinet Members cannot serve as the Chair or Vice-Chair of Full Council

4.3 Council meetings

There are three types of council meeting:

(a) the annual meeting
(b) ordinary meetings
(c) extraordinary meetings

Meetings of Council will be conducted in accordance with the Council Procedure Rules in Part 4 of the Constitution.

4.4 Responsibility for functions

The Council will maintain the tables in Part 3 of the Constitution setting out the responsibilities for the Council's functions.

References: Local Authorities (Functions and Responsibilities) (England) Regulations 2000 Chapters 2 and 9

Article 5 – Chairing the Council

Council meetings will be chaired by the Lord Mayor, and the Sheriff will be the Vice-Chair.

5.1 Chairing the Council meeting

5.1.1 The Lord Mayor and Sheriff will both be elected by the Council annually from its members. In the absence of the Lord Mayor, the Sheriff will assume the roles, functions and responsibilities of the Lord Mayor.

5.1.2 The Lord Mayor, when chairing meetings of Council, will have the following rights and responsibilities:

a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;

b) the ruling of the Lord Mayor (or in their absence, the Sheriff) as to the construction or application of the 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 aims of this Constitution contained in Article 1;

c) to preside over meetings of the Council so that its business can be carried out efficiently, in accordance with the law and this constitution with regard to the rights of councillors and the interests of the community;

d) to cancel meetings, in exceptional circumstances, in consultation with a Joint Chief Executive or, in their absence, the Monitoring Officer.

5.1.3 Following advice from a Joint Chief Executive or the Monitoring Officer (or their representative), the Lord Mayor's ruling on any matter of order or procedure will be final. If the Lord Mayor thinks it is necessary to do so, they may interrupt business, change the order of business or suspend or adjourn the meeting for a period of time that they consider appropriate.

5.2 Ceremonial role

5.2.1 The Lord Mayor is the first citizen of the District. They represent the citizens of the District, and the councillors at civic and ceremonial occasions. The Sheriff will act as deputy in these matters.

5.2.2 The Lord Mayor will perform all the duties of the civic head of the Council and will attend such civic and ceremonial functions as the Council and they determine appropriate. They will also sign documents on behalf of the Council, which require the signature of the civic head of the Council.

Article 6 – Overview and Scrutiny Committee/s

6.1 Introduction

The overview and scrutiny function is central to the Council's governance structure.

The Overview Committee and Scrutiny Committee:

- meet in public to discuss and make recommendations on the development of policy;
- provide effective challenge by holding the Leader and Cabinet to account for their actions and decisions;
- provide community focus in considering matters of local concern.

6.2 Form and composition

There is an Overview Committee and a Scrutiny Committee. They must be politically balanced and no member of the Cabinet can also be a member of either Committee.

6.3 General role

Within their terms of reference, the Overview Committee and Scrutiny Committee and sub-committee shall:

a. assist the Council and the Cabinet in the development of the budget and policy framework by analysing policy issues;

b. review and scrutinise the decisions, initiatives, projects and performance of the Cabinet and/or committees in relation to individual decisions, initiatives and projects;

c. review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

d. make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;

e. hold the Cabinet to account through investigations and questioning;

f. exercise an overview of the notice of forthcoming Cabinet key decisions;

g. review and scrutinise the performance of other public bodies and relevant partners in the area by inviting reports from them, and requesting that they address the Overview and Scrutiny Committee;

h. receive and deal with ‘call to action’ notices from councillors under the provisions of the Local Government and Public Involvement in Health Act 2007;

i. review and/or scrutinise decisions made, or actions taken, in connection with the discharge of any of the Council's functions;

j. review topics selected by the committee in a task and finish working group and formally present recommendations to Cabinet or Council or other appropriate groups and organisations.

k. make reports and/or recommendations to the Full Council and/or the Cabinet, and/or any joint committee, in connection with the discharge of any functions;

l. consider any matter affecting the District or its inhabitants;

m. exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet and/or committees, in accordance with the Call-in Rules of Procedure in Part 6.3 of the Constitution;

n. receive reports and recommendations from any commissioned review panels.

Full terms of reference can be found in Part 7 of this constitution.

6.4 Procedures of the Overview and Scrutiny Committees

The Overview and Scrutiny Committee and any sub-committee thereof will conduct their proceedings in accordance with the overview and scrutiny rules set out in Part 7 of this Constitution, Section 21 of the Local Government Act 2000 and relevant statutory guidance

They include an Overview, Scrutiny and Cabinet Protocol that sets out how the three bodies will work together for the benefit of the council.

6.5 Specific functions

6.5.1 Annual report

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

6.5.2 Crime and Disorder

The Scrutiny Sub-Committee will receive an annual update from the Crime and Disorder Reduction Partnership and in doing so, will fulfil the Council's statutory scrutiny functions in relation to crime and disorder.

Article 7 – Council Leader, Deputy and Cabinet

7.1 Role

The Cabinet is responsible for proposing the policy framework and the budget to Full Council, and for discharging its functions in accordance with the agreed framework. The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this constitution.

The Leader may, however, make arrangements to delegate some decisions to the Cabinet, a Cabinet Committee, individual Cabinet members, or to officers.

7.2 Form, composition and proceedings of the Cabinet

The Cabinet will consist of the Leader of the Council, together with at least two, but not more than nine, councillors appointed to the Cabinet by the Leader. Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules, set out in Part 6.2 of this Constitution.

7.3 Delegation of executive functions to a Joint Chief Executive

If neither the Leader, nor the Deputy Leader nor Cabinet can act, the executive functions shall be devolved to the Joint Chief Executives until the next meeting of the Council at which a new Leader can be elected. If the Council meeting fails to elect a new Leader, the powers shall remain devolved to the Joint Chief Executives until such time as appointments are made. The powers will be exercised in consultation with all political group leaders, where practical.

7.4 Responsibility for functions

The Leader will maintain a list, set out in Part 6 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 Cabinet functions.

7.5 Leader

7.5.1 The Leader will be a councillor elected by the Council at the Annual Meeting of the Full Council, following on from the ordinary election of all councillors. The Leader will hold office for a period of four years and will remain in position until the day of the next Annual Meeting following the next ordinary election of the councillors, unless:

a. they resign from the office;

b. they are suspended from being a councillor 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 a councillor; or

d. they are removed from office by resolution of the Council on a motion signed by five members of the Council and included on the agenda for a Council meeting. Such a

motion must be given in writing to the Proper Officers at least 10 working days prior to the relevant meeting and should include the reasons for the motion. The motion should take precedence over every other item of business;

e. a motion as in paragraph (d) above must be passed by more than half of the total membership of the Council.

In the situation that the Leader no longer holds office as mentioned above, or is unable to act, or the office of Leader is vacant, the Deputy Leader will carry out the role and duties of Leader until such time as the Council elects a councillor to the position of Leader, or the Leader resumes office. If the Deputy Leader is unable to act or the office is vacant the Cabinet must act in the Leader's place or arrange for a member of the Cabinet to do so. In the absence of a nominee the provisions in 7.3 above will apply.

If the Council passes the resolution to remove the Leader, the new Leader is to be elected:

(i) at the meeting at which the Leader is removed from office; or
(ii) at a subsequent meeting.

7.6 Deputy Leader

7.6.1 The Leader will appoint one of the members of the Cabinet to act as Deputy Leader and report the appointment to Council at the earliest opportunity.

7.6.2 When appointing the Deputy, the Leader must give written notice of such appointment to both the person who they are appointing as Deputy Leader and the Proper Officers. The appointment of the Deputy will take effect on receipt of the Leader's written notice by the Proper Officers.

7.6.3 The Deputy Leader will hold office until the end of the Leader's term of office, unless:

a. they resign from the office;

b. they are no longer a councillor; or

c. they are no longer a member of the Cabinet; or

d. they are removed by the Leader, who must give written notice of such removal to both the Deputy Leader and to the Head of Paid Service. The removal of the Deputy Leader will take effect on receipt of the Leader's written notice by the Proper Officers. The Leader will report any such removal to the Council at the earliest opportunity.

7.6.4 Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in their place. The Leader must give written notice of such appointment to both the person they are appointing as Deputy Leader and to the Proper Officers.

7.6.6 If for any reason the Leader is unable to act, or the office of Leader is vacant, the Deputy Leader will act in their place.

If for any reason the Deputy Leader is unable to act, or the office of Deputy Leader is vacant; the Cabinet must act in the Leader's place, or arrange for a Cabinet member to act in their place.

7.7 Other Cabinet members

7.7.1 In addition to the Deputy Leader, the Leader will appoint between one and eight further Cabinet members to hold such portfolios as the Leader shall determine.

7.7.2 When appointing a Cabinet member, the Leader must give written notice of the appointment and the portfolio to both the person they are appointing as a Cabinet member and to the Proper Officers.

7.7.3 The appointment of the Cabinet member will take effect on receipt of the Leader's written notice by the Head of Paid Service. The Leader will report the appointment of a Cabinet member and his/her portfolio to Council at the earliest opportunity.

7.7.4 A Cabinet member will hold office until the end of the Leader's term of office, unless:

a. they resign from the office;

b. they are no longer a councillor; or

c. they are removed by the Leader, who must give written notice of such removal to both the Cabinet and to the Proper Officers. The removal of the Cabinet member will take effect on receipt of the Leader's written notice by the Proper Officers. The Leader will report any such removal to the Council at the earliest opportunity.

7.8 Community-run forums

The Cabinet members will periodically attend community-run area forums, where they exist, in order to hear from members of the community directly.

7.9 Reviews

Cabinet will, from time to time, form task and finish working groups to review topics and make recommendations to Cabinet or Council or other appropriate groups and organisations.

Article 8 – Standards Committee

The Full Council will establish a Standards Committee each year.

8.1 Membership

The Standards Committee will be composed of a number of members of the Council, plus up to three parish councillors who will be co-opted on to the committee in a non-voting capacity, following nomination from the Canterbury branch of the Kent Association of Local Councils. Quorum shall be half of the voting membership. A member of the Cabinet may not chair the committee. See more about the appointment of the chair in the next article.

8.2 Independent Persons

Independent Persons are appointed by the Council in order to advise and assist the Monitoring Officer and councillors in relation to any allegations that the Members' Code of Conduct has been broken. Independent Persons are not members of the Standards Committee, but may attend its meetings.

8.3 Role and function

For the Standards Committee terms of reference, see Part 5 of the Constitution. In general terms, the Committee's role is to promote high standards of conduct at both the district and parish level.

8.4 Complaints against a district or parish councillor

8.4.1 Arrangements

The Localism Act 2011 requires councils to have in place arrangements under which allegations that a councillor has breached the council's code of conduct can be investigated, and decisions made. The Monitoring Officer is responsible for this process, not only in respect of Canterbury city councillors but also in respect of the parish councillors within the district boundary.

8.4.2 Assessment and investigation

All matters from the initial assessment stage are considered, in conjunction with the views of the Independent Persons appointed by the Council to ensure there is an external view.

8.4.3 Hearing Panels

If the Monitoring Officer, in consultation with the Independent Persons, considers that informal resolution is not appropriate or is unlikely to be achieved, they will convene a meeting of the Hearing Panel to determine the outcome of the complaint in accordance with the Hearing Panel Arrangements set out in Appendix C - Arrangements for Dealing with Code of Conduct Complaints.

Article 9 – Other Committees and Chairs and Vice Chairs of Committees

9.1 Other Committees

9.1.1 A number of functions, such as planning, licensing, health and safety regulation, electoral matters and pensions are not Cabinet functions. These matters are excluded from the Cabinet by law, regulations or the provisions of the Constitution.

9.1,2 The Council will appoint committees with responsibility for the discharge of those non-Cabinet functions that are not reserved to Full Council, or any other body or individual. These committees are set out in Part 5 of the Constitution.

9.1.3 The committees will be established at the Annual Meeting of the Council.

9.1.4 Proceedings of the committees and any sub-committees will take place in accordance with the Committee Procedure Rules, in Part 5 of this Constitution.

9.2 Chairs and Vice Chairs of Committees

9.2.1 Appointment of Chair and Vice-Chair

1. Council may appoint, at each Annual Meeting and from among the voting councillors, a person to chair the meetings of a committee or sub-committee, and a person to chair those meetings in the absence of the first person i.e. a vice-chair.

2. If any appointment possible under the previous paragraph is not made, a committee may appoint, from among its voting members, a person to chair meetings of any sub-committee it sets up, or a person to chair in the absence of the first person, as the case may be.

3. If any appointment possible under the previous two paragraphs is not made, the committee or sub-committee, at its first meeting after the Annual Meeting of Council, shall appoint a person to chair its meetings from among its voting members, and may, in the same way, appoint a person to chair in the absence of the first person.

4. If the persons appointed under the previous paragraphs of this article are absent, a meeting of a committee or sub-committee shall appoint, from among the voting members present, a person to chair that meeting.

5. In relation to proceedings at paragraph 3 and 4 an appropriate officer shall open any meeting of a committee or sub-committee and preside over the election of a chair.

9.2.2 The role of the Chair

The role of the Chair (and in their absence, the Vice-Chair) is as follows:

a. to preserve order;
b. to take care that the proceedings are conducted in a proper manner;

c. to ensure that the sense of the meeting is properly ascertained with regard to any question which is properly before the meeting;
d. to exercise all rights of the Chair according to law, including the exercise of a second or casting vote;
e. to understand the nature of the business of the committee and to act as a Council spokesperson on appropriate occasions;
f. to act as the person consulted in relation to an officer decision where that is necessary.

The Chair and Vice-Chair will maintain good communications with each other and officers to ensure the efficient coordination and management of all committee activity.

Article 10 – Decision Making

10.1 Responsibility for decision making

The Council will issue, and keep up-to-date, a record of what part of the Council or which individual has responsibility for particular types of decisions, or decisions relating to particular areas or functions. This record is set out in Parts 3-10 of this Constitution.

10.2 Principles of decision making

All decisions of the Council or its committees, and those decisions taken under delegated powers, shall have regard to the following principles of good practice:

- consideration of all options available
- having regard to due consultation
- consideration of professional advice from officers
- clarity of aims and desired outcomes
- action proposed proportionate to the desired outcome
- having respect and regard for human rights
- application of the general equalities duty
- presumption for openness
- only relevant matters taken into account
- due weight to all material considerations
- proper procedures followed

10.3 Types of decision

10.3.1 Decisions reserved to Full Council – that is decisions relating to the matters listed in Article 4 – will be made by the Full Council and not delegated.

10.3.2 When decisions are made by committees appointed by the Council, the power to make such decisions is delegated by the Council in accordance with the terms of reference contained in Part 4 of the Constitution. (Section 101, Local Government Act 1972)

10.3.3 Decisions of the Cabinet will comprise:

(i) Key decisions
and
(ii) other decisions

"Key decisions" relate to Cabinet decisions that are likely:

(i) to result in the authority incurring expenditure, or making savings, which are significant in regard to the Council's budget for the service or function to which the decision relates; or

(ii) to be significant in terms of their effects on communities living or working in an area comprising two or more of the Council's wards.

These provisions are set out in more detail in Part 6 of the Constitution.

10.3.4 In cases of urgency, the provisions contained within the Budget and Policy Framework Procedure Rules at Part 4.2, and Executive Functions, Rules and Procedures set out in Part 6 of this Constitution, will apply.

10.3.5 Decision making by the Full Council
Subject to Article 10.3.9, when considering any matter, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution.

10.3.6 Decision making by the Cabinet
Subject to Article 10.3.9, when considering any matter, the Cabinet or officer (if appropriate) exercising delegated powers will follow the Executive Functions, Rules and Procedures set out in Part 6 of this Constitution.

10.3.7 Decision making by the Overview Committee and Scrutiny Committee
When considering any matter, the Overview Committee and Scrutiny Committee will follow the Overview and Scrutiny Rules and Procedures set out in Part 7 of this Constitution.

10.3.8 Decision making by other committees established by the Council
Subject to Article 10.3.9, other Council committees or boards will be subject to those parts of Part 5: Committees of the Council: Functions, Rules and Procedures as set out in this Constitution as apply to them.

10.3.9 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.

Article 11 - Joint working

11.1 Arrangements to promote well-being

In order to promote the economic, social or environmental well-being of the District, the Leader 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.

11.2 Joint arrangements

11.2.1 The Council may establish joint arrangements, with one or more local authorities and/or their Cabinets, to exercise functions which are not Cabinet functions, in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

11.2.2 The Leader may establish joint arrangements, with one or more local authorities, to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

11.2.3 Except as set out below, the Leader may only appoint Cabinet members to a joint committee.

11.2.4 The Leader may appoint councillors from outside the Cabinet to a joint committee in the following circumstances:

a) The joint committee has functions for only part of the District, and that area is smaller than two-fifths of the Council, by area or population. In such cases, the Leader may appoint, to the joint committee, any councillor who is a member for a ward which is wholly or partly contained within the relevant part of the District;

b) The joint committee is between the Kent County Council and the Council alone, and relates to functions of the Cabinet of the County Council. In such cases, the Cabinet 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 District.

In both of these cases the political balance requirements do not apply to such appointments.

11.2.5 Details of any joint arrangements can be found in Part 5 of the Constitution.

11.3 Access to information

11.3.1 The Access to Information Rules, in Appendix D of this Constitution, apply to joint committees.

11.3.2 If all the members of a joint committee are members of the Cabinet, in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

11.3.3 If the joint committee contains councillors who are not members of the Cabinet of any participating authority, the access to information rules in Part 5A of the Local Government Act 1972, will apply.

11.4 Delegation to and from other local authorities

11.4.1 The Council may delegate non-Cabinet functions, and the Cabinet may delegate Cabinet functions, to another local authority or, in certain circumstances, the Cabinet of another local authority.

11.4.2 Any decision on whether or not to accept such a delegation from another local authority shall be reserved to the Council.

11.5 Delegation to and from other organisations

11.5.1 The Council may delegate non-Cabinet functions, and the Cabinet may delegate Cabinet functions, to other organisations or boards, where legislation allows.

11.5.2 Any decision on whether or not to accept such a delegation from another organisation or board shall be reserved to the Council.

11.6 Contracting out

The Council (for functions which are not Cabinet functions) and the Cabinet (for functions that are Cabinet functions) may contract out to another body or organisation functions that may be exercised by an officer and that 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.

Article 12 - Statutory Officers

12.1 Statutory Officers

The Council will designate the following posts ('the statutory officers'):

- Head of Paid Service
- Chief Finance Officer (sometimes referred to as S151 Officer)
- Monitoring Officer

In addition, Council will confirm the appointment or dismissal of a chief executive/joint chief executive who is not in one of the designated statutory roles.

These officers are individually and collectively responsible for promoting good governance within the authority, and ensuring proper arrangements are in place so that the authority carries out its business in compliance with law and best practice.

12.2 Functions of the Head of Paid Service and the Joint Chief Executives

Whilst one Joint Chief Executive is designated by Council as Head of Paid Service, the delegations in the constitution refer to Joint Chief Executives as far as possible to ensure equality between the posts.

Where reference is made to a delegation being performed by 'a' Joint Chief Executive it will be taken in collaboration with the other Joint Chief Executive whenever practicable. Allowing either officer to take a decision avoids delay and ensures decisions can continue to be taken in the event of absence or other reasons (i.e. potential conflict of interest).

In the rare circumstance that the Joint Chief Executives cannot agree on a decision, the Head of Paid Service is empowered under the constitution to make any officer-delegated decision required for legal or regulatory purposes within a specific timescale.

The Head of Paid Service reports to Council on how the discharge of the Council's functions is coordinated and the number and grade of employees required for the discharge of functions and the organisation of employees. Corporate restructure papers are delegated to the General Purposes Committee.

The Joint Chief Executives determine the routing and timing of reports to committee meetings and in consultation with the appropriate chair, the need for special meetings of a committee or sub committee.

Following a local election and until the day of the Annual Meeting; if the leader has not been re-elected as a councillor or, if re-elected, the political party of which they are a member does not have a majority on the council, then the powers of the Leader shall be exercised by the Joint Chief Executives in consultation with all group leaders, where practical.

The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if a qualified accountant.

12.3 Functions of the Monitoring Officer

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service and will have the following functions:

a. maintaining the Constitution
b. ensuring lawfulness and fairness of decision making
c. supporting the Standards Committee
d. dealing with complaints regarding district or parish councillors
e. local filter of complaints and conducting of investigations
f. proper officer for access to information
g. appointment of one or more deputies
h. advising whether Cabinet decisions are within the budget and policy framework
i. providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework
j. granting dispensations

12.4 Functions of the Chief Finance Officer (S151 Officer)

a. ensuring lawfulness and financial prudence of decision making
b. administration of financial affairs
c. contributing to corporate management
d. providing advice on scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework
e. providing support and advising councillors and officers in their respective roles
f. providing financial information

12.6 Duty to provide sufficient resources

The Council will provide the Head of Paid Service, Monitoring Officer and S151 Officer with such employees, accommodation and other resources as are, in their opinion, sufficient to allow their duties to be performed.

12.7 Conduct

Employees will comply with the Officer Employment procedure rules and the protocol on councillor/officer relations set out in the appendices of this Constitution.

References:
(Section 5), Local Government and Housing Act 1989
Localism Act 2011 Section 3A Local Government and Housing Act 1989
Section 4 (2) Local Government and Housing Act 1989
Section 270 Local Government Act 2000
Section 13 Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012.
The Local Authorities (Standing Orders) (England) Regulations 2015

Article 13 - Finance, Contracts and Legal Matters

13.1 **Financial management**

The Council's financial affairs will be managed in accordance with the Financial Procedure Rules and Contract Standing Orders set out in Parts 9 and 10 of the Constitution.

13.2 **Contracts**

Every contract entered into by the authority will comply with the Contract Standing Orders set out in Part 10 of the Constitution.

13.3 **Legal proceedings**

The Head of Legal Services is authorised to institute, defend or participate in any legal proceedings in any case where this is necessary to effect the Council's decisions or in any case where the Head of Legal Services considers that such action is necessary to protect the Council's interests.

13.4 **Authentication of documents**

Where any document is needed for any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or another person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given this authority to some other person.

13.5 **Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. 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 Head of Legal Services, should be sealed. The affixing of the Common Seal will be attested by the Head of Legal Services or the Monitoring Officer (if different) or some other person authorised by the Head of Legal Services.

Article 14 - Review and Revision of the Constitution

14. 1 Duty to monitor and review the Constitution

The Monitoring Officer and Deputy Monitoring Officers will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

14.2 Protocol for monitoring and reviewing the Constitution by the Monitoring Officer

A key role for the Monitoring Officer and their deputies is to assess the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations to the Governance Committee for ways in which it could be amended to better achieve the purposes set out in Article 1.

In undertaking this task, the Monitoring Officer may:

a. observe meetings of different parts of the councillor and officer structure;
b. undertake an audit trail of a sample of decisions;
c. record and analyse issues raised with them by councillors, officers, citizens and other relevant stakeholders; and
d. compare practices in this council with those in other comparable authorities, or national examples of best practice.

14.3 Changes to the Constitution

The Monitoring Officer is to publish and maintain the Council's Constitution. Changes to the Constitution may take place in the following ways:

a. The Monitoring Officer will make textual changes, which may arise from any decision the Council might make, on any matter.

b. The Monitoring Officer will amend the Constitution, from time to time, so that it reflects any statutory changes; any factual and minor changes, and incidental and consequential changes. These changes will not require prior approval of the Full Council, but will be notified to all councillors.

c. The Monitoring Officer, after consulting with the Governance Committee, may recommend to the Council that changes be made to the Constitution.

d. The Monitoring Officer may recommend changes directly to Full Council if all the political group leaders agree that the matters are relatively minor.

e. Any change in the governance arrangements of the Council will be made in accordance with the provisions of the Local Government Act 2000, as amended.

Article 15 - Suspension, Interpretation and Publication of the Constitution

15.1 Suspension of the Constitution

15.1.1 The Rules of Procedure relating to meetings of the Council, the Cabinet, committees and sub-committees may be suspended by the Council or the Cabinet to the extent permitted within the Council Procedure Rules in Part 4 and the Cabinet Procedure Rules in Part 6 of this Constitution, and the law.

15.1.2 Procedure to suspend

A motion to Full Council to suspend any rules will not be moved, without notice, unless at least one half of the whole number of councillors are present. The extent and duration of the suspension will be proportionate to the result to be achieved, taking account of the aims of the Constitution set out in Article 1.

15.2 Interpretation

The ruling of the Lord Mayor as to the construction or application of the Constitution, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council. Such interpretation will have regard for the aims of the Constitution contained in Article 1.

15.3 Publication

The Head of Paid Service will:

a. provide a copy of the Constitution to each councillor upon receipt of a request;

b. ensure that the Constitution is available for inspection on the Council's website.

Part 3 – Responsibility For Functions: General Statement and Local Choice Functions

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1. Introduction 1
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3. Non-executive Functions 4

1. Introduction

1.1 Parts 1-10 of the Constitution set out which body, or individual, within the Council is responsible for exercising which types of the Council's functions.

1.2 Under Section 13 of the Local Government Act 2000, functions are either executive functions or non-executive functions. Executive functions are exercised by Cabinet, Cabinet members and officers under delegated powers (together called 'the executive').

Non-executive functions are exercised by Full Council who can use their powers to delegate functions to committees, sub-committees and officers.

1.3 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) – from now on referred to as 'the Functions Regulations' – list the following:

(a) certain functions that must be non-executive functions;
(b) other functions that must be partly executive and partly non-executive; for example, plans and strategies that are prepared by the Cabinet and recommended to Full Council for adoption;
(c) local choice functions that the Council can decide to treat as either executive or non-executive.

1.4 All other functions are executive functions.

2. Responsibility for Local Choice Functions

The following table shows how local choice functions have been allocated at Canterbury City Council:

Function	Decision-making body
a) Any function under a local act, other than a function specified or referred to in Regulation 2 or Schedule 1 of the Functions Regulations, and other than a licensing, consent, permission or registration function (including development control functions)	Cabinet, unless otherwise specified. Whitstable Harbour Board - Council Whitstable Harbour Strategic Plan - Council
b) Any function under a local act in respect of a licensing, consent, permission or registration function (including development control functions)	Council
c) The determination of an appeal against any decision made by, or on behalf of, the authority relating to housing allocations and homelessness determinations.	Council
d) The determination of an appeal against any decision made by, or on behalf of, the authority in respect of matters relating to disciplinary and other employment matters.	Council
e) Any function relating to contaminated land, other than a function involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of a person, or the enforcement of any of the above.	Council
f) Any function relating to contaminated land involving the determination of an application for a licence, approval, consent, permission or registration, or the direct regulation of any person, or the enforcement of any of the above.	Council
g) The discharge of any function relating to the control of pollution or the management of air quality, *other than* a function involving the determination of an application for a licence, approval, consent, permission or registration, or the direct regulation of any person, or the enforcement of any of the above.	Cabinet

Function	Decision-making body
h) The discharge of any function relating to the control of pollution or the management of air quality involving the determination of an application for a licence, approval, consent, permission or registration, or the direct regulation of any person, or the enforcement of any of the above.	Council
i) The service of an abatement notice in respect of a statutory nuisance.	Council
j) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Council https://www.legislation.gov.uk/ukpga/1993/40/schedule/2/enacted
k) The inspection of the authority's area to detect any statutory nuisance, and the investigation of any complaint as to the existence of a statutory nuisance involving the determination of an application for a licence, approval, consent, permission or registration, or the direct regulation of any person, or the enforcement of any of the above.	Council
l) Matters relating to the inspection of the authority's area to detect any statutory nuisance and the investigation of any complaint as to the existence of a statutory nuisance *other than* matters involving the determination of an application for a licence, approval, consent, permission or registration, or the direct regulation of any person, or the enforcement of any of the above.	Council
m) The obtaining of information under Section 330 of the Town and Country Planning Act 1990 concerning interests in land.	Council and, soley in respect of actions that are preliminary to the exercise of powers to make compulsory purchase orders, the Cabinet.
n) The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Council and, in respect of actions that are preliminary to the exercise of powers to make compulsory purchase orders, the Cabinet.

Function	Decision-making body
o) The appointment, or revocation of the appointment, of any individual to any office (other than an office in which they are employed by the authority), or to any body (other than the authority or a joint committee of two or more authorities) or to any committee or sub-committee of such a body.	Cabinet
p) The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	The Cabinet, except to the extent that the staff are being placed at the disposal of the other authority in relation to the discharge of functions that are not the responsibility of the Cabinet, where the function will be the responsibility of the Council.

3. Non-executive Functions

Non-executive functions are exercised by:

(a) The Full Council
(b) Committees and Boards
(c) Officers under delegated powers, and
(d) Joint Committees

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Part 4.1 Meetings of the Full Council

1. 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 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:

(a) elect a person to chair if the outgoing Lord Mayor is not present;

(b) elect the Lord Mayor of the Council;

(c) elect the Sheriff of the Council;

(d) approve the minutes of the last Annual Meeting;

(e) receive any announcements from the Lord Mayor and Joint Chief Executives;

(f) elect the Leader (only at post-election Annual Meeting);

(g) appoint at least one Overview and Scrutiny Committee, a committee to carry out the statutory licensing committee functions and such other committees as the Council considers appropriate, to deal with matters that are neither reserved to the Council nor executive functions;

(h) agree a scheme of delegation to officers for non-executive functions (as set out in Part 3 of the Constitution);

(i) approve a programme of ordinary meetings of the Council for the year, and a timetable of meetings of committees and, if appropriate, sub-committees for the year, including for the whole of May in which the next Annual Meeting falls;

(j) consider any business set out in the notice convening the meeting.

1.2 Selection of councillors for committees and outside bodies

At the annual meeting, the Council will:

(a) decide which committees to establish for the municipal year;

(b) decide the size and terms of reference of those committees; and

(c) decide the allocation of seats and substitutes on those committees to political groups, in accordance with the political balance rules;

(d) except where the power of appointment has been delegated by the Council, receive nominations for representatives to serve on each committee; and

(e) appoint to those committees and outside bodies, including committee chairs and vice-chairs.

1.3 Committee chairs

In accordance with Article 9, the chairs of committees and sub-committees will be elected by the Council at the Annual Meeting, or at the first meeting of Council following a vacancy. The vice-chairs of committees and sub-committees will be elected by the Council in the same way.

A committee or sub-committee may remove its chair or vice-chair at any time, by resolution of the committee or sub-committee.

2. Ordinary meetings

2.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary meetings will:

(a) elect a person to preside if the Lord Mayor and the Sheriff are not present;

(b) receive apologies for absence (if any);

(c) receive any declarations of interest from members;

(d) deal with any business required by statute, to be done before any other business;

(e) receive petitions and questions from the public and, where necessary, refer them elsewhere or consider them if appropriate, in accordance with the Council's Petition Scheme;

(f) receive any announcements from the Lord Mayor, Leader, members of the Cabinet or the Joint Chief Executives;

(g) answer questions received from members under Rule 8 (Questions by members of the Council), in the order determined by a ballot undertaken by the Joint Chief Executives or their nominee in advance of the day of the meeting;

(h) consider any other business specified in the summons to the meeting not dealt with elsewhere in the agenda;

(i) consider reports on previous motions, and consider fresh motions in the order in which they were received;

(j) approve the minutes of the last meeting and any outstanding from previous meetings;

(k) receive recommendations from the Council's committees, and receive questions and answers on any of these recommendations;

(l) receive any reports about, and receive questions and answers on, the business of external organisations;

(m) deal with any relevant business held over from the last Council meeting;

(n) receive statutory reports;

(o) deal with any urgent business.

2.2 The order of items (a), (b), (c) or (d) of paragraph 2.1 shall not be varied. The order of other business may be varied:

(a) at the discretion of the Lord Mayor;

(b) by a resolution passed at any time during the meeting on a motion (which need not be in writing) duly moved and seconded, and put without discussion.

3. Extraordinary meetings

3.1 Calling extraordinary meetings

Those listed below may request the Proper Officers to call extraordinary meetings of the Council in addition to ordinary meetings:

(a) the Council by resolution;

(b) the Lord Mayor;

(c) the Monitoring Officer; and

(d) any five members of the Council if they have signed a requisition presented to the Lord Mayor, and the Lord Mayor has refused to call a meeting or has failed to call a meeting within five working days of the receipt of the requisition.

3.2 Business

Business conducted at an extraordinary meeting shall be restricted to a single item with no consideration of previous minutes, reports from committees or questions under Rule 10.

3.4. Time and place of meetings

The time and place of extraordinary meetings will be determined by the Proper Officers and notified in the summons.

3.5. Notice of and summons to meetings

The Proper Officers will give notice to the public of the time and place of any extraordinary meeting in accordance with the Access to Information Rules at Appendix D. At least five clear working days before an extraordinary meeting, the Proper Officer will send a signed summons to every member of the Council. The summons will give the date, time and place of the meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

4. Chair of meeting

The person presiding at any meeting may exercise any power or duty of the Lord Mayor.

5. Quorum

The quorum of a meeting of Council shall be at least one half of the elected members of the Council. During any meeting, if the Lord Mayor counts the number of councillors 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 Lord Mayor. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

6. Filming and recording of meetings

6.1 At the beginning of each meeting, the Lord Mayor will make an announcement that the meeting may be filmed, recorded or photographed and distributed by any appropriate means, including live streaming.

6.2 The Lord Mayor will have absolute discretion to terminate or suspend any of the above activities if, in the Lord Mayor's opinion, continuing to allow them would prejudice proceedings at the meeting.

7. Submission of photographs at meetings

The Council must be satisfied that any photograph or other still image submitted to any meeting is for a specified purpose relevant to the Council's business and that it is necessary and that the content is not unduly intrusive. The Lord Mayor may recommend exclusion of any photograph if they consider it does not meet these tests.

8. Questions by members of the Council

8.1 On reports of committees

A councillor may ask the chair of a committee any question, without notice, upon an item of the report of a committee when that item is being received or under consideration by the Council.

8.2 Questions on notice at Full Council

Subject to Rule 8.5, a councillor may ask:

(i) the Lord Mayor;
(ii) the Leader, plus any member of the Cabinet; or
(iii) the chair of any committee

a question on any matter in relation to which the authority has powers or duties, or which affects the district of Canterbury City Council.

8.3 Notice of questions

A councillor may only ask a question under Rule 8.2 if either:

(i) the question has been submitted in writing to the Joint Chief Executives at least three clear working days prior to the meeting; or

(ii) the question relates to urgent matters, they have the consent of the Lord Mayor (to whom the question is to be put) and the content of the question is given to the Joint Chief Executives no later than 24 hours before the time fixed for the meeting, if possible,

8.4 Sequence of questions

Save for urgent questions, under Rules 8.2 and 8.3(i), the sequence of questions shall be established by a ballot conducted under the instructions of a Joint Chief Executive.

8.5 Questions ruled out of order

The Lord Mayor may, in consultation with a Joint Chief Executive, rule out of order questions which, in their opinion, would risk:

(i) defamation of any individual;

(ii) not conforming to the provisions of paragraph 8.2.

(iii) duplication of a question already received for the meeting, or in the past six months

No invalid questions will be circulated.

8.6 Response

An answer may be given by the councillor to whom the question was asked, or such other councillor as the councillor to whom the question was addressed may consider appropriate.

An answer may take the form of:

(i) a direct oral answer;

(ii) where the desired information is in a publication of the authority or other published work, a reference to that publication; or

(iii) where the reply cannot conveniently be given orally, a written answer sent later to the questioner.

8.7 Supplementary question

A councillor asking a question under Rule 8.2 may ask one supplementary question without notice of the councillor to whom the first question was asked. The supplementary question must arise directly out of the original question, or the reply.

8.8 Time allowed for questions

One minute is allowed for asking questions under Rule 8.2, and three minutes are allowed for its answer. The time allowed in Council meetings for dealing with all questions received under this rule shall not exceed 30 minutes.

9. Notice of motion

9.1 Notice

Except for motions that can be moved without notice under Rule 10, written notice of every motion must be delivered to the Joint Chief Executives not later than eight clear working days before the date of the meeting.

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

9.3 Scope

Motions must be about matters for which the authority has a responsibility, or which affect the district of Canterbury City Council and that the Council can influence in some way. A motion must also include a clear statement of concerns and action requested.

9.4 Withdrawing a motion

If a motion set out in the summons is not moved either by the councillor who gave notice, or by some other councillor on that councillor's behalf, it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

9.5 Motions out of order

The Lord Mayor may, in consultation with a Joint Chief Executive, rule out of order any motion which, in their opinion, would risk:

(a) defamation of any individual;

(b) not conforming to the provisions of paragraph 9.3 or 9.8, or breaching standing orders.

Such motions shall not appear on the Council agenda or be otherwise circulated.

The Lord Mayor may, at their discretion, vary the order in which motions are taken to seek to obtain a series of debates which reflect the broad political balance within the chamber.

9.6 Referring a motion

(a) If the subject matter of any motion, for which notice has been given, comes within the province of the Cabinet, a committee or any other body, it shall, after being formally moved and seconded, normally be referred without discussion to the Cabinet or a committee or such other body as the Lord Mayor may determine, according to a Joint Chief Executive's recommendation, for discussion and report back to the Council. Where a matter is referred to Cabinet, the Lord Mayor will permit the Leader or nominated cabinet member to provide an initial response to the motion. No further debate shall be allowed.

(b) The Lord Mayor may however, consider it convenient and conducive to the dispatch of business to allow the motion to be dealt with at the meeting at which it is brought forward.

(c) Any motion referred to the Cabinet, a committee or other body, which is within that body's decision making powers, shall either be determined by that body and Council informed of such determination at the next appropriate meeting, or shall be the subject of a recommendation by that body and referred back to Council for its determination.

(d) In the event of a motion being referred to a body which does not meet in accordance with the Council's programme of meetings, a meeting of that body shall be convened within one Council cycle of meetings.

(e) Where a matter is referred back to Council for determination, the original motion shall be considered first as the matter for debate, and will be proposed and seconded accordingly. The report back, if appropriate, will be considered as an amendment to the original motion.

9.7 Rights of explanation

Any councillor without substitution who has moved and seconded a motion which has been referred to the Cabinet, a committee or other body shall have notice of the meeting at which it is proposed to consider the motion or matter, and if they attend shall have an opportunity to explain it.

9.8 Motions or amendments moved during budget debates on setting charges and the overall budget Council

In order to be a valid motion or amendment, where the proposal has the effect of adding financial growth it must include a corresponding proposal to balance the budget. It would be helpful, in order to avoid adjournments at the meeting, if proposals were shared with the S151 officer on a confidential basis at least 24 hours in advance of the meeting.

10. Motions moved without notice

The following motions may be moved without notice:

(a) to appoint a chair of the meeting at which the motion is moved;

(b) in relation to the accuracy of the minutes;

(c) to change the order of business in the agenda;

(d) to refer something to an appropriate body or individual;

(e) to appoint a committee or councillor arising from an item on the summons for the meeting;

(f) to receive reports or adopt recommendations of committees or officers and any resolutions following from them;

(g) to withdraw a motion;

(h) to extend the time limit for speeches;

(i) to amend a motion;

(j) to proceed to the next business;

(k) that the question be now put;

(l) to adjourn a debate;

(m) to adjourn a meeting;

(n) to suspend a particular council procedure rule;

(o) to exclude the public and press in accordance with the Access to Information Procedure Rules;

(p) to not hear further a councillor named under Rule 19.3, or to exclude them from the meeting under Rule 19.4;

(q) to give the consent of the Council where its consent is required by the Constitution; and

(r) to requisition voting by recorded vote or ballot in accordance with Rule 13 (Voting).

11. Rules of debate

11.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it, until the motion has been formally seconded.

11.2 Right to require motion in writing

Unless notice of the motion has already been given, the Lord Mayor may require it to be written down and handed to them before it is discussed.

11.3 Seconder’s speech

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

11.4 Content and length of speeches

11.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order. Except as set out below, no speech may exceed three minutes without the consent of the Lord Mayor, having taken the opinion of councillors present at the meeting.

11.4.2 The following persons may be allowed to speak for up to 10 minutes:

(a) At the Annual Meeting of Council, and at the Council meetings where the budget is presented and determined, the Leader or their nominee shall be allowed 10 minutes to deliver their speech.

(b) The Leaders (or their nominees) of the two largest opposition groups shall each be allowed 10 minutes to reply to (a) above. The Leaders (or their nominees) of other opposition groups may be given additional time to speak at the discretion of the Lord Mayor.

(c) The Leader or their nominee shall be allowed a further 10 minutes in total to respond to the speeches in (b) above.

11.5 When a councillor may speak again

A councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:

(a) if the councillor has formally seconded a motion or amendment and reserved the right to speak later;

(b) to speak once on any amendment moved by another councillor;

(c) to move a further amendment if the motion has been amended since they last spoke;

(d) if their first speech was on an amendment moved by another councillor, and they want to speak on the main issue (whether or not the amendment on which they spoke was carried);

(e) in exercise of a right of reply;

(f) on a point of order; or

(g) by way of personal explanation.

11.6 Amendments to motions

11.6.1 An amendment to a motion must be relevant to the motion and will either be:

(a) to refer the matter to an appropriate body or individual for consideration or reconsideration;

(b) to leave out words;

(c) to leave out words and insert or add others; or

(d) to insert or add words.

as long as the effect of (b) to (d) is not to negate the motion.

11.6.2 Any proposed amendment to a motion in accordance with (b), (c) or (d) above can be accepted by the mover of the motion and their seconder prior to any debate taking place on that amendment without the need for a vote. In such instances, the motion with that amendment will proceed to debate in the normal way.

11.6.3 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.

11.6.4 If an amendment is not carried, other amendments to the original motion may be moved.

11.6.5 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.

11.6.6 After an amendment has been carried, the Lord Mayor may read out, or ask to be read out, the amended motion before accepting any further amendments, or if there are none, before putting it to the vote.

11.7 Alteration of motion

11.7.1 A member may alter a motion, of which they have given notice, with the consent of the meeting. The meeting's consent will be given without discussion.

11.7.2 A member may alter a motion they have moved without notice if they have the consent of both the meeting and the seconder. The meeting's consent will be given without discussion.

11.7.3 Only alterations that can be made as an amendment may be made.

11.8 Withdrawal of motion

A councillor may withdraw a motion they have moved with the consent of both the meeting and the seconder. The meeting's consent will be given without discussion. No councillor may speak on the motion after the mover has asked permission to withdraw it, unless permission to so withdraw is refused.

11.9 Right of reply

11.9.1 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.

11.9.2 If an amendment is moved, the mover of the original motion has the right of reply at the close of debate on the amendment, but may not otherwise speak on it.

11.9.3 The mover of the amendment shall have a similar right of reply at the close of the debate upon such amendment immediately prior to that of the mover of the motion.

11.9.4 A councillor exercising a right of reply shall not introduce new matters. After the replies to which this rule refers, a vote shall be taken without further discussion.

11.10 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) to exclude the public and press

(h) to not hear further a councillor named under Rule 20.03, or to exclude them from the meeting under Rule 20.04.

11.11 Closure motions

11.11.1 A councillor may move, without comment, the following motions at the end of a speech of another councillor:

(a) to proceed to the next business

(b) that the question be now put

(c) to adjourn a debate

(d) to adjourn a meeting

11.11.2 If a motion to proceed to next business is seconded, and the Lord Mayor thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

11.11.3 If a motion that the question be now put is seconded, and the Lord Mayor thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.

11.11.4 If a motion to adjourn the debate or to adjourn the meeting is seconded, and the Lord Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

11.12 Point of order

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

11.13 Personal explanation

A councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the councillor that may appear to have been misunderstood in the present debate. The ruling of the Lord Mayor on the admissibility of a personal explanation will be final.

11.14 Limit of time

Save as provided in paragraph (i) and (ii) below, where the Council has not concluded the whole of its business at the expiration of 4 hours after the commencement of the meeting, the meeting of the Council shall stand adjourned to 7pm the following evening or, if necessary, to another day and time to be determined by the Lord Mayor at the meeting.

(i) Where the council is sitting as an appellate body or performing a planning, licensing or other quasi-judicial function, then in the interests of fairness and by a majority vote of the councillors present and voting it may extend its meeting for such period as it thinks reasonable; or

(ii) At any meeting where the Council determines that there are exceptional circumstances, which are recorded in the minutes, and by a majority of the members present voting in favour, the Council may extend the meeting by up to 30 minutes when any outstanding business shall stand adjourned to 7pm the following evening or, if necessary, to another day and time to be determined by the Lord Mayor at the meeting.

12. Previous decisions and motions

12.1 Motion to rescind a previous decision

A motion or amendment to rescind or substantially vary a decision made at a meeting of Council or one of its committees, with the exception of Planning and Licensing Committees and sub-committees, within the past six months, cannot be moved unless the notice of motion is signed by at least 14 members.

12.2 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 it is signed by at least 14 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

13. Voting

13.1 Majority

Unless the Constitution provides otherwise, any matter will be decided by a simple majority of those councillors present and voting in the room at the time the matter was put.

13.2 Lord Mayor's second or casting vote

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

13.3 Method of voting

The Lord Mayor will take the vote by electronic means, show of hands, or by roll call, or if there is no dissent, by the affirmation of the meeting (general assent).

13.4 Ballots at Council This provision has been removed from the constitution (minute 167).

13.5 Recorded votes during budget debates

13.5.1 Immediately after any vote is taken at a budget decision meeting, there *must* be recorded in the minutes of that meeting the names of the councillors who cast a vote for the decision or against the decision or who abstained from voting.

13.5.2 'Budget decision' means a meeting of the authority at which it:

(a) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992; or

(b) issues a precept under Chapter 4 of Part 1 of that Act

and includes a meeting where making the calculation or issuing the precept, as the case may be, was included as an item of business of the agenda for that meeting.

13.5.3 References to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept, as the case may be.

13.6 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.

13.7 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.

14. Minutes

14.1 Signing the minutes

The Lord Mayor will sign the minutes of the proceedings at the next suitable meeting. The Lord Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy, which shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Lord Mayor shall sign the minutes.

14.2 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 ordinary meeting will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

14.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Lord Mayor put to the meeting.

15. Minutes of committees and reports of chairs at Council meetings

15.1 The minutes of committees shall be submitted for adoption and information to the Council and shall distinguish between decisions made using delegated powers and those recommended by the appropriate body having delegated powers. Decisions in the former case shall be preceded by the word 'RESOLVED' and in those demanding a decision by the council 'RECOMMENDED'.

15.2 Following the seconding of the motion, a councillor may raise an amendment, comment, question or make an observation relating to the minute/report. A councillor wishing to move an amendment must do so at the commencement of their speech.

15.3 There shall be no amendment to resolved minutes, save on the written advice from the Monitoring Officer and/or the S151 Officer.

15.4 At the conclusion of all questions on and debate of amendments of the minutes of a committee, the Lord Mayor shall put it to the Council meeting that the minutes (or the minutes as amended as the case may be) and reports shall be adopted.

16. Exclusion of the public

Members of the public and press may only be excluded either as provided by law in accordance with the Access to Information Procedure Rules in Appendix D of the Constitution, or under Rule 18 (Disturbance by the Public) of these procedure rules.

17. Councillors' conduct

17.1 Lord Mayor standing

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

17.2 Councillor not to be heard further

If a councillor persistently disregards the ruling of the Lord Mayor, by behaving improperly or offensively or deliberately obstructs business, the Lord Mayor or any other councillor may move that the councillor not be heard further. If seconded, the motion will be voted on without discussion.

17.3 Councillor to leave the meeting

If the councillor continues to behave improperly after such a motion is carried, the Lord Mayor may move that either the councillor leaves the meeting, or that the meeting is adjourned for a specified period and to a specified place. If seconded, the motion will be voted on without discussion.

17.4 General disturbance by an individual councillor or groups of councillors

If there is a general disturbance making orderly business impossible, the Lord Mayor may adjourn the meeting for as long and to such place as they think necessary.

18. Disturbance by the public

18.1 Removal of members of the public

The council is committed to ensuring that its meetings are accessible, respectful, and conducted in an orderly manner, balancing the rights of individuals to express their views with the need to maintain the integrity of council business.

The Joint Chief Executives will maintain a protocol for managing demonstrations or disruption at council meetings to ensure there are clear guidelines in place.

The protocol is accompanied by the following public statement -

- The council supports the right to peaceful protest.
- The council will provide opportunities for public participation at meetings.
- The council will not tolerate disruption of its meetings and will take action where that occurs.

If a member of the public disrupts proceedings, the Lord Mayor will warn the person concerned. If they continue to disrupt the meeting the Lord Mayor can order their removal from the meeting room.

18.2 Clearance of whole or any part of meeting room

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

19. Declarations of interest of councillors in contracts and other matters

19.1 A councillor with a Disclosable Pecuniary Interest, Other Significant Interest or Other Registerable Interest in a matter to be considered, or being considered at a meeting must:

(i) disclose the interest; and
(ii) explain the nature of that interest at the commencement of that consideration, or when the interest becomes apparent (subject to paragraph 19.5 below); and unless they have been granted a dispensation;
(iii) not participate in any discussion of, or vote taken on, the matter at the meeting; and
(iv) withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
(v) not seek improperly to influence a decision about that business.

19.2 A councillor with an Other Significant Interest may attend a meeting, but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The councillor will withdraw from the meeting room immediately after making representations, answering questions or giving evidence.

19.3 Where a councillor with a Disclosable Pecuniary Interest, Other Significant Interest or Other Registerable Interest in a matter under discussion (unless a dispensation has been granted in accordance with paragraph 19.1(ii). of this rule), chooses to participate in the discussion and vote, the Lord Mayor (insofar as they may be aware) will refuse to count the 'vote' of the councillor concerned, for the 'vote' will have been cast illegally and cannot be considered to be a vote at all. The Lord Mayor may apply the rules in Council Procedure Rule 17 relating to councillor conduct.

19.4 The Lord Mayor may request that a councillor declare a Disclosable Pecuniary Interest, Other Significant Interest or Other Registerable Interest and, if appropriate, leave the meeting room, should they have reason to believe that the provisions of the Code of Conduct and/or this Rule are being breached.

19.5 Where a Disclosable Pecuniary Interest, Other Significant Interest or Other Registerable Interest has been agreed by the Monitoring Officer as being a Sensitive Interest, the councillor need only disclose the existence of the interest, but not its nature.

19.6 “Voluntary announcement of Other Interests” i.e. relevant memberships

Voluntary Announcements of Other Interests are not required to be disclosed as DPI's or OSI's and are announcements made for transparency reasons alone, which may include:

- Membership of outside bodies that have made representations on agenda items, or
- Where a councillor knows a person involved, but does not have a close association with that person, or
- Where an item would affect the well-being of a councillor, relative, close associate, employer, etc but not their financial position.

20. Interest of officers in contracts

The Head of Corporate Governance shall record particulars of any notice given by an officer of the authority under Section 117 of the Local Government Act 1972 (as amended) of a pecuniary interest in a contract, and the record shall be open during office hours to the inspection of any councillor.

21. Suspension and amendment of Council Procedure Rules

21.1 Suspension

All of these Procedure Rules, except Rules 13.1, 13.2, 13.5, 14.2 and 16-20 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.

21.2 Amendment

Unless it is on the recommendation of the Governance Committee, any motion to add to, vary or revoke these Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

Part 4.2 Budget and Policy Framework Procedure Rules

1. The framework for cabinet, committee and sub-committee 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 Council's cabinet, committees and sub-committees to implement it.

2. Process for developing the Budget and Corporate Plan Framework

The process by which the budget and corporate plan policy framework shall be developed is as follows:

2.1 Corporate Plan

2.1.1 At least once in the life of any council (i.e. once in four years), the Council will develop a new four-year corporate plan, and each succeeding year will review this corporate plan at Council, at the appropriate time.

2.1.2 The Council will also develop a rolling four-year medium-term budget strategy linked to the corporate plan.

2.1.3 When developing a new corporate plan, the Council will publish arrangements for consultation. The consultation period will be not less than three months. Consultation will take place with business groups, partners, community groups and parishes, as well as the general public.

2.2 Budget

2.2.1 The Cabinet will, each year, approve and publicise for consultation a summary overview of the budget position, taking account of any material it thinks relevant, and will publish a timetable for making proposals to the Council. The consultation period for these summary budget proposals shall be not less than four weeks. The Cabinet will also present and consult upon its proposals for the review of charges, grants to voluntary organisations and parish contributions.

2.1.2 Following consideration of the consultation or other responses on the budget proposals, and on charges and grants, the Cabinet will publish the policy and budget proposals and priorities. Any representations made to the Cabinet shall be taken into account in formulating these proposals and shall be reflected in any report dealing with them.

2.1.3 The Cabinet will submit its proposals to Council for consideration.

2.1.4 Full 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.

3. Process for developing other plans, policies and strategies

The process by which policies shall be developed or revised is:

(a) The Cabinet or relevant committee will develop policy or revise policies, having taken into account the views of councillor working groups, committees and other consultees.

(b) The Local Development Plan will be approved by Council on the recommendation of the Cabinet.

(c) The Corporate Plan will be developed by the Cabinet and recommended to Council.

(d) The Licensing and Gambling policies will be recommended to Council by Cabinet having consulted the Licensing Committee, if time allows.

(e) For all other plans and strategies, the determination of whether or not they are of corporate significance will be determined by the Cabinet on the recommendation of the Joint Chief Executives.

(f) Full Council will debate the policy and may adapt the policy, amend it, refer it back to the Cabinet or relevant committee for further consideration or substitute its own proposals.

4. Decisions outside the budget or policy framework

4.1 Subject to the provisions of Paragraph 6 (Virement) the Cabinet, committees and sub-committees, and any officers, or joint arrangements discharging council's functions, may only take decisions that are in accordance with the requirements of these rules.

4.2 If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, that decision may only be taken by Full Council, subject to Paragraph 6 below.

4.3 The Monitoring Officer and/or the Chief Finance Officer will advise 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.

5. Urgent decisions outside the budget or policy framework

The Cabinet, any committee of the Council and any officers or joint arrangements discharging the Council's 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 if the process set out in the Special Urgency procedure rules in Part 6.4 have been followed.

6. Virement and carry forwards

Virement between budget heads and carry forwards are an integral and important feature of budgetary control. They allow service providers to adopt service changes within council policy. The details of virement and carry forwards can be found in the Financial Procedure Rules.

7. In-year changes to budget and policy framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, committees or officers, or joint arrangements must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies except those changes that:

(a) will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;

(b) are necessary to ensure compliance with the law, ministerial direction or government guidance;

(c) approve adjustments in budgets following approval to carry forward from one financial year to the next given in accordance with the Financial Procedure Rules;

(d) are in relation to the policy framework in respect of a policy where the existing policy document is silent on the matter under consideration.

Part 4.3 Remote Meetings Protocol and Procedure Rules

Application of the Remote Meetings Procedure Rules

The Protocol and Procedure Rules have been updated to take account of the repeal of the regulations permitting virtual meetings on 7 May 2021. They are intended to cover procedures for remote advisory meetings of full council, committees, sub-committees or boards.

This Protocol and accompanying Procedure Rules provide the means and guidance for the conduct of any remote meeting of the full council, and its various committees, sub-committees and boards.

The Protocol and Procedure Rules should be read in conjunction with the Council Standing Orders and Procedure Rules within the Council's Constitution.

Meetings held virtually under the Local Government Act 1972, shall not constitute formal meetings but may be convened on an advisory basis to inform decisions made by the council.

1. How will notice of Meetings and papers be provided?

(Supplements Council Procedure Rules 5 and 25 and amends the Access to Information Rules)

2.1 The Proper Officer will give the requisite notice to the public of the time of the meeting, and the agenda, together with details of how to join the meeting which will be available on the Council's website www.canterbury.gov.uk

2.2 Members will be notified of a remote meeting by email and all agenda papers will be available on the Council's website or other electronic means as appropriate.

2.3 The 'place' at which the meeting is held may be a Council building or may be where the organiser of the meeting is located or, where permitted, may be an electronic or a digital or virtual location, a web address or a conference call telephone number; or could be a number of these combined. The meeting may also be held in a meeting room or council chamber with a proportion of the membership and any participating public additionally attending remotely.

Generally amends the Articles, Council Procedure Rules and Codes and Protocols set out in the constitution.

2A Access to Information

For all purposes of the Constitution, the terms "notice", "summons", "agenda", "report", "written record" and "background papers" when referred to as being a document that is:
(i) "open to inspection" shall include for these and all other purposes as being published on the website of the council; and

(ii) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

3. How will remote access to Meetings be provided?

3.1 Councillors and members of the press and public will be encouraged to use any video conferencing facilities provided by the Council to attend a meeting remotely.

3.2 If this is not possible, attendance may be through an audio link or by electronic means as referred to in Regulation 5(6)(c) of the Regulations.

3.3 Remote access for members of the public together with press facilities, will be provided through webcasting, live audio streaming, or other means. With the exception of Licensing, which is dealt with under separate legislation, public participation will be solely by pre-recorded means, which will be played back to the meeting and broadcast on the live stream.

3.4 If technology fails for a wholly remote meeting, and the advisory meeting is no longer open to the public, any decisions made could be challenged as unlawful.

3.5 It is important to note that the public accessing the meeting by remote means, as described here, is different from the public attending to exercise a right to speak.

3.6 If the pre-recorded public participation fails for technological reasons then the recording from the member of the public will be circulated if available, if it cannot be restored. (This is set out paragraph 5 below).

Amends Article 3(d), Council Procedure Rule 5 and 25 (notice and summons to meeting) and public speaking rights set out in Part 5 of the constitution.

3A Remote Access to Meetings

(a) For all purposes of the Constitution the term “meeting” will include the virtual advisory meetings described in this report, for which purposes any reference to:

(i) “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers: and

(ii) “open to the public” includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person; and

(b) If the Chair is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately, if possible for a specified time. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

4. Management of remote 'virtual' meetings for Councillors

4.1 Any Councillor participating in a meeting remotely (a 'remote participant'), must when they are speaking, be able to be heard (and ideally seen) by all other Councillors in attendance, and the remote participant must, in turn, be able to hear (and ideally see) those other Councillors participating.

4.2 In addition, pre-recorded contributions from members of the public exercising a right to speak at the meeting must be able to be heard by a remote participant.

4.3 The Chair will normally confirm at the outset and at any reconvening of a committee meeting that they can hear and where practicable see all participating Councillors. Any Councillor participating remotely should also confirm at the outset and at any reconvening of the meeting that they can see and hear the proceedings and the other participants.

4.4 The attendance of those Members at the meeting will be recorded by the Democratic Services Officer.

4.5 The quorum requirements for remote meetings will be as set out in the Council's Constitution.

4.6 In the event of any apparent failure of the video, telephone or conferencing connection, the Chair should immediately determine if the meeting is still quorate: if it is, then the business of the meeting will continue; or if there is no quorum, then the meeting shall adjourn for a period specified by the Chair, expected to be no more than ten or fifteen minutes, to allow the connection to be re-established.

4.7 Should any aspect of an individual's remote participation fail, the Chair may call a short adjournment of up to five minutes to determine whether the connection can quickly be re-established, either by video technology or telephone in the alternative. If the connection is not restored within that time, the meeting shall continue to deal with the business whilst this happens providing the meeting remains quorate and the public are able to hear.

4.8 In the event of connection failure, the remote Councillor(s) will be deemed to have left the meeting at the point of failure and if the connection cannot be re-established to those Councillor(s) before the end of the meeting, then the presumption will be that the meeting should continue to deal with the item/s.

4.9 If the connection is successfully re-established, then the remote Councillor(s) will be deemed to have returned at the point of re-establishment.

4.10 If a connection to a Councillor is lost during a regulatory meeting, the Chair will stop the meeting to enable the connection to be restored. If the connection cannot be restored within five minutes or such reasonable time as allowed by the Chair, the meeting will proceed, but the Councillor who was disconnected will not be able to vote on the matter under discussion as they would not have heard all the facts.

4.11 If the Chair's connection fails there will be an adjournment for up to 15 minutes to allow this to be restored. If it has not been restored after this time and the meeting remains quorate then either Vice-Chair, or in their absence a chairman appointed by the committee, will assume the chair until such time as the chairman's connection is restored.

4.12 Etiquette at the meeting is referred to further below.

Amends Council Procedure Rule 7 (quorum).

4A Councillors in remote attendance

(a) A Councillor in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Councillor in remote attendance is able at that time:

(i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Councillors in attendance.
(ii) to hear, and where practicable see, and be heard and, where practicable, be seen by, any members of the public entitled to attend the meeting (by pre-recorded means) in order to exercise a right to speak at the meeting; and
(iii) to be heard and, where practicable, be seen by any other members of the public attending the meeting.

(b) A Councillor in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in (a) above are not met. In such circumstance the Chairman may, as they deem appropriate;

(i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Councillor contained in (a) above to be re-established;
(ii) count the number of Councillors in attendance for the purposes of the quorum; or
(iii) continue to transact the remaining business of the meeting in the absence of the Councillor in remote attendance.

5. Remote attendance of the public

5.1 Any member of the public participating in a meeting remotely in exercise of their right to speak at Council (for example, to introduce a petition) or a Committee or in regulatory or other meetings must meet the same criteria as Members of the Council. Members of the public 'attending' a meeting remotely must, likewise, when they are speaking, be able to be heard (and ideally seen) by all Members in attendance, and the remote participant must, in turn, be able to hear (and ideally see) those Councillors participating and be heard and, where practicable, seen by any other members of the public attending the meeting. Pre-recorded contributions by members of the public will be seen and heard by the members of the committee and anyone viewing the meeting via the live stream, therefore fulfilling the criteria.

5.2 For the purpose of remote meetings, the public scheme for Planning Committee is suspended only insofar as the applicant or agent will not have the 'opportunity to speak last'. They will be asked to make a pre-recorded contribution at the same time as other public participants, which will be played as the last contribution. A process for determining public speaking at the planning committee or sub-committee meetings shall be conducted through requiring advance notification from members of the public wishing to speak by pre-recorded means as per the original scheme set out in Part 5 of the constitution (Codes and

Protocols) in the 'Probity in Planning - Local Code of Practice' and 'Public Speaking Rights', and the time limit of three minutes will still apply.

5.3 Speakers must give notice to Democratic Services of their wish to speak to the Committee not later than [insert start time], two working days before the meeting at the same start time, in order to allow time for pre-recording to take place. In the event that the pre-recording playback fails, the public speaker's text will be read out at the meeting by a nominated officer, if provided.

5.4 In the event that a registered member of the public with speaking rights cannot remotely attend the meeting, then the meeting will continue, taking account of their written representation.

Amends Part 5 (Codes and Protocols) - 'Probity in Planning - Local Code of Practice' and 'Public Speaking Rights'

5A Remote Attendance by Members of the Public

(a) A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:

(i) to hear, and where practicable see, and be heard and, where practicable, be seen by, Councillors in attendance;
(ii) to hear, and where practicable see, and be heard and, where practicable, be seen by, any other members of the public entitled to 'attend' the meeting in order to exercise a right to speak at the meeting; and
(iii) to be heard and, where practicable, be seen by any other members of the public attending the meeting.

(b) A member of the public wishing to address the Committee will be contributing by pre-recorded means and will not, therefore, be in remote attendance at the live meeting. In the event that the pre-recording fails and the conditions the Chairman may, as they deem appropriate:

(i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in Standing Order 5A(a) above to be re-established;
(ii) suspend consideration of the item of business in relation to the member of public's pre-recorded submission until such time as a following item of business on the agenda has been transacted (which may have no public participation) and the conditions for the playback of pre-recorded submissions has been re-established or, on confirmation that this cannot be done, the contributions will be read out by the nominated officer and the business of the meeting will continue.

6. Meeting Procedures

6.1 A meeting facilitator, who may be an additional Democratic Services Officer, is encouraged to be enlisted; whose role it will be to control the video, telephone or conferencing technology employed for remote access and attendance, and to administer the public and Councillor interaction, engagement and connections on the instruction of the Chairman.

6.2 The Council will put in place a technological solution that will enable councillors participating in meetings remotely, if they wish, to indicate their wish to speak via the Chat facility, replacing the physical practices or rules concerning raising one's hand or standing to be recognised or expressing a desire to speak.

6.3 Councillors who are not members of the committee will be able to submit pre-recorded contributions in the same manner as members of the public.

6.4 The Chairman will follow the rules set out in the Constitution when determining who may speak, as well as the order and priority of speakers and the content and length of speeches in the normal way.

6.5 The Chairman, at the beginning of the meeting, will explain the protocol for Councillor and public participation and the rules of debate. The Chairman's ruling during the debate will be final.

6.6 Councillors are asked to adhere to the following etiquette during remote attendance at a meeting. These rules of etiquette are for guidance only, and failure to follow them will not invalidate the meeting:

- Committee Members are asked to join the meeting no later than ten minutes before the start to allow themselves and Democratic Services the opportunity to test the equipment.
- Any camera (video feed) should show a non-descript background and Members should be careful to not allow exempt or confidential papers to be seen in the video-feed.
- All Councillors should have their microphones muted when not talking. It may also help with their bandwidth to turn off video when not speaking.
- Rather than raising one's hand or rising to be recognised or to speak, Councillors should avail themselves of the remote process for requesting to be heard using the chat facility to indicate to the Chairman that they wish to speak.
- Councillors will unmute their microphone and turn their cameras on when the Chairman invites them to speak.
- The chat facility must not be used for private conversations between councillors. Only speak when invited to by the Chairman.
- Only one person may speak at any one time. Turn on the microphone and also the video-feed (if available or unless speaking to a diagram, presentation slide or drawing), then state your name before you make a comment.
- When referring to a specific report, page, or slide, mention the report, page, or slide so that all Councillors have a clear understanding of what is being discussed at all times.

6.7 Where members of the public are exercising speaking rights at the meeting via the pre-recorded means, the Chairman will as part of their introduction explain that the Democratic Services Officer will playback their contributions at the appropriate time.

6.8 When the Chairman is satisfied that there has been sufficient debate and (if the rules of the meeting require) there is a proposer and seconder for the item being discussed he/she will progress to a decision.

6.9 Voting will be via roll call and recorded in the minutes in the usual manner. The Democratic Services Officer will call out the name of each Member present with:

- Members stating 'for', 'against', or 'abstain' to indicate their vote when their name is called;

- the Democratic Services Officer clearly stating the result of the vote and the Chairman then moving onto the next agenda item; or
- by the general assent of the meeting (for items such as minutes of the previous meeting).

Amends Council Procedure Rule 15 (voting).

6A Remote Voting
Voting will be recorded manually and noted in the minutes.

7. Declaration of Interests

7.1 Any Member participating in a remote meeting who declares a disclosable pecuniary interest, other declarable interest or Other Registerable Interest, in any item of business that would normally require them to leave the room, must mute their microphone and close their screen in order they cannot be seen or heard. Their departure will be confirmed by the Democratic Services Officer who will invite the relevant Member to re-join the meeting at the appropriate time.

Amends Council Procedure Rule 21 (Declarations of Interest of Members in contract and other matters) Amends Part 5 Members' Code of Conduct

7A Members excluded from the meeting

Where a Member is required to leave the meeting, they must mute their microphone and close their screen in order that they cannot be seen or heard whilst any discussion or vote takes place in respect of the item or items of business which the Member or co-opted Member may not participate.

8. Exclusion of Public and Press

8.1 There are times when council meetings are not open to the public, when confidential, or "exempt" issues (as defined in Schedule 12A of the Local Government Act 1972) are under consideration. Where the technology is available, the Democratic Services Officer or meeting facilitator will ensure that the live stream is turned off and only those entitled to be in remote attendance or remotely accessing the meeting are able to hear or see the proceedings once the exclusion has been agreed by the meeting.

8.2 Each Member in remote attendance must ensure and verbally declare that there are no other persons present who are not entitled to be (either hearing or seeing) consideration of such items, and/or recording the proceedings.

8.3 Any Member in remote attendance who failed to disclose that there were in fact persons present who were not so entitled would be in breach of the Members' Code of Conduct responsibilities.

9. Public Access to Meeting Documentation following the meeting

9.1 Members of the public may access minutes, decision and other relevant documents through the Council's website. The definition of access to information and available to the public is

the same as at Rule 2A above. Requests for access to the list of background papers and other relevant documents should be by email or by post.

10. Questions by Members, Notices of Motion

Matters dealt with under normal Council Procedure Rules.

11. Petitions

Matters will be dealt with in accordance with the council's Petition Scheme.

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Part 5.1 – Committees of the Council

1. Committees – summary

1.1 Committees and sub-committees can determine all matters falling within their terms of reference, except for major policy changes or initiatives, which shall be recommended to Council.

Save where otherwise provided within the Constitution, expenditure outside the budget framework requires the approval of Full Council (Note – please see Part 6 Rules 10 and 11, General Exception and Special Urgency).

1.2 The terms of reference of the committees of the Council are set out in the following paragraphs.

1.3 Officers' delegated powers are set out in the Scheme of Delegation in Part 8. In addition, each committee and sub-committee is authorised to delegate to officers such further powers as it thinks fit to facilitate the efficient management of the Council's and committee's business. The exercise of these powers and duties is subject to the delegated powers to officers set out in the Scheme of Delegation and elsewhere. For officers exercising delegated powers and considering whether or not they should nevertheless take matters to committee, guidance is available from the Finance and Procurement Team.

2. Audit Committee

Terms of Reference

1. Audit activity

1.1 To consider the East Kent Audit Partnership's annual report and opinion, and a summary of internal audit activity (both actual and proposed), and the level of assurance it can give concerning the Council's corporate governance arrangements.

1.2 To consider summaries of specific internal audit reports and follow up reviews within reasonable timescales.

1.3 To consider reports dealing with the management and performance of providers of internal audit services.

1.4 To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.

1.5 To consider specific reports as agreed with the external auditor.

1.6 To comment on the scope and depth of external audit work and to ensure it gives value for money.

1.7 To approve the Local Code of Corporate Governance

2. Regulatory framework

2.1 To review any issues referred to it by a Joint Chief Executive, the Chief Finance Officer (S151 Officer), Monitoring Officer or any council body.

2.2 To monitor the effective development and operation of risk management and corporate governance within the Council including agreeing necessary actions to ensure compliance with best practice.

2.3 To oversee corporate risk management.

2.4 To monitor Council policies on "raising concerns at work", and the anti-fraud and corruption and whistle-blowing policy.

2.5 To oversee the operation of the Council's complaints procedures, including receipt of the annual report and details of the response of any committee to any report, including 'public reports', submitted to the Council by the Local Government Ombudsman.

2.6 To monitor the Council's compliance with its own, and other published, standards and controls.

2.7 Annual adoption of the Council's RIPA Policy (Regulation of Investigatory Powers Act) and consideration of a summary of any RIPA authorised operations conducted within the previous 12 month period.

2.8 To support counter fraud work and challenge the level of activity to ensure it is appropriate in terms of fraud risk and resources. Receive at least annual reports on counter fraud activity, both proactive and reactive

3. Accounts

3.1 To review the annual statement of accounts, and specifically to consider whether there are concerns arising from the financial statements, or from the audit, that need to be brought to the attention of the Council.

3.2 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

3.3 To consider the Council's treasury management and strategies.

3.4 To approve the Council's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be), under the Accounts and Audit Regulations 1996 (as amended).

3.5 To approve the Annual Government Statement for inclusion in the Statutory Accounts.

4. Membership

4.1 Audit Committee membership should not include members of the cabinet.

4.2 The committee will reflect the political proportionality of the Council. There will be two independent members. Independent members may not designate a substitute member.

4.3 The independent board members be appointed on merit, through a job advertisement and a selection panel interview. The panel will be composed of the Chair of the committee, the section 151 officer and/or the deputy S151 officer. The independent board members shall not have any voting rights.

4.4. The independent board members' term of appointment is normally three years from the date of appointment.

4.5 The independent board member will be given terms of appointment. The terms of appointment may be amended from time to time.

4.6 Subject to the approval of the Appointments Committee and an officer report confirming that the independent board member has performed satisfactorily during the first term and has a good attendance record, an independent member may be appointed for a second three-year term without being subject to competition.

4.7 That reappointment for a third term is subject to competition against a selection of candidates after advertisement and appropriate competitive procedures.

3. Governance Committee

Terms of Reference

1. Regulatory framework

1.1 To advise the Monitoring Officer of proposals to change the Council's constitution in respect of contract procedure rules, financial regulations, codes of conduct and behaviour.

2. Governance

2.1 To monitor the workings of the Council's Constitution and recommend proposed changes to the council.

2.3 To consider options for political management and the enhancement of public involvement in decision making.

2.3 To oversee and make recommendations on projects and reviews relating to the governance of the Council and the district.

Recommendations on the matters above will be referred directly to Full Council.

4. Standards Committee

Terms of Reference

1.1 To discharge the functions of the Council relating to Standards contained in Part 1, Chapter 7 of the Localism Act 2011 (other than those which are reserved to Council by law).

1.2 To promote and maintain high standards of conduct by councillors and co-opted members, and to make recommendations to Council on improving standards.

1.3 To advise and assist town and parish councils and town and parish councillors to maintain high standards of conduct and to make recommendations to town and parish councils on improving standards.

1.4 To advise the Council on the adoption of, or revisions to, its code of conduct.

1.5 To advise, train or arrange to train councillors, co-opted members and also town and parish councillors on matters relating to the code of conduct.

1.6 To assist the councillors, co-opted members and town and parish councillors, to observe their respective codes of conduct.

1.7 To monitor and assess the operation and effectiveness of the code of conduct and to review and manage the arrangements for dealing with code of conduct complaints.

1.8 To advise on local ethical governance protocols and procedures.

1.9 To maintain oversight of the Council's arrangements for dealing with code of conduct complaints.

1.10 To act as an advisory body in respect of any ethical governance matter.

1.11 To monitor and review the procedures for the registration of councillors' interests and declaring gifts and hospitality.

1.12 To receive quarterly reports (or less frequently if there are no complaints to report) from the Monitoring Officer on the number and nature of complaints received, and action taken as a result, in consultation with the Independent Persons.

1.13 To receive an annual report on the Council's ethical governance arrangements.

1.14 To appoint a sub-committee to deal with code of conduct complaints, following investigation.

1.15 To grant dispensations in relation to Disclosable Pecuniary Interests (DPI), Other Significant Interests (OSI) and Other Registerable Interests (ORI) pursuant to S33(2) of the Localism Act 2011, where:

a) without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
b) the authority considers that the dispensation is in the interests of persons living in its area; or
c) where the committee considers that it is otherwise appropriate to grant a dispensation.

1.16 To receive and recommend to Council the annual nominations for co-opted members from the Area Committee of the Kent Association of Local Councils.

5. East Kent Services Committee

Terms of Reference

1.1 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 the parties.

1.2 To provide strategic direction to the officers advising the East Kent Services Committee.

1.3 To exercise any of the functions or services that are determined to be a shared service in accordance with these arrangements.

1.4 To develop work programmes and projects in relation to the functions the parties are minded to delegate to the East Kent Services Committee.

1.5 To report as necessary to each of the parties on its activities.

1.6 To respond to reports and recommendations made by all or any of the parties.

1.7 To make recommendations to the parties for improvement and change of these operating arrangements and to propose (as appropriate) the creation of special purpose vehicles for the achievement of their 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.

Arrangements for the Discharge of Functions and Delegations

Functions to be discharged by the East Kent Services Committee on behalf of the authorities

Framework and Definitions

1. The functions delegated in the Schedule to these Arrangements are associated with the following services, which are to be delivered by Canterbury City Council, Dover District Council and Thanet District Council through the East Kent Services Committee:

    a) ICT
    b) face-to-face and contact-centre customer services
    c) revenues and benefits

3. It is contemplated that the East Services Committee will in turn delegate the discharge of these functions to the Head of Shared Services or other of their officers.

4. The “arrangements” means the operating arrangements, terms of reference, Committee Procedure Rules and any other minutes or documents for the time being in force, by which the East Kent Services Committee is constituted and its powers defined.

5. “Authority” means Canterbury City Council, Dover District Council or Thanet District Council as the context requires, being the authority on whose behalf the particular powers or functions are being exercised and “Authorities” shall be construed accordingly.

6. “The Committee” means the East Kent Services Committee.

7. “The Department” means, as the context requires, the East Kent Shared Services department under the leadership of the Head of Shared Services.

8. “Scheme of Delegation” means the arrangements for the discharge of functions and delegations set out in this Schedule.

Exercise of Functions

9. The Councils and the Executives of the Authorities delegate the discharge of the functions set out in this Scheme of Delegations to the East Kent Services Committee pursuant to all powers contained in, or having effect under, the Local Government Acts of 1972 and 2000.

10. The exercise of the powers and functions set out in this Schedule shall, without prejudice to any specific delegation or authorisation set out, and subject to any express Conditions/ Exclusions/Limitations/Notes specified, be taken to include power to do anything incidental or conducive to the discharge of such functions including (by way of example and not by way of limitation) power to do any of the following:

(a) To appoint or designate any officer as an "authorised officer", "inspector", "person duly authorised" or similar under any of the legislation or functions specified for the purposes of enabling any such person to carry such legislation or functions into effect.
(b) To authorise any officer for the purposes of any of the above mentioned legislation or functions.
(c) To exercise any power or function conferred by or in connection with the specified legislation or functions to:

i) require any person to provide any information;
ii) enter or inspect any land, premises, vehicle or vessel;
iii) take samples of, seize, test, dispose of, destroy, or otherwise deal with and thing or substance in accordance with the applicable legislation;
iv) make application for any warrant or order to a court of summary jurisdiction and to execute any such warrant or order taking with him or her any other person as may be authorised;
v) to make or swear any information;
vi) institute or defend any legal proceedings, and to take all proper steps in the furtherance or compromise of such proceedings (in each case) in consultation with the Head of Legal Services which may be undertaken in relation to specific cases or in relation to categories of work;
vii) execute work;
viii) sell or dispose of any goods, articles, samples materials or other property;
ix) recover any sums of money due to the Authorities;
x) authorise any other person to do any of the things mentioned in (i) to (ix) above to the extent permitted by law.

11. The East Kent Services Committee is hereby authorised to discharge, on behalf of the Authorities, the function of preparing and approving, amending or repealing, any policy, statement, practice note, code of guidance, procedure or similar in connection with the functions hereby delegated and:

a) Until such time as they have done so, any reference in this Part to any policy, procedure, process or similar administrative statement of practice 'of the Authority' shall be interpreted as a reference to the relevant policy, procedure process or similar administrative statement of the relevant Authority in force on 11 February 2015.
b) Any reference in this Part to any policy, procedure, process or similar administrative statement of practice 'of the Authority' shall be interpreted as a reference to the relevant policy, procedure process or similar administrative statement as approved by the former East Kent Joint Arrangements Committee or the East Kent Services Committee (or the relevant Authority) after 11 February 2015.

12. Any reference to any Act, Rule, Order or Regulation shall be taken as including a reference to that Act, Rule, Order or Regulation as re-enacted, replaced or modified from time to time.

13. References to any statutory provision shall include a reference to any subordinate or secondary legislation made under or taking effect under it from time to time.

Administrative

14. The Committee may only exercise the delegated powers in this schedule in accordance with:

a) statutory or other legal requirements, including the principles of public law, the Human Rights Act 1998 (as amended), statutory guidance and statutory codes of practice;
b) the Constitution of the Authority where relevant including standing orders, contract standing orders and financial regulations;
c) the revenue and capital budgets of the Authority, subject to any variation thereof which is permitted by the Authority's Financial Regulations;
d) consideration of any relevant policy adopted by the Committee.

15. The Committee may not exercise delegated powers where:

a) the matter is reserved to the Authority by the arrangements;
b) the matter is a function that cannot by law be discharged by the Committee.

16. The Committee may not exercise delegated powers in a way that is contrary to the policies and plans approved by or on behalf of the Authority.

17. Where an officer has delegated powers, the Committee or sub-committee (as appropriate) can still exercise that power if it considers that it is appropriate to do so.

18. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation, then the Committee must consult someone else they reasonably consider to be an appropriate substitute consultee, if reasonably practicable to do so.

19. The delegations in this Scheme of Delegation include the discharge of both executive and non-executive functions.

20. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.

21. Where the Committee has delegated authority to discharge functions by virtue of any other decision by the parties, the absence of the delegation from this Scheme of Delegation shall not prevent the exercise of the delegation.

22. Where the Committee delegates the exercise of any function to an officer of any of the Authorities, that officer may nominate another officer or officers to exercise that duty, function or power, provided that the nominated officer(s) reports to, or is responsible to, the officer to whom the delegation has been made.

23. Where an officer has delegated authority to discharge functions:

    a) by virtue of any other decision of the parties or;
    b) through a specific decision of the Committee, or a sub-committee, either before or after the adoption of this Scheme of Delegation,

the absence of the delegation from this Scheme of Delegation shall not prevent the exercise of the delegation.

Functions Related to the Administration and Management of the Shared Service

Business cases and delivery of services

24. To develop shared service business case work programmes and projects in relation to the functions that any of the Authorities are minded to delegate to the Committee. [E/C]

25. With the assistance, if necessary, of the appropriate Chief Executive or Head of Paid Service of any of the Authorities to obtain from their Authority any information required in preparing a shared service business case. [E/C]

26. Once a business case is approved, to implement the same and deliver the service as defined therein. [E/C]

27. To make arrangements for the management of the Department. [E/C]

Financial

28. Acceptance of the lowest tender or bid for carrying out works for the Committee, the purchase, leasing or hiring of goods, materials and equipment by the Committee, or the supply of services to the committee, provided that budget provision is available. [E]

29. Authorise entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations and Contract Standing Orders of the Authority relating to the execution of contracts under seal). [E/C]

30. Authority to negotiate and agree price increases where a contract provides for price increases to be negotiated and agreed by the parties, subject to Contract Standing Orders of the Authority and ensuring sufficient budgetary provision exists. [E/C]

31. The assignment or novation of a contract. [E/C]

32. The approval of the appointment of, or the acceptance of the tender of, a subcontractor or supplier for specialist work or material, provided that this does not result in the budget provision for the works as a whole being exceeded. [E/C]

33. Virement between heads of expenditure of up to the limit specified in the Authority's Financial Regulations provided that such virement is in accordance with the conditions for virements in such Financial Regulations. [E/C]

34. Provision of reasonable hospitality to representatives of other authorities, visiting a department or premises under the Committee's control, subject to agreement by the Chief Executives or Heads of Paid Service of each of the parties for expenditure in excess of £500. [E]

35. To negotiate and agree variations in contracts arising out of statutory requirements, subject to adequate budgetary provision being available. [E/C]

Shared Services Employees

36. The Authorities empower the Committee to the intent that the Head of Shared Service has the necessary delegated powers to:

a) determine the establishment and make changes to the establishment of the Department; [C]
b) exercise all powers, functions and responsibilities in relation to the employment, management and dismissal of staff engaged [C]] in the shared services under the terms, conditions, policies and procedures of the Authority. [C]

General

37. To publicise the services they provide. [E/C]

38. To deal with issues relating to the Commission for Local Administration (sometimes referred to as the Local Government and Social Care Ombudsman) relevant to the Committee. [E/C]

Delegation of the functions associated with the provision of ICT services, face-to-face and contact-centre customer services, and benefits and benefits – administration

These are set out in reports to the East Kent Services Committee, based on recommendations from each Council.

6. Joint Transportation Board (JTB)

1. Member arrangements for the Joint Transportation Board

1.1 The Council has entered into an agreement to establish and maintain arrangements for a Joint Transportation Board with Kent County Council. The arrangements are set out in the First Schedule below.

1.2 The agreement shall be reviewed every four years (last review October 2020) or sooner at the instigation of both parties, and amended by agreement between the parties if necessary as a consequence of any review.

1.3 This agreement may be terminated by either party on six months' written notice addressed to the relevant Council's Head of Paid Service/Kent County Council's Corporate Director responsible for Highways and Transportation.

2. The First Schedule

2.1 A Joint Transportation Board (JTB) will be established by the Authorities.

2.2 Each Authority shall be responsible for their own costs incurred in the operation of the JTB.

2.3 The JTB shall be a non-statutory advisory forum.

3. Membership

3.1 JTB membership will comprise all KCC local councillors with an equal number of Council local councillors appointed by the Council. The JTB Members will have voting rights. The Council may appoint substitutes for its JTB Members.

3.2 There shall be one parish/town council representative from within the Council's administrative area. The parish/town council representative will be nominated by the Area Committee of the Kent Association of Parish Councils or other representative body for parish councils within the Council's administrative area if this provides a more complete representation. Substitute members may also be nominated. The parish representative may attend and speak at any meeting of the JTB but may not vote nor propose a motion or an amendment.

3.3 Any JTB Member may request of the Chair an item to be considered for inclusion on the JTB agenda. Any Council local councillor may attend and speak at any meeting of the JTB, but may not vote nor propose a motion or an amendment.

3.4 The Chair of any parish or town council within the administrative area of the Council (or a parish/town councillor of that parish/town council nominated by him/her) may attend any meeting to speak with the permission of the Chair on any item on the agenda of a particular reference to that parish/town council.

4. Chair

4.1 The Chair and Vice Chair will alternate on an annual basis between a Member of KCC (who is a JTB member) and a Council councillor (who is a JTB member).

5. Meetings

5.1 The JTB will generally meet four times a year on dates and at times and venues to be specified by the Council in accordance with its normal constitutional arrangements in consultation with KCC.

5.2 Six weeks prior to each JTB meeting the Chair, Vice-Chair and relevant officers from both Authorities will discuss and set the agenda for the forthcoming meeting. The final decision on agenda items will be determined by the JTB Chair in consultation with the Vice Chair. Agenda items will be split between Part A, (recommendations for decision by KCC), Part B (recommendations for decisions by the Local Council) and 'for information' reports.

5.3 The quorum for a JTB meeting shall be four, comprising at least two voting KCC councillors and two local Council councillors who are also JTB Members.

5.4 Subject to the procedural rules in Clauses 2, 3, 4.2 and 4.3 above taking precedence, the Council's procedural rules shall apply to JTB meetings as if they were Council committees.

5.5 The JTB will be clerked by an officer of the Council. Officers of the Authorities will be expected to attend JTB meetings to present reports.

5.6 At the discretion of the Chair, members of the public may speak for a maximum of three minutes. The number of speakers will be at the discretion of the Chair.

5.7 The Access to Information Principles (see Constitution Appendix D) shall be applied to the JTB as if it were a Council committee.

5.8 Following each meeting, the clerk will produce minutes that shall include the JTB's recommendations on any items under Part A and Part B and send copies to the Cabinet Member at KCC/District.

6. Terms of Reference

6.1 The role of the JTB is to advise the relevant Authority on highways and transportation works scheduled and completed. The JTB will consider:

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

6.2 The JTB can advise and recommend in relation to:

- strategic parking and waiting restriction issues;
- petitions received in relation to parking and waiting restrictions;
- council street lighting schemes on highways;
- Local Transport Strategy.

6.3 The JTB will be a forum for consultation between the Authorities on policies, plans and strategies related to highways, road traffic and public transport.

6.4 The JTB will review the progress and out-turn of works and business performance indicators.

6.5 The JTB will receive reports on highways and transportation needs within the administrative area of the Council.

7. Petition Discussions

7.1 Petitions submitted to KCC or CCC will be dealt with in accordance with their respective petition schemes.

7.2 Petitions will be referred to a local meeting of the JTB where appropriate. At that meeting, the lead petitioner will be invited to speak for three minutes.

8. Overview and Scrutiny

8.1 The Authorities' Overview and Scrutiny Committees or equivalent may invite the JTB Chair or Vice-Chair to attend their meetings to make representations, answer questions or give evidence. This is without prejudice to any ability of the Overview and Scrutiny Committees or equivalent of the Authorities to compel attendance of executive members and officers under Section 21 of the Local Government Act. 2000.

9. Executive Action

9.1 JTB advice/views will be submitted to the Authorities' Cabinet Members in accordance with the Authorities' constitutional arrangements.

Implementation

9.2 The KCC/CCC Cabinet or Cabinet Member will normally act in accordance with the advice or views of the JTB. If the respective Cabinet or Cabinet Member is minded to act otherwise, no decision will be taken until after a discussion has taken place between the relevant Leader and/or Cabinet or Cabinet Member and the Chair and Vice-Chair of the JTB.

Appendix 1 - to the JTB Terms of Reference

Protocol as agreed by the former Kent Association of Local Authorities during November 2001

Overview and Scrutiny - Inter-authority cooperation

Aim of Protocol

1 To ensure the Overview and Scrutiny Committees of all Kent Local Authorities can review issues of community interest effectively and with efficient use of all local authority staff resources.

Principles

2 All authorities should be supported in considering issues of community well-being wider than the responsibilities of their Councils.

3 Authorities should work together to maximise the exchange of information and views, minimise bureaucracy and make best use of the time of councillors and officers of local and other Authorities.

Procedures

4 Authorities should seek to exchange information or programmes and results of reviews.

5 If an Overview and Scrutiny Committee wishes to review an issue in which another Authority has a statutory role, or in which evidence from the officers of another Authority would be helpful, it should consult with that Authority about:

a) the purpose of the review
b) the areas of interest to the other authority
c) the input that can be given by councillors or officers of the other Authority

6 Consideration should be given to whether the issue is more appropriately discussed in another forum, for example a joint committee, or whether there is scope for joint action including co-opting of councillors of the other Authority onto the Overview and Scrutiny Committee for the purpose of the review.

7 Where a proposal is subject to a public consultation process, scrutiny is most helpful if conducted as part of the process eg allowing any findings and recommendations to be available in time to influence the final decision.

8 Subject to such prior consideration, Authorities will seek to respond positively to requests for information or for a councillor or officer to attend meetings of Overview and Scrutiny meetings, or for information.

9 While it is ultimately for each Authority to decide who it considers the most appropriate person(s) to speak on its behalf to an Overview and Scrutiny Committee, consideration will be given to meeting special requests.

10 Dates and times of councillor and officer attendance at Overview and Scrutiny meetings should be agreed with them.

11 Each Authority will nominate a contact officer for the operation of these procedures.

7. Planning Committee

Terms of Reference

1. General

1.1 The Planning Committee is responsible for all the functions of the Council relating to town and country planning and development management, as specified below. This includes functions relating to: planning applications, planning enforcement, matters relating to listed buildings, works in conservation areas, trees and hedgerows and hazardous substances.

1.2 Any of the above powers may be delegated to an appropriate officer of the Council.

2. Functions relating to town and country planning and development control

2.1. Power to determine applications for planning permission.

2.2 Power to determine applications to develop land without compliance with conditions previously attached.

2.3 Power to grant planning permission for development already carried out.

2.4 Power to decline to determine application for planning permission.

2.5 Duties relating to the making of determinations of planning applications.

2.6 Power to determine application for planning permission made by a local authority, alone or jointly with another person.

2.7 Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.

2.8 Power to enter into agreement regulating development or use of land.

2.9 Power to issue a certificate of existing or proposed lawful use or development.

2.10 Power to serve a completion notice.

2.11 Power to grant consent for the display of advertisements.

2.12 Power to authorise entry onto land.

2.13 Power to require the discontinuance of a use of land.

2.14 Power to serve a planning contravention notice, breach of condition notice or stop notice.

2.15 Power to issue an enforcement notice.

2.16 Power to apply for an injunction restraining a breach of planning control.

2.17 Power to determine applications for hazardous substances consent, and related powers.

2.18 Power to require proper maintenance of land.

2.19 Power to determine application for listed building consent, and related powers.

2.20 Power to determine applications for conservation area consent.

2.21 Duties relating to applications for listed building consent and conservation area consent.

2.22 Power to serve a building preservation notice, and related powers.

2.23 Power to issue enforcement notice in relation to demolition of an unlisted building in a conservation area.

2.24 Powers to acquire a listed building in need of repair and to serve a repairs notice.

2.25 Power to apply for an injunction in relation to a listed building.

2.26 Powers relating to the protection of important hedgerows.

2.27 Powers relating to the preservation of trees.

2.28 Power to execute urgent works.

2.29 To approve documents setting out development principles or design guidance relating to a specific site or building, being guidelines for developers which set out and recommend what may be an acceptable form of development, and for which there is clear policy support in the Development Plan Documents (DPDs) and the saved policies of the Development Plan as a material consideration.

3. Public Rights of Way

3.1 To authorise stopping-up or diversion of a footpath or bridgeway.

Planning Sub-committee

Terms of Reference

1. To consider any matters which may be referred to it by the Planning Committee from time to time.

2. To monitor planning enforcement cases and consider any matters referred to it by the Planning Committee.

3. To monitor the delivery of major developments referred to it by the Planning Committee from time to time.

8. Licensing Committee (and Sub-committee)

Terms of Reference

Licensing Committee has the full delegated authority to exercise the Council's powers:

1. Licensing and registration

1.1 To issue licences authorising the use of land as a caravan site ("site licences") under Section 3 of the Caravan Sites and Control of Development Act 1960 (as amended).

1.2 To license the use of moveable dwellings and camping sites under Section 269 of the Public Health Act 1936 (as amended).

1.3 To license hackney carriages and private hire vehicles under the Town Police Clauses Act 1847 as extended by Section 171 of the Public Health Act 1875 (as amended) and Section 15 of the Transport Act 1985 and Sections 47, 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (as amended).

1.4 To license drivers of hackney carriages and private hire vehicles under Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (as amended).

1.5 To license operators of hackney carriages and private hire vehicles under Sections 55-58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (as amended).

1.6 To license sex establishments, including sexual entertainment venues, sex shops and sex cinemas under the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

1.7 To license performances of hypnotism under the Hypnotism Act 1952 (as amended).

1.8 To register persons and premises for acupuncture, tattooing, ear-piercing and electrolysis under Sections 13-17 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

1.9 To license market and street trading under the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

1.10 To register and license premises for the preparation of food under Section 19 of the Food Safety Act 1990.

1.11 To register scrap metal dealers under Section 1 of the Scrap Metal Dealers Act 2013.

1.12 To license pet shops, dog breeding establishments, boarding establishments and riding establishments (which are kept for the purposes of carrying on a business) under Section 1 of the Pet Animals Act 1951, Section 1 of the Animal Boarding Establishments Act 1963, the Riding Establishments Acts 1964 and 1970, Section 1 of the Breeding of Dogs Act 1973 and 1991 and Sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.

1.13 To register animal trainers and exhibitors under Section 1 of the Performing Animals (Regulation) Act 1925.

1.14 To license zoos under Section 1 of the Zoo Licensing Act 1981.

1.15 To license keepers of dangerous wild animals under Section 1 of the Dangerous Wild Animals Act 1976.

1.16 To license knackers' yards under Section 4 of the Slaughterhouses Act 1974.

1.17 To license persons to collect for charitable and other causes under Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 and Section 2 of the House to House Collections Act 1939.

1.18 To sanction use of parts of buildings for storage of celluloid under Section 1 of the Celluloid and Cinematograph Film Act 1922.

1.19 Any regulations or approvals under EC Regulations 852, 853 and 854/2004 relating to food of animal origin.

1.20 To issue pleasure boat operator, boatman and boat licences under the Public Health Acts (Amendment) Act 1907.

1.21 To grant or refuse applications for house- to-house collections.

1.22 To grant applications for street collections.

1.23 All functions including applications arising under the following statutes:

- Gambling Act 2005
- Licensing Act 2003

1.24 To determine appeals arising from door supervisor legislation/applications.

1.25 To hear cases where the person in control of a house in multiple occupation ceases to be a fit and proper person.

1.26 To exercise the powers of the City Council conferred on it by the Canterbury City Council Act 2013.

1.27 Any of the above powers may be delegated to a sub-committee or to an appropriate officer of the Council as determined by legislation.

2. Fee setting

Subject to statutory consultation requirements:

2.1 To apply set fees under the Licensing Act 2003 and the Gambling Act 2005 and insofar as at any time discretionary fees are required to be set under those Acts, to set those fees.

2.2 To set discretionary licence fees and charges relating to all other functions, matters and statutory regimes that fall within the remit of the Licensing Committee.

9. Appointments Committee

Terms of Reference

1. Appointments, disciplinary action or dismissal

1.1 To consider the appointment, disciplinary action or dismissal relating to the Designated Statutory Officers (DSO) (i.e. Head of Paid Service, the S151 Officer, the Monitoring Officer or a Joint Chief Executive not holding a statutory role and Directors) in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) and the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

1.2 Members of the committee must have completed mandatory training in respect of the function in paragraph 1.1 above.

1.3 In relation to the consideration of allegations/issues regarding disciplinary matters set out in paragraph 1.1 above, for consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matters) that is has been convened to consider, until such time as the matter is disposed of.

1.4 To receive, consider and implement any review of the representation of political groups in accordance with the Local Government and Housing Act 1989 as amended and the regulations thereunder.

1.5 To assess the performance of the Joint Chief Executives against any pre-set targets for the previous council year and to make any salary adjustments accordingly.

1.6 To set performance targets for the Joint Chief Executives against which future performance can be assessed.

1.7 To consider the appointment of any person to be an Independent Person under the council's code of conduct administrative arrangements.

1.8 Subject to there being unanimous agreement, the appointment of council representatives to outside bodies, multi-agency partnerships and other similar bodies will be made by the political group leaders and reported to the next ordinary meeting of Full Council. Where there is not consensus between the group leaders on the nominees the matter will be referred to the Appointments Committee for a decision. Appointments reserved for the Leader shall be made by the Leader or their nominated cabinet member.

1.9 In relation to the Head of Paid Service, the S151 Officer, the Monitoring Officer and a Joint Chief Executive not holding a statutory role:

1.9.1 To consider allegations / issues regarding disciplinary matters relating to the Designated Statutory Officers and Joint Chief Executive and to authorise initial investigation.

1.9.2 To appoint an **I**ndependent **I**nvestigator ("**II**") to investigate allegations of misconduct against any DSO/Joint Chief Executive and to commission reports from an II.

1.9.3 To determine appropriate action upon receipt of any preliminary investigation.

1.9.4 To decide whether to suspend a DSO/Joint Chief Executive and to review decisions taken to suspend a DSO/Joint Chief Executive.

1.9.5 To determine what action should be taken against a DSO/Joint Chief Executive following an investigation. This could include the following:

- Take no further action.
- Recommend informal resolution or other appropriate procedures.
- Refer back to the Independent Investigator for further investigation and report.
- Take disciplinary action against the DSO short of dismissal.
- Propose dismissal of the DSO/Joint Chief Executive to the Council

1.9.6 To refer any recommendation that a DSO/Joint Chief Executive should be dismissed to the Independent Persons Panel prior to being referred to Council for a determination in accordance with the Employment Procedure Rules.

10. General Purposes Committee

Terms of Reference

1. Health and safety at work

1.1 Functions are as under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974 (as amended), to the extent that those functions are discharged otherwise than in the authority's capacity as an employer under Part I of the Health and Safety at Work etc Act 1974 (as amended).

2. Elections

2.1 To appoint an electoral registration officer under Section 8(2) of the Representation of the People Act 1983.

2.2 To assign officers in relation to requisitions of the registration officer under Section 52 of the Representation of the People Act 1983 (as amended).

2.3 To undertake functions in relation to parishes and parish councils under the Local Government and Public Involvement in Health Act 2007.

2.4 To dissolve parish councils under Section 88 of the Local Government and Public Involvement in Health Act 2007.

2.5 To make orders for grouping parishes, dissolving groups and separating parishes from groups under Section 91 of the Local Government and Public Involvement in Health Act 2007.

2.6 To appoint a returning officer for local government elections under Section 35 of the Representation of the People Act 1983 (as amended).

2.7 To divide the constituency into polling districts under Section 18 of the Representation of the People Act 1983 (as amended).

2.8 To divide electoral divisions into polling districts at local government elections under Section 31 of the Representation of the People Act 1983 (as amended).

2.9 To hold elections under Section 39 of the Representation of the People Act 1983 (as amended).

2.10 To pay expenses properly incurred by electoral registration officers under Section 54 of the Representation of the People Act 1983 (as amended).

2.11 To fill vacancies in the event of insufficient nominations under Section 21 of the Representation of the People Act 1985.

2.12 To declare vacancy in office in certain cases under Section 86 of the Local Government Act 1972.

2.13 To give public notice of a casual vacancy under Section 87 of the Local Government Act 1972.

2.14 To make temporary appointments to parish councils under Section 91 of the Local Government Act 1972.

2.15 To determine fees and conditions for supply of copies of, or extracts from, elections documents under Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 and Rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986.

2.16 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.

3. Name and status of areas and individuals

3.1 To change the name of a parish under Section 75 of the Local Government Act 1972.

4. Pensions

4.1 To undertake functions relating to local government pensions.

5. Appeals

5.1 To consider and determine appeals brought by employees pursuant to the procedures incorporated in their conditions of employment or otherwise adopted by the council.

5.2 To determine any appeals against non-executive decisions.

5.3 To consider issues related to discretionary rate relief.

6. Staff matters

6.1 To consider reports of the Head of Paid Service in relation to staffing matters, in accordance with section 4 of the Local Government and Housing Act 1989.

6.2 To consult on staff relations matters with the Staff and Safety Joint Consultative Group (SSJCG). The terms of reference for the SSJCG are appended below.

7. Miscellaneous

7.1 To deal with any matter not assigned to any other committee which either as a matter of law or by virtue of the Council's Constitution is a Council function.

(Appendix 1 to the General Purposes Committee terms of reference)

Staff and Safety Joint Consultative Group

Terms of reference

1. Title

The group shall be called the "Canterbury City Council Staff and Safety Joint Consultative Group" hereinafter called the "Consultative Group".

2. Representation

The Consultative Group shall comprise five members of the council to be appointed annually being in numbers politically proportionate to the council. An equal number of staff (up to five) to be appointed by the recognised trade unions in proportion to the number of such staff of the council in membership of each union, provided that where the number of members of any one union is insufficient to qualify such union to appoint a representative, it may combine with one or more of the other recognised unions for this purpose. The members shall retire annually and shall be eligible for re-appointment.

If a member of the Consultative Group ceases to be an employee of the council, they shall cease to be a member of the Consultative Group. Any vacancy shall be filled by the union or the combination of unions concerned, who appointed the retiring member.

3. Chair

A Chair and Vice-Chair shall be appointed by the Consultative Group at their first meeting each year. The Chair shall be a member of the council, with the Vice-Chair appointed from the staff side. The Chair of a meeting shall have a casting vote. In the absence of the Chair the Vice-Chair shall chair the meeting; in the absence of both and if the meeting is quorate then the Consultative Group shall appoint a Chair for that meeting.

4. Officers

The committee shall be supported by Democratic Services and any other necessary officers.

5. Functions

The functions of the Consultative Group shall be:

a) to establish regular methods of consultation between the council and staff on matters of mutual interest, including the prevention of differences and the reconciliation of them should they arise; but no question of individual discipline, promotion, or efficiency shall be within the scope of the Consultative Group;
b) to consider any relevant matter referred to it by the council, its committees, the officer Management Team or by any of the recognised trade unions in membership;
c) to make recommendations to the council and if appropriate any of its committees as to the application of the terms and conditions of service and the education and training of staff employed by the council;

d) to keep under review the measures taken to ensure the health, safety and welfare of all the council's staff in accordance with the provisions of Section 2(7) of the Health and Safety at Work Act 1974 (as amended);
e) to consider and express views in any matter specifically assigned to it.

6. Meetings

1. The Consultative Group shall meet when there is business to transact. The Chair or the officer Management Team may direct Democratic Services to call a meeting at any time. The matters to be discussed at any meeting of the Consultative Group shall be stated upon the agenda summoning the meeting, provided that any other business may be considered if admitted by a majority of those present at such meeting.

2. The quorum of the Consultative Group shall be five representatives with a minimum of two from each side.

3. No resolution shall be regarded as carried unless it has been reached by a simple majority both of the members of the council and the members of staff voting separately (votes being recorded if requested), and in the event of the Consultative Group being unable to arrive at an agreement, the fact of the dispute and the positions of the two sides shall be reported to the appropriate decision making body.

4. Matters will be referred to the appropriate body for resolution.

October 2023

11. South Thames Gateway Building Control Joint Committee

Membership: 1 Councillor and 1 substitute Councillor appointed by the full Council.

To exercise the powers and assume the responsibilities of the Council in relation to building control under the Building Act 1984 and other related legislation.

To develop a Business Plan for approval by the Council prior to implementation.

12. Whitstable Harbour Board

Terms of Reference

1.1 To exercise, on behalf of the Council, the functions of the authority under the legislation below and any other legislation which may apply from time to time in respect of the Council's functions with regard to the administration and management of the harbour.

- The Harbours, Docks and Piers Clauses Act 1847
- The Whitstable Harbour Act 1957
- The Whitstable Urban District Council Act 1948 (so far as it affects land transactions for Harbour Land held under the Whitstable Harbour Act)
- The Harbours Act 1964
- The Docks and Harbours Act 1966
- The Ports (Finance) Act 1985
- The Dangerous Vessels Act 1985
- The Dangerous Substances in Harbour Areas Regulations 1987
- Pilotage Act 1987
- Aviation and Maritime Security Act 1990
- The Transport and Works Act 1992
- The Merchant Shipping Act 1995
- Marine Navigation Act (No 2) 2013

1.2 To discharge these functions within the overall policy direction approved by the Council and recommended by the Board (currently the Whitstable Harbour Strategic Plan).

1.3 To provide strategic direction in all matters relating to Whitstable Harbour including harbour land and property in accordance with policies that may be laid down by the Council from time to time, provided that the exercise of that function is within the financial estimates for the year, or for which such provision has been expressly made by the Council. Harbour land and property is defined on the plan contained within the Whitstable Harbour Byelaws 2008.

1.5 To properly discharge the Council's duties and powers as a Statutory Harbour Authority and Duty Holder in relation to marine safety and the safe use of all harbour lands, in accordance with the Port Marine Safety Code.

1.6 To ensure that it is open and accountable in all of its activities.

1.7 To strive to make the Whitstable Harbour financially self-sustaining.

1.8 To have due regard to the changing needs of the marine sector and others with an interest in the port activities of Whitstable Harbour.

1.9 To have due regard to the interests of the local community in the running of the Whitstable Harbour and in particular to recognise the contribution the harbour makes to the economic well-being of the area through both direct and secondary employment and purchasing.

1.10 To submit to the Cabinet each year, via the Joint Chief Executives, a five-year capital programme, including funding proposals and three-year revenue projections.

1.11 To recommend the allocation of capital expenditure to the Cabinet.

1.12 To oversee the operation and enforcement of the Whitstable Harbour Byelaws 2008 as may be amended from time to time.

2 Membership of the Board

2.1 The board will reflect the political proportionality of the Council. There will be four co-opted independent members. Each political party may name up to two substitute councillors, one of whom may take the place of their board member where that member will be absent for the meeting. Independent members may not designate a substitute member.

2.2 The Chair of the board shall be a councillor with, where necessary, a casting vote. The Chair shall serve a maximum term of seven years. There is no Vice Chair of the board. In the Chair's absence at any board meeting, the board shall appoint a temporary Chair from the councillors present.

2.3 The independent board members shall have full voting rights on all matters before the board and be appointed on merit, in order to obtain a board that is independent and fit for purpose.

2.4 The independent board members' term of appointment is normally three years from the date of appointment.

2.5 Each independent board member will be given terms of appointment. The terms of appointment may be amended from time to time.

2.6 Subject to the approval of the Appointments Committee and subject to the board's assessment that the independent board member has performed satisfactorily during the first term and has a good attendance record, an independent member may be appointed for a second three-year term without being subject to competition.

2.7 That reappointment for a third term is subject to competition against a selection of candidates after advertisement and appropriate competitive procedures.

2.8 That a Selection Panel (comprising the Chair of the board, one independent member, one councillor member and a senior officer) be asked to select from the applicants not less than two candidates (unless there be too few applicants) for each vacancy to recommend to Full Council.

2.9 The independent board members, as a group, will be appointed so that they provide a complementary range of maritime-port related and business expertise to provide a fit for purpose board.

2.10 All members of the Board will participate in training programmes to understand the duties and responsibilities involved in running the port and of board membership.

2.11 The independent board members will be paid an allowance and expenses in accordance with the Council's members' allowances scheme (see Part 9, Financial Procedure Rules, of this Constitution).

2.12 The Board is subject to the Council's Committee Procedure Rules and public participation arrangements, as set out in Part 5 and Appendix I respectively.

2.13 All members of the Board are subject to the Council's codes and protocols set out in the Constitution.

2.14 A shadow independent board member may be appointed to the Whitstable Harbour Board by the Appointments Committee at any time. The shadow member may attend meetings but may not propose motions nor vote. Their presence will be recognised in published agendas and minutes and will carry a modest allowance to cover their time and expenses.

Appendix 1 (to the WHB terms of reference)

Memorandum of understanding between the Cabinet of Canterbury City Council and the Whitstable Harbour Board

"The Cabinet of Canterbury City Council ("the Cabinet") and the Whitstable Harbour Board ("the Board") wish to confirm their respective objectives, responsibilities and constraints for developing and maintaining Whitstable Harbour whilst protecting the interests of the community of Whitstable and the environment.

Respective positions and responsibilities
The Cabinet leads the implementation of council policy within the council's policy and budget framework.

The Board is a committee of Canterbury City Council ("the Council") and is the Council's primary decision-making body for Whitstable Harbour.

Whilst the Council is itself the Statutory Harbour Authority under the Whitstable Harbour Act 1957 and Competent Harbour Authority under the Pilotage Act 1987, the Board has the delegated authority from the Council to make certain decisions relating to the Harbour in accordance with the requirements of the Port Marine Safety Code ("the Code") and applicable Health and Safety at Work legislation ("the Legislation").

Objectives

Cabinet

The strategic commitments of Cabinet are set out in the council's Corporate Plan and emerging Local Plan.

The Corporate Plan focuses on how our local action can make our local community a greener, fairer, stronger and better place for us all to live. As such, our goals include references to the United Nations Sustainable development goals on which the council is increasingly basing its work.

The strategic commitments set out in the Whitstable Harbour Strategic Plan reflect the responsibilities we jointly have on an ongoing basis and our goals are measurable outputs to help us achieve our aspirations.

The five strategic pillars of the Whitstable Harbour Strategic Plan are:

Effectiveness: To provide a safe and first class service to customers and stakeholders in line with the Port Marine Safety Code and good governance

Environment: To actively manage our Harbour in a way which is responsive to climate change, enhances the environment and promotes the health and biodiversity of our local waters

Employment: To ensure the Harbour remains a significant employer in the town and continues to support local and small businesses

Equity: To promote and enhance opportunities for all to safely access the Harbour environment

Education: To improve people's knowledge of the role the Harbour has and continues to have in the cultural life of our town

The Cabinet accepts the Board's aspirations and recognises its constraints. The Cabinet further recognises the responsibility of the Board in exercising the functions of -

(i) the Statutory Harbour Authority as delegated to it under the requirements of the Code and the Legislation and

(ii) the Competent Harbour Authority under the Pilotage Act 1987 and confirms it will support decisions necessarily taken by the Board to satisfy the Board's responsibilities under the Code and the Legislation.

Whitstable Harbour Board

The Board will seek to satisfy its responsibilities under the Code and the Legislation.

The Board accepts the objective of the Cabinet as contained within the Corporate Plan and emerging Local Plan.

In everything it does, the Harbour Board strives to:

- build a reputation for safety, reliability and a friendly service;
- be open, accessible and accountable;
- create a profitable and sustainable commercial business which is financially self-sufficient;
- be good communicators, regularly engaging with residents and stakeholders;
- work with our community to make things happen.

The overriding vision of the Board is:

to support the fishing industry of Whitstable and provide a safe, welcoming, memorable and accessible Harbour that drives local business, protects our environment and delivers a positive social impact for our community.

The Board will seek to satisfy its wider objectives to the extent that it satisfies, or does not materially compromise, the Cabinet's objectives

13. Independent Persons Panel

Terms of Reference

1.1 To advise the authority on matters relating to the dismissal of the Designated Statutory Officers (DSO) (Head of Paid Service, S151 Officer and Monitoring Officer) and Joint Chief Executive who doesn't hold a statutory role.

1.2 Three Independent Persons (IPs) appointed under section 28(7) of the Localism Act 2011 plus one reserve. The quoram for a meeting shall be two members of the Panel.

1.3 The Panel is an advisory committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of the officers designated as the Head of Paid Service, the s151 Officer, the Monitoring Officer and a Joint Chief Executive who does not hold a statutory role in accordance with Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001.

1.4 The Panel must be convened having invited at least two of the Independent Persons appointed under section 28(7) of the Localism Act 2011 (to advise on Member conduct allegations) by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the council considers appropriate.

1.5 The Head of Corporate Governance or in their absence the Deputy Monitoring Officer will invite the Council's current Independent Persons (being those persons appointed to advise on Member conduct complaints under the Localism Act 2011) and if necessary one or more of the Independent Persons of neighbouring authorities (following consultation with the Monitoring Officers of those authorities), to be considered for appointment to the Independent Persons Panel.

1.6 The Panel will be appointed by the Head of Corporate Governance or in their absence the Deputy Monitoring Officer from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order:

- An Independent Person who has been appointed by the authority and who is a local government elector in the Council's area
- Any other Independent Person who has been appointed by the authority
- An independent person who has been appointed by another authority or authorities.

1.7 The Panel must be appointed at least 20 working days before any meeting of the authority to consider whether or not to approve a proposal to dismiss a Designated Statutory Officer or Joint Chief Executive who does not hold a statutory role

1.8 One or more reserve members will be appointed to the Panel from Independent Persons who have been appointed under section 28(7) of the Localism Act 2011 by the authority or by another authority or authorities. If more than one reserve member is available for the meeting then selection will be by alphabetical order of their surnames so long as it does not conflict with the priority order set out above.

1.9 The appointment of a Panel Member to preside at the meeting will be the first item of business at each Independent Persons Panel meeting. Where there are equal votes cast at a meeting on any matter the Chairman may exercise a second or casting vote.

1.10 For the avoidance of doubt, the Panel may commission and have access to external legal and professional advice.

14. Disciplinary Appeals Committee

Terms of Reference

1.1 To hear and determine appeals brought by the Head of Paid Service, the s151 Officer, the Monitoring Officer and a Joint Chief Executive who does not hold a statutory role against any decisions made by the Appointments Committee to take disciplinary action short of dismissal.

1.2 Five Members of the Council are to be appointed to this Committee.

1.3 No member who was a member of the Appointments Committee making the decision which is the subject of the appeal may serve as a member of the Disciplinary Appeals Committee.

1.4 Members of the committee must have completed mandatory training.

1.5 For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.

1.6 The Designated Statutory Officer (DSO) / Joint Chief Executive shall have the right to attend and be accompanied at the Committee Meeting which considers the appeal.

1.7 The Committee shall consider the appeal in accordance with the Council's normal procedure for dealing with appeals.

1.8 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.

1.9 If a DSO/ Joint Chief Executive chooses to retain professional advice and/or representation at or in respect of any meeting of or hearing before the Committee, then the DSO / Joint Chief Executive in question shall be responsible for the cost of that advice or representation.

Part 5.2 – Committee Procedure Rules

These rules apply to the meetings of all committees, sub-committees or boards unless otherwise stated.

1. General arrangements

1.1 Application

These rules will apply to all committees of the Council with the exception of Overview Committee and the Scrutiny Committee, which is covered in Part 7 of the Constitution.

1.2 Appointment of sub-committees

1.2.1 A council committee may appoint sub-committees for purposes specified by the committee

1.2.2 The Chairs of sub-committees shall be appointed at the annual meeting or in accordance with the procedures set out in Article 9.

1.2.3 Where a sub-committee is appointed, the Committee Procedure Rules shall apply to the sub-committee, save for the Overview Committee and Scrutiny Committee.

1.3 Sitting on a committee

All councillors may be members of a Council committee subject to the following rules:

a. The Appointments Committee must include at least one member of the Cabinet;
b. The Licensing Committee can include a maximum of 15 councillors including those listed as substitutes.
c. A Licensing sub-committee can only include members of the Licensing Committee;
d. A Planning sub-committee can only include members of the Planning Committee;
e. A Standards Hearing Panel can only include members of the Standards Committee.

1.4 Time, place and notice of meetings

1.4.1 The time and place of meetings will be determined by the Head of Paid Service and notified in the summons.

1.4.2 The Proper Officer will give notice to the public of the time and place of every meeting in accordance with the Access to Information Rules.

1.4.3 At least five clear working days before a meeting, the Proper Officer shall send to every member of the committee or sub-committee a notice convening the meeting and specifying the business to be transacted at it, provided that:

f. want of service of notice on any member of a committee or sub-committee shall not affect the validity of the meeting;
g. the person presiding may, at their discretion, admit for consideration items of business which in their opinion are of an urgent nature;
h. the order of business may be varied at the discretion of the person presiding at the meeting.

2. Chair of meeting

The person presiding at the meeting may exercise any power or duty of the Chair described in Article 9 of the Constitution.

3. Quorum

3.1 Subject to 3.2 below, the quorum of a meeting shall be at least one half of the members of the committee or sub-committee. During any meeting, if the Chair counts the number of members present and declares there is not a quorum present, the meeting will adjourn immediately. Unless quorum can be restored in a reasonable amount of time, the remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

3.2 The Licensing Committee will determine its own arrangements under the Licensing Act 2003. Currently the Licencing Sub-Committee comprises a panel of three councillors and a reserve, drawn from a rota agreed by the Licensing Committee.

4. Substitution of members

4.1 The following provisions shall apply where a member of a committee, sub-committee or panel is unable to attend a formally convened meeting of that body.

4.2 An unlimited number of substitutes is permitted for each committee, which must be tried in a specified order using the process described in 4.3. Councillors must be appropriately trained, where a requirement exists, in order to sit on the committee. Independent councillors may also be appointed to act as named substitutes for other independent councillors within this rule.

4.3 Substitutes under paragraph 4.2 will have a specified priority order. A councillor (or someone acting on their behalf) who is unable to attend must firstly approach the first named substitute and only if that councillor is not available (or has already agreed to substitute for another councillor) will the second named substitute be approached. The process continues until the list of named substitutes is exhausted.

4.4 If the nominated substitute(s) are unable to attend, no alternative councillor can be appointed in their place.

4.5 The Democratic Services Officer must be notified of any substitution before the start of the meeting.

4.6 **Exceptions**

A councillor may not be substituted on any body if the terms of reference so provide.

4.7 **Restrictions**

Substitute councillors may attend meetings in that capacity only:

a. to take the place of the ordinary member for whom they are the designated substitute;
b. where the ordinary member will be absent for the whole of the meeting or for the whole of a hearing, if the matter is quasi-judicial;

4.8 **Number**

For each committee, the Council will allow an unlimited number of substitutes in respect of each political group.

4.9 **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. Conduct of debate in committees and sub-committees

5.1 When speaking, a councillor shall remain seated and address the person presiding.

5.2 When the person presiding speaks, every other councillor shall sit and be silent.

5.3 Speeches must be directed to the question under discussion, or to a personal explanation, or to a point of order.

5.4 When the question is put by the person presiding they shall take the vote by electronic means, or by roll call, or by general assent if there is no dissent and in the event of an equality of votes the Chair shall have a second or casting vote.

5.5 **Attendance by councillors who are not members of the committee**

5.5.1 Any councillor shall be entitled to attend a meeting of a committee or sub-committee, of which they are not a member, in a non-voting capacity.

5.5.2 Any councillor attending a meeting of a committee or sub-committee of which they are not a member must declare any relevant interests and may not speak, except with the consent of the person presiding, which they shall seek before the commencement of the meeting.

5.6 **No speeches until a proposal is seconded**

No speeches may be made, after the mover has moved a proposal and explained the purpose of it, until the proposal has been seconded.

5.7 **Right to require proposals or amendments in writing**

Unless notice of the proposal or amendment has already been given, the Chair may require it to be written down and handed to them before it is discussed.

5.8 Speeches must be directed to the question under discussion, or to a personal explanation, or point of order.

5.9 **Amendments to proposals**

5.9.1 An amendment to a proposal must be relevant to the original and will either be:

a. to refer the matter to an appropriate body or individual for consideration or reconsideration;
b. to leave out words;
c. to leave out words and insert or add others; or
d. to insert or add words.

as long as the effect of (b) to (d) is not to negate the motion.

5.9.1 Any proposed amendment in accordance with (b), (c) or (d) above can be accepted by the mover of the original proposal and their seconder prior to any debate taking place on that amendment without the need for a vote. In such instances, the proposal as amended takes the place of the original proposal. This becomes the substantive proposal to which any further amendments are moved.

5.9.3 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.

5.9.4 If an amendment is not carried, other amendments to the original proposal may be moved.

5.9.5 If an amendment is carried, the proposal as amended takes the place of the original proposal. This becomes the substantive proposal to which any further amendments are moved.

5.9.6 After an amendment has been carried, the Chair may read out, or ask to be read out, the amended proposal before accepting any further amendments, or if there are none, put it to the vote.

5.10 **Alteration or withdrawal of a proposal or amendment**

5.10.1 A councillor may alter a proposal or amendment they have moved on the consent of the seconder. The meeting's consent will be signified without discussion. Only alterations which could be made as an amendment may be made.

5.10.2 A councillor may withdraw a proposal they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No councillor may speak on the proposal after the mover has asked permission to withdraw it, unless permission is refused.

6. Filming and recording of meetings

6.1 At the beginning of each meeting, the Chair will make an announcement that the meeting may be filmed, recorded or photographed and distributed by any appropriate means, including live streaming.

6.2 The Chair of the meeting will have absolute discretion to terminate or suspend any of these activities if, in the Chair's opinion, continuing to allow them would prejudice proceedings at the meeting.

7. Submission of photographs at meetings by the public

The Chair must be satisfied that any photograph or other still image submitted to any meeting is for a specified purpose relevant to the Council's business, that it is necessary and that the content is not unduly intrusive. There can be no text on the image. The Chair may recommend exclusion of any photograph if they consider it does not meet these tests.

At a meeting of the Licensing or Licensing-sub committee any submission of film and other material to licensing hearings must follow the rules set out in the section below.

8. The submission of film and other material to Licensing hearings

Recorded film footage may form part of a submission to a Licensing Panel on the following basis:

i) When submitted by a Responsible Authority within the meaning of S13 Licensing Act 2003 that Authority shall indicate whether the material is suitable to be shown in public or private session. The Head of Legal Services shall determine whether they agree with that indication and will order the agenda accordingly.

ii) Other parties will be notified that a party intends to make use and show the material as part of their submission. In seeking to use the material parties must bear in mind the need for a fair hearing although it may not be possible for a party to provide copies of the material for others in advance.

iii) On the day of the hearing the council will use its best endeavours to show the material but if through technical or other reasons it cannot be shown that in itself will not require the hearing to be adjourned. Parties should be aware that it may be necessary for the material to be shown without the press or public present.

iv) Recorded material will not be shown in any webcast version of the hearing. Any live stream will be paused while the recording is shown to those present in the meeting.

v) The council will destroy any material in its possession once any prospect of an appeal from the decision has passed.

9. Exclusion of the public

Members of the public and press may only be excluded either as provided by law in accordance with the Access to Information Procedure Rules in Appendix D of the Constitution, or under Part 5 Section 13 (Disturbance by Public) of the Constitution.

9.1 Declarations of interest of councillors in contracts and other matters. The Members Code of Conduct contained in Appendix B of the Constitution sets out the guidance in relation to the registration and declaration of interests. Councillors are responsible for identifying when a declaration is appropriate at a meeting and should follow the procedures set out below. Advice can be sought from the Monitoring Officer or their deputies.

9.2 A councillor with a Disclosable Pecuniary Interest, Other Significant Interest or Other Registerable Interest in a matter to be considered, or being considered, at a meeting must:

a. disclose the interest; and
b. explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to paragraph 9.3 below);

and, unless they have been granted a dispensation;

c. not participate in any discussion of, or vote taken on, the matter at the meeting; and
d. withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
e. not seek improperly to influence a decision about that business.

9.3 A councillor with an Other Significant Interest may attend a meeting, but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The councillor will withdraw from the meeting room immediately after making representations, answering questions or giving evidence.

9.4 Where a Disclosable Pecuniary Interest, Other Significant Interest or Other Registerable Interest has been agreed by the Monitoring Officer as being a Sensitive Interest, the Member need only disclose the existence of the interest, but not its nature.

9.5 **"Voluntary announcement of Other Interests" i.e. relevant memberships**

Voluntary Announcements of Other Interests are those not required to be disclosed as DPI's or OSI's, ie announcements made for transparency reasons alone, which may include:

- Membership of outside bodies that have made representations on agenda items, or;
- Where a councillor knows a person involved, but does not have a close association with that person, or;
- Where an item would affect the well-being of a councillor, relative, close associate, employer, etc. but not their financial position.

10. Interest of officers in contracts

The Head of Corporate Governance shall record particulars of any notice given by an officer of the authority under Section 117 of the Local Government Act 1972 (as amended) of a pecuniary interest in a contract, and the record shall be open during office hours to the inspection of any councillor.

11. Voting at committees, sub-committees, board or panels

11.1 A recorded vote will be taken by electronic means, or manually where appropriate and recorded in the minutes of Council, Cabinet and all council committees, sub committees and boards.

12. Councillors' conduct

12.1 **Councillor not to be heard further**

If a councillor persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair or any other councillor may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

12.2 **Councillor to leave the meeting**

If the councillor continues to behave improperly after such a motion is carried, the Chair may move that either the councillor leaves the meeting, or that the meeting is adjourned for a specified period and to a specified place. If seconded, the motion will be voted on without discussion.

12.3 **General disturbance by individual councillor or groups of councillors**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long and to such place as they think necessary.

13. Disturbance by the public

13.1 **Removal of a member of the public**

The council is committed to ensuring that its meetings are accessible, respectful, and conducted in an orderly manner, balancing the rights of individuals to express their views with the need to maintain the integrity of council business.

The Joint Chief Executives will maintain a protocol for managing demonstrations or disruption at council meetings to ensure there are clear guidelines in place.

The protocol is accompanied by the following public statement -
• The council supports the right to peaceful protest.
• The council will provide opportunities for public participation at meetings.
• The council will not tolerate disruption of its meetings and will take action where that occurs.

If a member of the public disrupts proceedings, the Chair will warn the person concerned. If they continue to disrupt the meeting, the Chair can order their removal from the meeting room.

13.2 **Clearance of whole or any part of meeting room**

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

14. Limit of time

Save as provided in paragraph (a) and (b) below, where the committee or sub-committee has not concluded the whole of its business at the expiration of 4 hours after the commencement of the meeting, the meeting of the body concerned shall stand adjourned to the following evening at a time specified by the Proper Officer or, if necessary, to another day and time to be determined by the Proper Officer, in consultation with the person presiding at the meeting.

a. Where the body is sitting as an appellate body or performing a planning, licensing or other quasi-judicial function, in the interests of fairness and by a majority vote of the members present and voting, it may extend its meeting for such period as it thinks reasonable.

b. At any meeting where the body determines that there are exceptional circumstances recorded in the minutes, and a majority of the members present and voting vote in favour, the body may extend the meeting by up to 30 minutes, at the expiration of which any remaining business shall stand adjourned to another day and time determined by the Proper Officer, in consultation with the person presiding at the meeting.

15. Minutes

15.1 **Signing the minutes**

The Chair will usually sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy, which shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Chair shall sign the minutes.

15.2 **Form of minutes**

15.2.1 Minutes will contain all motions and amendments in the exact form and order the Chair put to the meeting.

15.2.2 The minutes of committees shall be submitted for adoption and information to the Council and shall distinguish between decisions made using delegated powers and those recommended by the appropriate body having delegated powers. Decisions in the former case shall be preceded by the word 'RESOLVED', and in those demanding a decision by the Council, 'RECOMMENDED'.

16. Amendment of Committee Procedure Rules

16.1 **Amendment**

Unless it is on the recommendation of the Governance Committee, any motion to add to, vary or revoke these committee Functions, Rules and Procedures will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Governance Committee.

Part 6 – Executive Functions, Rules and Procedures

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Part 6 – The Executive Functions, Rules and Procedures

Part 6.1 – Executive Functions

1. Executive Functions

1.1 Executive functions are exercised by:

a) The Cabinet;

b) Cabinet committees, if any;

c) The Leader and other individual cabinet members;

d) Officers, under delegated powers (see Officer Delegations, Part 8 of this Constitution);

e) Ward councillors, to the extent that the executive function is exercisable in relation to the ward for which the councillor is elected.

1.2 It is the responsibility of the Leader to decide on the delegation of executive functions and to maintain a written record of such delegations. Executive functions can be also delegated to other local authorities, other organisations, and may be contracted out.

1.3 This scheme of delegation has been prepared by the Leader, in accordance with those provisions. The executive in all its forms is responsible for initiating and developing policy and taking decisions within the budget and policy framework, in respect of all the functions of the Council, other than those which, whether by law or under the Constitution, cannot be the responsibility of the executive. Such functions are referred to in this scheme as 'executive functions'.

1.4 **Members of the Cabinet**

The councillors appointed to the Cabinet by the Leader are set out in Annexe A to this Part 6. Each Cabinet member may have a portfolio of responsibilities.

1.5 An outline of the responsibilities included in each portfolio is set out in Annexe B.

1.6 A full description of the cabinet role is set out in Annexe C. The Leader will determine any question arising as to whether a policy area or executive function falls within a particular portfolio.

1.7 Annexe D sets out the executive functions that will be determined by the executive collectively as the Cabinet.

1.8 In addition, the Leader has appointed a deputy leader of the Council to exercise the following powers and duties:

a) deputising for the Leader in their absence;
b) chairing Cabinet meetings in the absence of the Leader;
c) agreeing Cabinet agendas in the absence of the Leader;

d) acting as the Council's spokesperson on all key corporate issues, consistent with the Council's overall budget and policy framework, in the absence of the Leader;
e) holding, leading or assisting on any portfolio the Leader may allocate.

1.9 No deputies will be appointed in respect of portfolio holders and, in their absence, their duties and responsibilities will be undertaken by the Leader and, in their absence, by the Deputy Leader or such other portfolio holder as the Leader may nominate.

1.10 **Duties and responsibilities of the Leader**

The duties and responsibilities of the Leader include the following:

Purpose

a) To have overall responsibility for the Council's vision and corporate objectives, and for ensuring their delivery.

b) To be the Council's principal political spokesperson and to represent its views to the public and to organisations with which the Council has contact.

c) To provide community leadership.

Responsibilities

a) Leading the work of the Cabinet, including its programmes and priorities.

b) Promoting collaborative working with stakeholders and partners.

c) Addressing matters relating to Local Government Reorganisation.

d) Responding to matters addressed to the leader of the council relating to Local Government Reorganisation after taking advice from the Joint Chief Executives and other relevant statutory officers

e) Representing the Council's policy agenda locally, regionally and nationally, as appropriate.

f) Development, implementation, monitoring and review of the Council's vision and strategic objectives.

g) Development and implementation of the Council's Medium Term Financial Strategy and Capital Strategy.

h) Political responsibility for the effective corporate governance of the Council.

i) Providing strong and clear leadership in the co-ordination of strategies and policies.

j) Responsibility for the discharge of any Cabinet function not delegated to another individual or body.

k) Performance monitoring.

1.11 Duties and responsibilities of individual portfolio holders

The duties and responsibilities of individual portfolio holders are to:

a) provide political leadership for the designated functions and services of the Council set out in the allocated portfolio;

b) exercise any delegated powers and make decisions in respect of the relevant portfolio area, to the extent authorised to do so by the Leader, under this scheme of delegation;

c) initiate and promote policies and programmes in respect of the allocated portfolio, both within the Council and externally;

d) present and consult on the Council's policies, in respect of the allocated portfolio, with the public, both directly and through appropriate media;

e) engage with, and represent, the Council in appropriate local, regional and national groupings involved with the service areas set out in the allocated portfolio;

f) report to the Cabinet and the Council on decisions made, actions taken and progress achieved within the allocated portfolio;

g) consult with and report, as required, to the Cabinet, the Council, the Overview and the Scrutiny Committee, in respect of the portfolio;

h) commission and consider reports/briefs from appropriate officers as required for the efficient discharge of the portfolio holder's duties/responsibilities;

i) keep abreast of national best practice/new initiatives in the areas covered by the portfolio, to help ensure high local service standards and provision;

j) consider and act on performance data and reports from the Cabinet, the Overview and the Scrutiny Committee;

k) contribute to the corporate development of the Council's policies and objectives through active engagement of, and participation in, the Cabinet;

l) work closely with the relevant senior officers of the Council to help ensure the efficient management of the authority, to uphold high standards of performance and conduct, and to enable officers to exercise any powers delegated to them;

m) attend meetings of the Overview Committee and the Scrutiny Committee when required, and support the principles of the Overview, Scrutiny and Cabinet Protocol

n) To approved reserved matters in relation to companies and joint ventures established by the Council to undertake work on the council's behalf.

1.12 **Non-key decisions – delegations to portfolio holders**

1.12.1 The Leader can elect to put non-key decisions that fall outside of the list of officer delegations to Cabinet for a collective decision.

1.12.2 Alternatively, the Leader can authorise a Cabinet member to take non-key decisions falling within their portfolio area, unless the matter falls within one of the matters that the Cabinet must determine collectively.

1.13 If a Cabinet member has a Disclosable Pecuniary Interest, Other Significant Interest or Other Registerable Interest, in a decision to be taken on a matter within their portfolio, the Leader of the Council will decide who will take the decision.

1.14 **Amendment of delegations**

This scheme of delegation may be amended at any time by the Leader, as provided for in the Cabinet Procedure Rules set out in Part 6.2 of this Constitution.

2. Portfolios

The portfolios, with any conditions and limitations of each member of the Cabinet, are set out in full in Annex B to this part of the Constitution.

3. Cabinet sponsored reviews

3.1 Cabinet will, from time to time, form task and finish working groups to review topics selected by the Cabinet, with advice provided by the management team, and make recommendations to Cabinet or Council or other appropriate groups and organisations.

3.2 The terms of reference and composition will be agreed by Cabinet. They will be chaired by a member of the Cabinet. It is expected there will be three topics selected each year.

4. **Cabinet Committees**

The Leader may appoint Cabinet Committees to advise the Cabinet about carrying out its functions. Such Committees, and appointments of individuals to them, may exist for a fixed or unspecified period, but in any event will cease upon a change in the political control of the Council or at the Annual Meeting of the Council immediately following a general election of the entire Council.

When establishing a Cabinet Committee, the Leader shall also state the Committee's Terms of Reference and composition, which shall be made publicly available.

Appointments and terminations of appointments of individuals to existing committees shall similarly be made public.

Such Committees may be made up of any mixture of Councillors. Council officers may attend meetings of such Committees to provide information.

Cabinet Committees need not comply with the legislation on political proportionality.

Any written reports made by a Cabinet Committee to the Cabinet shall be made publicly available, except where they contain confidential and/or exempt information.

Annex A to Part 6.1 – Members of the Cabinet

Details of councillors' addresses can be found at:
https://democracy.canterbury.gov.uk/mgMemberIndex.aspx?bcr=1

Name	Ward
Councillor Alan Baldock **Leader of the Council, Strategy and Finance**	Northgate
Councillor Mel Dawkins Cabinet Member for Environment and Sustainability	St Stephens
Councillor Charlotte Cornell Cabinet Member for Council Services, Culture and Heritage	Seasalter
Councillor Chris Cornell Cabinet Member for Economic Development and Regeneration	Gorrell
Councillor Pip Hazelton **Deputy Leader of the Council** Cabinet Member for Housing	Westgate
Councillor Connie Nolan Cabinet Member for Community Safety, Engagement and Inclusion	Barton
Councillor Paul Prentice Cabinet Member for Transport and Planning	Barton

Annex B to Part 6.1 – Cabinet Portfolios

Alan Baldock – Leader, Strategy and Finance
Overarching Strategy and Policy Corporate communications Corporate Plan Local Plan CIL Governance **Consultation and Engagement** Neighbourhood Plans Customer Services / Contact Centre **Emergency Planning** **LGR** **Procurement** Ethical Procurement Policy Modern Day Slavery Policy **HRA Income Recovery (reporting/compliance)** **External Funding (financial reporting)** **Payroll** **Treasury Management** **Income Exchequer** Revenues and benefits **PartnershipOne** Business Rates Council Tax **Fraud Prevention** **Concurrent funding** **Internal Audit**

Pip Hazelton – Deputy Leader (Housing)
Housing Needs (Strategy and Policy) **Operational Housing Model** **Housing Benefits Advice** **Private Sector Housing** Houses of Multiple Occupancy Short-Term Letting **Public Sector Housing** **Tenancy Management** Neighbourhood Locality **Facility Management** **Homelessness** Rough sleeping **Housing Stock** Repairs and maintenance (inc. CARDO) Refurbishment and replacement **Corporate Health and Safety**

Chris Cornell – Economic Development and Regeneration
Economic Development BID EKSDC UKSPF Government grants (as appropriate) Visit Kent **Licensing** Pubs Clubs and venues Events Taxis HMO licensing **Markets** **Property (CCC owned) Oversight** Property Asset Register

Concessions
Property disposals

Non-Domestic Property Condition Oversight

Whitstable Harbour
Foreshore
South Quay Shed

Voluntary Sector Support
Rent concessions
RISE grants

Charlotte Cornell – Council Services, Culture and Heritage

Canenco
Domestic recycling
Domestic waste collection
Public toilets
Street cleaning
Fly tipping and graffiti removal
Community litter picks
On-street recycling

CCC owned event venues
Kings Hall, Horsebridge, Whitstable Castle

Culture Strategy

Events

Museums
Whitstable/Herne Bay Community Museums
Beaney House of Knowledge
Roman Museum
Museum collection (including disposals)

Heritage:
Canterbury Tales of England
LUF project delivery
Heritage Design Strategy and Policy

Corporate projects
Performance
Digital and ICT

Connie Nolan – Community Safety, Engagement and Inclusion
Civil enforcement Control Room Parking Fly tipping/graffiti NES Contract **Community Safety Partnership** **Poverty reduction** Crisis Resilience Fund Poverty Action Partnership **Strategic Health Alliance** Marmot Coastal Programme **Circular Economic Opportunities** **Youth engagement** Liaison with Higher and Further Education **Safeguarding:** Domestic Abuse Community Resettlement Programmes **Human Resources** **International partnerships** Via Francigena Twinning **Leisure development** Active Life oversight **Governance** Democratic Services Parish Charter Community Governance Review Rural Liaison

Mel Dawkins – Environment and Sustainability
Climate Change 2030 Decarbonisation Pledge Air Quality Strategy

Coastal engineering

Rivers and water quality
River engineering

Grounds maintenance

Environmental Protection:
Air Quality monitoring

Biodiversity (Strategy and Planning)

Parks and Open Spaces

Cemeteries

Paul Prentice – Transport & Planning

Planning

Development Management
Planning Enforcement
Environmental Enforcement
Conservation Areas (including action plan)
Building Control

Transport
Car Parking Strategy

Active Travel
Cycling and Walking Plan
Bus First Strategy
Transport Strategy Implementation
Park and Ride

Annex C to Part 6.1 – Cabinet Member Role Descriptions

Members of the Cabinet will have responsibility for the following:

Policy development

a) To submit matters of policy, or which have strategic implications within the portfolio, for consideration by the Cabinet.

b) To contribute to, and support, any consultation carried out as part of any policy development.

c) Engage with any partners or stakeholders involved in the formulation or delivery of the policy or strategy.

d) Keep up to date with any local, regional or national developments that relate to, or affect, policies or strategies under development.

e) To engage with the Council's overview and scrutiny process, ensuring that recommendations that relate to the portfolio are fully considered.

Leadership

a) To take the lead role in:

i. preparing strategies and policies, in consultation with the appropriate officers, relating to the portfolio;

ii. preparing the Budget to support the strategies and plans;

iii. being accountable for the Budget mentioned above;

iv. ensuring that the Council fulfils its equalities duties;

v. making sure the citizens' interests are looked after.

b) To be the principal spokesperson for the portfolio.

c) To represent the Council at meetings of local, regional and national bodies dealing with matters in the portfolio.

d) Ensuring that approved policies and strategies are implemented and delivered effectively.

Decision making

a) To bring to the Cabinet all matters that require a collective political decision, at councillor level, as follows:

i. decisions to implement or amend a policy or strategy;

ii. decisions that require a departure from an approved policy or strategy;

iii. decisions outside the budget and policy framework.

iv. decisions outside the list of officer delegations

b) An individual councillor can make a decision if authorised to do so by the Leader. In cases of urgency, when it is not possible to obtain the consent of the Leader, an individual councillor may make a decision themselves.

Ways of working

a) To take collective responsibility, and be accountable, for decisions and recommendations reached by the Cabinet.

b) To comply with the Council's Code of Conduct for councillors and its other rules governing behaviour.

c) To comply with the member/employee codes of conduct contained in the Constitution.

d) To take part in training and development, to ensure that the portfolio role is undertaken effectively.

e) To champion equalities duties.

f) To use technology wherever possible.

Skills and knowledge required

a) Good communication and interpersonal skills.

b) Good understanding of how the Council works.

c) Leadership skills.

d) Ability to work effectively with the Council's officers, the media and partner organisations.

e) Ability to work as part of a team.

Annex D to Part 6.1 – Collective Decisions

The Cabinet shall, unless the Leader decides otherwise, collectively take decisions on the following:

a) key and non-key executive decisions that fall outside of the scheme of officer delegation, unless urgency rules apply;

b) matters falling outside any identifiable portfolio, unless otherwise allocated to a portfolio holder by the Leader;

c) issues referred to the Cabinet by either a portfolio holder, Council, a committee or one of the Council's statutory officers;

d) where a virement of money is required, to implement a proposed decision;

e) departures from the budget and policy framework;

f) decisions on matters that are not solely executive functions (e.g. that require the Council to make a decision);

g) Matters recommended by the Whitstable Harbour Board.

Annex E to Part 6.1 – Cabinet Boards and Committees

CABINET COMMITTEE (Companies)

The Leader will determine the political composition of each Cabinet Committee in accordance with the arrangements set out in Part 6.1 of the constitution.

Terms of Reference

The Leader has determined that the following terms of reference shall apply in relation to the oversight by the council of the following council companies -

- Canterbury Environment Company Ltd (Canenco) (Local Authority Trading Company) - responsible for the delivery of waste collection, grounds maintenance and street cleaning services
- Stour Environment Credit Ltd (Joint Venture Company) - responsible for the provision of environmental credits to developers to enable development
- PartnershipOne Ltd (Joint Venture Company) - responsible for the delivery of Revenues (including council tax and business rates collection), Benefits and front-line customer services
- Canterbury City Property Company Ltd - currently dormant

a) To make recommendations in relation to reserved matters set out in the Shareholders Agreements of the above listed companies.

b) To recommend the Business Plan and incidental matters to Cabinet.

c) To review the 'corporate health' of the companies, ensuring the policies, standards, and scope that the council established are being adhered to.

d) To check that effective and systematic engagement between the company directors and guarantor role is working well to assure effective performance against strategy and governance.

e) To review the annual accounts of the Company on behalf of the Council.

f) To evaluate the effectiveness of the company board and the delivery of the company performance against strategic objectives in the Business Plan.

g) To ensure that the legal and governance requirements are being met.

h) To review whether the entity provides the most effective vehicle to deliver the outcomes for the guarantor and whether there are viable alternative models which might offer a more effective means of delivering its priorities.

Part 6.2 – Cabinet Procedure Rules

1. How the Cabinet operates

1.1 Making Cabinet decisions

The Leader decides the arrangements for the discharge of Cabinet functions.

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

a) the Cabinet as a whole;
b) a committee of the Cabinet;
c) an individual member of the Cabinet;
d) an officer;
e) an area committee;
f) joint arrangements; or
g) 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 them, for adoption and inclusion in the Council's scheme of delegation. The document presented by the Leader will contain the following information about Cabinet functions in relation to the coming year:

a) The names, addresses and wards of the councillors appointed to the Cabinet by the Leader;

b) The extent of any authority delegated to Cabinet members, individually, including details of the limitation of their authority;

c) The terms of reference and constitution of such Cabinet committees as the Leader appoints, and the names of Cabinet members appointed to them;

d) The nature and extent of any delegation of Cabinet functions to any other authority, or any joint arrangements, and the names of those Cabinet members appointed to any joint committee for the coming year.

1.3 Sub-delegation of Cabinet functions

1.3.1 Where the Cabinet or a committee of the Cabinet is responsible for a Cabinet function, they may delegate it further to a cabinet or area committee, individual cabinet member, joint arrangements or an officer.

1.3.2 If the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a committee of the Cabinet or to an officer.

1.3.3 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.

1.3.4 Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

1.4 Amendment to the scheme of delegation of executive functions

1.4.1 The Leader may amend the scheme of delegation relating to Cabinet functions, at any time during the year. To do so, the Leader must give written notice to the Joint Chief Executives 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 Head of Paid Service will present a report to the next ordinary meeting of the Council, setting out the changes made by the Leader.

1.4.2 Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he has served it on its Chair.

1.5 Delegation to officers

Cabinet functions delegated to officers are set out in Part 8 of this Constitution, subject to the limitations and conditions shown. Responsibility to produce a detailed scheme of delegations for officers lies with the Monitoring Officer.

1.6 Conflicts of interest in decision making

Where an individual member of the Cabinet, including the Leader, has a conflict of interest in a matter on which a decision is to be made (including where they are making an individual decision), this should be dealt with as set out in the Members' Code of Conduct, in Appendix B of this Constitution.

1.7 Cabinet meetings

The Cabinet will hold a minimum of six meetings a year at times to be agreed by the Leader. The Cabinet shall meet at the Guildhall or another location to be agreed by the Leader.

1.8 Public or private meetings of the Cabinet

All meetings of the Cabinet will be held in public session. If an item which contains confidential information (as defined in S12A, Local Government Act 1972) is due to be discussed, the discussion of that item will take place in private. If an item containing exempt information is due to be discussed, the Cabinet meeting shall decide whether it is necessary to move into private session.

1.9 Recording and broadcast of the meeting

1.9.1 While a meeting is open to the public, any person is permitted to report on the meeting. For these purposes, report means: filming, photographing or making audio recordings of proceedings at the meeting; using any other means for enabling persons not present to see or hear proceedings at the meeting, as it takes place or later; or reporting or providing commentary on proceedings at the meeting, in writing, or orally, outside or after the meeting.

1.9.2 Reasonable facilities will be provided to any person who wishes to report on a meeting, subject to the following conditions:

a) Prior notification to the Head of Corporate Governance on the intention to report on a meeting.

b) Recordings being made in an overt manner that would not disrupt the good order of the meeting. Disruptive behaviour could be any action or activity which disrupts the conduct of meetings or impedes other members of the public from being able to see, hear, or record the proceedings. Examples of disruptive behaviour include, but are not limited to:

- Moving to areas outside those designated for the public without the consent of the Chair;
- Oral commentary during a meeting;
- Excessive noise in recording, or setting up, or re-siting equipment during the debate/discussion;
- Intrusive lighting and use of flash photography;
- Asking for people to repeat statements for the purposes of recording.

c) Attendees being advised by the Chair, at the start of the meeting, that it is to be recorded, in order to receive objections from those not wishing to be recorded.

d) Removing any recording equipment from the meeting room prior to any part of the meeting where the public is excluded.

e) The Chair's decision in relation to disruptive behaviour shall be final.

1.9.3 These rights are subject to the Openness of Local Government Bodies Regulations 2014 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

1.10 Quorum

The quorum for a meeting of the Cabinet will be at least one half of the total number of members of the Cabinet (including the Leader or in their absence the Deputy Leader), or 3 members, whichever is the larger.

The quorum for a committee of Cabinet shall be at least one half of the members of the committee.

1.11 Decisions to be taken by the Cabinet

1.11.1 Cabinet decisions that 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 Appendix D of the Constitution.

1.11.2 Where Cabinet decisions are delegated to a committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those taken by the Cabinet as a whole.

2. Conduct of Cabinet meetings

2.1 Who presides?

The Leader will preside at any meeting of the Cabinet or its committees at which they are present. In their absence, the Deputy Leader will preside and, in their absence, a member of the Cabinet appointed by the meeting will preside.

2.2 Who can put items on the Cabinet agenda?

2.2.1 The Leader will decide upon the schedule for the meetings of the Cabinet. In deciding the agenda for each meeting, the Leader may include any matter, whether or not authority has been delegated to the Cabinet, a committee of it or any councillor, or officer, in respect of that matter.

2.2.2 Any member of the Cabinet may request the Head of Paid Service to place an item on the agenda of the next available meeting of the Cabinet for consideration. The item will be placed on the agenda if the Leader agrees.

2.2.3 A Joint Chief Executive will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the Overview or Scrutiny Committee, or the Full Council, has resolved that an item be considered by the Cabinet.

2.2.4 Any non-Cabinet councillor may ask the Leader 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 councillor will be invited to attend the meeting, whether or not it is a public meeting, for that item.

2.2.5 The Monitoring Officer or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Head of Paid Service to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that the Cabinet needs 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, they may require that a meeting be convened, at which the matter will be considered.

2.3 Public and councillor participation

2.3.1 Members of the public can only speak to items that have not received pre-decision scrutiny at the Overview Committee. The published agenda will indicate the items that are eligible for public speaking and those that are not. All persons speaking shall be strictly limited to 3 minutes each.

2.3.2 A Joint Chief Executive, or in their absence the Monitoring Officer or Deputy Monitoring Officer, will determine whether an item is eligible for public speaking at Cabinet.

2.3.3 The Leader (or chair) may invite any non-cabinet councillors to speak on any particular matter. This is extended to a councillor who has moved a motion which has been referred to the Cabinet.

Representations from the public immediately before the meeting

2.3.4 Immediately before the start of a Cabinet meeting, any person is permitted to address cabinet members about anything relating to the local district. No discussion will follow, but Cabinet members might refer to an issue if it relates to that meeting's agenda, or take it away to discuss later. The session will last a maximum of 20 minutes, which may be extended by a further 10 minutes in

exceptional circumstances. Each speaker can speak for no longer than three minutes. A person must live, work or study in the Canterbury district in order to speak.

2.4 Decisions

2.4.1 No decision, subject to sub-paragraph 2.4.2 and 2.4.3 below relating to urgent decisions, shall be made by the Cabinet or an individual member of the Cabinet under delegated powers, without first receiving a written report, approved by the management team, setting out the material factors and any financial and legal issues.

2.4.2 Where a decision is urgent and it is not reasonably practicable to receive a written report, a decision may be made by the Cabinet, having received an oral report from an officer. The officer shall, where practicable, obtain the advice of a Joint Chief Executive, the Chief Finance Officer and the Monitoring Officer on the contents of the oral report. They may also comment on the oral report at the meeting.

2.4.3 In every case, where an oral report has been made, the officer shall, as soon as reasonably practicable, record their advice in writing. The written advice shall be treated, in all respects, as if it was a written report, and the articles of this Constitution shall apply accordingly.

2.4 Withdrawal from the meeting

2.4.1 A Cabinet member with a Disclosable Pecuniary Interest or Other Registerable Interest in a matter to be considered, or being considered, at a meeting, must withdraw from the meeting room, unless they have been granted a dispensation by the Standards Committee or the Monitoring Officer (where authorised), to speak only, or to speak and vote on the matter.

2.5.2 A Cabinet member with an Other Significant Interest in a matter to be considered, or being considered, at a meeting must:

a) if they attend the meeting and, subject to sub-paragraph b) below, be in the place reserved for public in the meeting room;

b) where the public are allowed to make representations, answer questions or give evidence relating to the business, withdraw to the place in the meeting room reserved for the public, after having made any representations, answered any questions or given any evidence;

unless, in either case, they have been granted a dispensation by the Monitoring Officer (where authorised), to speak only, or to speak and vote on the matter as a member of the cabinet.

3. Appointments to outside bodies

The Leader may make or change an appointment of the Council to an outside body connected with executive functions without receiving or considering a written report.

Part 6.3 – Call-In Rules of Procedure

1. When can a decision be called in?

1.1 When a decision is made by the Cabinet, an individual member or a committee of the Cabinet; or where a key decision is made by an officer under delegated authority given to them by the Leader; or under joint arrangements, the decision shall be published within two clear working days.

1.2 The notice of the decision will be dated and will specify that the decision will come into force, and may be implemented, on the expiry of three clear working days after the publication of the decision, unless a valid request has been received by a Joint Chief Executive objecting to the decision and asking for it to be called in. This does not apply to an urgent decision.

2. Who may call-in a decision?

Any three or more members of the Council may request that a decision is called in, during the three clear working days after the publication of the notice of the decision, in 1.2 above (the call-in period).

3. What are the criteria for call-in of a decision, and who decides whether it is valid?

3.1 The Monitoring Officer, or in their absence a Joint Chief Executive, will determine whether or not a call-in is valid. In order to be valid, the call-in must meet all of the criteria in (a) to (g), plus at least one of the criteria in (h) to (m) below:

a) It is submitted by three or more members of the Council, in writing;

b) It is received before 5pm on the third day after publication of the notice of the decision;

c) It specifies which decision is being objected to;

d) It gives the reasons for the call-in request;

e) It is not made in relation to a decision taken in accordance with the urgency procedures;

f) It specifies the officers and councillors that the councillors calling in the matter wish to hear from;

g) If specifies the matters that the councillor calling in the decision wishes to ask questions about.

3.2 The call-in must also meet one of the following criteria:

h) It specifies that the decision is claimed to be outside or contrary to the budget and policy framework;

i) It specifies inadequate consultation with stakeholders, prior to the decision;

j) It specifies inadequate evidence on which to base the decision;

k) It specifies that the action is not proportionate to the desired outcome;

l) It specifies a potential human rights challenge;

m) It specifies insufficient consideration of the advice of the statutory officers.

3.3 If the Monitoring Officer (or in their absence a Joint Chief Executive) decides that a call-in is not valid, they will inform the decision maker and those requesting the call-in, and the decision may be implemented at any time thereafter.

4. The process for referral of a decision validly called in

4.1 Subject to rules 4.2 and 4.3 below, once a request for a call-in is deemed valid by the Monitoring Officer (or in their absence a Joint Chief Executive), the decision may not be implemented until the Scrutiny Committee has met to consider the called-in decision. The Proper Officer will call a meeting of the Scrutiny Committee within 15 clear working days of a valid call-in (unless a scheduled meeting is due to take place within that period, in which case the scheduled meeting will consider the call-in).

4.2 Where the Scrutiny Committee fails to meet to discuss a called-in decision within 15 clear working days of the Monitoring Officer's confirmation of a decision validly called in, the decision may be implemented on the day following 20 clear working days from the date the decision was published.

4.3 Where the Scrutiny Committee meets within 15 clear working days of the Monitoring Officer's confirmation of a valid call-in, but fails to discuss the call-in request, and no other meeting of the Scrutiny Committee is planned before 15 clear working days after the confirmation of a valid call-in, the decision may be implemented on the day following the committee meeting.

5. The process for consideration of decisions validly called in

5.1 The Scrutiny Committee will consider the decision and the reasons for call-in. The committee may invite the decision maker, and a representative of those calling in the decision, to attend the meeting to provide information.

5.2 The Committee may then come to one of the following conclusions:

a) That the challenge to the decision should be taken no further and the decision may be implemented;
b) That the decision is contrary to the budget or policy framework and should therefore be referred to the Council. In such a case, the Scrutiny Committee must set out its reasoning for the Council to consider;
c) That the matter should be referred back to the decision maker for reconsideration. In such a case, the Scrutiny Committee must set out its reasoning for the decision maker to consider.

5.3 If the Scrutiny Committee refers back to the decision maker under 5.2.(c) above, the decision maker must reconsider the decision, in accordance with Section 6 below.

5.4 If the Scrutiny Committee refers the decision to the Council meeting, under 5.2.(b), the decision shall be discussed at the next ordinary meeting of the Council,

provided that the next scheduled meeting is within 20 clear working days of a referral of the decision from the Scrutiny Committee. If the next ordinary meeting of the Council is more than 20 clear working days after the referral of the decision from the Scrutiny Committee, the Lord Mayor, in consultation with the leaders of all the political parties, will decide whether an extraordinary meeting of the Council is needed. If they decide that it is not, the decision will stand referred to the next ordinary meeting of the Council.

5.5 When the Council considers the decision, it may conclude:

a) That the challenge to the decision maker should be taken no further and the decision may be implemented;
b) That the decision is contrary to the policy framework or the budget and cannot be implemented, with reasons being given;
c) That the decision is contrary to the budget or policy framework, but that the relevant framework should be amended to enable the decision to be implemented (in which case the Council meeting should make the amendment at the meeting, in order that the decision can be implemented);
d) That the matter should be referred back to the decision maker for reconsideration, with reasons being given.

5.6 If the Council meeting is scheduled to but does not discuss the called-in decision at the next ordinary meeting or an extraordinary Council meeting called for that purpose, the decision may be implemented on the day following the meeting at which the matter was to be discussed.

6. Action of the decision maker after a referral back from the Council or the Scrutiny Committee

6.1 A decision referred back to the Cabinet, a Cabinet committee or an area committee as decision maker must be discussed at the next scheduled meeting of the Cabinet or committee (the Leader may decide to call a special meeting of the Cabinet or the committee if they consider it necessary). A decision referred back to a Cabinet member or an officer must be reconsidered by the decision maker within 10 clear working days of receiving the referral.

6.2 The decision maker(s) may either reconfirm the decision, or amend the decision in light of the comments from the Council or the Scrutiny Committee, and report back, as appropriate, to the next meeting of the Council or the Scrutiny Committee. In either case, the decision can be implemented as soon as the decision has been reconfirmed or amended.

7. Waiver of call-in and urgency

7.1 The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision is urgent if any delay, likely to be caused by the call-in process, would seriously prejudice the Council's or the public interest.

7.2 The record of an urgent decision and the notice by which it is made public shall state whether, in the opinion of the person or body making the decision, the decision is an urgent one and therefore not subject to call-in.

7.3 The Chair of the Scrutiny Committee must agree that the decision proposed is urgent. In the absence of the Chair, the consent of the Vice-Chair of the Scrutiny

Committee is required. In the absence of both the Chair and Vice-Chair, a Joint Chief Executive's consent is required.

7.4 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

7.5 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.

7.6 A decision will be classified as urgent if one or more of the following criteria apply:

a) A service not being provided;
b) The Council breaking the law or financial rules;
c) The public being put at serious risk of harm;
d) The Council suffering significant financial loss;
e) Consultation deadlines not being met;
f) In the event of a major incident;
g) Any other unforeseen circumstances that make delay imprudent.

8. Decisions not subject to call-in

8.1 The call-in procedure shall not apply to the decisions set out in Rule 8.2 below.

8.2 The decisions not subject to call-in are:

a) Matters to be decided by full Council;
b) Executive appointments to outside bodies;
c) A decision of the Cabinet to consult on a proposal;
d) Decisions made after considering the call-in of the original decision.

8.3 An executive decision, against which there is a right to request an internal review or an appeal to an external body, is subject to call-in. However, if the right to request an internal review is exercised, or an appeal made, the call-in shall cease to have effect.

8.4 No non-executive decision is subject to call-in.

Part 6.4 – Decision making

9. Key decisions

9.1 Definition

9.1.1 A key decision is any decision:

a) Relating to the approval of, or variation to, the Council's budget or policy framework, which is reserved in the Council's Constitution for determination by full Council, on a recommendation from Cabinet; or

b) Which involves the incurring of expenditure or the making of savings by the Council, which are anticipated to be in excess of £250,000, with the exception of items previously included in the relevant approved budget; or in relation to a property transaction, value in excess of £1 million; or

c) Which is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council's area.

9.1.2 A decision will not be a key decision if it relates to expenditure, income or savings that:

a) Has been approved previously by full Council; or

b) Has been approved previously, following compliance with the key decision procedure or;

c) Is in accordance with the current treasury management and investment policy of the Council.

Notes:

1. In interpreting, after the event, whether or not a decision should or should not have been classified as a key decision, the following will be taken into account:

   (a) the issue must be assessed on the basis of the information that could reasonably have been available to the decision maker at the time;

   (b) the "de minimis" rule will be applied (in this context this means that the rule does not apply to trifling, minor or insignificant variations, departures or breaches);

   (c) the level and nature of advice sought by the decision maker.

2. A decision maker may only make a key decision in accordance with the requirements of the Executive functions, rules and procedures outlined in this Part 6.

9.2 Publicity in connection with key decisions

9.2.1 Subject to Rule 10 (General Exception) or Rule 11 (Special Urgency), a key decision may not be taken unless, at least 28 clear days before it is made, a document has been made available for inspection at the Council's offices and on its website which states:

a) That a key decision is to be made on behalf of the Council;

b) The matter in respect of which a decision is to be made;

c) Where the decision maker is an individual, his/her name and title, if any, and where the decision maker is a body, its name and details of membership;

d) The date on which, or the period within which, the decision will be made;

e) A list of the documents submitted to the decision maker for consideration, in relation to the matter; and

f) The address from which, subject to any prohibition or restriction on their disclosure, copies of or extracts from any document are available;

g) That other documents relevant to those matters may be submitted to the decision maker; and

h) The procedure for requesting details of the documents (if any) as they become available.

9.2.2 An item that is likely to contain confidential or exempt information, should still be included in the document, but the confidential information must be omitted.

10. General exception

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, Section 10 refers

here it is not possible to publish the intention to make a key decision, subject to Rule 11 (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 the publicity requirements for key decisions can be met;

b) The Joint Chief Executive has notified the Chair of the Scrutiny Committee, by notice in writing, of the matter on which the decision is to be made. If there is no chair, all the members of the Scrutiny Committee will be notified;

c) The Joint Chief Executive has made copies of that notice available to the public at the offices of the Council and on the Council's website;

d) At least 5 clear working days have elapsed since the Joint Chief Executive complied with b) and c).

e) Where such a decision is taken collectively, it must be taken in public, unless it is likely that confidential or exempt information will be disclosed.

11. Special urgency

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, Section 11 refers.

11.1 If, because of the date by which a decision must be taken, Rule 10 (General Exception) cannot be followed, the decision can only be taken if the decision maker (if an individual), or the Leader of the Cabinet (or in their absence another member of the Cabinet), first obtains the agreement of the Chair of the Scrutiny Committee, or in their absence the Chair of the Overview Committee, that the taking of the decision is urgent and cannot reasonably be deferred.

11.2 In the absence of both the Chair of the Scrutiny Committee and the Overview Committee, the agreement of the Lord Mayor, or in their absence the Sheriff of Council, (in their capacity as chair and vice-chair of the local authority) will be required[1].

11.3 As soon as reasonably practicable after the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available at the offices of the Council, and on its website, a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred.

11.4 The Leader will submit a report to the Council on the Cabinet decisions taken in the circumstances set out in paragraph 11 (special urgency). The report will include the particulars of each decision made and a summary of the matters in respect of which each decision was made.

12. Private meetings of the Cabinet or its committees

12.1 The Cabinet or its committees may, subject to rule 12.2, hold a meeting in private (in whole or part) only if notices are made available at the offices of the Council, and on its website:

a) At least 28 clear days prior to the meeting, stating its intention to hold a private meeting, and containing a statement of the reasons for the meeting to be held in private; and

b) At least 5 working days prior to the meeting, of its intention to hold the meeting in private, containing a statement of reasons for the meeting to be held in private, details of any representations received by the decision-making body about why the meeting should be open to the public, and a statement of its response to any such representation.

12.2 If, because of the date by which a meeting must be taken, Rule 12.1 cannot be followed, then the meeting can only be held in private if the Chair of the body making the decision obtains the agreement of the Chair of the Scrutiny Committee, or in their absence the Vice-Chair, that the taking of the decision is urgent and cannot reasonably be deferred. In the absence of the Chair and Vice-Chair of the Scrutiny Committee, the agreement of the Lord Mayor will be required. In the absence of both the Chair of the Scrutiny Committee and the Lord Mayor, the agreement of the Sheriff of the Council will be required.

12.3 As soon as reasonably practicable, after the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available at the offices of the Council and

[1] https://www.legislation.gov.uk/uksi/2012/2089/part/3/data.pdf

on its website, a notice setting out the reasons that the meeting is urgent and cannot be reasonably deferred.

13. Record of decisions

As soon as reasonably practicable, and normally within three clear working days after any meeting of the Cabinet or any of its committees, whether held in public or private, the Joint Chief Executive, or where a Joint Chief Executive or their representative is not present, the person presiding at the meeting will ensure that a written statement is produced in respect of every decision made at that meeting, which must include the following information:

a) a record of the decision;

b) a statement of the reasons for the decision;

c) details of any alternative options considered and rejected at that meeting;

d) a record of any conflict of interest in relation to the matter decided which is declared by any member of the decision-making body; and

e) in respect of any declared conflict of interest, a note of any dispensation granted by the proper officers..

14. Decisions by individual Cabinet members and officers

14.1 **Reports intended to be taken into account**

a) Where an individual member of the Cabinet receives a report which they intend to be taken into account in making any decision, whether or not that decision is a key decision, they will not make the decision until at least 5 clear working days after receipt of that report.

b) Where an officer receives a report which they intend to be taken into account in making a key decision, they will not make the decision until at least 5 clear working days after receipt of that report.

c) The report and background papers must be made available for inspection by the public, except in so far as they contain confidential or exempt information.

14.2 **Provision of copies of reports to the Overview Committee**

On giving such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the Overview Committee as soon as reasonably practicable, and make it publicly available at the same time.

14.3 **Status of decision making by an individual member of the Cabinet**

The point at which an individual member of the Cabinet makes a decision does not constitute a meeting and is not open to the public.

14.4 **Record of individual decision by a member of the Cabinet**

As soon as reasonably practicable after a Cabinet member has made an executive decision, they will produce, or if they instruct the Joint Chief Executives to do so,

the Joint Chief Executives or their representative will produce, a written statement in respect of that executive decision, which must include the following:

a) a record of the decision;

b) a statement of the reasons for the decision;

c) details of any alternative options considered and rejected by the member when they made the decision;

d) a record of any conflict of interest declared in relation to the decision by any Cabinet member who is consulted by the member in relation to the decision or making the decision; and

e) in respect of any declared conflict of interest, a note of any dispensation granted by the proper officers.

14.5 **Record of individual decision by an officer**

As soon as reasonably practicable after an officer has made a decision where:

a) the financial implications for the Council of the decision exceed £99,999 (officers should ensure that they act within the budget and the Financial Procedure Rules);

b) they make a key decision; or

c) they have been specifically delegated to make a particular decision (whether or not in consultation with a Cabinet member) by the Cabinet or an individual Cabinet member;

the officer will produce a written statement which must include:

a) a record of the decision;

b) the date the decision was made;

c) a record of the reasons for the decision;

d) details of any alternative options considered and rejected by the decision maker;

e) a record of any conflict of interest declared by the decision maker, or any Cabinet member who is consulted by the officer, which also relates to the decision;

f) in respect of any declared conflict of interest, a note of dispensation granted by the proper officers.

15. Inspection of documents following executive decisions

15.1 After a private or public meeting of a decision-making body, at which an executive decision has been made; after an individual councillor has made an executive decision; or after an officer has made a key decision, the Proper Officer shall ensure that a copy of:

a) any records are prepared in accordance with Rule 13; and

b) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision is recorded in accordance with Rule 13 or, where only part of the report is relevant to such a decision, that part shall be available for inspection by members of the public as soon as is reasonably practicable, at the offices of Canterbury City Council and on the Council's website.

16. Attendance at private meetings of the Cabinet

16.1 **Cabinet members**

a) All members of the Cabinet will be served notice of all private meetings of committees of the Cabinet, whether or not they are members of that committee.

b) All members of the Cabinet are entitled to attend a private meeting of any committee of the Cabinet.

16.2 **Non-executive councillors**

Councillors other than Cabinet members will not be entitled to attend private meetings of the Cabinet and its committees, but may be invited to attend by the Leader.

16.3 **Officers**

a) The Joint Chief Executives, or those in the statutory roles of Head of Paid Service, Chief Finance Officer (Section 151 Officer) and the Monitoring Officer and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless a Joint Chief Executive has been given reasonable notice that a meeting is to take place.

b) Decisions may only be made at a private Cabinet meeting in the presence of a Joint Chief Executive or their nominee, whose purpose will be to record and publicise the decisions taken.

17. Report to Council

17.1 **Requests from the Overview or Scrutiny Committee**

Where the Overview or Scrutiny Committee thinks that a key decision has been taken, which was neither:

a) Treated as a key decision, nor

b) The subject of a request to waive call-in rights

c) The subject of the General Exception procedure, as detailed in Rule 10; or

d) The subject of an agreement with the Scrutiny Sub-Committee Chair or the Lord Mayor or Sheriff of the Council, under Rule 11 (Special Urgency)

17.2 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 Overview or Scrutiny Committee, but is also delegated to a Joint Chief Executive who shall require such a report on behalf of the Committee when so requested by the Chair or any five members of the Overview or Scrutiny Committee. Alternatively, the requirement may be raised by resolution, passed at a meeting of the Overview or Scrutiny Committee.

17.3 **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 seven days of receipt of the written notice or the resolution of the Overview or Scrutiny Committee, then the report may be submitted to the following Council meeting. The report to Council will set out particulars of the decision, the individual or body making the decision, and, if the decision maker is of the opinion that it was not a key decision, the reasons for that opinion.

17.4 **Annual reports on Special Urgency decisions**

The Leader of the Council will submit, annually, a report to the Council on the executive decisions taken, in the circumstances set out in Rule 11 (Special Urgency), in the preceding year. The report will include the number of decisions so taken and a summary of the matters, in respect of which those decisions were taken.

18. Additional rights of access for councillors

18.1 **Material relating to previous business**

All councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees, and contains material relating to any business previously transacted at a private meeting; or a decision made by an individual member; or a decision taken by an officer.

18.2 **Timescale**

Any document required to be available for inspection under Rule 18.1 must be made available for inspection, in any event, within 24 hours of the conclusion of the meeting on the decision being made.

18.3 **Material relating to key decisions**

All councillors will be entitled to inspect any document in the possession or under the control of the Cabinet or its committees, which relates to any key decision.

18.4 **Nature of rights**

These rights of a councillor are additional to any other right they may have. A fuller statement of these rights is set out in the Protocol for Councillor and Officer Relations, contained at Appendix G in this Constitution.

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Part 7.1 – Overview Committee

1. Overview Committee

1.1 Terms of reference

a) To consult on the Overview work programme and agree its contents. The work programme to be a rolling programme.

b) To review and scrutinise the Cabinet's decisions, including prior scrutiny of proposed executive decisions and decisions made by committees and officers.

c) To contribute to the development of the budget and other financial strategies.

d) To contribute to, and review, the development of the Council's corporate policies and strategies.

e) To form task and finish working groups to review topics selected by the committee, with advice provided by the management team, and make recommendations to Cabinet or Council or other appropriate groups and organisations. It is expected there will be three topics selected each year.

f) To consider referrals or call for action requests submitted by members of the Committee.

g) To act as a formal consultee on Cabinet working groups, where required.

h) To respond to requests from the Cabinet and /or Council to undertake reviews as they see fit.

2. Scrutiny Committee

2.1 Terms of reference

1. To scrutinise the Council's performance against Key Performance Indicators (KPIs) and make recommendations as appropriate to the Cabinet and / or Overview Committee, particularly considering:

    - the proposed performance targets for the coming year;
    - the in-year performance management data; and
    - the annual performance report.

2. To scrutinise the Council's financial monitoring data against the budget and make recommendations as appropriate to the Cabinet and / or Overview Committee, particularly considering:

    - the annual budget strategy; and
    - the budget monitoring data for General Fund Revenue & Capital and HRA Revenue & Capital.

3. To exercise the right, set out in the 'Call-in' Rules of Procedure contained in Part 6 of the Constitution, to call-in for review, and recommend for reconsideration, any decisions made by the executive but not implemented.

4. To act as the Council's Crime and Disorder Committee and to meet for that purpose at least once a year.

5. When acting as the Crime & Disorder Committee, to be able to co-opt members and determine whether they are entitled to vote on any matter in accordance with Section 3 of the Crime and Disorder (Overview and Scrutiny) Regulations 2009.

6. To deal with councillor requests for action as set out in the procedures in Part 7, section 9 of the constitution.

Part 7.2 – Overview Committee and Scrutiny Committee Procedure Rules

1. The arrangements for the Overview Committee and Scrutiny Committee

1.1. The Overview Committee and Scrutiny Committee perform all scrutiny functions on behalf of the Council.

1.2 The terms of reference of the Overview Committee and Scrutiny Committee are set out in this part of the Constitution.

1.3 The rules in this part apply to the Overview Committee, Scrutiny Committee and any sub-committees, with any necessary changes.

2. Membership of the Overview and Scrutiny Committee

2.1 No member of the Cabinet may be a member of the Overview Committee or Scrutiny Committee.

2.2 All councillors, except members of the Cabinet, may be members of the Overview Committee or Scrutiny Committee. However, no councillor may be involved in scrutinising a decision in which they have been directly involved, or where they have sat on an advisory panel of the Cabinet which has considered matters leading up to the decision, or have been appointed as an adviser to the Cabinet on the decisions.

2.3 Councillor membership of the Overview Committee and Scrutiny Committee will be in proportion to the representation of the different political groups on the Council, unless determined otherwise by the Committee with no-one voting against.

3. Co-optees

3.1 The Overview Committee and Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees, whether for all purposes or specific issues.

3.2 Council may co-opt members who are not councillors to the Overview Committee and Scrutiny Committee if this is necessary to give effect to legislation.

4. Meetings of the Overview Committee and Scrutiny Committee

There shall be at least four ordinary meetings of the Overview Committee in each year. The Scrutiny Committee, when fulfilling the role of the Crime and Disorder Committee, shall meet as such at least once in each year. In addition, special meetings may be called by any four members of either Committee, or by the proper officer if they consider it necessary.

5. Quorum

The quorum for the Overview Committee and the Scrutiny Committee shall be at least one half of the voting members.

6. Chairing Overview Committee and Scrutiny Committee meetings

In accordance with Article 9:

6.1 The Chair and Vice-Chair of the Overview Committee shall be appointed at the Annual Council Meeting. The Chair will be a member of the majority group administration.

6.2 The Chair and Vice-Chair of the Scrutiny Committee shall be appointed at the Annual Council Meeting. The Chair will be a member of the opposition on the council.

6.3 In the event sub-committees are created by either parent committee after the Annual Council meeting, the Chair and Vice-Chair shall be appointed at its first meeting.

7. Work programme

7.1 The Overview Committee programme will consist of matters identified from the Forward Plan of Cabinet decisions, committee-sponsored working group activity and matters of concern raised by councillors.

7.2 The Scrutiny Committee programme will consist of 'themed' meetings, determined by the committee in consultation with the lead officer. Other responsibilities, as outlined in the terms of reference, will be incorporated into the programme.

8. Protocols and Guidelines

8.1 The members of the Overview Committee and Scrutiny Committee shall abide by the protocols set out in this Constitution.

8.2 Particular regard shall be had to the guidelines set out in the Overview, Scrutiny and Cabinet Protocol, attached as Part 7.3.

8.2 Both committees shall have regard to any statutory guidance on the exercise of their scrutiny functions.

9. Councillor-requested items for consideration by the Committee

9.1 **Councillor request for action**

These procedures allow a councillor to raise a matter of concern to the Scrutiny Committee for consideration.

9.2 **Notice**

Where any councillor would like the Scrutiny Committee to consider a matter, written notice must be given to Democratic Services not later than eight clear working days before the date of the meeting. The notification should set out clearly the purpose of the item in the style of a motion to the Committee.

9.3 **Scope**

Items must be about matters for which the authority has a responsibility or which affect the district of Canterbury City Council and are of concern to the local community.

9.4 **Items out of order**

The Chair may, in consultation with the Monitoring Officer, rule out of order any item which, in their opinion:

i) is vexatious, defamatory or discriminatory;
ii) does not conform to the provisions of paragraph 9.3 or which breach standing orders;
iii) is the same or similar to a call for action raised within the last six months;
iv) relates to an individual complaint or query;
v) relates to a planning or licensing application;
vi) is, or may be, the subject of legal proceedings.

Such items shall not appear on the Committee agenda or be otherwise circulated.

9.5 **Requested item set out in agenda**

Items for which notice has been given will be listed on the agenda in the order in which notice was received, unless the councillor giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

9. 6 **Consideration of an item set out in the agenda**

9.6.1 The item will initially be listed in the agenda of the Scrutiny Committee to allow the Committee to consider how it would like to deal with the item, along with any relevant advice from the council's management team.

9.6.2 Given that not all relevant matters will be before the Committee, the matter shall not be subject to a debate at this initial listing unless a Joint Chief Executive, in consultation with the requesting councillor and Chair of the Scrutiny Committee, agrees that the matter may be dealt with. If this is the case, it shall be made clear in the agenda on publication for the benefit of the Committee and the public.

9.6.3 When not being dealt with at its initial listing under 9.6.2, the procedure shall be as follows:

a. the requesting councillor will be invited to introduce their matter of concern and the purpose of their request;
b. any member of the Committee may then propose a course of action, the options for which are set out below in 9.6.4;
c. the proposal shall be put to a debate;
d. a vote shall be taken, after which there shall be no further debate.

9.6.4 When not being dealt with at its initial listing under the terms of 9.6.2, the options open to the Committee are to request:

a. that an officer response be provided to the requesting councillor;
b. an officer provide a report or presentation to a future meeting;
c. that it be referred to an existing working or task and finish group where it fits with their agreed scope;
d. that it be considered by the portfolio holder;
e. for it to be the subject of a councillor briefing;
f. for it to be considered by a one-off informal meeting to be attended by a small number of relevant or interested councillors, officers and any other relevant other parties.

9.7 **Items referred**

9.7.1 When the Committee asks for the matter to be considered by a body other than itself, it will receive a report back on its monitoring sheet.

9.7.2 The original requesting councillor and the relevant portfolio holder shall be informed of the option chosen by the Scrutiny Committee and shall be invited to attend any consideration of the matter, and if they attend shall have an opportunity of explaining it.

10. Policy Review and Development

10.1 The Overview, Scrutiny and Audit Committees may make proposals in relation to the development of the Council's budget and policy framework. Proposals must have regard to the Council's budgetary position and take account of the resources available.

10.2 In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, the Overview Committee and Scrutiny Committee may make proposals to the Cabinet for developments, insofar as they relate to matters within its terms of reference.

10.3 The Overview Committee and Scrutiny Committee may hold enquiries and investigate the available options for the future direction of policy development.

11. Reports from the Overview Committee and Scrutiny Committee

11.1 If the Overview Committee or Scrutiny Committee decides to make a report or recommendations to the Council or Cabinet it must require them, within two months, to have:

a) considered the report or recommendations;

b) responded to the Committee indicating what, if any, action it proposes to take;

c) published the response, normally via the minutes.

11.2 In order to make a report to the Council or Cabinet, the Overview or Scrutiny Committee will commission and approve a formal report from officers supporting the Committee and will submit it to the Joint Chief Executives, for consideration by the Council or Cabinet. Any report will be accompanied by management team advice.

11.3 The Council or Cabinet shall consider a report from the Overview or Scrutiny Committee at the next ordinary meeting following submission of the report to the Joint Chief Executives.

12. Making sure that Overview Committee and Scrutiny Committee reports are considered by the Council and Cabinet

12.1 Reports and recommendations to Council will be considered as an item of business (a report from a committee).

12.2 The agenda for Cabinet meetings shall include an item entitled 'Reports from Overview Committee and Scrutiny Committee'. Any report or recommendations of the Overview Committee or Scrutiny Committee referred to the Cabinet shall be included at this point on the agenda (unless they have been/are to be considered in the context of the Cabinet's deliberations on a substantive item on the agenda) at the next ordinary meeting of the Cabinet, following submission of the report to the Joint Chief Executives.

12.3 The Council and the Cabinet must comply with a notice, in writing, given by the Overview Committee or Scrutiny Committee, under Rule 11.1 above, subject to any regulations preventing the disclosure of 'confidential information' and permitting the exclusion of 'exempt information' from anything that is published or copied to any councillor.

13. Rights and powers of Overview Committee and Scrutiny Committee Members

13.1 Rights to documents

13.1.1 Councillors have the right to documents and to notice of meetings set out in the Access to Information Procedure Rules in Appendix D of this Constitution.

13.1.2 Nothing in this paragraph prevents more detailed liaison and information exchanges between the Cabinet and the Overview Committee and Scrutiny Committee, depending on the particular matter under consideration.

13.2 Powers to conduct enquiries

Subject to resources being available within the agreed annual budget, the Scrutiny Committee may:

a) review and scrutinise decisions made and look at past performance;

b) investigate options for future direction in Council policy;

c) investigate and make reports and recommendations to the Council or Cabinet on any matter which affects the authority's area, or the inhabitants of that area.

In so doing, they may, subject to resources being available within the agreed annual budget, make a recommendation to the Overview Committee that a working group be considered to assist them in these processes. They may undertake research and consultation and do all other things that they reasonably consider necessary to inform their deliberations, within available resources. They may ask witnesses to attend, to address them on any matter under consideration and may pay any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

14. Giving Evidence by Members and Officers

14.1 Within its terms of reference, the Scrutiny Committee may scrutinise and review 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 Chair of a committee, the Joint Chief Executives and/or any Director to attend before it to give evidence in relation to matters within its remit. It is the duty of those persons to attend if so required.

14.2 Where any councillor or officer is required to attend a Scrutiny Committee meeting under paragraph 14.1 above, the Chair of that Committee will inform the Joint Chief Executives. A Joint Chief Executive shall inform the councillor or officer in writing, giving at least ten working days' notice of the meeting at which they are required to attend.

14.3 This notice will state the nature of the item on which they are required to attend to give evidence and whether any papers are required to be produced for the Committee.

14.4 Where the evidence to be given to the Committee will require the production of a report, the councillor or officer concerned will be given sufficient notice to allow for preparation and submission of that documentation.

14.5 Where, in exceptional circumstances, the councillor or officer concerned is unable to attend on the required date, the Committee shall, in consultation with that councillor or officer and with the proper officer, arrange an alternative date for attendance.

14.6 The Chair of the Overview or Scrutiny Committee may permit a councillor who is not a member of that committee to speak on a particular matter and to ask questions of witnesses if the item under consideration is one that has an impact on the ward represented by that councillor that is both peculiar to that ward and significant in nature.

14.7 Councillors should give notice prior to the meeting of the information they will be seeking from witnesses. If more details are needed they should ask the Cabinet member, Committee Chairs or senior officer concerned to submit the information requested in writing as soon as practicable.

14.8 All questioning shall be conducted with courtesy and with due regard for the individual rights of those being questioned.

15. Attendance by Others

15.1 The Overview Committee and Scrutiny Committee may invite people other than those people referred to in paragraph 14.1 above to address it, discuss issues of local concern and/or answer questions. Such persons may include local residents or businesses, those with an interest in, or special knowledge of, the matter under consideration, and councillors and officers in other parts of the public sector.

15.2 Such persons cannot be required to appear before the Overview or Scrutiny Committee or to answer questions, and attendance is entirely at the invitee's discretion.

16. Call-In

The call-in procedure is dealt with separately in the Call-in Rules of Procedure in Part 6.3 of the Constitution.

17. Procedure at Overview Committee and Scrutiny Committee meetings

17.1 Where the Overview Committee or Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at meetings, which are to be conducted in accordance with the following principles:

a) That the investigation is conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
b) That those assisting the committee by giving evidence be treated with respect and courtesy; and
c) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

17.2 Following any investigation or review, officers supporting the Committee shall prepare a report for debate, amendment and approval by the Committee and subsequently for submission to the Cabinet and/or Council, as appropriate. The Committee shall make its report and findings public.

18. Recommendations by the Overview or Scrutiny Committee

18.1 The Overview Committee and Scrutiny Committee shall not make a recommendation on a matter unless:

a) it is considering an item, following notification by a member, under Rule 9.1 above (the 'request for action'); or
b) it has received a written report or briefing from an officer on the matter.

18.2 The Overview and Scrutiny Committee or Scrutiny Sub-Committee shall not scrutinise:

a) individual decisions relating to planning applications, quasi-judicial, code of conduct investigations, dispensations and personnel matters;
b) decisions which are called in, other than via the procedure set out in the Call-in Rules of Procedure.

Part 7.3 Overview, Scrutiny and Cabinet Protocol

Contents

1. **Working relationship**
2. **Principles**
3. **Expectations of the Cabinet**
4. **Expectations of Overview and Scrutiny and Scrutiny Sub Committees**
5. **Pre-decision scrutiny**
6. **Accountability for decision making**
7. **Call-in powers**
8. **Task and Finish group activity**
9. **Councillor briefings**
10. **Compliance with the Protocol**

1. Working relationship

This protocol sets out the relationship between the Council's Overview Committee, Scrutiny Committee (referred to as the two scrutiny committees) and Cabinet.

It includes the processes the two scrutiny committees will follow when engaging with Cabinet and how they expect members of the respective bodies to conduct themselves within the council's governance arrangements.

The protocol is in addition to requirements set out in the Council's Code of Conduct and the Protocol on Councillor/Officer relations.

This Protocol will promote an effective role for scrutiny and foster a good working relationship between the two scrutiny committees and the cabinet that will ensure the scrutiny committees make a valuable contribution to the effective running of the council.

In seeking agreement to this protocol, it is acknowledged that there are different rights and roles of both the two scrutiny committees and Cabinet members but that all are committed to developing an effective working relationship.

This will involve but not be limited to:

- Frequent and honest dialogue between Cabinet members and those of the two scrutiny committees, either individually or collectively,
- Regular discussions regarding cabinet and scrutiny work programme, including establishing joint activities/projects where possible,
- Establishing effective and formal reporting structures, and
- Respecting the confidential nature of the discussions that may take place.

2. Principles

The following principles set out how the working relationship between the Cabinet and the scrutiny committees should operate.

- The Cabinet and members of the two scrutiny committees recognise that they each have different functions and responsibilities that contribute to securing the best outcomes for the people who live and work in the district
- All participants in the working relationship between Cabinet and the scrutiny committees will do so in a spirit of mutual respect and constructive challenge.

- The Cabinet recognises that the scrutiny committees have several rights, for example requiring Cabinet members to attend its meetings or calling-in Cabinet decisions which have not yet been implemented. The Scrutiny Committee will exercise those rights responsibly.
- One of the principal responsibilities of the Scrutiny Committee is to hold the Cabinet members to account. This enables non-Cabinet members to fully scrutinise important decisions made by the Cabinet whilst also allowing routine decision making to take place in a responsive manner.
- A director will be the nominated lead officer for each of the scrutiny committees and will oversee compliance with the Protocol.

3. **Expectations of the Cabinet**

Cabinet members should attend or be represented at meetings of the Overview Committee and Scrutiny Committee to make points and respond to questions, at the Chair's invitation.

Where a Cabinet member cannot attend on a particular date, they will nominate another cabinet representative to attend on their behalf.

Councillors should promote openness at meetings of the two scrutiny committees. They should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between members of the committee and Cabinet members.

Councillors will be notified of the Cabinet's work programme via the forward plan. A copy will be emailed to all councillors on a monthly basis.

4. **Expectations of the two scrutiny committees**

The committees will provide constructive 'critical friend' challenge to the Cabinet's proposals and decisions.

The two scrutiny committees will be effectively led by councillors who take responsibility in their role to influence decision making, scrutinise performance and recommend service improvements.

The committees will monitor the effectiveness of services and undertake regular in-depth reviews of the council's services.

5. **Pre-decision scrutiny**

The Overview Committee will undertake pre-decision scrutiny of cabinet reports before Cabinet consideration.

Management team will monitor the forward plan and identify items that they judge would benefit from scrutiny prior to decision making.

Any member of the committee can request an item from the forward plan to be added to the Overview Committee agenda if it isn't already scheduled to be considered at a future meeting and hasn't already been the subject of pre-decision input by another body.

Discussion at the Overview Committee will provide an opportunity for early engagement by members of the public and committee members prior to consideration by the Cabinet.

Where possible, cabinet representatives will be present to hear the views of scrutiny members and contribute to the debate. Cabinet member participation will be directed by the committee Chair.

The minutes of the Overview Committee meeting will be included in the next Cabinet agenda and the views of the committee incorporated into cabinet reports when time permits.

6. **Holding Cabinet to account**

An important method to ensure accountability of the Cabinet is through examining performance and decisions taken by the authority.

To facilitate this challenge the members of the Scrutiny Committee will:

- Undertake periodic financial and performance monitoring
- Undertake in-depth scrutiny of individual topics based on chosen themes
- Exercise the power of call-in responsibly
- Attend councillor briefings to ensure they are well informed
- Understand their rights to access information to support their scrutiny role, as set out in the constitution.

7. **Call-in powers**

Call-in is the exercise of the statutory power in section 21(3) of the Local Government Act 2000, to review a Cabinet decision that has been made but not yet implemented.

Requests for call-in can be made by any three councillors. A meeting of the Scrutiny Committee will be arranged within 15 working days of a valid call-in. Reserve dates are included in the timetable for this purpose.

The appropriate Cabinet member will be expected to attend a Scrutiny Committee to make points and respond to questions where a call-in request relates to their area of responsibility. Where the relevant Cabinet member cannot attend a call-in meeting, the Leader or Deputy Leader of the Council should attend in their absence.

The Scrutiny Committee will debate the issue and vote on the outcome. The committee cannot overturn the decision that has been called in. It may either agree with the decision, decide to make no recommendations to the Decision Maker (in which case it will take immediate effect) or refer it back to the Cabinet/Council (as applicable) for further consideration, along with any recommendations approved by the committee.

It is the aim of the Council that call-ins should only be used as a last resort for resolution, and that other less-confrontational means should always be pursued prior to this option.

8. **Task and Finish working group activity**

Each year, the Overview Committee will be invited to consider the scrutiny sponsored working group activity.

In doing so it shall have a mind to the council's corporate priorities and the Cabinet's own working group activity.

There will normally be no more than three cabinet sponsored and three scrutiny sponsored reviews each year. Programming will be agreed in consultation with the directors.

The Chairs and Vice Chairs of the Overview and the Scrutiny Committees will both be consulted on the programme prior to consideration by the Overview Committee.

Once topics have been selected, all councillors will have an opportunity to offer their thoughts at a briefing held prior to the first meeting of the working group.

There is no compulsion to establish all three working groups at the start of the year. The programme can be reviewed at any time.

Motions put to full Council to establish working groups will be added to the list of potential topics referred to Cabinet or the Overview Committee for consideration.

Alternative means of addressing issues may also be considered when responding to the motion.

For scrutiny sponsored reviews, the Overview Committee will determine working group size, which will normally be politically balanced. Where a political group does not wish to appoint then it may offer the place to another group or an independent councillor.

Once established, the working group terms of reference will be prepared at the first meeting of the group and referred to the Overview Committee for approval. This will ensure the review covers the intended topics.

Scrutiny sponsored working groups would not normally include cabinet members, but close liaison is expected and periodic invitations to update the relevant Portfolio Holder.

There are no rules about who should chair a scrutiny sponsored working group, save for the fact it shouldn't be a cabinet member.

Cabinet sponsored reviews will normally be chaired by a cabinet member.

9. **Councillor briefings**

The purpose of councillor briefings is to help councillors with their understanding of key issues. Briefings normally take the form is an in-depth officer presentation followed by a Q&A session. Briefings typically take place monthly but may vary.

Briefings form an important part of the scrutiny arrangements as they ensure all councillors understand key issues and have an opportunity to ask questions.

Topic suggestions can be made by councillors and officers. Timetabling is overseen by the management team to ensure they are programmed appropriately.

Briefings may also include topics from our partners when requested.

10. **Compliance with the Protocol**

The directors will oversee compliance with the protocol and ensure that it is used to support the wider aim of supporting and promoting a culture of scrutiny within the council.

The role also includes promoting the role of the authority's scrutiny committees and providing support and guidance to members and officers relating to the functions of the two scrutiny committees.

Part 7.4 – Overview and Scrutiny Inter-Authority Co-operation

1. Aim of the protocol

To ensure the overview and scrutiny committees of all Kent local authorities can review issues of community interest, effectively and with efficient use of all local authority staff resources.

2. Principles

2.1 All authorities should be supported in considering issues of community well-being wider than the responsibilities of their councils.

2.2 Authorities should work together to maximise the exchange of information and views, minimise bureaucracy and make best use of the time of councillors and officers of local and other authorities.

3. Procedures

3.1 Authorities should seek to exchange information on programmes and results of reviews.

3.2 If an overview and scrutiny committee wishes to review an issue in which another authority has a statutory role, or in which evidence from the officers of another authority would be helpful, it should consult with that authority about:

a) the purpose of the review;

b) the areas of interest to the other authority;

c) the input that can be given by councillors or officers of the other authority.

3.3 Consideration should be given to whether the issue is more appropriately discussed in another forum, for example a joint committee, or whether there is scope for joint action, including the co-opting of members of the other authority onto the overview and scrutiny committee for the purpose of the review.

3.4 Where a proposal is subject to a public consultation process, scrutiny is most helpful if conducted as part of that process e.g. allowing any findings and recommendations to be available in time to influence the final decision.

3.5 Subject to such prior consultation, authorities will seek to respond positively to requests for information; or for a member or officer to attend meetings of overview and scrutiny committees.

3.6 While it is ultimately for each authority to decide who it considers the most appropriate person(s) to speak on its behalf to an overview and scrutiny committee, consideration will be given to meeting specific requests.

3.7 Dates and times of councillor and officer attendance at overview and scrutiny meetings should be agreed with them.

3.8 Each authority will nominate a contact officer for the operation of these procedures.

Part 7.5 – Protocol for the Health Overview and Scrutiny Committee (HOSC)

Protocol for Health Overview and Scrutiny

The Protocol describes the procedures for the Health Overview and Scrutiny Committee administered by Kent County Council.

The Terms of Reference for the Committee are as follows:

"To review and scrutinise matters relating to the planning, provision and operation of health services in Kent through exercising the powers conferred on Kent County Council under Section 244 of the National Health Service Act 2006 as amended by the Health and Social Care Act 2012."

1. Core principles

1.1 This protocol puts into effect the statutory obligations of Kent County Council under section 244 of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012).

1.2 The operation of the protocol is underpinned by Part 4 of The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (as amended from time to time).

1.3 The work of the HOSC is built around the following four principles:

a) Democratic legitimacy – membership is drawn from elected representatives;
b) Institutional memory – a strand of continuity as well as a body of knowledge and experience is built up cumulatively over time;
c) Strategic perspective – HOSC is a statutory body able to scrutinise health matters as they affect the whole county;
d) Operational freedom – an independent perspective is brought to the scrutiny of health issues through the ability to treat commissioners and providers of health services equally.

2. Key tasks and work programme

2.1 The work programme of the HOSC is underpinned by the four principles and reflects the key tasks outlined below:

a) To examine the strategic direction for local health services, how the key objectives and priorities have been determined and whether there exists the means to achieve them, in terms of plans, resources, skills, and capabilities;
b) To examine policy proposals affecting local health services, review areas of emerging policy, or where existing policy is deficient, make proposals;
c) To examine the performance of the commissioners and providers of local health services, and the relationships between spending and delivery of outcomes;
d) To conduct scrutiny of plans for substantial variations of service;
e) To review the implementation and impact of substantial variations of service and changes to the provision of health services;
f) To produce timely reports to inform debate in the County Council and the Health and Wellbeing Board, and to examine matters raised;
g) To assist the County Council in better engaging with the public by ensuring that the work of the HOSC is accessible to the public.

2.2 The HOSC is responsible for setting its own work programme, giving due regard to the requests of commissioners and providers of health services to bring an item to the HOSC's attention, as well as taking into account the referral of issues by Health Watch and other third parties.

2.3 The HOSC will not consider individual complaints relating to health services. All individual complaints about a service provided by the NHS should be directed to the NHS body concerned.

3. Operating arrangements

3.1 The exercise of formal health scrutiny powers shall be through meetings of the whole HOSC. Exceptions are set out in paragraph 3.2, below.

3.2 Informal Member Groups may be established with the approval of the HOSC, in order to consider issues in more depth and can include elected representatives from KCC or Borough/City/District Councils in Kent who are not members of HOSC. Informal Member Groups cannot exercise any formal health scrutiny powers.

3.3 Agenda items present at the request of health bodies shall be accompanied by a clear indication of the outcome sought from the HOSC and sufficient information provided for inclusion in the agenda to enable the HOSC to respond appropriately.

3.4 Commissioners and providers of local health services are required to provide the HOSC with such information about the planning, provision and operation of health services in the area of that authority as the authority may reasonably require in order to discharge its relevant functions.

3.5 Nothing in paragraph 3.4 requires the provision of:

a) confidential information which relates to and identifies a living individual, unless at least one of the conditions specified in paragraph 3(6) applies; or
b) any other information the disclosure of which is prohibited by or under any enactment, unless paragraph 3(7) applies.

3.6 The conditions referred to in paragraph 3(5)(a) are:

a) the information is or can be disclosed in a form from which the identity of the individual cannot be ascertained; or
b) the individual consents to the information being disclosed.

3.7 This paragraph applies where:

a) the prohibition on the disclosure of information arises because the information is capable of identifying an individual; and
b) the information is or can be disclosed in a form from which the identity of the individual cannot be ascertained.

3.8 In a case where the disclosure of information is prohibited by paragraph 3.5, the HOSC may require the person holding the information to put the information in a form from which the identity of the individual concerned cannot be identified in order that the information may be disclosed.

3.9 Paragraph 3.4 does not apply in relation to:

a) information contained in, or relating to, a trust special administrator's report or draft report under sections 65F or 65I of the National Health Service Act 2006;

b) information contained in, or relating to, recommendations by a health special administrator on the action which should be taken in relation to a company subject to a health special administration order under section 128 of the Health and Social Care Act 2012.

3.10 Subject to paragraph 3.14, the HOSC may require any member or employee of a local health service commissioner or provider to attend before the HOSC to answer such questions as appear to the HOSC to be necessary for discharging its relevant functions.

3.11 Subject to paragraphs 3.12 and 3.13, it is the duty of any such member or employee to comply with any such requirement.

3.12 The HOSC may not require a person to attend in accordance with paragraph 3.10 unless reasonable notice of the intended date of attendance has been given to that person.

3.13 Nothing in paragraph 3.11 requires any person to answer any question put to that person by the local authority:

a) to the extent that the answer requires the provision of information of a type specified in paragraph 3(5); or
b) if that person would be entitled to refuse to answer in, or for the purposes of, proceedings in a court in England and Wales.

3.14 The HOSC may not require a member or employee of a responsible person to attend before it to answer questions in relation to:

a) a trust special administrator's report or draft report under sections 65F or 65I of the National Health Service Act 2006;
b) a health special administration order under section 128 of the Health and Social Care Act 2012, or recommendations by a health special administrator on the action which should be taken in relation to a company subject to such an order.

3.15 Where appropriate, the HOSC may also request information for agenda items and attendance at formal meetings from organisations and individuals not specified in statutory regulations. Whenever information is either required or requested, sufficient notice shall be given to enable the relevant information to be gathered and attendees confirmed along with a clear indication of the outcome sought.

4. Working with other organisations

4.1 It is recognised that Borough/City/District Councils in Kent may wish to engage with health matters in ways other than through overview and scrutiny. The exercise by KCC of the statutory health scrutiny function shall not prejudice this activity, and information shall be shared freely between the HOSC and Borough/City/District Councils.

4.2 Health scrutiny activity at the County and Borough/City/District Council level shall seek to be complementary and not unnecessarily duplicate work. The HOSC may determine to delegate the exercising of the health scrutiny function over a specific issue to an overview and scrutiny committee of a Borough/City/District Council. Due regard will be given to the Protocol for Overview and Scrutiny Inter-Authority Co-Operation (contained in Appendix 4 Part 4 Annex A of the Kent County Council Constitution) and the relevant regulations.

4.3 Borough/City/District Council representatives shall have rights of participation in a manner to be determined by the County Council.

4.4 The role that Health Watch fulfils in promoting effective health care is recognised as is the statutory role of Health Watch on the Health and Wellbeing Board. Information will be shared where appropriate and Health Watch shall have the right to refer issues to HOSC, but there is no automatic right for Health Watch members to formal HOSC membership.

4.5 Issues referred by Health Watch will receive an acknowledgment within 20 working days and Health Watch will be kept informed of any actions taken.

4.6 Monitor, the Care Quality Commission and other regulatory bodies, undertake valuable roles distinct from that of HOSC. Information may be shared with them, but the operational independence and work programme of HOSC shall not be determined by that of other bodies.

4.7 Regular liaison shall be maintained with health scrutiny in Medway and if a Joint HOSC is required by statute, or where it is deemed appropriate by the relevant Committee in each authority, one shall be established in line with the manner agreed between both authorities.

4.8 Regular liaison shall be maintained with health scrutiny bodies across the South East region and elsewhere, to consider and share information about broader strategic health matters affecting the entire region.

4.9 If a Joint HOSC is required by statute or where it is deemed appropriate by the relevant Committee in each authority concerned, one shall be established in line with the manner agreed between the authorities. Options shall include the establishment of a formal Joint HOSC, or the delegation of the scrutiny function for the specific issue under discussion to another HOSC or equivalent Committee.

5. Relationship with the Health and Wellbeing Board

5.1 The strategic reciprocity of the HOSC and the Health and Wellbeing Board (HWB) is recognised in relation to the unique role each fulfils. Membership of one will exclude membership of the other.

5.2 The HOSC shall seek to add value to the work of the HWB while maintaining a distinct identity as a ‘critical friend’. The HOSC has a role in contributing to the development of the Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy (JHWS). It may also provide, where appropriate and upon request, a third party perspective on perceived conflicts between the JHWS and health commissioning plans.

5.3 The HWB may request (but not require) that the HOSC undertakes specific reviews and makes recommendations.

6. Substantial Variations of Service

6.1 Proposed changes to local health services shall be communicated on a regular basis to the HOSC by health service commissioners and providers. The HOSC shall advise where it considers a change to be substantial and it wishes to consider a proposal in more detail.

6.2 The HOSC shall advise where, in cases when the relevant health service body has not requested the opportunity to bring a specific proposal to the HOSC, it considers a change to be substantial and it wishes to consider a proposal in more detail.

6.3 Where a decision has been taken without allowing time for consultation because of a risk to safety or welfare of patients and staff, the HOSC shall be informed as soon as is practicable.

6.4 Where the HOSC deems a given proposed service change as being not substantial, this shall not prevent the HOSC from reviewing the proposed change at its discretion and making reports and recommendations to the relevant health commissioner or provider.

6.5 Where a proposed service change is being considered by a Joint HOSC or where there has been delegation of the scrutiny function for the specific issue to another committee or body, it shall be only this Committee or body which shall consider the decision and not the HOSC.

6.6 Where the HOSC determines a proposed change of service to be substantial, a timetable for consideration of the change shall be agreed between the HOSC and relevant organisation(s). Changes to the timetable will be possible by mutual agreement. The timetable shall include the proposed date that the relevant organisation(s) intends to make a decision as to whether to proceed with the proposal and the date by which the HOSC will provide any comments on the proposal.

6.7 Where the HOSC makes a recommendation on a proposal for a substantial variation of service with which the relevant organisation(s) does not agree, the HOSC shall be notified and such steps as are reasonably practicable taken by all parties to try and reach agreement.

6.8 The HOSC's consideration of any substantial variation of service will include the whole context of the local health economy, e.g. whether it delivers lasting clinical change, is sustainable, and whether it meets the Secretary of State's four tests of service reconfiguration:

a) that they have support of general practitioner commissioners;
b) arrangements for public and patient engagement, including local authorities, are strong;
c) there is clarity about the clinical evidence base underpinning any proposals; and
d) the proposals take into account the need to develop and support patient choice.

6.9 A substantial variation of service may only be referred to the Secretary of State for Health where one of the following applies:

a) the consultation with the HOSC on the proposal is deemed to have been inadequate in relation to content or time allowed;
b) the reasons given for not consulting with the HOSC on a proposal are inadequate;
c) the proposal is not considered to be in the interests of the health services of the area.

6.10 The proposer of the substantial variation of service shall be informed of the date on which the HOSC intends to make a determination on referring an issue to the Secretary of State for Health. Full Council will be kept informed of the HOSC's intention to determine whether to refer an issue to the Secretary of State for Health. Where practicable, full Council will be given the opportunity to comment on the HOSC's intention to refer and the HOSC shall consider these comments before making a final determination.

6.11 Any report of a referral to the Secretary of State shall be accompanied by full evidence of the case for referral. It will also include evidence that all other options for resolution have been explored.

Part 8.1 – Scheme of delegations from Council to officers

Introduction

This scheme has been adopted by Canterbury City Council and is the list of delegations to officers under Section 101 of the Local Government Act 1972 (as amended) and all other powers enabling delegations to officers. It is adopted with the intention of giving a clear, transparent and accountable decision-making process.

References to powers of "the Council" include those exercisable by the executive.

1. Officers may only exercise the delegated powers in this scheme in accordance, where applicable, with The Openness of Local Government Bodies Regulations 2014, or as may be amended, and in accordance with:

    a. statutory or other legal requirements, including the principles of public law, the Human Rights Act 1998 (as amended), statutory guidance and statutory codes of practice;

    b. the Constitution of the Council, including standing orders, contract standing orders and financial regulations and having particular regard to the protocol on accountable decision making;

    c. the revenue and capital budgets of the Council, subject to any variation thereof which is permitted by the Council's Financial Regulations;

    d. consideration of the Council's policies.

2. Officers may not exercise delegated powers where:

    a. the matter is reserved to the Council or the executive by law or by the Council's Constitution;

    b. the matter is a function which cannot by law be discharged by an officer;

    c. the Council, a committee or sub-committee has determined that the matter should be discharged otherwise than by an officer.

3. Where an officer has delegated powers, the Council or a committee (as appropriate) can still exercise that power if it considers it is appropriate to do so.

4. Officers may not exercise delegated powers in a way which is contrary to the policies and plans approved by or on behalf of the Council.

5. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation, the person with the delegated powers, if time allows, must consult someone else they reasonably consider to be an appropriate substitute consultee.

6. Any function which has been delegated to a post holder identified in this scheme does not require that person to give the matter their personal attention and they may arrange for such function to be exercised by an officer whom they judge to be of suitable experience and seniority. However, the postholder remains responsible for

any decision taken pursuant to such arrangements.

7. The delegated powers held by an officer may be exercised by the Joint Chief Executives, the relevant Director or by the line manager of that officer (or by the line manager's line manager) if:

- That post is vacant; or
- The post holder is not at work for any reason.

8. Any post holder identified in this scheme may appoint, nominate or otherwise authorise inspectors and other officers or persons to act under any legislation relevant to their part of the scheme of delegation.

9. Appointments made under (8) must be included in the list of sub-delegations. Changes to the list must be signed by an officer authorised by council to act. This will normally be the Joint Chief Executives or, where relevant, the Directors.

10. Any reference in this scheme of delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.

11. Where an officer has delegated authority to discharge functions

- by virtue of any other provision of this Constitution, or
- through a specific decision of the Council, a committee, a sub-committee, either before or after the adoption of this scheme

the absence of the delegation from this scheme shall not prevent the exercise of the delegation.

12. Decisions shall be recorded and published in accordance with the Access to Information Procedure Rules in Appendix D of this Constitution.

13. Authorisations to carry out surveillance under the Regulation of Investigatory Powers Act (RIPA) 2000 may be granted by the authorised officers designated for that purpose under the Council's RIPA Policy.

Description of delegation		Responsibility delegated from
General section **Joint Chief Executives and Directors** Where reference is made to a delegation being performed by 'a' Joint Chief Executive it will be taken in collaboration with the other Joint Chief Executive whenever practicable. Allowing either officer to take a decision avoids delay and ensures decisions can continue to be taken in the event of absence or other reasons (i.e. potential conflict of interest).		
1.	Implementation of any departmental service plans and delivery of service as defined therein.	E/C
2.	To act when required under the rota as Emergency Activation Officer or Emergency Coordinator.	E/C
3.	To manage public consultation, the approach for which should be agreed in consultation with the Head of Policy and Communications who has overall responsibility for the management and coordination of consultation on behalf of the Council. A Joint Chief Executive or Director will determine when matters will be referred to a committee for approval.	E/C
4.	To take preliminary steps to protect the rights and interests of the Council subject to consultation with the Leader in relation to any white paper, bill or statutory instrument or order in parliament.	E/C
5.	Determination of requests for the reimbursement of post-entry training and examination fees.	C
6.	Taking any step which the Council has power to take with respect to the Commissioner for Local Administration (the Local Government and Social Care Ombudsman) or the Housing Ombudsman Service. The Head of Paid Service will be the responsible officer in respect of any notices served or received. In their absence the other Joint Chief Executive will act.	C/E
	Urgent action	
7.	In relation to council responsibilities, subject to consultation with the Chair of the Scrutiny Committee and the Leader or relevant Portfolio Holder (or appropriate Chair if within the remit of a committee), a Joint Chief Executive shall have the power to act on behalf of the Council in cases of urgency only where the urgent matter is of such a nature that it may be against the Council's interest to delay and where it is not practicable to obtain the approval of the Council. The council's urgency procedures should be followed and a report submitted to the next Council meeting detailing the decision made and reasons why it was urgent.	
Financial		
8.	Save where the council has otherwise provided, where it has	E/C

Description of delegation		Responsibility delegated from
	approved within its budget a sum in respect of works for a service, project or scheme, the officers are then authorised to procure or execute works up to the value of that budget in relation to that project or scheme.	
9.	Acceptance of the most advantageous tender or, where the tender is under prescribed threshold, cheapest bid (where the evaluation criteria is price only) or tender/bid for the carrying out of works for the Council, the purchase, leasing or hiring of goods, materials and equipment by the Council, or the supply of services to the Council, provided that budget provision is available and provided the Contract Standing Orders have been complied with.	E/C
10.	Entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Procedure Rules and Contract Standing Orders relating to the execution of contracts under seal).	E/C
11.	Authority to negotiate and agree price increases where a contract provides for price increases to be negotiated and agreed by the parties, subject to Contract Standing Orders and ensuring sufficient budgetary provision exists.	E/C
12.	The assignment or novation of a contract.	E/C
13.	The approval of the appointment of or the acceptance of the tender or bid of a subcontractor or supplier for specialist work or material provided that this does not result in the budget provision for the works as a whole being exceeded.	E/C
14.	Provided that authority to let a contract has been obtained:	
14.1	Acceptance of the most advantageous or highest tender or bid for the award of concession/ sponsorship contracts.	E/C
14.2	Entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations and Contract Standing Orders relating to the execution of contracts under seal).	
15.	To bid and tender for and enter into contract documentation for the supply of works, goods or services to other bodies where provided for in the relevant service plan (subject to the provisions of Financial Regulations AND Contract Standing Orders).	
16.	Virement between heads of expenditure provided that such virement is in accordance with the conditions and financial limits for virements in Financial Regulations.	
17.	Provision of reasonable hospitality to representatives of other authorities, visiting a department or premises under a Joint Chief Executive's or Service Director's control, subject to agreement by the Joint Chief Executive for expenditure in excess of £500 and subject to any guidelines on hospitality	E

Description of delegation		Responsibility delegated from
	which may be adopted from time to time.	
18.	To negotiate and agree variations in contracts arising out of statutory requirements subject to adequate budgetary provision being available and the relevant contract and legislation permitting the same.	E/C
19.	Disposal of surplus or obsolete equipment, to the highest tenderer or where no bid is received to charity or scrap.	E/C
20.	To enter into Memorandum of Understanding or other similarly named 18 arrangements, including agreements for bids or grant applications, having previously sought legal advice.	E/C
	Human resources	
21.	To appoint all departmental staff up to and including Head of Service, subject to the Council's recruitment procedures. (This does not include the designation of statutory titles of Head of Paid Service, Chief Finance Officer and Monitoring Officer which are designated by Council).	E/C
22.	Dealing with all staffing matters which can be contained within budget.	C
23.	Appointment of apprentices and the completion and cancellation of indentures.	C
24.	To deal with redundancies and approve applications from employees for early retirement (including ill health retirements) in accordance with council policies. Decisions should follow a referral to the Council's occupational health provider as necessary, seek approvals from Council if required by legislation to do so and take into account all financial implications.	E/C
25.	Granting salary increase for any staff within their substantive grade for merit and ability subject to budget provision being available.	C
26.	Determination of requests or recommendations for honoraria, (subject to the approval of a Joint Chief Executive in the case of honoraria of more than 12 months duration or £5000 in total), gratuities and responsibility allowances.	C
27.	The determination of applications for paid and unpaid leave.	C
28.	Determination of extensions of sickness pay.	C
29.	Determination of requests for extensions of service except that of directors.	C
30.	Determination of planned overtime for eligible officers.	C
31.	Determination of claims for payment of subsistence allowances	C

Description of delegation		Responsibility delegated from
	on the basis that only claims in respect of expenditure incurred within six months of the date of the application will be met.	
32.	Determination of proposals to attend service-training courses.	C
33.	Determination of staff grievances in accordance with all relevant council policies. [1]	C
34.	Discipline, suspension and/or dismissal of employees up to head of service and below in accordance with all relevant council policies.	C
35.	Authority to assimilate staff on appointment, promotion or regrading where appropriate within the approved grade having regard to all the circumstances.	C
36.	Compliance with the provisions of the Health and Safety Policy of the council.	C/E
37.	Determination of the payment of removal expenses, lodging allowances or travelling allowances as specified in the Disturbance Allowance policy.	C
Special Severance Payments		
The thresholds stated below are based on requirements set out in the Localism Act 2011 and in statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England. Where the proposed payment is to the Head of Paid Service, to avoid a conflict of interest it is expected that the payment should be approved by a panel including at least two independent persons. As part of their duties, an authority's Chief Finance Officer, and where appropriate, the Monitoring Officer, should take a close interest in and be able to justify any special severance payments that are made by that authority and in particular any payments made that are not consistent with the content of the statutory guidance.		
38.	To authorise payments below £20,000. It is expected that local authorities should publish their policy and process for approving these payments.	
39.	Payments of £20,000 and above, but below £100,000, must be personally approved and signed off by the Head of Paid Service, with a clear record of the Leader's approval and that of any others who have signed off the payment.	
40.	Payments of £100,000 and above must be approved by a vote of full council, as set out in the Localism Act 2011.	

[1] It is presumed Heads of Service will exercise this delegation over more junior staff and any appeals will be made to the Director.

Description of delegation		Responsibility delegated from
Powers of entry/requisitions for information		
41.	To authorise officers in their departments or sections to enter land or premises in the course of their duties under any relevant statutory provisions or subordinate legislation.	C/E
42.	To serve statutory notices or orders and/or arranging for the execution of work consequent on non-compliance with such notices or orders in relation to aspects of their service.	C/E
43.	To serve requisitions for information as required in the course of their duties under any relevant statutory provisions or subordinate legislation.	C/E
Legal proceedings		
44.	Where a Joint Chief Executive or Director considers that legal proceedings are needed in connection with: (a) any breach of notice; (b) any breach of condition imposed by a licence granted under these delegated powers; (c) the effective management of the service for which they are responsible, they may, subject to consultation with the Head of Legal Services, instruct the Head of Legal Services to take those proceedings subject to reporting the outcome to the next committee meeting as appropriate.	C/E
45.	To take any action which the Council has the power to take in order to manage their service area including the power to apply for any registration licence or consent in connection with the service area.	E/C
46.	To temporarily change opening hours for premises subject always to the provisions of the Licensing Act 2003 (as amended).	E/C?
47.	Except in the case of urgency, in consultation with the Head of Legal Services to ban people from premises they manage.	E
48.	To exercise the Council's powers with regard to any lost, uncollected or abandoned property (including vehicles).	E
Local Government Reorganisation		
The following powers may be exercised only by the Joint Chief Executives		
49.	To take such steps, and to provide such information, responses, submissions, assurances and supporting material to any Government department, Minister, or other public authority as the Joint Chief Executives consider necessary or expedient in connection with Local Government Reorganisation, subject to consultation with the Leader.	

Description of delegation		Responsibility delegated from
50.	To authorise the extension of contracts and partnership agreements beyond vesting day of the creation of the new unitary authority, where necessary and in compliance with procurement rules and the council's contract standing orders.	
Powers of the Council delegated to officers		
A. Powers within A1 (including sub-points) are reserved for the Head of Paid Service. **Powers A2 – A35 are delegated to the Joint Chief Executives unless otherwise specified and may be sub-delegated at the discretion of a Joint Chief Executive, unless otherwise stated.**		
A1.	Council will appoint a Joint Chief Executive to carry out the duties of the Head of Paid Service in accordance with Section 4 of the Local Government & Housing Act 1989 (as amended), the Local Government Act 2000 and the council's Constitution.	C
A1.1	In circumstances where the Joint Chief Executives cannot agree on a decision, the Head of Paid Service is empowered to make any officer-delegated decision required for legal or regulatory purposes within a specific timescale.	
A2.	To discharge any function of the Council which has not been specifically delegated to another officer.	E/C
A3.	To publish and maintain the Council's Constitution with authority to correct minor textual and typographical errors and to make minor textual changes which may arise due to any decision the council might make on any matter or any change in legislation or development in case law.	
Human resources		
A4.	To work out appropriate managerial and operational consequences and to refine as necessary the structure of the council in order to deliver the aims, objectives and changing priorities of the council.	C/E
A5.	To appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal) under Section 112 of the Local Government Act 1972.	C/E
A6.	To be the proper officer responsible for the list of politically restricted posts.	C
A7.	To maintain the list of senior nominated officers in connection with establishment arrangements for the protection of children.	C
A8.	To approve, on the advice of the appropriate Service Director, the payment of honoraria in accordance with the provisions of the national and local conditions of service in cases where additional duties and responsibilities are undertaken for more than 12 months or the total payment amounts to more than £5000.	E

Description of delegation		Responsibility delegated from
A9.	Determination of car allowances to officers subject to compliance with the provisions agreed by the Council.	C
General		
A10.	To have overall responsibility for emergencies and disasters and the carrying out of civil defence functions, such powers can be sub-delegated to directors.	E
A11.	To deal with issues relating to the Commission for Local Administration (the Local Government and Social Care Ombudsman) and the Housing Ombudsman Service provided that:	C/E
A11.1	Complaints involving councillors (other than under the Code of Conduct) shall be notified to the councillor concerned and their party leader.	
A11.2	Investigations of complaints involving a Joint Chief Executive shall be undertaken by a Director or the Monitoring Officer, as nominated by the Leader.	
A12.	To determine arrangements for civic hospitality.	E
A13.	The declaration of vacancies of any seats of the council.	
Powers delegated to a Joint Chief Executive		
Electoral Services Electoral Services delegations are subject to appointments made by the General Purposes Committee to the roles of Electoral Registration Officer and Returning Officer and the proper officer provisions set out in Part 8.2 of the constitution.		
A14.	To be and carry out the duties of electoral registration officer.	C
A15.	To be and carry out the duties of returning officer for the election of councillors.	C
A16.	To discharge the functions of the Council relating to parliamentary and local government elections and referendums.	C
A17.	To make minor amendments to polling district boundaries, following consultation with ward councillors.	C
A18.	To make an order under Section 91 of the Local Government Act 1972 (as amended) to appoint temporary councillors to parish councils in those cases where the Council cannot act in the time available. (This delegation is exercisable by the returning officer after consultation with the executive and relevant ward councillors).	C

Description of delegation		Responsibility delegated from
General		
A19.	To determine councillor attendance at conferences subject to consultation with the group leaders.	E
A20.	To appoint members of the East Kent Joint Independent Remuneration Panel.	C
A21.	To appoint an officer to the role of Senior Information Risk Owner (SIRO).	C/E
A22.	(a) To appoint representatives to outside bodies or multi-agency partnerships where a vacancy arises, in consultation with the Leader. (b) To appoint representatives to outside bodies or multi-agency partnerships where there is consensus between the group leaders on the nominee/s. Notification will be given of new appointments at the next ordinary meeting of Council. (c) To appoint directors to council owned companies (d) To appoint representatives to a Charity or Corporate Trust, where the council is sole trustee.	C/E
A23.	To disapply any part of the Council's recruitment policy or employment procedures where this is in the interests of the Council and after considering the possible legal implications of so doing.	C
A24.	To provide professional day-to-day advice as necessary to the authorities and when required act as liaison with the Health and Safety Executive. The Head of Paid Service will be the responsible officer in respect of any notices served or received. In their absence the other Joint Chief Executive will act.	C
A25.	To maintain records of notices of Disclosable Pecuniary Interests and Other Registerable Interests given by any councillor or officer of the Council and maintenance of registers of councillors interests and declarations under the Localism Act 2011 and any regulations made thereunder.	C
A26.	The provision of information to the public and to councillors about the Council's decision-making process and individual decisions.	C
A27.	Power to enter into local agreements with trade unions where the implementation is not expected to have the effect of increasing expenditure.	C
A28.	To have responsibility for the Council's Safeguarding Policy and Procedures in order to fulfil the Council's statutory responsibilities for adults and children.	

Description of delegation		Responsibility delegated from
Communications and consultation		
A29.	To manage and co-ordinate the contents of the Council's corporate website (**www.canterbury.gov.uk**)	E
A30.	To manage the Council's newsroom, social media, press and media relations, press conferences, publicity and public relations including approval of the issue of all official publicity and official publications.	E
A31.	To manage marketing, campaigns, sponsorship arrangements and advertising within Council services, publications and the Council's corporate website.	E
A32.	To manage consultation and stakeholder engagement across the Council and advise directors and heads of service on best practice for consultation that falls within the remit of others.	C/E
Local Plan		
A33.	To administer the preparation of the local plan and any supplementary planning documents for all or part of the Council's administrative area, including undertaking consultation, organising the Local Plan Inquiry and taking the necessary procedural steps to have the plan adopted by the Council, including proposals for additional modifications to the plan.	C
A33/1.	To administer the preparation of neighbourhood plans in accordance with the Planning and Compulsory Purchase Act 2004, the Neighbourhood Planning (General) Regulations 2012 and other relevant legislation, to include the following – a. Approval and advertisement of neighbourhood plan applications where appropriate; b. Responding to consultation on any neighbourhood planning matters; c. Conducting the council's own consultation; d. Submission of plans for independent examination; e. Actions required during independent examination or in response to the examiners report; f. Organising referenda in consultation with the relevant services; and g Making recommendations for the adoption of a neighbourhood plan. h. Designating a neighbourhood area under Regulation 5A of the Neighbourhood Planning Regulations (2012) (as amended). All actions must comply with legislation and council policies. It is recommended that officer decisions are recorded and published in line with transparency standards.	C

Description of delegation	Responsibility delegated from
East Kent Spatial Development Company	
A34. The power to discharge technical, administrative and other duties in relation to the Council's capacity as a member of the East Kent Spatial Development Company and to agree any changes to the memorandum and articles of association of the company or the arrangements with it, subject to the interests of the Council not being adversely affected.	E
Environmental Credits Ltd – delivered via a Joint Venture Company – Stour Environment Credits	
A35. To exercise the Council's functions with regard to: a) the delivery of mitigation proposals and credits that can be traded with potential developers at a reasonable, non-profitmaking cost to enable development within the catchment area. b) Supporting the preparation of the company's Business Plan up to, but not including, the annual approval of the Plan.	
Canterbury City Property Company Ltd	
A36. To exercise the council functions with regard to: a) discharge of the shareholder function, through the Shareholder Agreement	
B. Powers delegated to the Director Finance and Procurement	
B1. To be the Chief Finance Officer and be responsible for the administration of the financial affairs of the council under Section 151 of the Local Government Act 1972 (as amended) and for the purposes of the Council's Constitution and to have the power to authorise an officer to perform this role in their absence. The Strategic Finance Manager will usually be the Deputy Chief Finance Officer and will act as the Chief Finance Officer in the absence of the Head of Finance and Procurement.	
B2. To exercise the duties of the Chief Finance Officer under Section 114 of the Local Government Finance Act 1988.	
B3. To exercise the responsibilities assigned to the Chief Finance Officer in the Council's Financial Regulations.	
B4. To raise loans and make investments (temporary investment of surplus monies and longer-term investment of monies held for specific purposes) as and when required at appropriate rates in accordance with the Council's Treasury Management Strategy and Annual Investment Strategy and act as registrar or appoint a registrar as appropriate.	
B5. To complete and sign leasing agreements for items included	E

Description of delegation		Responsibility delegated from
	within the approved capital or revenue budgets.	
B6.	To arrange and where required procure, in accordance with the Contract Standing Orders and relevant legislation, appropriate insurance cover on behalf of the Council.	E
B7.	To settle claims for the loss or damage to clothing and/or personal belongings of staff up to a value of £500.	E
B8.	To administer the Scheme for Members Allowances and allowances payable to the Lord Mayor and the Sheriff and Vice-Chair; to amend the councillors' allowances on 1 April each year by the index linking measurement included in the councillors' allowances scheme;	C
B9.	To provide financial services either on an agency basis or where required by statute for other authorities or bodies.	C/E
B10.	To determine and declare local average interest rates in accordance with legislation and the interest rate for loans to Housing Associations.	E
B11.	To authorise persons to act for the Council at company and creditors meetings.	C/E
B12.	To assess service charges in respect of dwellings which have been leased on long leases and where the Council retains the freehold interest.	E
B13.	To pay salaries and wages and implement agreed pay awards.	E
B14.	To administer staff benefits and expenses and to review rates annually in accordance with the budget inflation allowances.	E
B15.	To meet the requirements of the Accounts and Audit Regulations as may apply from time to time.	C
B16.	To undertake functions relating to local government pensions.	C
B17.	To exercise the functions of the authority in relation to pension discretions.	
B18.	Together with the Head of Legal Services, to administer any secured loans, mortgages or advances made by the Council.	E
B19.	To have all powers in making any estimates and calculations required in proposing the Council Tax base to Full Council.	C
B20.	To authorise the implementation of the decisions of negotiating bodies relating to pay and other conditions of service, except where the Council has discretion about how to implement the decision.	E
B21.	To approve an extension of time in exceptional circumstances (for example where the officer is prevented from acting immediately upon the advice due to absence or injury) so that	E

Description of delegation	Responsibility delegated from
late conversions of accumulated AVCs to pension benefits be permitted by extending the period during which such elections can be made from 30 days from the relevant date, to 30 days of being advised of the value of the converted scheme membership.	
B22. Power to enter into agreements with workers for the purposes of regulating working time.	C
B23. To extend any aspect of the Disturbance allowance scheme in exceptional circumstances or where an officer through no fault of their own experiences considerable difficulties or hardship.	C/E
B24. To be authorised to determine the most appropriate source of funding for the capital programme each year in order to minimise borrowing costs.	E
B25. To administer matters relating to sold council housing including ● mortgage administration ● consents under conveyancing and leasing provisions.	E
B26. To agree all Social and Affordable Rents for HRA properties that have to be calculated or changed during the financial year outside the annual budget-setting timetable in accordance with the HRA Rent Setting Policy.	
Revenues, Benefits and Customer Services - via the Local Authority Trading Company – Partnership One	
B27. To exercise the Council's functions with regard to:- a) the delivery of benefits claims processing and accuracy b) council tax collection c) business rates collection d) front facing customer services e) Collection of alternative levies, including the BID levy	
Waste Collection Services - via the Local Authority Trading Company - Canenco	
B28. To exercise the Council's functions with regard to: (a) fixing and levying reasonable charges for the collection and disposal of waste other than household waste (b) fixing and levying reasonable charges for bins and sacks (c) the collection of household or commercial waste including the Council's powers to serve any statutory	

Description of delegation	Responsibility delegated from
notices on any particular person or classes of persons and the granting of consents to clean wheeled bins (d) the collection of household or commercial waste including the Council's powers to serve any statutory notices on any particular person or classes of persons and the granting of consents which the council has the power to grant (e) the enforcement of the duty of care with respect to waste (f) the collection of non-hazardous waste (g) the collection of hazardous waste (h) recycling (g) specialised cleaning services (h) business support services activities	
C. Powers delegated to the Director of People	
Delegation C2 is also delegated to the Director of Place	
C1. To appoint inspectors and authorised officers under any legislation.	
*C2. To deal with the Community Right to Bid and Assets of Community Value pursuant to the Localism Act 2011, which powers include: (i) consider nominations to register land and buildings taking into account the definition of Community Value set out in any guidance and to make a determination accordingly; (ii) notifying all interested parties of the determination; (iii) maintain the Community Asset Register and the unsuccessful Community Nomination Register in liaison with officers maintaining the local land charges register.	C/E
C3. To close noisy premises where a public nuisance is being caused by noise coming from the premises and the closure of the premises is necessary to prevent the nuisance under Section 40 of the Anti-Social Behaviour Act 2003 (the Director of People & Place has authorised the Director of People, Head of Planning & Health and Head of Housing and Community to exercise this function).	C
~~C4. To designate a neighbourhood area under Regulation 5A of the Neighbourhood Planning Regulations (2012) (as amended).~~ Removed 30/04/2026	~~C~~

Description of delegation		Responsibility delegated from
Anti-social Behaviour		
C5.	To authorise relevant officers to exercise all functions of the Council under and in connection with the Anti-social Behaviour, Crime and Policing Act 2014, including any orders or regulations made there under but excluding making public spaces protection orders;	C/E
C6.	To authorise the Director of People or other officers to take injunction proceedings in respect of anti-social behaviour under section 2(1)(b) or (c) of the Anti-social Behaviour, Crime and Policing Act 2014; and	E/C
As to orders:		
C7.	To make, under Section 13 of the Public Order Act 1996 (as amended by the Serious Organised Crime and Police Act 2005), on the application of the Chief Officer of Police, an order (with the consent of the Secretary of State) to prohibit the holding of public processions in all or any part of the Canterbury district for a period not exceeding three months.	E
C8.	To make orders for road closures under Section 21 of the Town Police Clauses Act 1847 (as amended), subject in each case to no contrary observations being received from any Director or Director, or the Police.	E
C9.	To undertake the necessary procedures to make any minor amendments to the Off Street Parking Places Order which become necessary throughout each year with any objections received being reported to the executive for consideration.	E
C10.	To manage the cleaning of streets and open spaces, including the control of littering and dog fouling.	E
C11.	To extend, vary or discharge Public Spaces Protection Orders (PSPOs) in consultation with the Cabinet member. Where there was a public consultation on any extension, variation or discharge of PSPOs, where a councillor makes a sustained objection it will be referred to Cabinet for a decision.	E
Enforcement relating to trees and hedges		
C12.	To exercise the Council's powers with respect to part 8 of the Anti-Social Behaviour Act 2003 with respect to high hedges.	C
C13.	To exercise the Council's powers in relation to dangerous trees under Section 23 of the Local Government (Miscellaneous Provisions) Act 1976.	E
Community Safety		
C14.	To manage, operate and develop the following:	E

Description of delegation	Responsibility delegated from
C14.1 the Council's CCTV service	E
C14.2 the city centre bollards	E
C14.3 the Lifeline Service	E
C15. To enforce parking controls relating to both on and off street parking within the Council's administrative area. Note: the Council has entered into arrangements with the chief officer of police pursuant to Section 41 of the police Reform Act 2002 for or with respect to the carrying out of Community Safety functions by such of the Council's officers as he is satisfied is a suitable person to exercise such of the powers set out in Schedule 5 of the Police Reform Act 2002 as he may think fit.	E
C16. To develop and support opportunities for socially excluded individuals, groups and communities.	E
Council community centres	
C17. To oversee, and where appropriate manage, the City Council neighbourhood centres.	E
Housing Functions	
C18. To review decisions made with respect to a person presenting to the Council as homeless.	C
C19. To review decisions made with respect to the housing register.	C
C20. To determine all applications for persons presenting themselves to the Council as homeless and to determine how any duty which the Council may have to such persons is performed.	E
C21. To deal with all questions about referrals of homeless persons by and to other authorities including taking all steps under the council's appeal procedure (whether statutory or non-statutory).	E
C22. To allocate accommodation in accordance with the council's statutory housing allocation scheme and policies about transfers.	E
C23. To enter into leases of properties from private owners under the council's private sector leasing scheme and the Council's social letting agency, and also provide letting agency services to private landlords at relevant fee level.	E
C24. To exercise any of the Council's powers in connection with improving the standard of private sector housing including individual dwellings and housing in multiple occupation.	E
C25. The administration of financial assistance applications and the management of grants or loans for the improvement and maintenance of housing, including but not limited to grants received from government departments, The Housing	E

Description of delegation		Responsibility delegated from
	Corporation and other public and private agencies. This delegation will be administered in consultation with other departments where appropriate.	
C26.	The administration of grant applications and the management of grants for the provision of facilities for disabled people and those with special needs.	E
C27.	Subject to the Council's Contract Standing Orders and relevant legislation, entering into agreements with third parties for the supply of goods and services in connection with grant and financial assistance schemes (bearing in mind the sealing requirement in some cases).	E
C28.	The promotion of group repair and area renewal schemes.	E
C29.	Entering into nomination agreements ancillary to grants to landlords.	E
C30.	Serving notices and taking action in respect of Category 1 and Category 2 hazards in housing accommodation including emergency remedial action.	E
C31.	Securing the improvement, repair, maintenance, demolition, closure and sanitary conditions of dwellings.	E
C32.	Taking action in respect of overcrowding of housing accommodation.	E
C33.	Taking action in respect of houses in multiple occupation including: ● administration of licensing and accreditation schemes ● refusing a licence where the proposed licence holder or manager is not a fit and proper person or where the proposed management arrangements are unsatisfactory. ● granting a licence subject to such conditions as are appropriate in the circumstances of each case ● revoking a licence where the licence holder is no longer a fit and proper person or when he has committee repeated breaches of licence conditions ● seeking rent repayment orders in respect of unlicensed HMOs ● making and managing interim and final management orders	C
C34.	Arranging for the restoration or continuation of supply of water, gas or electricity.	E
C35.	Carrying out any works the Council has power to carry out in connection with any of these delegations (including works in default) and to take any steps to recover the money spent on carrying out works in default (including placing a charge on land).	E
C36.	Taking action relating to housing conditions, which:	E

Description of delegation	Responsibility delegated from
● concern the condition of any drain or private sewer. ● mean that the Council may ensure that any building has adequate or improved drainage and/or sanitary conveniences ● concern the condition of any cesspool ● concern the use and ventilation of soil pipes ● concern remedial work including the service of notices in relation to rainwater pipes, soil pipes and ventilating shafts and the apportionment and recovery of costs ● concern the alteration of a drainage system of premises ● concern the drainage and paving to yards and passages ● involve the Council loaning temporary sanitary conveniences where necessary.	
C37. To exercise the Council's powers to take action concerning any matter relating to dwellings which is, may or has been prejudicial to health or a nuisance (but not noise nuisance).	C
C37/1 To adopt, amend and rescind policies and procedures relating to health and safety and regulatory compliance of our housing stock and other property assets.	
C38. To exercise the Council's powers to take action concerning any matter relating to vacant premises including Empty Dwelling Management Orders.	E
C39. To exercise the Council's powers to take action concerning any matter relating to ruinous and dilapidated sites.	E
C40. To issue (but not refuse) caravan site licences under the Caravan Sites and Control of Development Act 1960 (as amended), imposing standard conditions as appropriate. To take such steps as may be appropriate to remove unauthorised campers from land.	C
C41. To issue licences for moveable dwellings and camping sites under Section 69 of the Public Health Act 1936 (as amended).	C
C42. To exercise the functions of the Council pursuant to the Crime and Disorder Act 1998 (as amended) in consultation with the Head of Legal Services.	E
C43. To exercise the powers and functions of the Council as local housing authority including the management and letting of all dwellings, buildings and land held or subsequently acquired/or appropriated for housing purposes.	
C44. To grant a new secure or flexible tenancy to a dwelling when there is no legal right of succession to a tenancy following the death of the tenant: For the same property, if: - The occupier has lived with the tenant for the previous 12 months: and	

Description of delegation	Responsibility delegated from
- Would have been a qualified successor if the previous succession had not happened: but - Only if the property is the right size for their household. For another property of a suitable size when the original property is not the right size for the household after taking into account: - Whether any housing duty is owed under homelessness law; and - The qualifying criteria for joining the Council's Housing Allocation Scheme. - To make this decision at their discretion if no housing duties are owed.	
C45. To exercise the Council's powers in connection with the administration of the Council's Housing Allocations Policy including: 1. To make minor amendments to the policy from time to time, to update income and savings limits and reflect changes in legislation or government guidance and, 2. The administration of the housing register (including the decision as to whether or not any particular person qualifies for admission to the register and whether or not any particular person should be removed from the register). 3. Developing and implementing local lettings policies in line with the allocation policy.	
C46. To approve the acceptance of nomination of an applicant into a supported housing project.	E
C47. Tenancy management of identified groups in need of housing set out in government guidelines. This may include, but not be limited to, ex-offenders and persons categorised as homeless.	E
C48. To administer any statutory right for tenants to purchase Council dwellings including: ● exercising all the Council's powers and discretions and performing all their duties under the law. ● the sales of individual council houses held under secure tenancies	E
C49. To serve notice of intention to seek possession on introductory tenants under the Housing Act 1996 (as amended) and to instruct the Head of Legal Services to commence proceedings for possession subject to the tenant's rights of review.	E
C50. To serve notice to end a demoted tenancy under the Housing Act 1988 and the Anti-Social Behaviour Act 2003 and to instruct the Head of Legal Services to commence proceedings to end such tenancies.	E

Description of delegation		Responsibility delegated from
C51.	To serve Notices of Seeking Possession under the Housing Act 1985 (as amended) and to instruct the Head of Legal Services to commence proceedings for recovery of possession.	E
C52.	To publish and keep up-to-date the information about tenancies and to supply each secure tenant with a copy of such information.	E
C53.	To receive statutory claims for home loss payments and to determine if any amount is repayable and to make such payments.	E
C54.	To take any step which the Council has power to take to recover rent or licence fees including distraint, legal proceedings and enforcement of judgements in rent arrears cases in respect of dwelling houses let under secure, non-secure tenancies/or licences.	E
C55.	To administer the Council's 'Assisted Moves' Scheme, and any Cash Incentive Scheme in conjunction with the Head of Legal Services and the Chief Finance Officer.	E
C56.	To grant new tenancies to people who are existing tenants but only if: • At least one person will be a tenant of that property both before and after the new tenancy is granted; and • The new tenancy is granted because of a change in the family circumstances of the tenant (i.e. they have a new partner or relationship breakdown); and • The same result cannot be achieved by a deed of assignment; and • The property is the right size and type for the household, and • Any adaptations made to the property are required by them, and • Granting the new tenancy is otherwise in accordance with housing policies.	E
C57.	To grant tenancies of dwellings, in accordance with allocation decisions made by Housing Solutions and the Tenancy Policy.	E
C58.	To manage the Council's temporary accommodation provision for homeless households including granting and termination of tenancies and licences and evicting occupiers.	E
C59.	To let and manage council garages including the authority to determine any question, serve any notice and instruct on the completion of repairs and maintenance as required	E
C60.	To administer tenant engagement in accordance with guidance published by the Housing Regulator, working with any other bodies as required.	E
C61.	To carry out the Council's functions and powers as freeholder of blocks of flats containing dwellings subject to long leases.	E

Description of delegation		Responsibility delegated from
C62.	To carry out any of the Council's other functions relating to the management of dwellings let under secure, non-secure or introductory tenancies (or tenancies which have become non-secure for reasons outside the council's control) forming part of the council's ordinary housing stock. This includes authority to determine any question, serve any notice (including section 20 notices for works) and carry out any repair.	E
C63.	In consultation with the Chief Finance Officer, to determine the right to buy receipts to be retained for investment in affordable housing pursuant to an agreement with the relevant government department.	E
C64.	To authorise the buyback of former council properties where the value of each property does not exceed £500,000 and is available within the HRA working balance, subject to the Chief Finance Officer being satisfied as to the reasonableness of the purchase price.	
C65.	To authorise the purchase of housing that will be of benefit to the council's retained housing stock where the value of each property does not exceed £500,000 and is available within the HRA working balance, subject to the Chief Finance Officer being satisfied as to the reasonableness of the purchase price.	.
C66.	To authorise the disposal of small parcels of Housing Revenue Account land where the value does not exceed £100,000, subject to the Chief Finance Officer being satisfied that the duty under section 123 of the Local Government Act 1972 to obtain the best value has been met. All disposals will be made in accordance with the Council's Land Disposal Policy.	
C67.	To enter premises and to exercise all the Council's statutory powers and duties in relation to private rented sector regulation and enforcement under the Housing Act 1988, the Renters' Rights Act 2025, and any regulations or subordinate legislation made under those Acts.	
Acquisition, management and funding temporary accommodation		
C68.	To carry out the following i) In consultation with the Chief Finance Officer, to instruct the purchase of properties through the General Fund for use as temporary accommodation, subject to the Director of Place being satisfied as to the reasonableness of the purchase price and the availability of the capital budget. ii) To enter into contracts and issue repair instructions to maintain the housing standards within the accommodation purchased through the General Fund. [sub-delegated to the Head of Housing & Community or the Private Sector Housing Manager] iii) To manage the General Fund-owned temporary accommodation units for the homeless, including	

Description of delegation	Responsibility delegated from
granting and termination of tenancies and licences and evicting occupiers. [sub-delegated to Head of Housing & Community or the Community Services Manager] iv) In consultation with the Chief Finance Officer, to set the occupation charges for temporary housings purchased by the general fund.	
Powers delegated to the Director of Place	
Food and health and safety	
D1. (a) To exercise the Council's powers: (i) with respect to securing the safety of food and the condition of food premises including but not limited to powers of approval registration and enforcement; (ii) as enforcing authority of all legislation relating to health and safety at work; (iii) with respect to the control of infectious and notifiable diseases; (iv) with respect to Sunday Trading; (v) with regard to the enforcement of the relevant sections of the Health Act 2006; (b) To register persons and premises for acupuncture, tattooing and skin piercing and electrolysis under Section 13-17 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended). (c) To appoint authorised persons under the Sunbeds (Regulation) Act 2010, to authorise any prosecutions necessary under that Act and to administer the relevant provisions of the legislation.	C/E C C
Environmental protection	
D2. To exercise the Council's functions with respect to: (a) Statutory nuisance legislation, including taking remedial action, apportionment and recovery of costs; (b) To issue Closure Notices under section 76 of the Anti-social Behaviour, Crime and Policing Act 2014, and to exercise all other functions under sections 76 to 93 of that Act.; (c) Defective and blocked drains and sewers, drainage systems and the provision of sanitary accommodation and drainage; (d) Filthy and verminous premises, articles or persons; (e) Public health;	C

Description of delegation	Responsibility delegated from
(f) Water supplies; (g) Clean air and air quality, including (but not limited to) functions, duties and powers arising under the Environment Act 1995, The Air Quality Directive 2008, the Air Quality Standards Regulations 2010 and policies, plans and guidance issued in relation thereto including anti-idling and vehicle emissions legislation; (h) Pollution control; (i) Contaminated land; (j) Pest control; (k) Registration (including the setting of registration fees) of scrap metal dealers and other processes with environmental consequences as specified by law.	
Foreshore	
D3. (a) To manage the Council's beach hut sites agreeing tenancy agreements to occupiers save for the beach huts at Whitstable Harbour. (b) To manage the coastal byelaws "Seaside Pleasure Boats" and "Public Bathing" in relation to coastal and water safety and water quality. (c) To work with partners including Thanet District Council, the Maritime and Coastguard Agency (MCA), Kent Police and the Kent Fire and Rescue Service to help ensure the safety of water users.	E
Coastal Protection	
D4. To exercise the Council's functions with respect to watercourses, land drainage and coastal defences, including the power to serve statutory notices about obstructed watercourses.	E
Community Support	
D5. To develop and support individuals and voluntary community sector organisations to enable them to support the delivery of services where appropriate.	C/E
D6. To approve and administer grants and other financial support as outlined in the Commissioning and External Support Policy to not for profit organisations. Strategic Grant decisions will be approved by the Cabinet.	E
D7. To administer the decisions from the Cabinet in relation to grants and payments for Parish Council Capital Grants and Concurrent Functions funding.	E
Rent Concessions	

Description of delegation	Responsibility delegated from
D8. To authorise rent concession applications.	
Events and cultural, sporting and play activities	
D9. To deliver district-wide events service including administering community and commercial activities on public open spaces and council owned land.	E
D10. To administer any associated fees and charges associated with running events and approve appropriate concessions as set out in the corporate events policy.	E
D11. To encourage, provide, promote and develop cultural, sporting and play activities for the benefit of the community.	E
D12. To provide catering at any facility or event managed by this service and set fees and charges based upon commercial considerations	E
D13. To grant licences of occupation for the use of the council's parks, gardens and open spaces, including, but not limited to, the Longmarket, St George's Street and pedestrianised areas, Clocktower and the Buttermarket for cultural activities.	E
D14. To permit, subject to conditions if necessary, excavations by a properly accredited archaeological organisation on sites owned by the Council, subject to the Canterbury Archaeological Trust indemnifying the council against any claims which may arise as a result of the exercise of such permission.	E
Museums	
D14a. To exercise the council's powers with respect to the provision, maintenance and development of the council's museums and galleries and their associated collections and exhibition programmes.	
D14b. To authorise the acquisition and disposal of items from the museums and galleries collection which do not align in line with the Collections Development Policy approved by the Community Committee (minute 64, 2017).	
D14c. Limitation - this delegation shall not allow the relevant service director to dispose of any part of the collections nor place them on permanent loan without approval from the council as the museum's governing body.	
D14d. To allow the museums and galleries to be used for educational or cultural events or entertainment (whether in return for payment or not) and, when a charge is to be made, to set that charge.	
Parks, gardens and open spaces	
D15. To develop policies and strategies together with planned improvements for the council's parks, gardens, play areas and	

Description of delegation		Responsibility delegated from
	open spaces used for leisure purposes.	
D16.	To manage parks, gardens and open spaces including the Council's allotments sites but not including the fixing of rents.	E
Hackney Carriage and Private Hire licences		
D17.	To exercise every function and power, including fee setting, relating to hackney carriages and private hire vehicles, their drivers and private hire operators. In respect of vehicles, this delegation shall include the granting, but not refusal, of applications to license a private hire vehicle where more than five years have passed since the first registration of the vehicle with the Driver and Vehicle Licensing Authority (DVLA).	C
D18.	To refuse applications for: 1. A hackney carriage or private hire vehicle licence; 2. The transfer of a hackney carriage or private hire vehicle licence unless the vehicle fails to meet the Council's required standards; 3. A hackney carriage or private hire driver's licence; 4. A private hire operator's licence. [This power is to be exercised, save in the case of urgency, in consultation with the Chair of the Licensing Committee]	C
D19.	To suspend or revoke: 1. A hackney carriage or private hire vehicle licence; 2. A hackney carriage or private hire driver's licence; 3. A private hire operator's licence. [This power is to be exercised, save in the case of urgency, in consultation with the Chair of the Licensing Committee.]	C
Licensing[2]		
D20.	(a) To exercise all the Council's functions with regard to: ● the classifying of unclassified films (in consultation with the Head of Legal Services); ● hypnotists; ● street collections and house-to-house collections; ● societies' lotteries under the Lotteries and Amusements Act 1976 (as amended). (b) To exercise all the Council's functions with regard to the Licensing Act 2003 (as amended) and any regulations made under that Act in accordance with the table as set out in the Council's licensing policy and section 182 of the Act.	C

[2] Delegations relating to functions contained within the Licensing Policy will be approved annually by the Licensing Committee

Description of delegation	Responsibility delegated from
(c) To exercise those of the Council's functions with regard to the Gambling Act 2005 (as amended) and any regulations made under that Act in accordance with the table as set out in the Council's Gambling Policy, to include the imposition or variation of any condition imposed on any licence where that is legally permissible, save that in the case of an application for licence which is subject to representation or objection, or where he is minded to refuse an application, then the application will be referred to the Licensing Committee or its sub-committees as necessary for decision.	
D21. To exercise all the Council's functions in relation to pavement licences under sections 1 to 10 of the Business and Planning Act 2020. (These powers can be sub-delegated for the determination of pavement license applications to the Head of Planning and Health or such other officers as appropriate, save for those that receive 20 or more objections which will be determined by the Director of People and Place in consultation with the Chair of the Licensing Committee). [Delegated by the Covid Emergency Committee on 6 August 2020]	C
Animal welfare	
D22. To exercise all the Council's functions with regard to the welfare of animals including: ● Animal boarding ● Riding Establishments ● Zoos ● Dog breeding and welfare ● Animal trainers and exhibitors ● Dangerous wild animals ● Pet shops	C
Pleasure boats	
D23. To grant, renew, suspend or revoke but not refuse pleasure boat and pleasure operator and boatman's licences as defined under the Public Health (Amendments) Act 1907.	C
D24. To set fees for the issue of pleasure boat and pleasure boatman's licences and for the inspection of the boats and associated safety equipment.	C
Street trading and markets	
D25. To discharge the functions of the Council in connection with the management and administration of street trading, including fee setting.	C

Description of delegation			Responsibility delegated from
D26.	a)	To discharge all the functions of the council as a market authority and as a local authority under Part III of the Food Act 1984, both: i) the express functions including (but not limited to) the powers to establish and acquire markets, and provide marketplaces under section 50, to appoint days and hours under section 52, and to determine and demand charges under section 53, and ii) the implied and consequential functions necessary and convenient to operate a market (including but not limited to): 1. the setting of terms and conditions for market traders 2. amending any regulations 3. allocating, letting or revoking pitches 4. minor variations in type of business, and 5. all functions concerning licensing of traders within the markets.	E
	b)	To adopt and amend policies: i. for the operation of the markets established by the council, and ii. for the licensing of other markets.	
	c)	To discharge all functions of the council necessary for the operation and management of the licensing of other markets.	
Transportation, Highways and Parking			
D27.		To exercise any highway function which the Council has power to carry out under any agreement with the Kent County Council (as varied from time to time).	E
D28.		To exercise the Council's powers to provide and maintain bus shelters and cycleways.	E
D29.		To exercise the Council's powers with respect to the maintenance of highways and footways including street nameplates, boundary signs and bollards.	E
D30.		To exercise the Council's powers to provide and maintain footway lighting systems.	E
D31.		To exercise the powers and duties of the Council under Sections 17, 18 and 19 of the Public Health Act 1925 (street naming)	E
D32.		To manage both on and off street parking within the Council's administrative area including: a. Making recommendations to Kent County Council regarding applications for on street disabled parking bays, in consultation with such City and/or County	E

Description of delegation	Responsibility delegated from
Council members as they feel appropriate in the circumstances. b. To undertake the initial consultation and recommend changes for the Annual Parking Review (on street proposals) and provide a list of the proposed changes to members of the relevant district wards and county divisions, who have a period of two weeks in which to make objections. To carry out statutory consultation on those proposals. c. To undertake statutory consultation on proposals to change the off street parking order and to make a new order on an annual basis. d. Agreeing the use of car parks for non-commercial uses (excepting for the Gorrell Tank Car Park when the Portfolio Holder Regeneration Committee should be consulted). e. Agreeing concessions in respect of 'on and off street parking'. f. Suspending temporarily on or off street parking bays. g. Granting, administering, suspending or revoking Trades Person Waivers issued under the appropriate Traffic Regulation Order and Council's terms and conditions. Waivers are issued to allow a person to park for specified business purposes (such as loading/unloading) in a road that has traffic restrictions.	
D33. That all the functions of the Council under Part VIIA of the Highways Act 1980 (and any implied or consequential functions relating to the said Part VIIA) to be exercised by the Service Director Place.	
Management of land and property **General limitations**	
In all matters relating to the disposal of land and property these delegated powers are subject to the duty under section 123 of the Local Government Act 1972 to obtain the best consideration for land as can reasonably be obtained (the section 123 duty) and any other disposal will require specific authority from the Cabinet. In all such matters the provisions of the Land Disposal Policy must be followed unless strict compliance is expressly waived by the relevant committee. However, for properties within the commercial portfolio, the requirement under the Property Disposal Procedure to consult local ward councillors on disposals is removed. Ward councillors would be consulted before any existing council assets are transferred into the commercial portfolio. Where s123 does not apply there is a presumption that the principles of	

Description of delegation		Responsibility delegated from
best value will be adhered to unless in the case of leases where a rent concession has been approved in accordance with the Council's procedures.		
D33.	To manage any land, property or accommodation held or used by the Council in the best interest of the Council and to take any step which the Council is entitled to take as the person with an interest in any land in consultation with the Head of Legal Services and the head of service within whose remit the land, property or accommodation is held or used. This delegation does not include the power to dispose of any legal estate.	E
D34.	Subject to the limitations above and to: ● dispose of freehold, leasehold and other interests in land (including the grant of wayleaves and easements) in accordance with the law; and ● grant licences; ● grant a rent-free period of up to 12 months on any lease; where this is compatible with the s123 duty. Any other grant of a rent-free period must be specifically authorised. This delegation does not apply if one or more of the following criteria are present in the transaction: ● disposing of a freehold or leasehold or other interest in land (including the grant of wayleaves and easements) where the capital sum or premium paid is more than £300,000; ● granting a lease of longer than 30 years (save as provided below in respect of certain leases to utilities); ● granting a lease with an initial rent of more than £125,000 per annum. For any disposal of land or buildings within Whitstable Harbour, the express consent of the Whitstable Harbour Board should also be obtained. If it is not practical or proportionate for this to be obtained at a meeting of the board, consent may be obtained by emailing the members of board and, subject to no objections being received, the outcome reported to the next convenient meeting. In this circumstance consent will be deemed given if the majority of board members responding agree and no objections are received within the stated deadline. (This delegation is also exercisable in conjunction with the Head of Legal Services and the director who manages the service in occupation of the land, if any.)	
D35.	To manage any lease or licence granted by the council, including but not limited to requests for consent, agreeing rent reviews, variations or lease renewals subject to the terms approved being comparable to the best which can be obtained in the current market conditions.	
D36.	To grant a lease for up to 99 years of areas of land not exceeding 50 square metres where the proposed lessee is a public utility.	

Description of delegation		Responsibility delegated from
D37.	To grant a lease for residential premises for a term not exceeding 90 years plus the present unexpired term where the tenant is exercising rights under the Leasehold Reform, Housing and Urban Development Act 1993 (as amended) or is entitled to do so.	
D38.	To negotiate and agree terms for the modification variation, release or variation of covenants contained in conveyances and transfers.	
D39.	To be authorised to make decisions relating to the Whitefriars shopping centre that are within the Council's budget and policy framework.	
D40.	To manage the distribution of Department for Levelling Up, Housing & Communities and other Local Government grants used to help deliver community led housing projects.	
Acquisitions		
D41.	To acquire by agreement or under a compulsory purchase order, land and property SUBJECT always to the purchase price, or the purchase price when added to other transactions in respect of the same project, being within the estimate of costs previously reported to and approved by the Cabinet, or if outside the budget framework, full Council.	E/C
D42.	The acquisition of properties that the Council is under a legal obligation to acquire under Town and Country Planning legislation.	C
D43.	To terminate or accept the surrender of a leasehold interest in land and property.	E
D44.	To apply for any kind of necessary statutory permission or consent to carry out building works.	E
D45.	To take such actions that the Council as landowner has power to take as are necessary to comply with the law in order to do any works or ensure the health and safety of any person.	E
Concessions		
D46.	To administer the application and granting of commercial concessions, having followed the Council's procedures and/or policies applicable from time to time, on Council owned land but excluding any land relating to Whitstable Harbour and Herne Bay Pier.	
Whitstable Harbour		
D47.	To agree harbour charges for cargoes where there is no approved scale of charges and to offer concessions on harbour charges where it is commercially expedient to do so, subject to such charges and concessions being subsequently reported to the Whitstable Harbour Board.	C

Description of delegation		Responsibility delegated from
D48.	To take any necessary action in connection with wrecks, obstructions or similar emergencies arising or affecting Whitstable Harbour.	C
D49.	To take all necessary action to ensure the safety of the harbour.	C
D50.	To take all necessary action to ensure the environmental protection of the harbour and its surroundings including making appropriate arrangements for dealing with harbour waste.	C
D51.	To sign the three yearly assessment of compliance with the Council's obligations under the Port Marine Safety Code following the assessment approval by the Whitstable Harbour Board. (NB Any exercise of these powers should be reported to the next available meeting of the Whitstable Harbour Board).	C
D52.	To manage the beach huts at Whitstable Harbour, including agreeing tenancy agreements to beach hut occupiers.	E
D53.	To be empowered to act as the authority as provided in the Whitstable Harbour Byelaws 2008 as may be amended from time to time.	C
D54.	Joint and severally with the Harbour Master, to exercise all powers given to him by the Whitstable Harbour Byelaws 2008 as may be amended from time to time and to take any other necessary step to secure compliance with such byelaws.	C
Powers D55-D72 are also delegated to the Head of Planning and Health		
As to Development Management:		
D55.	Subject to D56 below, to determine all types of notifications and requests and issue all types of notices under the Town and Country Planning Acts 1990, 2006 and 2008 (as amended), and the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)	C
D56.	All applications falling within Schedule 1 to the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 must be determined by an officer of the Council. Subject to D57, all applications falling within Schedule 2 to those Regulations, and all applications in which the Council has an interest (referred to as 'Own Interest' applications), must be determined by an officer of the Council. Such delegated power shall not be exercised where the nominated member and nominated officer agree that the application should be referred to committee. If they do not agree, the application shall be determined by an officer.	C

Description of delegation		Responsibility delegated from
D57.	The delegated power in D56 shall not be exercised where the Nominated Member and Nominated Officer agree that an application should be referred to the Planning Committee. Where they do not agree, the application shall be determined by an officer. For the purposes of D57: • the **Nominated Member** is the Chair of the Planning Committee or, in their absence, the Vice-Chair; and • the **Nominated Officer** is the Head of Planning and Health or, in their absence, the Planning Manager (Development Management).	C
D58.	To decide what information is needed before a decision can be taken on any application including making a screening decision to assess whether the proposed development requires an Environmental Impact Assessment.	E
D59.	To make determinations and take actions in accordance with the requirements of the Conservation of Habitats & Species Regulations 2017 including: (i) to adopt and issue screening opinions; (ii) to adopt and issue Appropriate Assessments.	E
D60.	To respond to consultations under The Care of Cathedrals Measure 1990 and The Care of Churches and Ecclesiastical Jurisdiction Measures 1991.	E
D61.	To respond to consultations from neighbouring authorities and any statutory/policy consultations.	E
D62.	To amend and revise the planning validation checklist as and when they consider it to be necessary.	C
D63.	To issue, serve and withdraw building preservation notices on unlisted buildings. The reasons for the notice and any question of potential compensation must be reported to the earliest available meeting of the Planning Committee.	C
D64.	To administer the register of local land charges, carry out official searches and to respond to enquiries of local authorities and determine the fee charged for responding to these.	E
Protection of trees and hedgerows:		
D65.	To implement the powers set out in the Town and Country Planning Act 1990 as they relate to Tree Preservation Orders and trees in conservation areas (except the confirmation of Tree Preservation Orders where an objection has been submitted by a third party).	C
D66.	To exercise the Council's powers with respect to hedgerows set out in the Environment Act 1995 (as amended) and the Hedgerows Regulations 1997.	C

Description of delegation		Responsibility delegated from
Listed buildings:		
D67.	To administer, including authorising increases to grants made under the Listed Building and Conservation Grant Schemes.	C
Planning Enforcement		
D68.	Where a breach of planning control is suspected and no satisfactory undertaking is received from the person responsible that such breach will cease immediately: (a) They be authorised to consider and determine any breach of planning control which may have taken place and whether it is expedient to issue any notice pursuant to the provisions of the Town and Country Planning Act (as amended) and the Planning (Listed Building and Conservation Areas) Act 1990 (as amended). Such notices to include enforcement notices, planning contravention notices, stop notices, temporary stop notices, breach of condition notices and Section 215 notices. (b) Where in their opinion it is a case of urgency, whether or not outside the normal business hours of the Council, they be authorised to issue and serve such notices; (Unless the matter is one of extreme urgency, the Head of Legal Services should be consulted.)	C
D69.	To carry out work in default under Section 178 and 215 of the Town and Country Planning Act 1990 and Section 42 of the Planning (Listed buildings and Conservation Areas) Act 1990 (as amended) provided that there is adequate budget provision available.	C
D70.	To take appropriate enforcement action on all matters relating to the issue and service of Enforcement Notices, Breach of Condition Notices, section 215 notices and Discontinuance Orders, including the following: • To take initial action to deal with breaches of planning control including the serving of Planning Contravention Notices to obtain relevant information in order to assess whether or not a breach of planning control has occurred; • To issue and serve Breach of Condition Notices where planning conditions have not been complied with and to specify the steps which the Council consider ought to be taken or the activities which ought to cease; • To issue and serve Enforcement Notices or to withdraw, modify and reissue any Enforcement Notice following a decision by the Planning Committee to grant permission for development or not to proceed with enforcement action;	C

Description of delegation		Responsibility delegated from
	• In cases of urgency, in consultation with the Chair of the Planning Committee, to issue and serve Stop Notices unless the serving of such a notice would result in the significant loss of jobs or the potential for substantial costs to the Council; • In consultation with the Chair of the Planning Committee, to serve Temporary Stop Notices.	
D71.	The power to take enforcement action in respect of any breach of the terms of a Section 106 planning agreement (in consultation with the Head of Legal Services).	C
D72.	To issue and serve urgent work notices where the Head of Planning and Health is satisfied that it is necessary to serve such a notice without delay to avoid damage or the risk of damage to any unoccupied listed building. The reasons for the notice and any question of potential compensation must be reported to the earliest available meeting of the Planning Committee.	C
The following delegations, numbers D73 to D81 will be exercised by the STG Building Control Partnership but may be exercised by the postholders or a Joint Chief Executive if, in their judgement, it is necessary to do so.		
Building Control		
D73.	To exercise the Council's statutory functions with respect to the building regulations including the issue of all approvals, rejections, dispensations, relaxations or consents under the building regulations and The Building Act 1984 (as amended) and service of all statutory notices and the taking of appropriate enforcement action including carrying out works in default.	E
D74.	To exercise the Council's powers with respect to ruinous, dilapidated or dangerous buildings or structures, unsecured or unoccupied properties or sites which are dangerous.	E
D75.	To exercise the Council's powers to require the provision of entrances and/or exits or means of escape from premises.	E
D76.	To exercise the Council's powers with respect to demolition of buildings (but not to grant any planning permission or conservation area consent).	E
D77.	To carry out the necessary statutory duties, in respect of initial notices issued by the approved Inspectors supervising work instead of the Council.	E
D78.	To deal with any consultation concerning the safety of any sports ground.	E
D79.	To act, under Section 10(8) of the Party Wall, etc Act 1996, as the "Appointing Officer" for the selection of a third surveyor.	E

Description of delegation	Responsibility delegated from
D80. To set the charges fixed under the Building (Local Authority Charges) Regulations 1998 by up to plus or minus 10% of the charging levels in that respect recommended each year by the Local Government Association. (This delegation is exercisable in consultation with the Chief Finance Officer).	E
D81. To vary the charges referred to in the previous paragraph above by any amount no greater than 10%. (This delegation is exercisable in consultation with the Chief Finance Officer).	
Asset purchases	
D82. Where the budget is available in the Council's approved capital programme and either; the criteria for investment outlined in the Commercial Property Management Strategy are met, or, the purchase is for a site on the Wincheap estate and the borrowing costs would be met from rental income, then the asset purchase of up to £12m to be approved by a Joint Chief Executive in consultation with the Chief Finance Officer and the Leader, or their nominee.	E
Shared ownership in Designated Protection	
D83. To assess requests for Designated Protection Area waivers in accordance with the delegation framework set out below:	
Delegation framework for formal support for Designation Protection Area (DPA) waiver	
Type of scheme	**Decision**
DPA's with populations of over 3,000: Chartham, Chestfield, St Cosmus and St Damien in the Blean, Sturry, Herne and Broomfield	Agree
DPAs with large planned housing development within or adjacent to: Sturry, Westbere, and Broomfield	Agree
DPAs with small/medium planned housing within or adjacent to: Barham, Chartham, Littlebourne, Patrixbourne, Chestfield and Bekesbourne	Review on a site by site basis
Permitted development sites in rural villages	Review on a site by site basis
Resale of existing restricted shared ownership homes	Review on a case by case basis
Rural exception sites	Refuse
Community Led Development (CLD)	Refuse save for

Description of delegation		Responsibility delegated from
		exceptional circumstances
Any other requests for exemptions other than above		Review on a site by site basis
E.	**Powers delegated to the Head of Legal Services**	
To exercise any powers previously delegated to the Head of Legal Services not otherwise specified in this scheme of delegation.		
E1.	To institute, conduct, prosecute and defend any legal proceedings on behalf of the Council or any of its appointed inspectors or authorised officers, including cases where they consider it expedient for the protection or the promotion of the interests of the inhabitants of the Council's area.	C/E
E2.	To settle, if appropriate, and in the interests of the Council, any actual or threatened legal proceedings, including action commenced by the Council.	C/E
E3.	To recover debts due to the Council by way of legal proceedings and any method of enforcement including but not restricted to the levying of distress on goods and chattels.	C/E
E4.	To instruct counsel and professional advisers as appropriate, subject to consultation with the Leader, in any case where the Council is to instruct counsel and where counsel's fees are likely to exceed £100,000.	
E5.	To give undertakings on behalf of the Council including the completion of a deed or release for the withdrawal of obligations under planning agreements	C/E
E6.	To give indemnities on behalf of the Council to organisations for the use of their facilities or to persons or bodies to whose land access is required by the Council to carry out any development or works.	C/E
E7.	To seal documents, or to sign documents which are not required to be under seal	C/E
E8.	To prepare and execute all necessary documents in connection with the provision of short-term agency services for local authorities where these require no major change in organisation, capital expenditure or increase in staff and, in conjunction with a Joint Chief Executive, the agreement of terms for reimbursement for provision of such agency services.	E
E9.	To complete all property transactions and contractual arrangements where terms have been agreed by the Council or committee, or by a Joint Chief Executive, Directors or Heads of Service acting under the scheme of delegation.	E
E10.	Under Section 223 of the Local Government Act 1972 (as amended) to authorise officers who are not admitted solicitors to	E

Description of delegation		Responsibility delegated from
	appear in Magistrates' Courts on behalf of the Council.	
E11.	Under Section 60 of the County Court 1984, to authorise officers of the Council to conduct actions on behalf of the Council in the County Court before a district judge in respect of: ● the recovery of possession of houses and other property belonging to the Council; ● the recovery of any rent, mesne profits, damages or other sum claimed by the Council in respect of the occupation by any person of such a house. (This delegation is exercisable both by the Head of Legal Services and the Litigation Officer).	E
E12.	To accept, on behalf of the Council, the service of notices, orders and legal procedures.	C/E
E13.	To determine procedural arrangements for the issue of all consents, refusals, decisions and notices on behalf of the Council under statutory power.	C/E
E14.	To recover the costs including administrative costs incurred by the Council in carrying out works in default including all necessary steps to enforce the judgement.	C
E15. E15.1 E15.2	In consultation with a Joint Chief Executive, Director of People or Head of Planning and Health: To issue and arrange the service of any notice in accordance with the Town and Country Planning Act 1990 (as amended) and the Planning (Listed Buildings and Conservation Areas) Act 1990 provided that they are satisfied with the evidence provided. To extend the period of compliance or withdraw notices where expedient to do so, and subject to the Planning Committee being informed.	C
E16.	To grant dispensations to councillors pursuant to section 33(2) of the Localism Act 2011 to speak only, or to speak and vote, where: (i) so many members of the decision-making body have Disclosable Pecuniary Interests, Other Significant Interests or Other Registerable Interests in a matter that it would impede the transaction of business; (ii) without a dispensation, no member of the Council would be able to participate on a particular item of business.	
E17.	To receive complaints relating to alleged breaches of the adopted Code of Conduct and to process complaints in accordance with the adopted arrangements for the Code of Conduct.	

Description of delegation		Responsibility delegated from
E18.	To exercise the functions of the Council pursuant to the Crime and Disorder Act 1998 (as amended) and the Anti-Social Behaviour Act 2003 in consultation with the Director of People and Place or Head of Safer Neighbourhoods or Head of Housing and Community.	E
E19.	The power to amend Section 106 planning agreements in cases where they and a Joint Chief Executive, Director of Place, or in their absence the Head of Planning and Health, are satisfied that the amendment is technical and makes no material change in the outcomes of the planning agreement or the planning permission to which it relates.	
Management of land and property		
E20.	To carry out the necessary legal processes involved: (a) in the management of any land, property or accommodation held or used by the Council in the best interests of the Council and to take any step which the Council is entitled to take as the person with an interest in any land, in consultation with the Director of Place and the head of service within whose remit the land, property or accommodation is held or used. This delegation does not include the power to dispose of any legal estate; (b) to acquire land or any interest in land by agreement under any enactment SUBJECT always to the purchase price, or the purchase price when added to other transactions in respect of the same project, being within the estimate of costs previously reported to and approved by the executive, or if outside the budget framework, full Council; (c) to appropriate land belonging to the council for purposes other than those for which it was acquired subject to the consent of the executive; (d) subject to the limitations below, and with the exception of any land or building within the harbour to which the Whitstable Harbour Board's approval should be obtained, to: • dispose of freehold, leasehold and other interests in land (including the grant of wayleaves and easements) in accordance with the law; and • grant licences; • grant a rent-free period of up to 12 months on any lease where this is compatible with the s123 duty. Any other grant of a rent-free period must be specifically authorised. This delegation does not apply if one or more of the following criteria are present in the transaction:	E

Description of delegation		Responsibility delegated from
	• disposing of a freehold or leasehold or other interest in land (including the grant of wayleaves and easements) where the capital sum or premium paid is more than £200,000; • granting a lease of longer than 30 years (save as provided below in respect of certain leases to utilities); • granting a lease with an initial rent of more than £75,000 per annum. For any disposal of land or buildings within Whitstable Harbour the express consent of the Whitstable Harbour Board should also be obtained. (This delegation is exerciseable in conjunction with the Director of Place and the head of service to whom the land is appropriated.)	
E21.	To receive notices served on the Council as the person with an interest in any land.	C/E
E22.	To take any steps consequent on the making of a Compulsory Purchase Order, including the application of the rules for assessing compensation, negotiating with the other parties the amount of compensation in order to settle the amount payable and reference to the Upper Tribunal (Lands Chamber) when no agreement can be reached.	E
E23.	To administer: 1. The sale of council houses; 2. Any matters in respect of mortgages granted by the Council; and 3. The Council's Cash Incentive Scheme. (This delegation is exercisable in conjunction with the Head of Finance and Procurement and the Director of People and Place.)	E
E24.	Where appropriate, and in consultation with the Chief Finance Officer, to elect for VAT status on particular land and property.	E
Other matters		
E25.	To provide legal advice and assistance to any parish council or community association providing there is no conflict of interest, and to any public body for the purposes of the Local Authorities (Goods and Services) Act 1970 (as amended) providing there is no conflict of interest and satisfactory arrangements for payment are in place.	E
E26.	To update these delegations in consultation with the Head of Corporate Governance to take account of changes in legislation.	E
E27.	To make such changes or corrections to the text, numbering or	

Description of delegation		Responsibility delegated from
	layout of the Constitution that are necessary for consistency, accuracy, grammatical correctness and sense, and to remove any parts of the existing Constitution which may become redundant or which are otherwise obsolete.	
E28.	In consultation with a Joint Chief Executive, to make such further changes to the Constitution from time to time as are necessary or desirable to reflect changes in statutory responsibilities, staffing structures and so on, so long as those changes do not materially affect or extend the powers conferred by the Constitution.	
E29.	To make amendments to the Council's policy under the Regulation of Investigatory Powers Act 2000 if the guidance or law has changed prior to an annual review of the policy, and ensure that the portfolio holder with responsibility for community safety be informed of such changes.	
E30.	To deal with a request to review any determination made by the Council arising from a nomination to list an Asset of Community Value and to make the decision on any such review. Where the Head of Legal Services is not a solicitor or a barrister, those functions set out in F1-F30 which amount to 'reserved legal activities' within the meaning of the Legal Services Act 2007, are delegated to the Council's principal solicitors and/or barrister employed by the Council (if authorised by the Bar Standards Board to carry out 'reserved legal activities').	
E31.	To accept a reason for the failure of a member to attend council meetings for a six month period and to extend that period before the expiry of that initial six month period until the next full Council meeting in accordance with S85 of the Local Government Act 1972, in those cases where the Council cannot act in the time available. This delegation is exercisable by the Head of Legal Services after consultation with a Joint Chief Executive	
E32.	To exercise the Council's functions with regard to the classifying of unclassified films (in consultation with the Head of Place)	
G.	**Powers of appointed Inspectors and Authorised Officers**	
G1.	Officers appointed under any legislation are empowered to exercise all powers and duties in respect of the legislation under which they were appointed.	
H	**Powers of Head of Corporate Governance**	
H1.	To invite and appoint members to serve on the Independent Persons's Panel. In the absence of the postholder, this delegation may be exercised by any Deputy Monitoring Officer.	

Part 8.2 - Responsibility for Functions

The Council may make arrangements under Section 101 of the Local Government Act 1972 (as amended) for the discharge of any of its functions by:

(a) a committee;

(b) a sub-committee;

(c) a joint committee;

(d) another local authority, or

(e) an officer.

Such arrangements are set out in Part 3 of this Constitution and as follows in this Part 8.2 with:

(a) the “Proper Officer” provisions;

(b) the Scheme of Delegation of Council functions to officers;

(c) the delegated powers of committees, sub-committees and panels appointed at the Annual Meeting of Council.

"Proper Officer" provisions

Where a Joint Chief Executive is named, either postholder may act as the designated Proper Officer, unless otherwise specified.

Where a proper officer is specified within legislation and provision for their appointment has not been made in this schedule, then the Head of Paid Service shall perform the proper officer role or such other person as they may nominate.

The appointments of Head of Paid Service, Monitoring Officer and Chief Finance Officer, as described in the Local Government Act 1989 (as amended) shall be designated by Council.

The full list of delegations made by Council to officers is set out in Part 8.1 of the Constitution (Responsibility for Functions).

Act		Proper Officer(s)	Officer to act in the absence or other inability of Proper Officer to act	Proper Officer's function
Local Government Act 1972 (as amended)				
1)	13(3)	Joint Chief Executive	Head of Corporate Governance	Parish Trustee.
2)	83(1)	Joint Chief Executive	Head of Corporate Governance	Witness and receipt of declaration of acceptance of office.
3)	84	Joint Chief Executive	Head of Corporate Governance	Receipt of written notice of resignation of any office.
4)	88(2)	Joint Chief Executive	Head of Corporate Governance	Convening of meeting of Council to fill casual vacancy in the office of Chair (Lord Mayor).
5)	89(1)(b)	Joint Chief Executive	Senior Electoral Services Manager	Receipt of notice of casual vacancy from two local government electors.
6)	151	Chief Finance Officer	Head of Finance	Administration of the Council's financial affairs.
7)	100B(2), 100D(5)	Monitoring Officer Deputy Monitoring Officer	Joint Chief Executives	Copies of reports, list of background papers and background papers for inspection by the public.
8)	100C(2)	Joint Chief Executive	Head of Corporate Governance	Summary of exempt information for the minutes.

Act		Proper Officer(s)	Officer to act in the absence or other inability of Proper Officer to act	Proper Officer's function
9)	115(2)	Joint Chief Executive	Chief Finance Officer	Receipt of money due from officers.
10)	146(1)(a) and (b)	Joint Chief Executive	Chief Finance Officer	Declarations and certificates with regard to securities.
11)	191	Joint Chief Executive	Director Place Head of Planning and Health Head of Property and Regeneration	Functions with respect to ordnance survey.
12)	210(6)&(7)	Joint Chief Executive	Head of Legal Services	Charity functions of holders of office with existing authorities transferred to holders of equivalent office with new authorities, or if there is no such office, to proper officers.
13)	212(2)&(4)	Joint Chief Executive	Head of Planning and Health	Proper Officer to act on behalf of the Council as registering authority under the Local Land Charges Act 1975 (as amended).
14)	225(1)	Joint Chief Executive	Directors	Deposit of document.
15)	229(5)	Joint Chief Executive	Head of Legal Services	Certification of photographic copies of documents.
16)	234	Joint Chief Executive (unless (i) any enactment otherwise requires or authorises in which case it shall be the officer so required or authorised; or, (ii) any document will be a necessary step in legal proceedings on behalf of the council in which case it shall, unless any enactment otherwise requires or authorises, or the council shall have given the necessary authority to some other person for the purpose of such proceedings, be	Directors	Authentication of documents.

Act	Proper Officer(s)	Officer to act in the absence or other inability of Proper Officer to act	Proper Officer's function
	signed by the Head of Paid Service or the Head of Legal Services)		
17) 236(9)&(10)	Joint Chief Executive	Head of Legal Services	To send copies of byelaws for parish records and to the County Council.
18) 238	Joint Chief Executive	Head of Legal Services	Certification of byelaws.
19) 248	Joint Chief Executive	Head of Corporate Governance	Keeping a roll of Freeman of the City of Canterbury.
20) 270(3)	Joint Chief Executive	Monitoring Officer or their deputies	Receipt of notice of a motion to remove the Leader of the Council under Article 7.5
Schedule 12			
20) Para. 4(2) (a)(b)	Joint Chief Executive	Monitoring Officer or their deputies	Signature of summonses to attend Council meetings.
21) Para. 4(3)	Joint Chief Executive	Monitoring Officer or their deputies	Receipt of notices regarding address to which summons to meetings is to be sent.
Schedule 14			
22) Para. 25(7)	Joint Chief Executive	Directors Head of Corporate Governance	Certification of resolutions.
Local Government Act 2000			
23) 6 & 7	Joint Chief Executive	Head of Corporate Governance	To establish and maintain the members register of interests (s29 Localism Act 2011) and ensure it is for Public inspection.
Representation of the People Act 1983 (as amended)			
24) 8	Joint Chief Executive (Officer designated by Council)	Senior Electoral Services Manager	Electoral Registration Officer.

Act	Proper Officer(s)	Officer to act in the absence or other inability of Proper Officer to act	Proper Officer's function
25) 35	Joint Chief Executive (Officer designated by Council)	Senior Electoral Services Manager	Returning Officer for local government elections.
26) 52(3)	Senior Electoral Services Manager	-	Deputy to Electoral Registration Officer.
27) 63, 69 & 70	Joint Chief Executive	Senior Electoral Services Manager	Receipt of returns and declarations of election expenses.
Local Elections (Parishes & Communities) Rules 2006			
28) Rule 5	Joint Chief Executive	Senior Electoral Services Manager	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.
Local Government and Housing Act 1989			
29) 2	Joint Chief Executive	Head of Corporate Governance Head of Human Resources	Preparation of lists of politically sensitive posts.
30) 4	Joint Chief Executive (Officer designated by Council)	Directors	Designated Head of Paid Service (statutory role)
31) 5	Head of Legal Services	Principal Lawyer-Property / Contracts & Procurement / Head of Corporate Governance	Designated Monitoring Officer (statutory role)
32) 15	Joint Chief Executive	Head of Corporate Governance	Receipt of notices – political groups.
32/1) 15	Monitoring Officer		Receipt of notices - to make or terminate appointments of voting Members to Committees and Sub-Committees in accordance

Act	Proper Officer(s)	Officer to act in the absence or other inability of Proper Officer to act	Proper Officer's function
			with the wishes of political groups.
Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations 1950			
33)	Joint Chief Executive	Deputy Director of Place	Removal of human remains from development sites.
National Assistance Act 1948 as amended and the National Assistance (amendment) Act 1951			
34) 47	Director of Public Health		Removal to suitable premises of persons in need of care and attention.
Public Health Act 1936 (as amended)			
35) 84	Director Place	Head of Planning and Health	Cleansing or destruction of filthy or verminous articles.
36) 85	Director Place	Head of Planning and Health	Cleansing of persons and their clothing.
Public Health (Control of Diseases) Act 1984 (as amended by the Health & Social Care Act 2008 and the Health Protection (Notification) Regulations 2010 The Health Protection (Notification) Regulations 2020)			
37) 2 & 3	Director Place	Head of Planning and Health	Receipt of notifications of notifiable diseases and food poisoning.
38) 6	Director Place	Head of Planning and Health	Duty on relevant local authority to disclose notification to others.
39) 48	Joint Chief Executive	Director Place Head of Planning and Health	Orders by Justice of the Peace, on certification from proper officer, for removal of dead body to mortuary for burial.
Housing Act 2004 Section 4 (as amended)			
40) 54	Director People	Head of Housing and Community Head of Assets and Estates Management	Housing and Asset management

Act	Proper Officer(s)	Officer to act in the absence or other inability of Proper Officer to act	Proper Officer's function
			Official complaint about condition of residential premises.
Localism Act 2011 41) S. 33(1)	Monitoring Officer	Deputy Monitoring Officer	To receive applications for dispensation
The Local Government (Miscellaneous Provisions) Act 1976 S.41	Joint Chief Executives	Monitoring Officer	To certify copies of the types of documents referred to in section 41

Part 9 – Financial Procedure Rules

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1. General

Introduction

What are Financial Procedure Rules?

Section 151 of the Local Government Act 1972 requires every local authority to make arrangements for the proper administration of their financial affairs and requires one officer to be nominated to take responsibility for the administration of those affairs. Financial Procedure Rules, or 'the Rules', provide the framework for managing the Council's financial affairs. The Rules are supported by more detailed guidance which sets out how the procedures will be implemented.

Generic terms are included for officers as follows:

'Chief Finance Officer' refers to the Section 151 Officer.

'Monitoring Officer' refers to the Head of Legal Services.

'Chief Internal Auditor', refers to the Head of the East Kent Audit Partnership (EKAP).

These Rules form part of the Council's Constitution. Definitions within the Constitution apply to these Rules. The inclusion of specific matters in any Rule shall not be taken as limiting, in any way, the scope of that Rule, unless such limitation is expressly stated.

References to the 'Accounts and Audit Regulations' in this document relate to the latest edition of the Regulations.

Why are the Rules important?

Sound financial management is a key element of good corporate governance which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.

Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.

The Financial Procedure Rules should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in the Constitution.

Who do Financial Procedure Rules apply to?

Financial Procedure Rules apply to every councillor and officer of the Council and anyone acting on its behalf. Councillors and officers have a general responsibility to ensure the security and best use of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, consistent with Council policies and priorities, is properly authorised, provides value for money and achieves best value.

Heads of Service and Service Managers exercise their powers under these Rules at the discretion of the Joint Chief Executives or Service Directors.

These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.

Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures.

Who is responsible for ensuring that they are applied?

The Joint Chief Executives are ultimately responsible to the Council for ensuring that Financial Procedures are applied and observed by their staff and contractors providing services on the Council's behalf and for reporting to the Chief Finance Officer (S151 Officer) any known or suspected breaches of the procedures.

The S151 Officer is responsible for maintaining a continuous review of the Financial Procedures and submitting any additions or changes necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and/or to the Audit Committee.

The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedures, which all those acting on behalf of the Council are required to follow.

Any person charged with the use or care of the Council's resources and assets should inform themselves of the Council's requirements under these Financial Procedure Rules. If anyone is in any doubt as to their obligations, then they should seek advice.

Where a Joint Chief Executive or Director considers that complying with Financial Procedures in a particular situation might conflict with the achievement of value for money or the principles of Best Value, or the best interests of the Council, they shall raise the issue with the Chief Finance Officer who will, if they consider necessary and appropriate, seek formal approval from the Council for a specific waiver of the procedures, or an amendment to the procedures themselves.

These Rules govern the conduct of the financial transactions of the Council. Changes to these Rules will require a resolution of the full Council. The Council may, however, waive compliance with any of these Rules in a particular case or any particular class of case.

Material Decisions

Where a matter may have a material effect on the finances of the Council, which is outside the approved budget, no commitment may be entered into by the Council until the relevant officer has consulted the relevant Joint Chief Executive or Service Director and the Chief Finance Officer who will determine the most appropriate decision making route.

The Joint Chief Executives and the Chief Finance Officer have discretion, for the purposes of individual Rules, to decide whether matters are 'material', 'significant', 'substantial' or 'urgent'.

Where a report to the councillors has financial implications the relevant Joint Chief Executives shall:

a) include a section in the report covering those implications;

b) consult the Chief Finance Officer at the drafting stage.

The Chief Finance Officer shall ensure the financial information is accurate and appropriate before the report is finalised and published.

2. Financial Planning

Budgeting

Budgets and Medium-Term Planning

Why is this important?

The budget is the financial expression of the Council's plans and policies. The budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent (or received for income budgets).

The annual budget process includes forecasts for future years to enable the Council to anticipate and plan for longer term financial challenges.

Responsibilities of the Chief Finance Officer

2.1 To prepare revenue and capital budgets for the Cabinet and Council, including resource constraints set by the Government, adequacy of reserves and calculation of the council tax to be levied for the following financial year. Reports should take account of medium-term prospects, where appropriate.

2.2 To determine the detailed form of revenue budgets and the methods for their preparation, ensuring that:

(a) budgets are prepared on a consistent format;

(b) budgets contain provision for anticipated inflation;

(c) each service area is included.

2.3 To advise on the implications of spending decisions.

2.4 To encourage the best use of resources and value for money by working with the management team to identify opportunities to improve economy, efficiency and effectiveness, by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

2.5 To report to the full Council on Cabinet proposals in accordance with the responsibilities under section 151 of the Local Government Act 1972.

Responsibilities of the Cabinet

2.6 To receive the report on the budget and policy framework from the Chief Finance Officer. Following receipt of any comments and making any amendments that as a result seem appropriate, the Cabinet shall submit the proposals to the full Council for approval with a recommendation for the amount of Council Tax to be levied for the next financial year.

Responsibilities of the full Council

2.7 To receive the proposals on the budget and policy framework and the recommendation as to the amount of the Council Tax to be levied for the next financial year from the Cabinet.

2.8 By 1 March each year, to consider the proposals and set the amount of Council Tax to be levied for the ensuing financial year after taking into account the precepts issued by the County Council, Police and Fire and Rescue Services and parish councils.

Responsibilities of the Joint Chief Executives and their delegated officers

2.9 To prepare budgets of income and expenditure, in consultation with the Chief Finance Officer.

2.10 To compile joint reports with the Chief Finance Officer indicating compliance or otherwise with such financial targets as may be in existence.

2.11 To prepare budgets that are consistent with any relevant budget limits, the Council's annual budget cycle and with guidelines issued by the Cabinet. The budget format to be in accordance with the Council's general directions.

2.12 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.

2.13 To prepare detailed draft revenue and capital budgets for consideration by the Cabinet in consultation with the Chief Finance Officer and in accordance with the established guidance and timetable.

2.14 When drawing up the draft budget, to have regard to the budget requirements as set out by the Chief Finance Officer.

Capital Budgets

Why is this important?

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value (usually greater than one year) 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 financial capacity of the Council. 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.

General

2.15 Council may place a reservation on any scheme within the capital programme. Expenditure on such reserved items may be incurred only when full Council approval is given, following a report by a Joint Chief Executive or appropriate senior officer to the Cabinet. Once the capital programme has been approved, expenditure on unreserved schemes can commence in the relevant financial year. Councillor approval may also be sought for unreserved schemes where, in the judgement of the Joint Chief Executives and Chief Financial Officer (S151 Officer), the scheme is of major significance.

2.16 Details of capital schemes agreed during the financial year and outside of the annual budget process should be forwarded to the Finance Team after approval by Council.

2.17 All officers must follow the Contract Standing Orders when letting capital work.

Responsibilities of the Chief Finance Officer (S151 Officer)

2.18 Where a capital scheme is envisaged to incur expenditure over a number of years, the approval by full Council covers the whole scheme. Where a carry forward is required to cover slippage on the scheme to which the budget relates, the Joint Chief Executives and the Chief Finance Officer are authorised to apply the carry forward. However, all capital carry forwards are subsequently reported annually to the Cabinet.

2.19 To be responsible for ensuring that adequate procedures are operated to properly control capital spending.

2.20 To issue guidance concerning capital schemes and the controls to be applied to those schemes, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Chief Finance Officer, having regard to government regulations and accounting requirements.

Responsibilities of the Joint Chief Executives and their delegated officers

2.21 To comply with guidance concerning capital schemes and controls issued by the Chief Finance Officer.

2.22 To ensure that all capital proposals have undergone a project appraisal, including budget provision for all scheme costs and consideration of and provision for ongoing revenue costs.

2.23 To prepare regular reports reviewing the capital programme provisions for their services.

2.24 To consult with the Chief Finance Officer when a potential overspend or significant under-spend is identified on a capital scheme which is under their control.

2.25 To ensure that adequate records are maintained for all capital contracts.

2.26 To proceed with projects only when there is adequate approved provision in the capital programme and, where required, with the agreement of the Chief Finance Officer.

2.27 If at any time it is believed that the cost of any capital scheme is likely to exceed the estimate as shown in the approved capital expenditure programme by more than £15,000, the relevant Joint Chief Executive or Director shall report the anticipated overspend to the Chief Finance Officer and seek approval to exceed the agreed budget from Cabinet or the relevant committee, if no compensating adjustment can be made elsewhere in the capital programme.

2.28 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Chief Finance Officer and, if applicable, the prior approval of the arrangement/s through the capital programme.

Maintenance of Reserves

Why is this important?

The Council must decide the minimum 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 for the purchase or renewal of capital items and smoothing the cost of periodic expenditure (e.g. elections).

Responsibilities of the Chief Finance Officer

2.29 To advise the full Council on prudent levels of reserves for the Council, having regard to an assessment of the financial risks facing the Council, current reserve levels and the need for and purpose of any new earmarked reserves, and to take account of the advice of the external auditors in this matter.

Responsibilities of the Cabinet

2.30 The Cabinet shall approve the setting up and the purpose of any reserves and funds.

Responsibilities of officers

2.31 To ensure that reserves are used only for the purposes for which they were intended.

3. Financial Management

Why is this important?

Good financial management ensures that once the budget has been approved by the full Council, allocated resources are used for their intended purposes and are properly controlled and recorded.

All officers and councillors have a duty to abide by the highest standards of probity in dealing with financial issues and to achieve value for money from the use of the Council's resources. 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.

General

3.1 The inclusion of items in the approved budget shall provide the necessary legal authority to Council to incur such expenditure subject to the Finance Procedure Rules and Contract Standing Orders, except where items are specifically reserved for full Council approval. Expenditure on such reserved

items may only be incurred when the full Council's approval is given. Requests to incur expenditure that is outside of the agreed annual budget will need approval by Council. Where costs can be met from a virement from other budgets, virement rules will apply (see section (b) Virement below for limits).

Responsibilities of the Chief Finance Officer

3.2 To set the financial management procedures, monitor compliance, ensure proper professional practices are adhered to and to act as head of profession in relation to the procedures, performance and development of finance staff throughout the Council.

3.3 To be responsible for providing the full Council, Cabinet, committees and boards with advice on all relevant financial and economic matters.

Responsibilities of the Joint Chief Executives and their delegated officers

3.4 To promote the financial management procedures set by the Chief Finance Officer in their services and to monitor adherence to the standards and practices.

3.5 To promote sound financial practices in relation to the procedures, performance and development of officers in their services.

3.6 To be responsible for the accountability and control of officers and for the security, custody and control of all resources including plant, buildings, materials, cash and stores within their services.

3.7 To be responsible for informing the Chief Finance Officer of all contracts, agreements, guarantees etc involving financial implications for the Council, and to also forward to the Chief Finance Officer all consents, approvals, regulations, circulars, etc in any way relating to finance.

Managing Expenditure and Income

(a) Budget Monitoring and Control

Why is this important? 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. 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 revenue limit, approved when setting the overall annual budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the budget allocated to it. For the purposes of budgetary control by

managers, a budget will normally be the planned income and expenditure excluding support and capital charges, for a service area or cost centre.

Responsibilities of the Chief Finance Officer

3.8 The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. They must monitor expenditure and income against budget allocations and report to the Cabinet on the overall position and action planned to address a forecast overspend.

3.9 To submit reports to the Cabinet and to Council, in consultation with Joint Chief Executives, where the overall forecast for the year-end position is significantly outside the approved budgetary framework.

Responsibilities of the Service Director Finance and Procurement

3.10 To establish an appropriate framework of budgetary management and control that ensures that:

(a) budget management is exercised within the approved budget unless the full Council approves a supplementary estimate;

(b) each head of service has available timely information on income and expenditure on each budget which is sufficiently detailed to enable managers to monitor their budgets;

(c) expenditure is committed only against the approved budget cost centre;

(d) all officers responsible for expenditure and income comply with the relevant guidance, and the Financial Procedure Rules;

(e) each cost centre has a single named manager, designated by the relevant Joint Chief Executive or Director. As a general principle, budgetary responsibility should be aligned as closely as possible to the decision-making processes that commit expenditure; and

(f) significant variances from approved budgets are investigated and reported by budget managers quarterly and advised to the management team and the Cabinet.

3.11 To administer the Council's scheme of virement (please refer to section (b) Virement below).

Responsibilities of the Joint Chief Executives and their delegated officers

3.12 Monitor their budgets regularly during the year and take immediate action as necessary. If a particular budget head requires increasing, an alternative source of funding must be sought before any overspend occurs. Under no circumstances should expenditure be incurred without appropriate provision being put in place first.

3.13 Report on their financial performance to the Cabinet and relevant committee on predetermined dates using the corporate budget monitoring process.

3.14 To consult with the Chief Finance Officer with respect to any matter which is liable materially to affect the finances of the Council before any provision or other commitment is incurred and before reporting to councillors on that matter.

3.15 To ensure that all income and expenditure are properly recorded and accounted for.

3.16 To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Joint Chief Executives and Directors (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.

3.17 To ensure that spending remains within the service's overall budget limit, and that individual budget heads are not overspent, by monitoring and taking appropriate corrective action where significant variations from the approved budget are forecast and to report these to finance. This regulation shall also apply to any action or decision, which will give rise to a reduction in income.

3.18 To obtain prior approval from full Council for new proposals outside of the budget and policy framework, of whatever amount, that:

(a) create financial commitments in future years;

(b) change existing policies, initiate new policies or cease existing policies; and

(c) materially extend or reduce the Council's services.

3.19 To ensure compliance with the scheme of virement (please refer to the section starting at paragraph 3.20).

3.20 To consult with the relevant Joint Chief Executive or Director, where it appears that a budget proposal, including a virement proposal, may impact materially

on another service area or another service activity, prior to any action being taken.

(b) Virement

Why is this important? A virement is a transfer of budget from one area to another that has no overall impact on the total budget position. The scheme of virement is intended to enable Council, senior officers and their staff to manage budgets with a degree of flexibility within the overall budget and policy framework determined by the Council, and therefore to optimise the use of resources.

General

3.21 Virement is defined as the ability to transfer sums from one budget head to another or to establish a new budget head in order to meet planned expenditure needs in accordance with the policies and priorities of the service.

3.22 Virements between budget heads is an integral and important feature of budgetary control. However, virements would normally only be actioned when the reallocation of budgets is permanent.

3.23 Virements can only be transferred between different services providing the service delivery is neither materially enhanced or reduced.

3.24 The net amount of the budget transfer between headings must always be zero and cannot result in an increase in the overall cash limit during the financial year or in future years.

3.25 Virements to transfer part of a budget to another heading can only be undertaken if it is certain that it will not be needed to meet the spending needs of the original budget.

3.26 Virements from and into the following budgets are prohibited:

(a) Virements from or into the Housing Revenue Account (HRA);

(b) Virements from a reserve except with the approval of the Chief Finance Officer;

(c) Virement from capital to revenue;

(d) Virements from or into non-devolved budgets corporately managed budgets.

3.27 The use of virement must not create additional liability. The Joint Chief Executives and Directors are expected to exercise their discretion in managing their budgets responsibly and prudently.

3.28 Normally, the use of virement must not reduce service standards. Full Council, or where relevant and within the budget and policy framework, the Cabinet, must approve any virement that would significantly affect service standards.

3.29 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 the amount is used in accordance with the purposes for which it has been established.

Responsibility of Full Council

3.30 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.

3.31 Full Council may authorise virement to other purposes amounts provided within the approved annual revenue budgets and the approved capital expenditure programme.

Responsibilities of Cabinet

3.32 Cabinet approval should be sought for all virements between services which are in excess of the limit specified in the table below.

3.33 Cabinet may authorise virement to other purposes amounts provided within the approved annual revenue budgets and the approved capital expenditure programme, except where there would be a significant impact on service levels.

Responsibilities of the Joint Chief Executives and Service Directors

3.34 To have authority to vire to other purposes amounts provided within the approved annual revenue budgets and the approved capital expenditure programme provided that the amount of any single virement shall not exceed the limit specified in the table below.

Summaries of Virement Limits - Revenue & Capital Budgets

The table below summarises the approved virement limits. Changes in net expenditure within a financial year would normally be shown through a revised forecast rather than a virement.

Joint Chief Executives and Directors	Up to £100,000 for any single virement within their approved revenue budgets. Up to £250,000 for capital budget subject to capital funding being available.	Must be notified to the Chief Finance Officer
Chief Finance Officer	Up to £100,000 for any single virement within the approved	

	revenue budgets, and up to £250,000 capital budget subject to capital funding being available.	
Cabinet - for decisions relating to executive functions only	Any virement that will significantly impact on service levels. Over £100,000 within the approved revenue budgets. Over £250,000 within approved capital budgets subject to capital funding being available.	
Full Council	Any virement that will significantly impact on service levels and/or is outside of the agreed budget framework.	

(c) Request to carry forward unspent budget to future years.

Why is this important?
Normally unspent budgets are not available to be spent in future years. In some cases budgets are allocated for specific costs that may span more than one financial year, so this section sets out the approval arrangements for carry forward requests.

Responsibilities of the Chief Finance Officer

3.35 To administer the scheme of carry-forwards within the delegation approved by the full Council.

Responsibilities of the Joint Chief Executives and Directors

3.36 All internal business unit surpluses shall be retained for the benefit of the Council and their application shall require the approval of the management team.

3.37 The carrying forward of under spending will only be considered following a review of the Council's overall financial position by the management team.

(d) Emergency Expenditure

Why is this important?
The Council needs to have in place a procedure for meeting immediate needs in the case of an emergency situation arising in the district.

General

3.38 The Joint Chief Executives, Directors, the Emergency Activation Officer or the Emergency Coordinator shall have the authority to approve expenditure on any item which is essential to meet any immediate needs created by an emergency or which is referable to Section 138 of the Local Government Act 1972, subject to a subsequent report to the Cabinet, appropriate committee, or full Council depending on whether or not the expenditure can be met from within the current budget framework.

3.39 Where it is necessary in the Council's interest to settle legal proceedings which have been commenced against the Council the Head of Legal Services shall have the authority to approve expenditure in conjunction with the Chief Finance Officer.

Accounting Policies

Why is this important? The Chief Finance Officer is responsible for the preparation of the Council's Statement of Accounts for each financial year ending 31 March, in the format required by the Code of Practice on Local Council Accounting in the United Kingdom having regard to proper practices as set out in A Statement of Recommended Practice (CIPFA/LASAAC).

Responsibilities of the Chief Finance Officer

3.40 To select suitable accounting policies and to ensure that they are applied consistently or that explanations are given for any variations from these policies. The accounting policies are set out in the Statement of Accounts, which is prepared to show the Council's financial position as at 31 March each year.

Responsibilities of the Joint Chief Executives and their delegated officers

3.41 To adhere to the accounting policies and guidelines approved by the Chief Finance Officer.

Accounting Records and Returns

Why is this important? Proper accounting records are one of the ways in which the authority discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to maintain accurate and timely accounting records. These are subject to internal and external audit.

Responsibilities of the Chief Finance Officer

3.42 All accounting procedures and records of the Council and its officers shall be determined by the Chief Finance Officer. All accounts and accounting records shall be compiled by the Chief Finance Officer or under their direction.

3.43 To make proper arrangements for the preparation of accounting records in accordance with Accounts and Audit Regulations (England) 2011.

3.44 To maintain satisfactory accounting arrangements for all financial transactions of the Council in consultation, where necessary, with the Joint Chief Executives and Directors.

3.45 To ensure that all claims for funds, including grants, are made by the due date.

3.46 To ensure the proper retention of financial documents in accordance with the statutory requirements.

Responsibilities of the Joint Chief Executives and their delegated officers

3.47 To consult and obtain the approval of the Chief Finance Officer before making any changes to accounting records and procedures.

3.48 To maintain adequate records to provide an audit trail leading from the source of income/expenditure through to the accounting statements.

3.49 To comply with all arrangements for accounting records as set out by the Chief Finance Officer.

The Annual Statement of Accounts

Why is this important? The Council has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Audit Committee is responsible for approving the Statutory Annual Statement of Accounts.

Responsibility of the Joint Chief Executives

3.50 To ensure that the Council produces and complies with an Annual Governance Statement in order to manage the risks that may prevent it from achieving its strategic objectives and statutory requirements.

Responsibilities of the Chief Finance Officer

3.51 To select suitable accounting policies and to apply them consistently.

3.52 To make judgements and estimates that are reasonable and prudent.

3.53 To have regard to best practice in the presentation of its accounts as recommended by the Chartered Institute of Public Finance and Accountancy (CIPFA).

3.54 To sign and date the Statement of Accounts, stating that it gives a true and fair view of the financial position of the Council at the accounting date and its income and expenditure for each year ended 31 March.

3.55 To draw up the timetable for final accounts preparation, ensuring completion of the Annual Statement by the statutory date, and to advise staff and external auditors accordingly.

Responsibilities of the Joint Chief Executives and their delegated officers

3.56 To comply with accounting guidance provided by the Chief Finance Officer and to supply the Chief Finance Officer with information when required.

4. Risk Management and Control of Resources

Risk Management & Insurance

Why is this important? 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 attempt the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure its continued financial and organisational well-being. Risk management is concerned with evaluating the measures an organisation already has in place to manage perceived risks and then recommend the actions the organisation needs to take to control these risks effectively.

Responsibilities of the Chief Finance Officer

4.1 To prepare and promote the Council's Risk Management Policy Statement and Strategy and the Annual Corporate Governance Statement.

4.2 To ensure achievement of the Council's Risk Management Policy and its objectives and the reporting of such to the Cabinet or relevant committee.

4.3 To develop risk management controls in conjunction with the Joint Chief Executives and management team.

4.4 To ensure that all employees of the Council who need such cover have fidelity guarantee insurance.

4.5 To be responsible for arranging all necessary insurance cover and keeping appropriate records of such.

4.6 To be responsible for the administration and negotiation of all claims made on the Council's policies.

Responsibilities of the Joint Chief Executives and their delegated officers

4.7 The Leader and Joint Chief Executives will sign, as part of the Council's final accounts, a compliance 'statement of internal control/corporate governance to the accounts, confirming the Council has reviewed and instituted appropriate controls over its general business risks.

4.8 Directors and other designated officers are responsible for ensuring that business risks specific to their areas of responsibility, or any general corporate risk management strategies or policies, are identified, assessed and appropriate controls are put in place as part of the corporate governance/risk management process in accordance with the Council's Risk Management Policy.

4.9 To notify the Chief Finance Officer (S151) immediately of any loss, liability or damage that may potentially lead to a claim against the Council, together with any information or explanation that is required by the Service Director Finance and Procurement or the Council's insurers.

4.10 To immediately notify the police of any suspected criminal damage to Council property.

4.11 To ensure that there are regular reviews of risk within their service.

4.12 To notify the Chief Financial Officer (S151) promptly of all new risks, also equipment, properties or vehicles that require insurance cover and of any alterations affecting existing insurances.

4.13 To consult the Chief Financial Officer (S151) and the Monitoring Officer on the terms of any indemnity that the Council is requested to give.

4.14 To ensure that all employees, or anyone covered by the Council's insurance policies, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any incident that may give rise to an insurance claim.

4.15 To ensure that all staff using their own vehicles for Council business have adequate insurance cover for that use.

Internal Controls

Why is this important? Internal controls are necessary to help manage risk to the Council and to protect the Council from the impact of uncertainties.

Responsibility of the Joint Chief Executives

4.16 To ensure that the Council produces, and complies with, an Annual Governance Statement in order to manage any risks that may prevent it from achieving its strategic objectives and statutory requirements.

Responsibility of the Chief Finance Officer

4.17 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.

Responsibilities of the Joint Chief Executives and their delegated officers

4.18 To ensure that the principles of internal control, as defined by the Chief Finance Officer shall be observed as far as practicable for all areas of work under their control. in order to be confident in the proper use of resources, achievement of objectives and management of risks.

4.19 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness

4.20 To review existing controls in the light of any changes affecting the Council and to recommend new ones. Joint Chief Executives and Directors shall not remove existing financial controls without consultation with the Chief Finance Officer.

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

Audit Requirements

(a) Internal Audit

Why is this important? The Accounts and Audit (England) Regulations 2011 require that a 'relevant body must undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control'. Internal audit is an independent objective assurance and consulting activity designed to add value to and improve the Council's operations. It helps the Council accomplish its objectives by bringing a systemic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

Responsibilities of Chief Finance Officer

4.22 A continuous internal audit under the independent control and direction of the Chief Finance Officer shall apply to all accounting, financial and other operations of the Council.

4.23 The Chief Finance Officer or their authorised representative shall have the authority to:

(a) have access to all records, documents and correspondence relating to the transactions and operations referred to above;

(b) require explanation as necessary concerning such matters;

(c) require any Council employee to produce cash, stores and any other Council property under their control;

(d) enter at all reasonable times any authority premises or land.

4.24 To maintain an adequate and effective internal audit of all financial activities of the Council, which shall be carried out independently of the Council's management and be operated in accordance with CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom, as interpreted by amended or supplemented by nationally approved guidance on professional practice. Internal Audit, in carrying out these activities on behalf of the Chief Finance Officer, shall have a direct right of access to the Joint Chief Executives, the Audit Committee and Cabinet if the circumstances so warrant.

4.25 To approve the strategic and annual audit plans which take account of the characteristics and relative risks of the activities involved.

4.26 To regularly review, appraise and report upon the adequacy of all financial systems together with the control of the Council's assets and interests and shall submit an Annual Report thereon to the Audit Committee.

4.27 To ensure full coverage of all financial management activities of the Council by compiling an annual risk based internal audit plan. A report shall be made annually to the Audit Committee.

4.28 To report to Cabinet on the adequacy of audit resources.

4.29 To ensure that effective procedures are in place to investigate promptly any fraud or irregularity and to:

(a) decide upon the need for any independent investigation following any irregularity;

(b) consult with the Monitoring Officer and the relevant senior manager if, after investigation, loss has occurred due to fraud, misappropriation or irregular expenditure;

(c) obtain the advice of the Head of Legal Services about the need for criminal investigation following any irregularities;

(d) ensure that all investigations are carried out in accordance with the Council's Anti-Fraud, Bribery, Corruption and Whistleblowing Policy; and

(e) report to the General Purposes Committee on any criminal proceedings.

4.30 To ensure that there is effective liaison between internal and external auditors.

Responsibilities of the Joint Chief Executives and their delegated officers

4.31 It is the duty of all officers and councillors to follow the corporate Anti-Fraud, Bribery, Corruption and Whistleblowing Policy. Whenever any matter arises involving irregularities concerning cash, stores, council property, or any council activity, the Joint Chief Executive or Service Director concerned shall immediately notify the Finance Team who, jointly with the senior officer concerned, shall investigate. In all cases where the identified loss exceeds £20,000 a report will be made to the Cabinet and the Audit Committee.

4.32 To ensure that internal auditors are given access at all reasonable times to all premises, personnel, documents, records and assets that the auditors consider necessary for the purposes of their work.

4.33 To ensure that internal auditors are provided with any information and explanations that they seek in the course of their work.

4.34 To consider and respond promptly to any recommendations in audit reports.

4.35 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

4.36 To ensure that new systems for maintaining financial records, or records of assets, or significant changes to such systems, are discussed with and agreed by the Internal Audit and approved by the Chief Finance Officer, prior to implementation.

(b) External Audit

Why is this important?
The external auditor has rights of access to all documents and information necessary for audit purposes. The Code of Audit Practice sets out the auditor's objectives to review and report upon the financial aspects of the audited body's corporate governance arrangements and also the audited body's financial statements.

Responsibilities of the Chief Finance Officer

4.37 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that they consider necessary for the purposes of their work.

4.38 To ensure there is effective liaison between external and internal auditors.

4.39 To work with the external auditor and advise the Cabinet, relevant committees and senior management on their responsibilities in relation to external audit.

Responsibilities of the Joint Chief Executives and their delegated officers

4.40 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.

4.41 To ensure that all records and systems are up to date and available for inspection.

4.42 To inform the external auditor of any single fraud or error incident amounting to £10,000 or above.

Preventing Fraud and Corruption

Why is this important?
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 councillors and officers 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 (e.g. suppliers, contractors, service providers) with whom it comes

into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

Responsibilities of the Chief Finance Officer

4.43 To develop and maintain an Anti-Fraud, Bribery, Corruption and Whistleblowing Policy.

4.44 To maintain adequate and effective internal control arrangements.

4.45 To ensure that all suspected irregularities are reported to the Monitoring Officer who will advise on the most appropriate course of action.

Responsibilities of the Joint Chief Executives and their delegated officers

4.46 The Joint Chief Executives are responsible for the implementation of the Anti-Fraud, Bribery, Corruption and Whistleblowing Policy in their service area and should ensure that:

a) all officers for whom they are responsible are aware of the requirements of the council's Anti-Fraud, Bribery, Corruption and Whistleblowing Policy;

b) where appropriate, applications for Council services/benefits etc. contain a reference to the use of the information supplied for data matching purposes to assist in the detection of fraud.

4.47 To ensure that all suspected irregularities or financial improprieties are reported to the Finance Team or Chief Finance Officer who will advise on the most appropriate course of action.

4.48 To be responsible for maintaining the internal control system and the prevention and detection of fraud and other illegal acts.

4.49 To instigate the Council's disciplinary procedures where the outcome of an Internal Audit or similar investigation indicates improper behaviour.

4.50 To maintain and regularly review a service register of staff disclosures of financial or commercial interests in the Council's functions.

Assets

(a) Security of Property

Why is this important?
The Council holds assets in the form of property, computers, equipment, vehicles, 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.

Responsibilities of Chief Finance Officer

4.51 To ensure that an Asset Register is maintained in accordance with good practice for all fixed assets with a value in excess of £10,000. 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; and

(c) adequately maintained.

4.52 To receive the information required for accounting, costing and financial records from each Chief Officer.

4.53 To ensure that assets are valued in accordance with the Code of Practice on Local Council Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC), or ensure explanations for different treatment are given.

4.54 To approve the format of, and maintain, the asset register for all land and property currently owned by the Council which should show:

(a) the name of the asset;
(c) the location/address of the asset;
(b) the purpose for which the property is held;
(d) the size and plan reference;
(e) purchase details;
(f) records of any tenancies;
(g) valuation amount and date;
(i) Cost centre details;
(ii) Method of depreciation.

4.55 To ensure that upon the termination of any lease, concession, grazing right or other agreement, the Cabinet shall be asked to decide upon the future use of the property following a report by the Chief Finance Officer, unless such powers have previously been delegated to an officer.

4.56 To be responsible for ensuring that all securities and title deeds are held in a secure environment.

Responsibilities of the Joint Chief Executives and their delegated officers

4.57 Each Joint Chief Executive and Service Director is responsible for maintaining proper security at all times for all buildings, stocks and stores, furniture and equipment, cash, etc. under their control. They shall consult the Chief Finance Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

4.58 Maximum limits for cash holdings shall be agreed with the Chief Finance Officer and shall not be exceeded without their express permission.

4.59 Each Joint Chief Executive and Service Director shall be responsible for the care and custody of stores in their department.

4.60 Stores records shall be kept in a form approved by the Chief Finance Officer and stocktaking shall be carried out on a continuous basis being the responsibility of the Service Director or Head of Service concerned.

4.61 Every stores item shall be checked at least once in each year and the Chief Finance Officer (S151) advised of all discrepancies exceeding £1,000.

4.62 Joint Chief Executives and Directors should ensure that the stock lists at the 31 March are certified and returned to the Chief Finance Officer (S151).

4.63 Joint Chief Executives and Directors should ensure that any material surpluses or obsolete stock are disposed of in line with legislation and agreed authority procedure. All disposals should be recorded and the records should be available for inspection.

4.64 The Chief Finance Officer (S151) shall keep and maintain an inventory of all leased assets.

4.65 The Chief Finance Officer (S151) will keep and maintain an inventory register of all plant, vehicle and equipment in excess of £6,000. A record of all infrastructure in excess of £20,000 will also be kept and maintained by the Chief Finance Officer (S151).

4.66 The Service Director Place will keep and maintain a register of all land and buildings.

4.67 The Council's assets shall not be removed from authority premises except in accordance with the ordinary course of the Council's business and should only be used for Council business unless specifically approved by the appropriate head of service.

4.68 The Joint Chief Executives and Directors should ensure that all assets are disposed of in line with legislation and agreed authority procedure. All disposals should be recorded and records should be available on inspection. It is the responsibility of Joint Chief Executives and Service Directors to ensure that the Chief Finance Officer (S151) is notified of any disposal to ensure that the correct accounting entries are made.

4.69 To keep inventories of Council-owned plant, equipment, furniture etc in a manner approved by the Joint Chief Executives and Chief Finance Officer, where the value exceeds £500. Attractive and portable items such as computers and cameras should also be included in the inventory and identified with security markings as belonging to the Council. Where possible, all other items should also be marked as belonging to the Council.

4.70 To obtain, where necessary, advice from the Chief Finance Officer about which items are to be recorded in inventories and stock records.

4.71 To notify the Chief Finance Officer of all new assets acquired for insurance and asset register purposes.

4.72 To consult the Chief Finance Officer in all cases where security is thought to be defective or where it is considered that special security arrangements may be needed.

4.73 To ensure cash holdings on premises are kept within insured limits.

4.74 To ensure that keys to safes and similar receptacles are to be kept under strict security by those responsible at all times. Loss of any such keys must be reported to the Chief Finance Officer forthwith. The names of key holders shall be notified to the Chief Finance Officer.

4.75 To ensure that stock is held at minimum levels needed for requirements.

4.76 To ensure that:

(a) records of stock held are kept in a format agreed and Chief Finance Officer;

(b) continual independent stocktaking is carried out by a person other than the store keeper or person responsible for the stock;

(c) actual stock is reconciled to the stock records at every stock-take; and

(d) the Chief Finance Officer is provided with any information required for financial and accounting records.

4.77 To ensure that a report is submitted for approval to the Chief Finance Officer if the estimated value of any one item being written-off is more than £5,000 but less than £10,000.

4.78 To ensure that such a report is made to the relevant committee for all items of a value in excess of £10,000.

4.79 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.

(b) Intellectual Property

Why is this important?
Intellectual property is a generic term that includes inventions and writings if these are created by any employee during the course of their employment. As a general rule, they belong to the employer, not the employee. Certain activities undertaken within the Council may give rise to items that may be patentable, for example, software development.

Responsibilities of the Chief Finance Officer

4.80 To develop and disseminate good practice through the Council's intellectual property procedures.

Responsibilities of the Joint Chief Executives and their delegated officers

4.81 To ensure that controls are in place so 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.

Treasury Management, Banking and Petty Cash

Why is this important?
Many millions of pounds pass through the Council's bank accounts each year. Treasury management is the process of managing cash flow by investing balances held, borrowing when appropriate in a way that balances risk with return. The overriding consideration at all times is the security of the Council's financial assets.

General

Banking

4.82 All arrangements with the Council's bankers shall be made by or under arrangements approved by the Chief Finance Officer, who shall be authorised to operate such banking accounts, including the building society accounts as they may consider necessary.

4.83 All cheques, including payment forms, shall be ordered only on the authority of the Chief Finance Officer, who shall make proper arrangements for their safe custody.

4.84 The Chief Finance Officer shall grant an indemnity to the bankers in respect of cheques bearing facsimile signatures.

4.85 Cheques bearing a facsimile signature shall be countersigned by the Chief Finance Officer or other officer authorised to do so if the approved limit of £10,000 is exceeded:

Authorised signatories are:

The Joint Chief Executives
Director Finance & Procurement
Strategic Procurement Manager
PA to Joint Chief Executives

4.86 The Council has adopted CIPFA's 'Treasury Management in the Public Services: Code of Practice (the Code)' as described in Section 4 of that Code.

4.87 Accordingly, the Council has created and will maintain, as the cornerstones of effective Treasury Management:

- A Treasury Management and Annual Investment Strategy stating the policies and objectives of its treasury management activities.

Responsibilities of Chief Finance Officer

4.88 To be responsible for all necessary borrowings, repayments of loans and investments which shall be within the Council's policy and in the name of the Council, or the name of nominees agreed by the Council.

4.89 To obtain approval from the relevant committee for long-term borrowing requirements that arise for capital schemes additional to the agreed capital programme.

4.90 To be responsible for making banking arrangements on behalf of the Council.

4.91 All money in the hands of the Council shall be aggregated for the purposes of treasury management and be under the control of the Chief Finance Officer.

4.92 To report to the relevant committee on the treasury management policies, practices and activities including, as a minimum, an annual strategy and plan in advance of the year, and an annual report after its completion.

4.93 To be responsible for the implementation and monitoring of the Council's treasury management policies and practices, and for the execution and administration of delegated treasury management decisions and to act in accordance with the Council's Policy Statement CIPFA's Standard of Professional Practice on Treasury Management.

4.94 To be responsible for the operation and terms of all the Council's banking, giro and investment accounts and for the ordering, use and control of procurement cards, payment forms and other payment media.

4.95 To ensure that:

(a) the Council's banking accounts and Girobank accounts are operated as required for running the Council's finances efficiently;

(b) arrangements are made for manual, electronic and Internet transfers between the Council's bank accounts and other people's accounts;

(c) a record is kept of staff empowered to prepare and authorise bank transfers;

(d) the Council's bankers are advised of the names of staff empowered to prepare and authorise bank transfers;

(e) records, which must be countersigned by an authorised signatory, are kept of transfers made from the Council's bank account;

(f) they have authorised the order of cheques or Girobank order forms;

(g) bank reconciliation statements are produced at monthly intervals; and

(h) unused cheques are stored securely.

4.96 To advance such sums or where appropriate, open bank accounts and receive bank account statements, by way of imprest accounts as deemed reasonable, and to approve the nature and amounts of payments which can be made from the account and the records which need to be kept. The deduction of cash from income taken to replenish such accounts is permitted.

Responsibilities of the Joint Chief Executives and their delegated officers

4.97 To follow the instructions on banking, petty cash and imprest accounts issued by the Chief Finance Officer.

4.98 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 the full Council, following consultation with the Chief Finance Officer.

4.99 To arrange for all trust funds to be held, wherever possible, in the name of the Council or the name of nominees agreed by the Council. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Chief Finance Officer, unless the deed otherwise provides.

4.100 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Chief Finance Officer, and to maintain records of all transactions.

4.101 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

4.102 To ensure that employees operating a petty cash or imprest account:

(a) obtain and retain vouchers to support each payment from the 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 by the Chief Finance Officer cash and all vouchers to the total value of the amount;

(d) record transactions promptly;

(e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the account holder;

(f) provide the Chief Finance Officer with a certificate of the value of the account held at 31 March each year;

(g) ensure that the petty cash 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 advance, an employee shall account to the Chief Finance Officer for the amount advanced to him or her;

(i) do not allow the bank account to be overdrawn;

(j) do not use the account for income.

4.103 To control the use of postage stamps and franking machines used within their services.

5. Financial Systems and Procedures

General

Why is this important? Services have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. Financial 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 Chief Finance Officer, who has a professional responsibility to ensure that the Council's financial systems are sound, should therefore be notified of any new developments or changes.

Responsibilities of the Chief Finance Officer

5.1 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; and

(e) approve any changes to be made to existing financial systems.

(f) separate the duties of officers providing information about sums due to or from the Council and calculating, checking and recording these sums from those of the officers responsible for collecting or disbursing them;

(g) ensure that employees with the duty of examining or checking the accounts of cash transactions are not themselves engaged in these transactions;

(h) ensure that employees with responsibility for authorising orders and receipting orders shall not both authorise and receipt the same order.

Responsibilities of the Joint Chief Executives and their delegated officers

5.2 To comply with procedures and guidance issued by the Chief Finance Officer.

5.3 To ensure that accounting records are properly maintained and held securely.

5.4 To consult with the Chief Finance Officer concerning controls on new systems and on proposed changes to existing systems.

5.5 To ensure that vouchers and documents (including electronic documents) with financial implications are not destroyed, except in accordance with arrangements in accordance with retention schedules.

5.6 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.

5.7 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; and

(c) output from the system is complete, accurate and timely.

5.8 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.

5.9 To ensure that systems are documented and staff trained in operations.

5.10 To establish a scheme of delegation identifying officers authorised to act upon the Joint Chief Executives and Directors' behalf in respect of payments, income collection and placing orders, including variations, and defining the limits of their authority.

5.11 To supply lists of authorised officers, with specimen signatures and delegated limits, for both ordering and payments and also for transferring monies by journal transfers between accounts in the Council's accounting system, to the Chief Finance Officer for approval, together with any subsequent variations.

Income and Expenditure

(a) Income

Why is this important? Income can be a vulnerable resource and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked at the earliest opportunity. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost of administering debts.

Responsibilities of the Chief Finance Officer

5.12 To be responsible for maintaining a system for recording and collecting all credit income.

5.13 To approve all arrangements for the collection, receipt, recording, banking and safe-keeping of Council income.

5.14 To satisfy themselves regarding the arrangements for the control, order and supply of all receipt forms, order books or tickets and similar items issued direct to the services.

5.15 To write off:

(a) all debts arising from bankruptcies and liquidations, which are not covered by distributions from liquidators, receivers or administrators; and

(b) any other single amount due to the Council up to £10,000. The write off of any outstanding debt in excess of this amount must be reported to the Cabinet.

5.16 To approve the waiver or variation of any legal charge taken as security in respect of individual transactions and to seek approval of Cabinet to waivers or variations in excess of the approved write-off limit.

5.17 To ensure that appropriate accounting adjustments are made following any write-off action.

Responsibilities of the Joint Chief Executives and their delegated officers

5.18 The Joint Chief Executives and Directors shall furnish the Chief Finance Officer with such particulars as required of charges to be raised on debtors' accounts for works done, goods supplied, services rendered or other monies due to the Council.

5.19 The Joint Chief Executives and Directors shall ensure that all requests for work that are not pre-paid are supported by adequate undertakings to pay accounts raised in response to such requests so that legal action can be taken if necessary in the event of non-payment.

5.20 To review all scales of charges annually as part of the budget setting process in conjunction with the Chief Finance Officer. No alteration to such scales may be made, or new scales introduced, except:

(a) Where delegated powers to amend charges have already been given;

(b) On approval by the Cabinet or following a report to the Chief Finance Officer;

(c) Where charges recover specified costs; or

(d) Following changes in VAT or other legislative changes.

5.21 To separate the duties of officers providing information about sums due to or from the Council and calculating, checking and recording these sums from those of the officers responsible for collecting or disbursing them.

5.22 To ensure that employees with the duty of examining or checking the accounts of cash transactions are not themselves engaged in these transactions.

5.23 To ensure that employees with responsibility for authorising orders and receiving orders shall not both authorise and receipt the same order.

5.24 To establish and initiate appropriate recovery procedures, in conjunction with the Chief Finance Officer, including legal action where necessary, for debts that are not paid promptly. Joint Chief Executives, Directors and their senior officers have a responsibility to assist the Chief Finance Officer in collecting debts in respect of contracts or arrangements that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf.

5.25 To be responsible for making satisfactory and secure arrangements for the order, control and supply of all receipt forms, order books or tickets and similar items.

5.26 To issue official receipts or to maintain other documentation for income collection.

5.27 To ensure that money received by post is properly identified and recorded.

5.28 To hold securely, receipts, tickets and other records of income for the appropriate period as specified by the Chief Finance Officer.

5.29 To lock away all income, tickets etc to safeguard against loss or theft, and to ensure the security of remittances handling until banked or paid to the Chief Finance Officer.

5.30 To ensure that income is paid fully and promptly to the Council or 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.

5.31 To ensure that staff receiving money on behalf of the Council comply with the following rules, unless the Chief Finance Officer approves other arrangements:

(a) cross cheques immediately upon receipt;

(b) acknowledge receipt of the money by giving a receipt, ticket or voucher. Receipts are not required for cheque payments received by post unless the cheque payer requests them;

(c) record details of cheque payments in a format decided by the Chief Finance Officer;

(d) keep the money secure until banked or passed to the Chief Finance Officer;

(e) pass the money over to the Chief Finance Officer or to the Council's banking or Girobank accounts; and

(f) keep a record of collections and deposits in a format approved by the Chief Finance Officer.

(g) ensure that card payments are handled securely and in accordance with requirements set out by Chief Finance Officer.

5.32 To ensure cash income is not used to encash personal cheques or other payments.

5.33 To supply the Chief Finance Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Chief Finance Officer to record correctly the sums due to the Council and to ensure debtor invoices are sent out promptly.

5.34 To advise the Chief Finance Officer about any contracts, leases or other arrangements which involve the receipt of money and to provide, upon request, any relevant documentation. In the case of long term agreements e.g. leases, in the absence of adequate proof of the applicant's financial standing, advice shall be taken from the Chief Finance Officer as to the ability of the debtor to discharge their obligations.

5.35 Revisions to the rents payable under the terms of any lease, or other agreement shall be approved by the Cabinet following a report by the relevant Director, unless specifically delegated to an Officer to determine.

5.36 To keep a signed record of every transfer of money between employees of the Council.

5.37 To recommend to the Chief Finance Officer all debts to be written off and to keep a record of such write offs. 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.

5.38 To notify the Chief Finance Officer of any outstanding income not invoiced relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Finance Officer.

(b) Ordering and Paying for Work, Goods and Services

Why is this important? Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that its services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Contract Standing Orders.

General

5.39 Every officer and councillor 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 code of conduct.

5.40 These regulations should be considered in conjunction with the relevant parts of Contract Standing Orders and any guidance issued from time to time.

5.41 Once the revenue and capital budgets for the General Fund and Housing Revenue Account have been agreed, officers have authority to incur expenditure, in accordance with the Contract Standing Orders, including in those budgets with the following exceptions:

- Any items reserved by councillors for specific approval;

- Any contracts which the Joint Chief Executives and Chief Finance Officer judge to be major contracts, where it would be appropriate to seek approval from councillors for the service provision specified in the contract and the budget available. Please also see the General delegated powers of committees, sub-committees and panels.

5.42 Signature may also include computer-generated signatures from computer authorisation. However, this does not apply to entering into contracts. Please see the Contract Standing Orders 8.4 - 8.6 accordingly.

5.43 Computer authorisation means approved via computer input, access to which is controlled via usernames and passwords and where officers comply with the council's computer security policy by not revealing their password(s) to anyone else.

5.44 Orders shall normally be issued at the time when the goods, works or services are actually requisitioned but, in cases of urgency, an oral order may be given by a budget holder, in which case an official confirmatory order must be dispatched within three working days.

5.45 Orders for goods, services and works shall, where possible, be made through the central purchasing arrangements, such as contracts already available to the Council, framework agreements and other properly procured schemes where the goods, services and works required are available through these sources.

5.46 Orders for ICT hardware, software and consultancy services shall only be made through the Council's approval process for ICT purchases and projects specified by the relevant Joint Chief Executive or Service Director, and subject to complying with the Contract Standing Orders.

5.47 Orders for building maintenance work shall be made through the relevant Head of Service or raised only with their agreement and subject to compliance with the Contract Standing Orders.

5.48 Purchase orders must be in a form approved by the Chief Finance Officer. Purchase orders must be issued for all works, 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 Chief Finance Officer.

5.49 There should be a separation of duties between the officer raising a purchase order and the officer authorising the order.

5.50 All orders up to £24,999 will be subject to these Financial Procedure Rules, except when a written contract is required or in the event of a consultancy appointment or appointment under a framework agreement. They will then be subject to the Contract Standing Orders.

Quotes/Tenders Requirements

Estimated Value of Purchase	Minimum competition and Documentation requirements	Governed by
Zero to £24,999	At least one quote in advance	Finance Procedure Rules, unless a written contract is required[1], when the Contracts Standing Orders would apply.
£30,000 up to £99,999	At least three written quotes in advance	Contract Standing Orders
£100,000 up to the Procurement Limit	At least three written tenders and a written contract	Contract Standing Orders
At the Procurement Limit and above	Advertisement and tenders in accordance with requirements of the procurement legislation applicable from time to time, and a written contract.	Contract Standing Orders

5.51 Where, in cases of extreme urgency, it is not practicable to issue a purchase order at the time of placing an order, the relevant Joint Chief Executive or Director may issue an oral or faxed, telephone or e-mail order. A confirmatory official order clearly marked as such shall be made out and dispatched as soon and as possible.

5.52 Purchase orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

[1] This could be the case but is not limited to, any contract where personal data is being processed, intellectual property rights being of importance or the purchase order terms and conditions being deemed not suitable.

5.53 The normal method of payment of remittances shall be by electronic payment drawn on the Council's banking accounts by the Chief Finance Officer. The Rules dealing with petty cash accounts are set out elsewhere in these procedure rules. The Chief Finance Officer may agree other methods of payment, including those made by procurement cards, and the rules to be applied to them.

Responsibilities of the Chief Finance Officer

5.54 To approve the form of purchase order to be used.

5.55 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.

5.56 To make payments from the Council's funds on the authorisation of a Chief Officer that the expenditure has been duly incurred in accordance with Financial Procedure Rules.

5.57 To make payments, whether or not provision exists within the budgets, where the payment is specifically required by statute or is made under a court order.

5.58 To make payments to contractors on the certificate of the appropriate Chief Officer the authorisation must include details of the value of work, retention money, amounts previously certified and amounts now certified.

5.59 To ensure that, prior to any payment being made to a building contractor, the appropriate CIS certificate has been presented and validated. To make deduction of tax from the labour element of any invoice, where appropriate.

5.60 Arrangements for issue of certificate of tax deduction to any building contractor to whom payments have been made subject to deduction of tax.

5.61 To be responsible for:

(a) identifying those items of expenditure to be financed using leasing arrangements;

(b) all lease negotiations and subsequent payments; and

(c) undertaking central purchasing for office supplies.

Responsibilities of the Joint Chief Executive and their delegated officers

5.62 To ensure that purchase orders, which must have been approved in advance by the Chief Finance Officer, are used for all goods, services and works other than the exceptions specified in paragraph 5.43.

5.63 To ensure that purchase orders are only used for goods, services and works provided to the service, and that staff are aware they must not use purchase orders to obtain goods, services and works for their private use.

5.64 To ensure that only those staff agreed by them and authorised by the Chief Finance Officer authorise purchase orders, to maintain an up-to-date list of such authorised staff within the electronic financial management systems managed by the Chief Finance Officer.

5.65 To ensure that all purchase orders are authorised by a Joint Chief Executive, appropriate Director , or an officer designated by them and approved by the Chief Finance Officer in respect of a defined class of purchase order.

5.66 To ensure that, before signing any purchase order, the responsible Officer shall:

(a) be satisfied that the order will obtain the best value for the price to be paid;

(b) ensure the correctness of the purchase order and that it has been prepared in compliance with these Financial Procedure Rules and the Contract Standing Orders;

(c) ensure that the cost is covered by the approved budgets or is otherwise provided for in accordance with the Council's procedures; and

(d) that the commitment entered into does not conflict with the Council's policies.

5.67 To ensure that goods, services and works are checked, in relation to goods on receipt. In relation to works and services in accordance with the timeframe set out in the terms and conditions, to verify that they are in accordance with the purchase order; this check should be carried out by a different officer from the person who authorised the purchase order. Appropriate entries should then be made in inventories or stores records.

5.68 To ensure that only those staff authorised by Chief Finance Officer under paragraph 5.11 make payments, to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their department and to supply a copy to the Chief Finance Officer.

5.69 To ensure that an up to date register of period payments is maintained.

5.70 To supply a copy of each purchase order to the Chief Finance Officer as soon as possible which shall:

(a) include provision for specifying the nature and/or quantity of goods, works or services required and any contract or agreed price and other terms of sale relating to them;

(b) specify that goods must be accompanied by delivery notes;

(c) ask the supplier to send their invoices to the finance team as soon as possible after the despatch of goods or completion of works or services;

(d) include a requirement for a guarantee or warranty to be provided where appropriate; and

(e) have, where appropriate, a serial number/s.

5.71 To ensure that:

(a) written authorisation is provided for payments where there is no supporting invoice; and that

(b) the Chief Finance Officer is advised about all leases, agreements, contracts and obligations where money is payable for which there is no invoice.

5.72 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:

(a) that the goods, services and works have been received and have has been recorded in the accounting system;

(b) that the invoice has not previously been paid;

(c) that expenditure has been properly incurred and is within budget provision except emergency expenditure;

(d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices;

(e) that tax has been correctly accounted for;

(f) that the invoice is correctly coded;

(g) that discounts have been taken where available;

(h) that appropriate entries will be made in accounting records;

(i) the item is a proper liability of the Council;

(j) payments are not made against a supplier’s statement; and

(k) CIS certificate when necessary.

5.73 To ensure:

(a) the receipt of goods, services and works,

(b) the checking of the prices and arithmetic; and

(c) the certification for payment of invoices are carried out by different persons.

5.74 To ensure that:

(a) all invoices and vouchers contain the initials or other reference of the persons who have carried out the various checks prior to payment; and

(b) if, in exceptional circumstances, payment is required in advance of delivery of the goods or services, 'Payment in Advance' is noted on the invoice.

5.75 To be responsible for maintaining a system to prevent duplicate payments of invoices.

5.76 To ensure that when a photocopied, e-mailed or faxed invoice is passed for payment, it is clearly certified that it is a true copy of the original invoice and that the amount due is still outstanding.

5.77 To ensure that when any part of an invoice (except the VAT element) is amended by a Council employee, the amendment is made in non-erasable ink, is signed by the employee and states briefly the reason for the change.

5.78 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Chief Finance 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.

5.79 To notify the Chief Finance Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Finance Officer and, in any case, not later than the date advised by finance.

5.80 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Chief Finance Officer 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.

5.81 To notify the Chief Finance Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

5.82 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

(c) Payments to Employees and Councillors

Why is this important? Staff costs are the largest item of expenditure for most Council 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' contract of employment. It is also important that all payments are accurately and completely recorded and accounted for and that councillors' allowances are authorised in accordance with the scheme adopted by the Council.

Travelling, subsistence and financial allowances

Responsibilities of the Chief Finance Officer

5.83 To be responsible for the calculation and payment of salaries, wages and all other emoluments unless other arrangements are agreed by the Chief Finance Officer.

5.84 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.

5.85 To make arrangements for payment of all travel and subsistence claims or financial loss allowance.

5.86 To make arrangements for paying councillors' travel or other allowances upon receiving the prescribed form, duly completed and authorised.

5.87 To be responsible for approving the format of the expenses/allowances claim forms for staff and councillors.

5.88 To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

5.89 To be responsible for making an advance of pay if approved by the relevant Joint Chief Executive or Director.

5.90 To be responsible for:

(a) approving the format of time records or pay documents;

(b) keeping personnel records about pay, pensions, statutory sick pay, national insurance and income tax; and

(c) paying to the appropriate agencies any sums deducted from employees' pay; together with any employee contributions.

Responsibilities of the Joint Chief Executives and their delegated officers

5.91 To ensure appointments are made in accordance with the procedure rules of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.

5.92 To notify the Human Resources team 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 Chief Finance Officer. To also notify all changes of councillors of the Council, including election, resignation, termination of office and appointments as Chair/Vice-Chair.

5.93 To be responsible for the accuracy of all information passed to human resources that is used for making such payments to staff.

5.94 To send an up-to-date list of the names of officers authorised to sign timesheets, overtime claims etc to the Finance Team, together with specimen signatures.

5.95 To ensure that payroll transactions are processed only through the payroll system. The Joint Chief Executives should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HMRC applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Chief Finance Officer.

5.96 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.

5.97 To personally authorise, in writing, all claims that are more than one month old. Officer's claims submitted more than three months after the expenses were incurred will be paid only with the express approval of the Chief Finance Officer.

5.98 To ensure that human resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

5.99 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

Responsibilities of all staff and Councillors

5.100 To ensure that, when making claims for payment of motor vehicle allowances, subsistence allowances, travelling and other incidental expenses, all councillors and employees shall:

(a) use the prescribed form;

(b) claim on a monthly basis by the notified deadline;

(c) send their claim to an authorised officer for approval; and

(d) make claims for a financial year within one month of 31 March

Appointment of Consultants

Why is this important? HMRC regulations stipulate as to whether a person is considered a consultant or should be an employee. Appointment of consultants should be made only in accordance with these regulations and our own contract Standing Orders.

General

5.101 Any consultant (not being an officer of the Council) may only be appointed with the specific authority of the relevant Joint Chief Executive or Director and in accordance with procurement regulations.

Responsibilities of the Joint Chief Executives and Directors

5.102 The Joint Chief Executives must consult with the Chief Finance Officer prior to the appointment of any consultant subject to the criteria set out in paragraph 5.100, including on fees to be paid to and the insurance status of any consultants.

5.103 It shall be a condition of the appointment of any consultant who is responsible to the Council for services in respect of works on its behalf that in relation to those works he shall:

(a) comply with Financial Procedure Rules relating to Financial Systems and Procedures and also the Contract Standing Orders as though they were a chief officer of the Council;

(b) at any time during the carrying out of the works, produce to the Joint Chief Executive or appropriate Director, or their representative, on request, all the records maintained by them in relation to the works; and

(c) on completion of the works, transmit all such records or copies thereof to the appropriate chief officer.

Taxation

Why is this important?

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.

Responsibilities of the Chief Finance Officer

5.104 The Chief Finance Officer shall determine the VAT treatment of all supplies which may fall within the VAT exempt definition to the best advantage of the council and charges will be amended accordingly.

5.105 To complete all HMRC returns regarding PAYE by the appropriate deadlines.

5.106 To complete monthly returns of VAT inputs and outputs to HMRC by the appropriate deadlines.

5.107 To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.

5.108 To maintain up-to-date guidance for Council employees and councillors on taxation issues in the accounting manual and the VAT tax manual.

Responsibilities of the Joint Chief Executives and their delegated officers

5.109 The Joint Chief Executives and Directors are responsible for ensuring that VAT can be correctly and accurately accounted for within the council's accounts in accordance with HM Customs and Excise Regulations. This will include:

a) establishing the correct VAT liability for services or goods supplied thus ensuring that VAT is charged and paid over;

b) ensuring that VAT on income is declared/accounted for in the correct accounting period;

c) obtaining Vat invoices/VAT authenticated receipts in respect of all payments (including those made by using a purchase card), which includes a VAT charge;

d) taking advice on all property and land transactions, which could impact upon the council's ability to fully recover VAT.

5.110 The Joint Chief Executives and Directors are responsible for ensuring that tax liabilities and returns can be correctly compiled under the Construction Industry Scheme in accordance with HMRC Regulations.

5.111 The Joint Chief Executives and Directors are responsible for ensuring that liabilities to account for Income Tax and National Insurance can be correctly

and accurately accounted for within the Council's accounts, in accordance with HMRC regulations.

This will include:

a) ensuring that all payments to staff (other than those for which a dispensation is held) are made via the council's payroll system;

b) ensuring that any taxable benefit arising from payments made/benefit in kind supplied to or on behalf of staff is notified to the Payroll Manager for inclusion on P11D and similar returns;

c) ensuring that all persons employed by the authority are added to the authority's payroll;

d) confirming that suppliers of labour other than employees (e.g. "consultants") are not liable to deduction of tax or national insurance as if they were an employee, i.e. by obtaining evidence of Schedule D employment or CIS status.

5.112 If in doubt, the Joint Chief Executives and Service Directors or their nominees should consult the Finance Team for advice. Departments will be liable for costs including any penalties and interest charged for incorrect tax treatment.

5.113 To follow the guidance on taxation issued by the Chief Finance Officer.

6. External Arrangements

Partnerships

Why is this important? 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.

General

6.1 Bids for work for others or for partnership involving the acquisition of assets by the Council require a report by the appropriate Joint Chief Executive, Director or their nominee and Chief Finance Officer to the Cabinet prior to the date the bids are due for submission to enable the Cabinet to consider the effect on the Council's capital and revenue budgets and recommend accordingly to Full Council regarding supplementary finance. All tenders by in-house trading units

for contracts of over £10,000 in value with both the Council and third parties must be checked by the Chief Finance Officer for financial prudence prior to submission.

6.2 The main reasons for entering into a partnership are:

(a) the desire to find new ways to share risk;

(b) the ability to access new resources;

(c) to provide new and better ways of delivering services; and

(d) to forge new relationships.

6.3 A partner is defined as either:

(a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or

(b) a body whose nature or status gives it a right or obligation to support the project.

6.4 Partners participate in projects by:

(a) acting as a project deliverer or sponsor, solely or in concert with others;

(b) acting as a project funder or part funder; and

(c) being the beneficiary group of the activity undertaken in a project.

6.5 Partners have common responsibilities:

(a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;

(b) to act in good faith at all times and in the best interests of the partnership's aims and objectives;

(c) be open about any conflict of interests that might arise;

(d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;

(e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature; and

(f) to act wherever possible as ambassadors for the project.

6.6 Financial matters relating to arrangements whereby one Council administers funds jointly on behalf of itself and others shall be subject to the Financial

Procedure Rules of the administering Council, unless these Rules are more stringent

Responsibilities of Chief Finance Officer

6.7 To advise on effective controls that will ensure that resources are not wasted.

6.8 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) re-sourcing, including taxation issues;

(d) audit, security and control requirements; and

(e) carry-forward arrangements.

6.9 To ensure that the accounting arrangements are satisfactory.

Responsibilities of the Joint Chief Executives and their delegated officers

6.10 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Joint Chief Executives and Chief Finance Officer.

6.11 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Joint Chief Executives and Chief Finance Officer.

6.12 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.

6.13 To ensure that all agreements and arrangements are properly documented.

6.14 To provide appropriate information to the Joint Chief Executivesand Chief Finance Officer to enable a note to be entered into the Council's Statement of Accounts concerning material items.

External Funding

Why is this important? External funding is potentially a very important source of income, but funding conditions need to be carefully considered 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 sources 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 overall plan. Funding should only be sought to meet the priorities approved in the policy and budget framework approved by full Council.

Responsibilities of the Chief Finance Officer

6.15 To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts and included in the budget monitoring reports

6.16 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

6.17 To ensure that all specified audit requirements are met.

Responsibilities of the Joint Chief Executives and their delegated officers

6.18 Joint Chief Executives and Directors shall ensure that:

a) key conditions of funding and any statutory requirements are complied with;
b) the responsibilities for the accountable body are clearly understood;
c) the project progresses in accordance with the agreed project plan and conditions;
d) all expenditure is properly incurred and accounted for and all claims for funds are made by the due date;
e) match funding requirements are given due consideration prior to entering into long term arrangements;
f) future revenue implications are included with the budget approved by the full Council;
g) appropriate exit strategies exist;
h) the Director Finance and Procurement be informed of all bidding initiatives for external funding;
i) where there is a projected overspending which will impact on the city council's funds, the Budget Manager must report to management team

explaining the reason for the overspend and setting out the options for dealing with it;

j) capital schemes supported by external funding will be monitored and reported as part of the council's capital programme monitoring arrangement.

Work for Third Parties

Why is this important? 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 lawful.

Responsibilities of the Chief Finance Officer

6.19 To issue guidance with regard to the financial aspects of a third party.

Responsibilities of the Joint Chief Executives and their delegated officers

Before a service starts carrying out work for other organisations, the appropriate Joint Chief Executive or Director must:

- Notify the Monitoring Officer and Chief Financial Officer of the proposed arrangement, including a business plan, risk assessment and legal basis;
- obtain the approval of the relevant committee where necessary.

6.20 The business plan should demonstrate that:

- appropriate risk management (Including risk from bad debt, monitoring arrangements and exit strategy) and insurance arrangements are planned;
- the service would not be delivered at a loss to the Council;
- the service has the appropriate expertise to undertake the contract;
- that there would be no adverse impact on the services provided for the Council;
- where possible, payment is received in advance of the delivery of the service.

6.21 Once an arrangement is in place, the Joint Chief Executive, Director or nominee should maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Chief Finance Officer.

6.22 To provide appropriate information to the Chief Finance Officer to enable a note to be entered into the statement of accounts.

7. Miscellaneous

Gifts and Hospitality Received

Why is this important?
Some members of the public and organisations may claim that they have been treated unfairly by the Council and may suggest that staff have received inducement to give preference to others. Therefore a register of all gifts and hospitality received should be maintained. There may be occasions when the hospitality offered is acceptable and will not breach standards. Similarly, there will be occasions when hospitality offered appears to come within the guidelines but nevertheless should be refused. These are guidelines and are not meant to be a substitute for judgement and common sense. If in doubt seek advice from the Monitoring Officer and always be open about such matters. If you are not prepared to seek advice or be open it is highly likely that whatever it is, you should not be doing it.

General

7.1 Guidance Notes relating to the receipt of gifts and hospitality can be found in Appendix 1 to these rules, and Appendix B to the Council's Constitution.

Responsibility of the Head of Corporate Governance

7.2 To maintain an open register of all gifts in kind and hospitality received by councillors and officers. Internal Audit or the Council's external auditors can inspect this register.

Responsibility of Councillors

7.3 To record details of all gifts in kind and hospitality received in the register maintained by the Head of Corporate Governance.

Responsibilities of the Joint Chief Executives and their delegated officers

7.4 To ensure that officers in their services register all gifts and hospitality received in the register maintained by the Head of Corporate Governance.

Related Party Transactions

Why is this important?
Related Party Transactions are business deals or arrangements between parties who are joined by a special relationship prior to the deal. While the great majority of related-party transactions are perfectly normal, the special relationship inherent between the involved parties creates potential conflicts of interest.

The Council is required to disclose material transactions with related parties (which includes close family relationships), bodies or individuals that have the potential to control or influence the council or be controlled or influenced by the council. Councillors and senior officers are therefore required to disclose any such transactions with the Council

Responsibilities of Chief Finance Officer

7.5 To ensure that all related party transactions are recorded annually and material transactions are disclosed within the statement of accounts.

Responsibilities of Councillors, Joint Chief Executives and Service Directors

7.6 To ensure annual submission of the related party transaction details (including nil returns) as requested by the Chief Finance Officer within the required timescales.

Appendix 1 - Gifts and Hospitality guidelines for councillors and officers

1. The purpose of these guidelines is to ensure that councillors and officers maintain the highest standards of corporate governance.

2. All councillors and officers are subject to the provision in the Finance Procedure Rules relating to gifts and hospitality. Officers are also subject to the provisions of their Conditions of Service relating to such matters.

3. All councillors and officers are also subject to their respective Codes of Conduct. The purpose of these guidelines is to reiterate the Finance Procedure Rules and Conditions of Service and to provide practical guidance.

4. Criminal proceedings may arise as a failure to declare a pecuniary interest in accordance with the Local Government Act 1972, and under the Prevention of Corruption Acts it is a criminal offence.

5. Councillors can be subject to sanctions imposed under the Council's arrangements for dealing with breaches in the Councillors' Code of Conduct. In addition, councillors can be subject to criminal and civil liability resulting from breach of fiduciary duty.

6. Councillors should refer to the Code of Conduct when deciding whether to declare an interest that may relate to their, or their partner's, employment, pecuniary interests or other matters included on their Declaration of Interest form. The Monitoring Officer can provide advice on such matters.

Acceptance of Gifts

1. Gifts exceeding £100 must be registered with the Democratic Services team whether accepted or not.

2. Gifts should not be accepted other than items of very small intrinsic value. There are few permissible exceptions to this general rule, but there are occasionally special circumstances, such as civic occasions.

3. Unsolicited gifts of value should be returned immediately, if need be, with a note explaining why they cannot be accepted. If this is impracticable or would cause unnecessary offence, the gift may be presented for charitable purposes, or similar appropriate cause. Valuable gifts must be returned.

Acceptance of Hospitality

1. Reasonable hospitality may be accepted where it is secondary to a specific working arrangement (ie an integral part). Caution should be exercised where the invitation is predominantly of a social nature unless it falls into one of the exceptions mentioned later in this guidance.

2. If acceptance of such hospitality could be open to misrepresentation or doubt as to the integrity and motives of the provider and the recipient, it should be declined.

3. Hospitality must only be of a reasonable value and should be declared. Extravagance must be avoided.

4. Civic hospitality is permitted. Similarly, it is acceptable to represent the Council at a function or event.

5. Commercial hospitality secondary to specific Council business is permitted, including at conferences and seminars, but care must be taken to ensure it is both proportional and not open to misinterpretation. If in any doubt, it should be declined. If need be, advice should be sought from the Monitoring Officer.

6. Care should be exercised before accepting offers to visit exhibitions and demonstrations at the expense of other organisations. For reasons of transparency, an invitation which is made to a wide range of people is more likely to be acceptable than one exclusively for councillors. Hospitality provided in such cases must not be extravagant.

7. Councillors should avoid personal meetings with businesses or individuals in connection with regulatory functions unless an officer is present to make a record of the meeting.

8. The guidance given above relating to the acceptance of hospitality also applies to the acceptance of invitations coming under the heading of entertainment, such as invitations at someone else's expense to sporting occasions, theatre trips etc. Generally, such invitations should not be accepted unless justified within these guidelines.

9. Trips abroad must be agreed by the relevant Joint Chief Executive or Service Director, in consultation with the Leader.

Register of gifts and hospitality

1. The Head of Corporate Governance maintains a register on behalf of councillors and officers to record gifts and hospitality received.

2. Councillors and officers must register financial interests and one-off gifts or hospitality events to the value of £100 and any series of gifts and events adding up to an in-kind benefit of £100 in a 12 month period.

3. A record of councillor gifts and hospitality will be published on the Council's website. Officer declarations may also be disclosable in certain circumstances.

4. The registers are subject to review by the Council's External Auditor, and the Joint Chief Executives may consult with the Leader over any entry of concern.

Part 10 – Contract Standing Orders 2026

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1. Introduction – Purpose of the Contract Standing Orders

1.1 Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Standing Orders is to provide a structure within which purchasing decisions are made and implemented and which ensure that the Council:

1.1.1 furthers its corporate objectives;

1.1.2 uses its resources efficiently;

1.1.3 purchases quality goods, services and works;

1.1.4 safeguards its reputation from any implication of dishonesty or corruption;

1.1.5 improves the economic, social and environmental well-being of the Council's district.

1.2 Purchasing by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, whole life costing and cost savings.

1.3 These Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972.

1.4 These Contract Standing Orders do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out minimum requirements to be followed. For further information and guidelines please contact the Procurement Section or the Contracts and Procurement Section of Legal Services and see the templates published from time to time by Legal and Procurement.

2. General Principles – Application and Compliance with Contract Standing Orders

2.1 These Contract Standing Orders apply to the purchase by or on behalf of the Council of works, supplies (goods) and services.

2.2 These Contract Standing Orders apply to all contracts including all purchase orders, consultancy agreements, concessions and contractual arrangements entered into by or on behalf of the Council, except for the specific types of contracts and purchasing methods which are listed in 2.3.

2.3 These Contract Standing Orders do not apply to:

2.3.1 employment contracts;

2.3.2 contracts relating solely to the purchase or sale of interests in land or, the rental of land;

2.3.3 contracts for retention of legal representation of a client by a lawyer in arbitration or conciliation, judicial proceedings before the courts, tribunals, preparation of any proceedings referred to in this para. 2.3.3 or where there is a tangible indication and high probability that the matter to which the advice relates will become subject of such proceedings;

2.3.4 contracts for the appointment of external legal advisors as long as the value of the appointment is below the threshold for social and some specific services, please see the table setting out financial threshold;

2.3.5 service level agreements setting out the conditions the Council applies to its funding of particular voluntary sector bodies, provided these arrangements comply with the guidance on grant agreements received from the Contracts and Procurement Section of Legal Services.

3. General Principles Applying to All Contracts

3.1 Authorised Officers (as referred to within CSO 5) should retain written evidence of all purchases and records as referred to within CSO 5

3.2 Standard contract clauses shall be used in all contracts of a value of £30,000 or more, except where officers consider that such clauses are not appropriate for the relevant purchase. All contract clauses are to be issued by the Contracts and Procurement Section of Legal Services.

3.3 All Consultancy and/or Service Agreements, regardless of value are to be issued by the Contracts and Procurement Section of Legal Services after prior consultation with Procurement and Legal. Other than where deemed not necessary, having taken advice on appropriate contract clauses, all contracts, including consultancy agreements, shall include, as a minimum, clauses which set out:

3.3.1 the works, supplies (goods), services, material, matters or things to be carried out or supplied;

3.3.2 the time within which the contract is to be performed;

3.3.3 quality requirements and/or standards that must be met;

3.3.4 requirements on the contractor to hold and maintain appropriate insurance;

3.3.5 adequate contract management and audit provisions;

3.3.6 what happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part);

3.3.7 requirements on the contractor to comply with all relevant equalities, safeguarding and health and safety legislation;

3.3.8 requirement for the contractor to acknowledge the Council's duties under the Freedom of Information Act 2000 and agree to facilitate it discharges those duties.

3.3.9.1 The contractor warrants and undertakes to the Council that:

3.3.9.1.1 it will comply with applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010 and, to the extent they are consistent with these, all relevant Council policies and will not give any fee or reward the receipt of which is an offence under subsection 117 (2) of the Local Government Act 1972;

3.3.9.1.2 it will procure that any person who performs or has performed services for or on its behalf ('Associate Person') in connection with this agreement complies with Clause 3.3.9.1.1;

3.3.9.1.3 it will not enter into any agreement with any Associated Person in connection with the agreement, unless such agreement contains undertakings on the same terms as contained in Clause 3.3.9.1.1;

3.3.9.1.4 it has, and will maintain in place, effective accounting procedures and internal controls necessary to record all expenditure in connection with the agreement;

3.3.9.1.5 immediately on signing this Agreement, annually thereafter and from time to time, at the reasonable request of the Council, it will confirm in writing that it has complied with its undertakings under Clauses 3.3.9.1.1. 1.1.1 – 3.3.9.1.4 and will provide any information reasonably requested by the Council in support of such compliance;

3.3.9.1.6 it shall notify the Council as soon as practicable of any breach of any of the undertakings contained within this clause of which it becomes aware and any request or demand for any undue financial or other advantage of any kind received by the contractor in connection with the performance of this Agreement.

3.3.9.2 Where the contractor or contractor's employees, servants, subcontractors, suppliers or agents or anyone acting on the contractor's behalf, engages in conduct prohibited by the Bribery Act 2010 or section 117(2) Local Government Act 1972 in relation to this Agreement or any other agreement with the Council, the Council has the right to:

3.3.9.2.1 terminate this Agreement and recover from the contractor the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the provision of the [Goods/ Services/Works] and any additional expenditure incurred by the Council throughout the remainder of the [Term]; or

3.3.9.2.2 recover in full from the contractor any other loss sustained by the Council in consequence of any breach of this clause, whether or not this Agreement has been terminated.

3.4 Additional termination clauses required for contracts over the relevant procurement threshold, as set out below, in accordance with the Procurement Act 2023 and the Procurement Regulations 2024 , for the following events:

Public Contracts Regulations 2015 (as amended): - for contracts which have been procured under the Public Contracts Regulations 2015 (as amended)

3.4.1 the contract has been subject to a substantial modification (change) which would have required a new procurement process;

3.4.2 the contractor has, at the time of the contract award, been in a situation which amounts to a mandatory exclusion and should have been excluded from participating in the procurement process;

3.4.3 the contract should have not been awarded to the contractor due to serious infringement of certain obligations including the Retained Treaties which means anything which is retained EU law by virtue of section 4 of the European Union (Withdrawal) Act 2018 (as further defined in the Public Procurement (Amendment etc) (EU Exit) Regulations 2020 and the Public Contracts Directive that has been declared by the Court of Justice of the European Union.

Procurement Act 2023 and Procurement Regulations 2024:- for contracts which have been procured under the Procurement Act 2023

[...]

3.4.4 the contract has been subject to a substantial modification (change) which would have required a new procurement process;

3.4.5 The contractor has, at the time of the contract award, been in a situation which amounts to a mandatory exclusion and should have been excluded from participating in the procurement process;

3.4.6 The contractor has been added to the debarment list (for the avoidance of doubt this shall apply for under and over threshold contracts)

3.5 Contracts shall not include non-commercial terms unless these are necessary to achieve best value for the Council or are included in accordance with the Public Services (Social Value) Act 2012. In this context, “non-commercial” means requirements unrelated to the actual performance of the contract.

3.6 All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability, whole-life costings, cost saving and efficiency (as appropriate).

3.7 All contracts, if a value of £30,000 or more and all Consultancy and/or Service Agreements of any value which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file. The assessment methodology to be used by Responsible Officers can be provided by the Procurement Section or the Contracts and Procurement Section of Legal Services.

3.8 The Procurement Section shall be made aware of all proposed contracts and consultancy agreements, proposed variations and extensions to existing contracts regardless of their value . In addition to this, officers are encouraged to obtain legal advice from the Contracts and Procurement Section of Legal Services in order for the most appropriate terms and conditions for the Council to be used by the Council or for any external terms and conditions to be reviewed, if necessary.

Officers should send to the relevant officer of the Contracts and Procurement Section of Legal Services a completed ‘Legal Instructions’ form so that a file can be opened accordingly.

4. Regulatory Context

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

4.1.1 all relevant statutory provisions as confirmed by the Retained EU Law (Revocation and Reform) Act 2023;

4.1.2 The Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment etc) (EU Exit) Regulations 2020;

4.1.3 the Procurement Act 2023 and the Procurement Regulations 2024 [once in force]

4.1.4 the Council's Constitution, including these Contract Standing Orders, the Council's Financial Regulations and Scheme of Delegation.

4.1.5 the Council's policies and procedures, as appropriate and applicable.

4.2 In the event of conflict between the provisions above, the UK legislation will take precedence, followed by the Council's Constitution; then the Council's guidelines, policies and procedures.

5. Responsibilities of the Joint Chief Executives, Directors and Responsible Officers

5.1 The Joint Chief Executives and Service Directors shall have overall responsibility for the purchasing undertaken by any service of the Council which they may manage.

5.2 Each director shall be responsible for the purchasing undertaken by their service and shall:

5.2.1 be accountable to the Council for the performance of their duties in relation to purchasing;

5.2.2 comply with the Council's decision-making processes including, where appropriate, implementing and operating a Scheme of Delegation;

5.2.3 attend training in relation to these Contract Standing Orders and ensure that any Responsible Officer whom they appoint under CSO 5 does the same;

5.2.4 acting in accordance with the scheme of delegation in Part 8.1 of the Council's Constitution and with CSO 6 (Scheme of delegation), delegate in writing to one or more officers the power to:

5.2.4.1 act as Responsible Officer in respect of the relevant purchase of works, supplies (goods) or services by the Council;

5.2.4.2 act as an authorised signatory for the contract giving effect to the relevant purchase in accordance with Scheme of Delegation Part 8.1 of the Councils Constitution ;

5.2.5 take immediate action in the event of breach of these Contract Standing Orders, which will include as a minimum promptly informing the directors and the Head of Legal Services of such breach.

5.3 A Responsible Officer is an officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services as authorised by their director on behalf of the Council.

Responsible Officers shall attend at least annual training on procurement matters including the Contract Standing Orders.

5.4 A Responsible Officer's duties in respect of purchasing are to ensure:

5.4.1 compliance with all Regulatory Provisions (see 4.1) and integrity of the tender process;

5.4.2 that all relevant officers are reminded of the relevant statutory provisions and the Council's requirements relating to declarations of interest affecting any purchasing process in order for them to comply with these requirements;

5.4.3 that there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used;

5.4.4 the purchasing process, from planning to delivery incorporates (where appropriate) principles of best value, sustainability, efficiency, whole-life costing and cost savings;

5.4.5 compliance with the Council's decision making processes;

5.4.6 that all contracts of a value of £30,000 or more Consultancy and or Service Agreements regardless of value are included on the Council's Contract Register

5.4.7 that:

proper records are maintained of all contract award procedures, waivers, exemptions, extensions and other variations and contract management activities, regardless of contract value

5.4.7.1 proper records to justify decisions taken in all stages of the procurement process, in accordance with the Procurement Act 2023 , are maintained for every contract or framework agreement with a value of £173,100 (excl VAT) for supply (goods) or services contracts and £4,327,500 (excl VAT) for works contracts.

5.4.8 value for money is achieved;

5.4.9 that adequate and appropriate security (such as a bond or guarantee) is taken to protect the Council in the event of non-performance.

5.5 In considering how best to procure works, supplies and services, the directors and/or Responsible Officers (as appropriate in the context) shall take into account wider contractual delivery opportunities and purchasing methods including the use of Purchasing Schemes (see 15.3) and e-procurement/ purchasing methods, and the availability of local authority charging and trading powers under the Local Government Act 2003.

5.6 It is a disciplinary offence to fail to comply with these Contract Standing Orders. All employees have a duty to report breaches of Contract Standing Orders to the Chief Finance Officer or the Head of Legal Services.

5.7 Any officer or councillor who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods) and services must immediately report that suspicion to the Council's Monitoring Officer and the Chief Finance Officer.

6. Scheme of Delegation

6.1 Council purchasing may only be undertaken by officers with the appropriate written delegated authority and training to carry out such tasks as set out in the Council's Scheme of Delegation. Officers with delegated authority may only delegate to other officers who have the appropriate skills and knowledge for the task and such delegation shall be recorded in writing by the officer delegating the task.

6.2 Each head of service shall inform relevant officers of the extent of any delegated authority and applicable financial thresholds.

7. Financial Thresholds and Procedures

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

7.2 There is a general presumption in favour of competition. Wherever possible, contract opportunities including consultancy opportunities must be advertised by way of a public notice. If there is a realistic prospect that a contract may be of interest to contractors/suppliers/service providers from other member states then this may result in a need to advertise in a manner which ensures that potential contractors/suppliers/service providers from other member states are aware of the opportunity, even for small value contracts or contracts under the procurement threshold levels outlined below.

7.3 The public notice referred to at CSO 7.2 must take the form of a notice or advertisement in an electronic format, on an easily accessible website such as the Kent Business Portal or other electronic media or UK e-notification service, 'Find a Tender.'

7.4 Procurement Thresholds

7.4.1 All contracts and contract opportunities for which a contract notice was sent for publication either locally, nationally or internationally (UK e-notification service, 'Find a Tender').

7.4.2 All contracts and contract opportunities with a value of £30,000.00 and above will need to be published on 'Find a Tender' if they are to be published.

7.5 Tenderers must be given the possibility to submit tenders electronically.

7.6 Table setting out financial thresholds and procedures from 1st January 2024[1] onwards

Total value £	**Type of contract**	**Procedure to be used**
	INTERNAL COUNCIL THRESHOLDS	
0,000 to 29,999	works, supplies and services contract or consultancy agreement	At least one quote in advance.
30,000 to £207,720 (£173,100 excl VAT)	supplies and services contract or consultancy agreement	At least three written quotes in advance.
£30,000 to £5,193,000 (£4,327,500 excl VAT)	works	At least three written tenders in advance, following advertisement by public notice or three written quotations subject to prior procurement advice being sought.

[1] As amended by the Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2023.

Total value £	Type of contract	Procedure to be used
	PROCUREMENT ACT 2023 THRESHOLDS	
207,721 (173,101 excl VAT) **procurement threshold for supplies and services £5,193,001 (£4,327,501 excl VAT) ** procurement threshold for works Threshold applies for light touch regime listed within the Regulation 42 and Schedule 1 of the Public Contracts Regulation 2024	Supplies and services	Full competitive process following advertisement in the UK e-notification service 'Find a Tender' for supplies and some* services. For social, and some specific* services, reduced requirements apply under the procurement rules, but there is a presumption in favour of advertising and a competitive process.

*The procurement rules apply to services contracts to differing degrees depending on the service.

Responsible Officers should act cautiously and seek advice when considering the procedure to be used and application of the procurement rules to services contracts.

**or relevant threshold in force at the time under the procurement rules which will be amended when necessary without seeking prior approval of Full Council.

Please note that the thresholds may be changed subject to confirmation by Central Government in published Procurement Policy Notices. This will not change until January 2026.

7.7 Where contracts are of a type and value that means the procurement rules apply to them, under:

7.7.1 The Procurement Act 2023 refers to two main types of procurement procedures. These are open and competitive flexible. In addition to this there is also a special route for frameworks.

Care must be taken to ensure that the correct and most appropriate procedure is used, complying fully with the applicable legislation, and assistance on the choice and use of procurement procedure should be sought via the Contracts and Procurement Section of Legal Services.

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

8.1 For contracts over the relevant procurement threshold (in force at the time), the choice of purchasing procedure to be used and the decision to proceed to advertisement must be authorised in writing by the relevant head of service in consultation with the Head of Legal Services or Principal Lawyer (Contracts & Procurement).

8.2 Before the procurement process starts, the head of service must also:

8.2.1 consider how any service to be procured may improve the social, environmental and economic well-being of the Canterbury district, how the improvement can be secured and whether consultation is needed; and

8.2.2 ensure the Council has due regard to issues required by the Equality Act 2010 and the Council's own equality objectives as published from time to time.

8.2.3 have regard to the National Procurement Policy statement (NPPS), as in force from time to time.

8.3 When a decision is made to award a contract, the Responsible Officer must, in addition to complying with their general obligations under these Contract Standing Orders, ensure in particular that:

8.3.1 the appropriate approvals have been obtained to authorise that decision; and

8.3.2 where appropriate, a standstill period complying with the procurement rules is incorporated into the final award process.

8.4 Any contracts valued at £250,000 or above, including any order made under a framework arrangement, shall be executed as a deed. Memoranda of Understanding or Memoranda of Agreements, in both cases where legally binding only, shall require sealing if the value is £500,000 or above. Officers with appropriate delegated authority as set out in Part 8.1 of the Scheme of Delegations or special written delegated authority (as the case may be), may sign all other contracts..

8.5 Any contract, regardless of its value, entered into on behalf of the Council in discharging an executive function, shall be made in writing. Such contracts shall either be signed by one authorised officer of the Council or be made under the common seal of the Council (namely executed as a deed) attested by an authorised signatory of Legal Services.

8.6 Electronic signatures may be used in accordance with the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016, the Electronic Communications Act 2000 and the retained UK version of Regulation (EU) No 910/2024 of the European Parliament and of the Council of 23rd July 2014 on electronic identification and trust services for electronic transactions in the internal market (eIDAS) as amended by the Electronic Identification and Trust Services for Electronic Transactions (Amendment etc.) (EU Exit) Regulations 2019 (the 'UK eIDAS Regulations'). provided:

8.6.1 the sufficiency of security arrangements has been approved by a Joint Chief Executive and the Head of Legal Services and/or

8.6.2 the Council's electronic signature system (as procured from time to time) is being used

9. Calculating the Contract Value

9.1 The starting point for calculating the contract value for the purposes of these Contract Standing Orders is that the contract value shall be the genuine pre-estimate of the value of the entire contract excluding Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions and options).

9.2 There shall be no artificial splitting of a contract to avoid the application of the procurement rules and / or these Contract Standing Orders. However, the

Procurement Act 2023 requires the Council to consider whether the contract could be supplied under more than one contract or in lots. Responsible Officers should therefore seek advice from the Contract and Procurement Section of Legal Services.

9.3 The procurement rules can cover contracts below the stated procurement threshold where they constitute repeat purchases and/or purchases of a similar type in a specified period. Responsible Officers should therefore seek advice from the Contracts and Procurement Section of Legal Services on the application of the procurement rules where they envisage that they may need to make such purchases.

9.4 The Procurement Act 2023 and Procurement Regulations 2024 introduces new notice publication requirements prior, during and following the procurement process and during the lifetime of the contract. Responsible Officers will need to liaise with Procurement and the Procurement Section of Legal Services.

10. Principles Underlying Tendering Processes and Tender Evaluation

10.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner so as to ensure:

10.1.1 sufficient time is given to plan and run the process;

10.1.2 equal opportunity and equal treatment;

10.1.3 openness and transparency;

10.1.4 probity;

10.1.5 to ensure compliance with any policies and legislation as applicable;

10.1.6 outcomes that deliver sustainability, efficiency and cost savings (where appropriate).

11. Submission and Opening of tenders

11.1 An invitation to tender shall be issued by the Council for all contracts with a value of £30,000 and above.

(a) Where contracts are worth over £30,000, those invited to quote for such contracts or consultancy agreements, independent of the value, should be asked to submit their quotation electronically via the Kent Business Portal unless there is good reason to do otherwise.

11.2 Any tenders received (other than those received electronically, to which 11.3 shall apply) shall be:

11.2.1 addressed to The Joint Chief Executives;

11.2.2 submitted in a sealed envelope marked “Tender”, followed by the subject matter to which it relates;

11.2.3 kept in a locked cabinet by Legal Services;

11.2.4 retained unopened until the date and time specified in the invitation to tender for its opening.

11.3 Where the Council has indicated in the invitation to tender that a tender can or must be submitted electronically, then those tenders shall be:

11.3.1 addressed to the e-mail address as notified in the invitation to tender;

11.3.2 submitted in the format specified in the invitation to tender;

11.3.3 stored in a secure mailbox, which requires a code or other appropriate security measure to open it;

11.3.4 retained unopened until the date and time specified for its opening.

11.4 No tender received after the time and date specified for its opening shall be accepted or considered by the Council unless the relevant head of service is satisfied that there is sufficient evidence of the tender having been dispatched in time for it to have arrived before the closing date and time, or other exceptional circumstances apply and the other tenders have not been opened.

11.5 Tenders other than electronic tenders shall be opened in the presence of two members of the Council, one officer nominated by the Head of Legal Services and one Responsible Officer nominated by the relevant head of service, and an immediate record shall be made of tenders received including names and addresses and the date and time of opening.

12. Evaluation of Quotes and Tenders and Debarment of tenderers

12.1 All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes/tenderers.

12.2 Any tenders received will be checked by Procurement and Legal Services to see whether any tenderer has been put on the Debarment List. Any tenderer on the debarment list will be automatically excluded from tendering for the relevant contract. This shall also apply to any under threshold contract opportunities.

13. Waivers

13.1 The requirement for the Council to conduct a competitive purchasing process for contracts with a value of £30,000 and above may be waived in the following circumstances:

13.1.1 for contracts or consultancy agreements not subject to the procurement rules as the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property; or

13.1.2 the circumstances set out in the Public Contracts Regulations 2015 Regulation 32 (up to and including 23rd February 2025) and s41 & Schedule 5, s42 & s43 Procurement Act 2023 (once in force) apply (whether or not the contract is of a type subject to the application of the procurement rules); or

13.1.3 at the discretion of the relevant head of service, who may proceed in a manner most expedient to the efficient management of the service/Council with reasons recorded in writing. See 13.5 below however, in relation to contracts subject to the procurement rules.

13.2 A Responsible Officer who seeks a waiver of certain specified Contract Standing Orders shall do so only in advance, only in exceptional circumstances and promptly on being aware that such a waiver is desirable.

Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Standing Orders can be obtained from the Procurement Section or Contract and Procurement Section of Legal Services.

13.3 All waivers from certain Contract Standing Orders must be:

13.3.1 fully documented;

13.3.2 requested, supported by a written report in an approved format to be submitted in advance by the Responsible Officer to the relevant head of service which shall include reasons for the waiver that demonstrate that it is genuinely required;

13.3.3 subject to approval in advance by the Director of Finance and Procurement and the Head of Legal Services or Principal Lawyer Contracts & Procurement) who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional. Applications for waivers that are a result of poor contract planning will rarely be considered genuinely exceptional.

13.4 All decisions on waivers must take into account:

13.4.1 probity; and

13.4.2 best value/value for money principles.

13.5 For contracts subject to the procurement rules, any waiver from the requirement for competition must meet the conditions set out in the procurement rules in addition to the general requirements above.

14. Extensions and other Variations to Existing Contracts

14.1 An extension to the duration of an existing contract will need to be notified in advance to Procurement and Legal Services so that the necessary notice can be published prior to agreeing the extension and can only be granted if specifically provided for by that contract and for the period (or periods) specified.

Extensions and other variations to existing contracts such as the inclusion of additional works or services must be:

- made in accordance with any statutory restrictions and any specific terms of the contract;
- By prior consultation with Procurement and Legal in good time to allow:
    - time for the 30 day notice period to be implemented and for the required notices to be published in advance (as required);
    - To assess any legal issues
    - To assess whether the extension is under the Public Contract Regulations 2015 or the Procurement Act 2023
- in a written format, approved by the Contracts and Procurement Section of Legal Services,

14.2 Any extension or other variation must take into account:

14.2.1 probity – this means the decision to extend/vary would not be due to any reasons of personal gain/undue influence;

14.2.2 best value and value for money principles.

14.3 For contracts subject to procurement rules, any extension or other variation must meet the conditions set out in the procurement rules, in addition to the more general requirements set out above. Responsible Officers should proceed cautiously and seek advice where any extension or other variations are proposed to contracts subject to the procurement rules.

14.4 For all contracts not subject to the procurement rules, no variation (nor the cumulative effect of more than one variation) of a contract may artificially modify the subject matter of a contract beyond its original specification, nor increase its annual value by more than permitted by law.based on the contractor's original tender bid.

14.5 Subject to changes that may be required to the contracts and framework agreements, certain variations may be lawfully sought. Responsible Officers should contact the Contracts and Procurement Section of Legal Services or Procurement to obtain advice on the lawfulness of the changes required.

15. Purchasing Schemes

15.1 A Responsible Officer may use Purchasing Schemes subject to the following conditions -

15.2 Responsible Officers must check in advance that:

15.2.1 the Council is legally entitled to use the Purchasing Scheme;

15.2.2 the purchases to be made do properly fall within the Purchasing Scheme;

15.2.3 the establishment and operation of the Purchasing Scheme is in compliance with the procurement rules (where they apply) and meets the Council's own requirements.

15.3 A "Purchasing Scheme" may include:

15.3.1 contractor prequalification lists/select lists;

15.3.2 framework arrangements (including those set up by the Crown Commercial Service);

15.3.3 purchasing arrangements set up by central purchasing bodies and commercial organisations;

15.3.4 consortium purchasing;

15.3.5 collaborative working arrangements;

15.3.6 formal agency arrangements;

15.3.7 e-procurement/purchasing schemes and methods;

15.3.8 other similar arrangements .

15.4 Where a Purchasing Scheme is used, there shall be a whole or partial exemption from the obligations under these Contract Standing Orders in respect of the choice and conduct of procedures to the extent permitted, however, Responsible Officers will need to liaise in advance with the Procurement Section and Contracts and Procurement Section of Legal Services in order to obtain the necessary advice for using any such Purchasing Schemes.

Appendix A - Local Code of Corporate Governance

Good governance is about how the Council ensures that it is doing the right things, in the right way, for the communities it serves, in a timely, inclusive, open, honest and accountable manner.

A council's Code of Corporate Governance is: "*The system by which local authorities direct and control their functions and relate to their communities*"

Our commitment

Canterbury City Council is committed to upholding the highest possible standards of good corporate governance, believing that it leads to high standards of management, strong performance, effective use of resources, increased public involvement and trust in the Council and ultimately good outcomes.

The Governance framework comprises the systems and processes, and cultures and values, by which the Council is directed and controlled and through which it engages with its residents, businesses, partners and other stakeholders. This Code of Corporate Governance is a public statement that sets out the framework through which the Council meets its commitment to good corporate governance. This local code of governance has been developed in accordance with and is consistent with the Delivering Good Governance in Local Government framework, which builds on the seven Principles for the Conduct of Individuals in Public Life.

Core principles of good governance

The core governance principles of the Council are:-

A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.

B. Ensuring openness and comprehensive stakeholder engagement.

C. Defining outcomes in terms of sustainable economic, social, and environmental benefits.

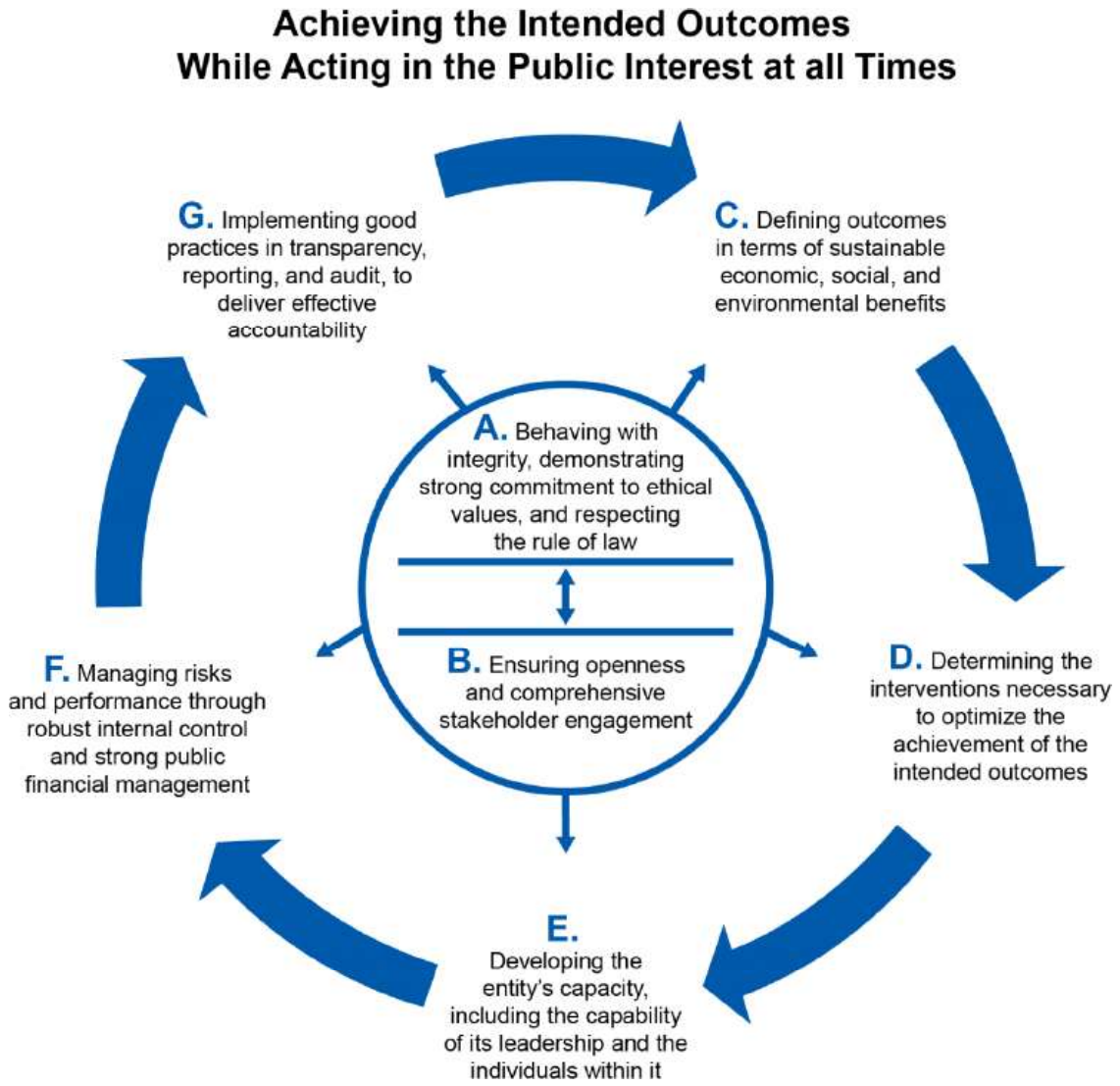
D. Determining the interventions necessary to optimize the achievement of the intended outcomes.

E. Developing the entity's capacity, including the capability of its leadership and the individuals within it.

F. Managing risks and performance through robust internal control and strong public financial management.

G. Implementing good practices in transparency, reporting, and audit, to deliver effective accountability.

The attached document describes how the Council achieves the seven principles of good governance and how the Council's corporate governance arrangements will be monitored and reviewed.



Source: International framework: good governance in the public sector, CIPFA, 2014

This Code takes each of the principles and sets out the systems, processes and principles the Council has put in place to ensure good corporate governance. The Code will be reviewed annually through the Annual Governance Statement process, which will identify the actions to be taken to enhance the code or address any limitations within it.

A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law		
Commitment	**Procedures**	**Examples of evidence**
• Behaving with integrity • Demonstrating strong commitment to ethical values • Respecting the rule of law	1. The Council expects the authority's political and managerial leadership to create a climate of openness, support and respect and to uphold the Council's values. 2. Standards of conduct and personal behaviour are set out in the Employee Code of Conduct, the Member Code of Conduct (based upon the seven Nolan Principles) and in the Protocol on Councillor/Officer relations. 3. An up to date register of councillor and senior officer Interests is maintained. 4. The Council has put in place procedures for considering complaints so that members of the public can express dissatisfaction with Council services and their concerns can be monitored and addressed. The Council has separate complaints processes for District and Parish Councillors managed by the Monitoring Officer. 5. The Council has appointed three separate "Independent Persons" to support this, in accordance with the requirements of the Localism Act, 2011 and our Standards Committee. 6. We publish an annual report of complaints submitted to the Local Government Ombudsman. Details of those where fault is found are summarised in the report. The number of complaints received by the Council is compared against other councils in Kent. 7. The Council's Governance Committee is responsible for constitutional issues and ensures that the constitution is monitored and updated when required. 8. The terms of reference of the Standards Committee includes responsibility for advising on the Council's ethical framework and the promotion of openness, accountability and probity to ensure the highest standards of conduct. 9. The Council maintains a Whistleblowing Policy to enable confidential reporting of suspected breaches of the Employee Code of Conduct or unethical behaviour. It also maintains a Prevention of Fraud and Corruption Policy. Both policies are reviewed periodically by the Audit Committee. 10. The Council's standing orders and financial regulations put in place processes designed to ensure that councillors and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders. They form part of the Council's Constitution, which is reviewed annually. 11. The Council operates within the legal framework, complying with its statutory duties and making the most of its powers to meet the needs of the district and	Constitution - including: • Member/Officer Protocol • Member Code of Conduct • Financial Regulations/ • Contract Standard Orders • Register of Interests for Councillors and officers • Register of declarations at meetings Other documents: • Gifts and Hospitality register • Employee Code of Conduct • Complaints procedure • Annual Ombudsman report • Whistleblowing Policy • Prevention of Fraud & Corruption Policy • Annual Report on the Prevention of Fraud and Corruption • Procurement Strategy • Equalities Policy • Complaints Policy

	its residents. 12. The Head of Legal Services is the Council's Monitoring Officer, responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with. 13. The Council ensures that statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the Council. 14. The Council has a clear Procurement Strategy designed to meet the Council's wider objectives and contract procedure rules designed to deliver robust and fair procurement processes. 15. The Council undertakes Equality Impact Assessments of all major decisions and takes action to implement changes required to ensure that Council services and policies consider the diverse needs of its service users and citizens. 16. We also host a Disability Advisory Panel who advise Council officers on matters of policy, service delivery and design.	
B. Ensuring openness and comprehensive stakeholder engagement		
Commitment	**Procedures**	**Examples of evidence**
• Openness • Engaging comprehensively with Institutional stakeholders • Engaging stakeholders effectively, including citizens and service users	1. The Council holds committee meetings in public unless there are good reasons for confidentiality based on the legislation. There is a presumption towards openness and transparency in the publication of reports. 2. The Council permits public speaking at most of its public meetings, based on the rules set out in the constitution. 3. Other methods of public participation at meetings include submission of petitions and questions at Council. 4. Officers use standard report templates for committee and reports to help ensure that readers are provided with information that is accurate, complete and unbiased. Reports make clear the options available and the reasons for the recommendations so that the implications of all decisions and strategic risks can be assessed before those decisions are made. 5. The Council's consultation programme ensures that the Council proactively seeks the views of a wide range of people on a range of policies and services, engaging with all sections of the community through workshops, surveys, stakeholder events and witness sessions.The Council seeks to ensure all views are actively considered when making decisions, recognising that it is not always possible to reconcile conflicting viewpoints. 6. The Council undertakes regular customer satisfaction surveys of residents to ensure that it has up to date information about their priorities and levels of satisfaction with the Council and its services. 7. We run services that are digital by design and allow our customers to serve themselves wherever possible.	• Committee agendas & minutes • Constitution • Questions and petitions received by Full Council • Local representation on partnership bodies • Consultation programme • Petition scheme • Council website • Annual performance report • FOI/data protection requests • District Life magazine • Social media engagement • Budget consultation • Equalities Policy • Residents survey • Service based analysis • Employment policies and procedures • Staff and Safety Joint Advisory Committee • Trade Union Facilities Agreement

	8. The Council puts resources into community grants for voluntary sector organisations who are delivering services that complement the Council's objectives. 9. The Disability Advisory Panel helps the Council evaluate its success in promoting diversity and meeting a broad range of needs. The Council also has a councillor champion for equality and diversity who sits on the panel. 10. We work with our local Tenant Consultative Group to ensure we deliver the best housing service to our tenants. 11. We work closely with the local business community, including the Canterbury Business Improvement District and the Chambers of Commerce in Herne Bay and Whitstable. 12. The Council sets out in its collective agreements, employment policies and procedures, and terms of reference for forums and meetings involving trade unions, and how it consults with staff and Trade Unions.	

C. Defining outcomes in terms of sustainable economic, social and environmental benefits		
Commitment	**Procedures**	**Examples of evidence**
• Defining outcomes • Sustainable economic, social and environmental benefits	1. The Corporate Plan sets out the key priorities of the Council and how they will be delivered. 2. The Local Plan sets out plans to develop the Canterbury district. 3. Longer-term corporate plan and local plan objectives will be informed by the 'futures' study work currently being undertaken by Experian 4. The Council has declared a climate change emergency with an objective of being carbon neutral by 2030. 5. The Council actively considers the environmental impact of decisions before those decisions are made. 6. A Climate Change Action Plan sets out how the Council will deliver on its climate change objectives.	• Corporate Plan • Local Plan • Future study evidence gathering • Climate Change Impact Assessments • Climate Change Action Plan • Air Quality Action Plan • Annual performance statement • Budget setting report • Economic Plans

D. Determining the interventions necessary to optimize the achievement of the intended outcomes		
Commitment	**Procedures**	**Examples of evidence**
• Determining Interventions • Planning Interventions • Optimising achievement of	1. The Council has a Medium Term Financial Strategy to resource its aspirations and assess and plan for any financial risks. The strategy is reviewed annually. 2. The Corporate Plan expresses the strategic objectives for the Council. 3. The annual report enables councillors and services to measure performance against targets and assist in decisions about where resources should be	• Budget report/Medium Term Financial Strategy • Corporate Plan • Annual performance report to Policy Committee

intended outcomes	focused. 4. Services will prepare operational plans indicating setting out their priorities and work programmes for the year ahead. Performance against objectives is reviewed by senior management. 5. There are arrangements in place for regular budget monitoring and the reporting of significant variances to senior management. 6. The Council seeks to maximise its resources by delivering services as efficiently as possible, working in partnership with others and using other providers where these are the best options. 7. Periodic internal audit reviews consider the effectiveness of controls and efficiency of processes 8. The Council engages expertise from outside the authority when it does not have the necessary capacity or skills in-house.	• Operational Plans • Budget monitoring reports • Performance reports • Annual Audit Plan • Quarterly audit review
E. Developing the Council's capacity, including the capability of its leadership and the individuals within it		
Commitment	**Procedures**	**Examples of evidence**
• Developing the Council's capacity • Developing the capability of the entity's leadership and other individuals	1. The Council sets out a clear statement of the roles and responsibilities of councillors and officers in its Constitution. The scheme of delegation within the Constitution makes clear what matters are reserved for collective decision-making by full Council or committees. 2. A Protocol on councillor/officer relations is used to aid effective communication between councillors and officers and to clarify their respective roles and appropriate ways of working. 3. The Council's Joint Chief Executives are responsible and accountable to the authority for its operational management and delivery of Council policies. Provisions are in place where a matter requires the Head of Paid Service to act in that capacity. 4. When working in partnerships, the Council ensures that councillors are clear about their roles and responsibilities, both individually and collectively, in relation to the partnerships and to the Council. 5. Employee behaviours are clearly defined in a framework document. 6. All employees joining the Council are offered an induction programme and regular reviews with their manager. 7. All councillors are provided with an induction programme and regular briefing and training offers to meet their needs. Attendance is recorded. 8. Councillor training is mandatory in order to sit on Planning, Licensing and Audit Committees. All councillors receive Code of Conduct awareness training. 9. Councillors receive regular briefings on a range of topics to ensure they are kept informed and updated.	• Constitution • Transformation programme • Record of training activity • Staff Behaviours framework • Grievance and disciplinary procedures • Councillor induction and briefing programme • Staff induction programme • Training opportunities

F. Managing risks and performance through robust internal control and strong public financial management		
Commitment	**Procedures**	**Examples of evidence**
• Managing Risk • Managing Performance • Robust Internal Control • Managing data • Strong public financial management	1. The Council has a Risk Management Strategy, supplemented by procedures and guidance. 2. The Council ensures that risk management is embedded into the culture of the authority; with managers at all levels recognising that risk management is part of their job. 3. The Council undertakes risk assessments in all areas of activity where it is necessary to do so, including those covered by Health and Safety legislation. 4. A corporate risk register is reported to the Audit Committee on a quarterly basis detailing the Council's strategic and service risks and mitigation. 5. The Council respects the personal data it holds and complies with the data protection principles in all of its business activities. 6. The Council respects the privacy of members of the public when carrying out investigations and ensures that privacy is only interfered with when the law permits and there is clear public interest justification. 7. The Council's Chief Financial Officer and S151 Officer is responsible for ensuring the lawfulness and financial prudence of decision making. They are responsible for the financial affairs of the Council and ensuring that appropriate advice is given on all financial matters.	• Risk Management Strategy and procedures • Risk register • Data Protection Policy and Information Security policy framework • Regulation of Investigatory Powers Act Policy • Compliance with the CIPFA Role of the S151 Officer in Local Government • Internal audit plan • Annual review by external financial auditors • Member/Officer Protocol
G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability		
Commitment	**Procedures**	**Examples of evidence**

• Implementing good practice in transparency • Implementing good practices in reporting • Assurance and effective accountability	1. The Council makes sure members of the public have access to information about the workings of the Council. It makes clear what information is routinely published through its website and publication scheme and responds promptly to requests for information. 2. Shared services arrangements with other local authorities or partners document their governance arrangements, which are clear, open and accountable. We have client management arrangements in place to manage the relationship with shared service partners. 3. The Council maintains an independent Internal Audit function, with a risk-based annual plan, designed to test regularly that the Council's policies and processes operate in practice and that the Council complies with legislation and good practice. 4. The Head of Internal Audit produces an annual opinion on the Council's internal control environment and the risk management framework to meet the requirements of the Public Sector Internal Audit Standards. 5. The Head of Internal Audit Opinion is used to inform an Annual Governance Statement, which is signed by the Head of Paid Service and Leader of the Council, and approved by the Audit Committee. 6. The Council also agrees an annual work plan with its external auditors to test the Council's response to major legislation and the soundness of its financial and governance processes. 7. Recommendations arising from internal and external audit and inspection processes are used to inform future decision-making. 8. The Council uses an Independent Remuneration Panel to give advice on payments for Members and considers their advice when setting the Members' Allowance Scheme. 9. The Panel operates in an open and transparent manner, making their agendas, reports and minutes available to the public. 10. The Members' Allowance Scheme is published in the constitution. Payments made to councillors under the scheme are published annually. The scheme is reviewed every four years, with annual increases in allowances aligned to staff pay awards.	• Council website • Publication Scheme • FOI requests • Monitoring reports to Audit Committee • Annual Governance Statement • Shared Service collaboration agreements • Corporate risk register • Annual audit letter • Internal audit programme • Councillor remuneration reports

Monitoring and reporting

The Council will undertake an annual review of its corporate governance arrangements to ensure continuing compliance with best practice to provide assurance that they are adequate and operating effectively in practice. Where reviews of the corporate governance arrangements have revealed gaps, actions will be planned to enhance the governance arrangements accordingly.

The Council will prepare an Annual Governance Statement which will be submitted to the Audit Committee for consideration and will form part of the Council's annual Statement of Accounts.

The Governance Statement will include:

- an acknowledgement of responsibility for ensuring there is a sound system of governance (incorporating the system of internal control) and reference to the authority's code of governance;
- a reference to and assessment of the effectiveness of key elements of the governance framework and the role of those responsible for the development and maintenance of the governance environment;
- an opinion on the level of assurance that the governance arrangements can provide and that the arrangements continue to be regarded as fit for purpose in accordance with the governance framework;
- a reference to how issues raised in the previous year's annual governance statement have been resolved; and
- a conclusion including a commitment to monitoring implementation as part of the next annual review.

The Annual Governance Statement will be signed by the Leader of the Council and the Head of Paid Service on behalf of the Council.

In reviewing and approving the Annual Governance Statement, members will be provided with detailed information regarding the effectiveness of the governance arrangements and system of internal control and how these address the key risks faced by the Council. Those Assurances will be available from a wide range of sources, including internal and external audit, a range of external inspectors and managers from across the Council.

The Council will continually strive to operate an assurance framework, embedded into its business processes, that maps corporate objectives to risks, controls and assurances. This framework and regular reports on its application and effectiveness will provide members with assurances to support the Annual Governance Statement and will help members to identify whether corporate objectives and significant business risks are being properly managed.

Seven principles for the conduct of individuals in public life

The governance framework is supported by the seven Principles of Public Life, which set the standards of conduct and behaviour to which Councillors and employees should aspire in their day-to-day dealings.

1. Selflessness	Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
2. Integrity	Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
3. Objectivity	In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
4. Accountability	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to whatever scrutiny is appropriate to their office
5. Openness	Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
6. Honesty	Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
7. Leadership	Holders of public office should promote and support these principles by leadership and example.

Appendix B

Members' Code of Conduct - Canterbury City Council

Kent Code of Conduct for Members[1]

1. Preamble

1.1 The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.

1.2 The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.

1.3 This Preamble and Annex 1 do not form part of the Code, but you should have regard to them, as they will help you to comply with the Code.

1.4 If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.

1.5 In accordance with Section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:

a) Fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming, or being re-elected or re-appointed, a councillor or co-opted councillor of the Council;
b) Fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming aware of it, where you are acting alone in the course of discharging a function of the Council (including making a decision in relation to the matter) and the interest is not already registered, or is not the subject of a pending notification to the Monitoring Officer;
c) Fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
d) Fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of disclosing it, at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
e) Take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
f) Knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

1.6 Any written allegation, received by the Council, that you have failed to comply with the Code, will be dealt with under the arrangements adopted by the Council for such purposes. If it is found that you have failed to comply with the Code, the Council may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

[1] Adopted by Council 25 June 2012

The Code

1. **Interpretation**

In this Code:

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

a) A family member or any other person, or body, with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
b) Any person or body who employs or has appointed you or such persons, any firm in which you or they are a partner, or any company of which you or they are directors; or
c) Any person or body in whom you or such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
d) Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Council; or
e) Any body in respect of which you are in a position of general control or management:

i. exercising functions of a public nature; or
ii. directed to charitable purposes; or
iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

1.2 **'Council'** means the Canterbury City Council.

1.3 **'Council Function'** means any one or more of the following interests that relate to the functions of the Council:

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

1.4 **'Code'** means this Code of Conduct.

1.5 **'Co-opted councillor'** means a person who is not an elected councillor of the Council but who is a member of:

a) Any committee or sub-committee of the Council; or
b) Represents the Council on any joint committee, or joint sub-committee, of the Council; and
c) Who is entitled to vote on any question that falls to be decided at any meeting.

1.6 **'Disclosable Pecuniary Interest'** means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time), as set out in Annex 1, and where either it is:

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

1.7 **'Interests'** means Disclosable Pecuniary Interests, Other Significant Interests and Other Registerable Interests.

1.8 **'Meeting'** means any meeting of:

a) The Council;
b) The executive of the Council;
c) Any of the Council's or its executive's committees, sub-committees, joint committees and/or joint sub-committees.

1.9 **'councillor'** means a person who is a councillor of the Council and includes a Co-opted councillor.

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

a) Affects the financial position of yourself and/or an Associated Person to a greater extent than the majority of:

i. other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
ii. (in other cases) other council tax payers, ratepayers or inhabitants of the Council's area; or

b) Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an Associated Person;

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

1.11 **'Register of Councillors' Interests'** means the Council's register of Disclosable Pecuniary Interests and other Registerable Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

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

1.13 Other Registerable Interests means any unpaid company directorships or members of the committee of management of an industrial and provident society that members are required to register in addition to DPIs

2. Scope

2.1 A councillor must comply with this Code whenever they act in their capacity as a councillor or co-opted councillor of the Council.

2.2 This Code applies to all forms of communication and interaction including social media.

3. General obligations

3.1 A councillor must:

a) when using or authorising the use by others of the resources of the Council:

i) Act in accordance with the Council's reasonable requirements; and

ii) Ensure that such resources are not used improperly for political purposes (including party political purposes).

b) co-operate with any Code of Conduct investigation and/or determination;

c) comply with any sanction imposed on them following a finding that they have breached the Code of Conduct.

3.2 A councillor must not:

a) Bully any person; or carry out any act of harassment. For the purposes of this paragraph bullying and harassment shall be construed as follows:

i) the Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Their website contains examples;

(ii) harassment will have the meaning set out in the Protection from Harassment Act 1997 and other relevant legislation.

b) Intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a councillor has failed to comply with this Code;

c) Do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Council;

d) Disclose information given to the councillor in confidence by anyone, or information acquired by the councillor which they believe, or ought reasonably to be aware, is of a confidential nature, except where:

i. they have the written consent of a person authorised to give it; or
ii. they are required by law to do so; or
iii. the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
iv. the disclosure is:
- reasonable and in the public interest; and

- made in good faith and in compliance with the reasonable requirements of the Council;

e) Prevent another person from gaining access to information to which that person is entitled by law;
f) Conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute;
g) Use or attempt to use their position as a councillor improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.
h) Disclose information which is exempt information within the meaning of Part VA Local Government Act 1972 or the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012;

4. Registering Disclosable Pecuniary Interests and Other Registerable Interests

4.1 A councillor must, before the end of 28 days beginning with the day they become a councillor or co-opted councillor of the Council, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest and other Registerable Interests i.e. any unpaid directorships.

4.2 In addition, a councillor must, before the end of 28 days beginning with the day that they become aware of any new Disclosable Pecuniary Interest or new Other Registerable Interests or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.

4.3 Where the councillor has a Disclosable Pecuniary Interest or Other Registerable Interests in any matter to be dealt with, or being dealt with, by them acting alone in the course of discharging a function of the Council (including making a decision in relation to the matter), then if the interest is not registered in the Register of Councillors' Interests and is not the subject of a pending notification, they must notify the Monitoring Officer before the end of 28 days beginning with the day they become aware of the existence of the interest.

5. Declaring interests

5.1 Whether or not a Disclosable Pecuniary Interest or Other Registerable Interest has been entered onto the Register of Councillors' Interests or is the subject of a pending notification, the councillor must comply with the disclosure procedures set out below.

5.2 Where the councillor is present at a meeting and has a Disclosable Pecuniary Interest, Other Significant Interest or Other Registerable Interest (and they are aware that they have such an interest) in any matter to be considered, or being considered, at the meeting, the councillor must:

a) Disclose the Interest; and
b) Explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation:
c) Not participate in any discussion of, or vote taken on, the matter at the Meeting; and
d) Not seek improperly to influence a decision about that business; and
e) Withdraw from the meeting room in accordance with the Council's procedure rules whenever it becomes apparent that the business is being considered.

5.3 Where a councillor has an Other Significant Interest or Other Registerable Interest in any business of the Council, they may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, providing that the public are also allowed to attend the meeting for the same purpose

Having made their representations, given evidence or answered questions they must:

i. not participate in any discussions of, or vote taken on, the matter at the meeting; and
ii. withdraw from the meeting room in accordance with the Council's procedure rules.

5.4 Where a councillor has a Disclosable Pecuniary Interest, Other Significant Interest or Other Registerable Interest in any business of the Council where they are acting alone in the course of discharging a function of the Council (including making an executive decision), the councillor must:

a) Notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
b) Not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
c) Not seek improperly to influence a decision about the matter.

6. Sensitive Interests

6.1 Where the councillor considers that the information relating to any of their Disclosable Pecuniary Interests or Other Registerable Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of councillors' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.

6.2 The councillor must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6(1) is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of councillors' Interests.

6.3 The rules relating to disclosure of Interests in paragraphs 5(2) and (3) will apply, save that the councillor will not be required to disclose the nature of the Sensitive Interest, but merely the fact that they hold an interest in the matter under discussion.

7. Gifts and hospitality

7.1 The councillor must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by him/her (in any one calendar year) in the conduct of the business of the Council, the business of the office to which they have been elected or appointed or when they are acting as representative of the Council. The councillor must also register the source of the gift, benefit or hospitality.

7.2 Where any gift, benefit or hospitality the councillor has received or accepted relates to any matter to be considered, or being considered at a Meeting, they must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to him/her and how the business under consideration relates to that person or body. The councillor may participate in the discussion of the matter and in any vote taken on the matter, unless they have an Other Significant Interest or Other Registerable Interests, in which case the procedure in paragraph 5 above will apply.

7.3 The councillor must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date they first registered the gift, benefit or hospitality.

7.4 The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Council for this purpose.

8. Dispensations

8.1 The Standards Committee, or the Monitoring Officer (where authorised) may, on a written request made to the Monitoring Officer (as appointed Proper Officer for the receipt of applications for dispensation) by a councillor with an Interest, grant a dispensation relieving the councillor from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).

8.2 A dispensation may be granted only if, after having had regard to all relevant circumstances, the Standards Committee, or the Monitoring Officer (where authorised) considers that:

a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
c) granting the dispensation is in the interests of persons living in the Council's area; or
d) without the dispensation each councillor of the Council's executive would be prohibited from participating in any particular business to be transacted by the Council's executive; or
e) it is otherwise appropriate to grant a dispensation.

8.3 A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

8.4 Paragraph 5, above, does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph.

ANNEX 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Council, councillors are committed to behaving in a manner that is consistent with the

following seven principles. However, it should be noted that these Principles do not create statutory obligations for councillors and do not form part of the Code. It follows that the Council cannot accept allegations that they have been breached.

PREAMBLE: The seven principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

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

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

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

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

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

HONESTY: Holders of public office should be truthful.

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

Footnote: The Seven Principles were established in the First Report of the Committee on Standards in Public Life in 1995. The descriptors were revised following a review in the Fourteenth Report, published in January 2013. This Annex uses the revised descriptors.

DISCLOSABLE PECUNIARY INTERESTS, AS PRESCRIBED BY REGULATIONS, ARE AS FOLLOWS:

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

'the Act' means the Localism Act 2011;

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

'director' includes a member of the committee of management of an industrial and provident society;

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

'M' means the person M referred to in section 30 of the Act;

'councillor' includes a co-opted councillor;

'relevant authority' means the authority of which M is a councillor;

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

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

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

Interest	**Description**
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a councillor, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: a) under which goods or services are to be provided or works are to be executed; and b) which has not been fully discharged.

Interest	Description
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge): a) the landlord is the relevant authority; and b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where: a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and b) either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

NOTE TO MEMBERS – The Securities section of the Regulations can cause some confusion for Members. To avoid any confusion remember if a company you have shares in has a place of business in the Canterbury City Council area, including any business registered at your home address, AND the level of shares held meets one of the above thresholds it should be registered by declaring it in Part G of the DPI form. Any land owned by a company in which a Member has an interest (shares) or role in should also be registered by declaring it in the Land section of the DPI form.

Other Registerable Interests – The Members' Code of Conduct now requires members to register not only DPIs set out above in accordance with statute but also Other Registerable Interests which is any unpaid company directorships.

Appendix C

Arrangements for dealing with Code of Conduct complaints

1. Context

These arrangements are made under section 28 of the Localism Act 2011. They set out the process that the Council has adopted for dealing with complaints that an elected or co-opted councillor or parish/town councillor has failed to comply with the Code of Conduct.

2. Interpretation

2.1 **'City Council'** means Canterbury City Council.

2.2 **'Code of Conduct'** means the Code of Conduct, which the City (and Parish Council) has adopted under section 27(2) of the Localism Act 2011.

2.3 **'Complainant'** means a person who has submitted a complaint, in accordance with these Arrangements, alleging that a Subject Councillor has breached the Code of Conduct.

2.4 **'Disclosable Pecuniary Interest'** means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time), as set out in Annex 2 to the Code of Conduct.

2.5 '**Hearing Panel'** means the panel appointed by the City Council to determine the outcome of any complaint alleging a breach of the Code of Conduct by a Subject Councillor in accordance with these Arrangements.

2.6 **'Independent Person'** means a person, or persons, appointed by the City Council under section 28(7) of the Localism Act 2011:

a) Whose views are sought and taken into account by the City Council before a decision is made on an allegation that it has decided to investigate and whose views may be sought by the City Councillor at any other stage
b) Who may be consulted by the Subject Councillor about the complaint.

2.7 **'Investigating Officer'** means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Councillor. The Investigating Officer may be another senior officer of the City Council, an officer of another authority or an external investigator.

2.8 **'Monitoring Officer'** is a senior officer of the City Council who has statutory responsibility for maintaining the Register of councillors' Interests and who is responsible for administering the arrangements for dealing with any complaint alleging a breach of the Code of Conduct by a Subject Councillor. It includes any other officer of the City Council nominated by the Monitoring Officer to act on their behalf.

2.9 **'Parish Council'** means the relevant parish/town council within the District of Canterbury.

2.10 **'Parties'** means the Complainant, Subject Councillor and the Investigating Officer, as appropriate.

2.11 **'Subject Councillor'** means an elected councillor or co-opted councillor of the District [or Parish/town Council], against whom a complaint has been made, alleging a breach of the Code of Conduct.

3. Appointment of Independent Person(s)

3.1 The District Council shall appoint the Independent Person(s) (and any substitute), in accordance with the requirements of section 27 (7) of the Localism Act 2011, and the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 upon such terms as to remuneration and expenses as may be determined by the District Council from time to time.

3.2 The Independent Person(s) whilst not a member of the Council shall be treated as if they were a councillor of the District Council for the purposes of the District Council's arrangements for indemnifying and insuring its councillors.

4. Making a complaint

4.1 A complaint alleging a breach of the Code of Conduct by a Subject Councillor must be made in writing and addressed to the Monitoring Officer. This would normally be done using the Complaint Form at Annex 1 to these Arrangements however other forms of written complaint will be accepted at the discretion of the Monitoring Officer. Complainants who find difficulty in making their complaint in writing (e.g. because of a disability) should inform the Monitoring Officer of any such difficulty and the Monitoring Officer will arrange for assistance to be offered.

4.2 The Monitoring Officer will consider the complaint against the criteria set out in Annex 2 to assess whether there is merit in taking the complaint forward. If the complaint fails to meet either the legal jurisdiction or local assessment criteria the complaint will be rejected. The Monitoring Officers decision is final and there is no appeal.

4.3 The Subject Councillor will normally be informed of the identity of the Complainant and details of the complaint made against them if the matter proceeds, but the Complainant's identity and/or details of their complaint may be withheld at the Complainant's request if it appears to the Monitoring Officer that there are sound reasons for granting such a request (refer to paragraph 5 of Annex 2 to these Arrangements).

4.4 The Monitoring Officer will normally acknowledge receipt of a complaint within 10 working days of receiving it. At the same time (and subject to para. 3.2 above), the Monitoring Officer will send a copy of the complaint and any supporting documents to the Subject Councillor in accordance with paragraph 2 of Annex 2 to these Arrangements seeking their comments and observations on the complaint.

4.5 The Monitoring Officer will consider the representations made and form a view on whether the matter has merit or is capable of being resolved informally and may consult with the Independent Person before notifying the Complainant of the conclusions.

4.6 The times will vary according to the number and content of background documents for consideration but usually the Monitoring officer would seek to conclude this process and notify the decision within 35 working days.

5. Criminal conduct

5.1 In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, a councillor:

a) Fails to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you become, or are re-elected or re-appointed, a councillor or Co-opted councillor of the Authority;
b) Fails to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you become aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
c) Fails to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
d) Fails to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day it is disclosed at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
e) Take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
f) Knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

5.2 Where a complaint against a Subject Councillor relates to conduct of a criminal nature referred to above, the Monitoring Officer will deal with the complaint in accordance with paragraph 4(4) of Annex 1 to these Arrangements.

6. Anonymous complaints

Complainants must provide their full name and address. An anonymous complaint will only be accepted by the Monitoring Officer if there is a good reason provided (eg bullying by a councillor). In such cases the complaint must be accompanied by corroborating evidence that indicates to the Monitoring Officer that it is in the public interest to accept the complaint. . The Monitoring Officer may consult the Independent Person.

7. Role of Independent Person

The Independent Person must be consulted and have their views taken into account before the Authority makes a finding as to whether a councillor has failed to comply with the Code or decides on action to be taken in respect of that councillor. At any other stage of the complaints process under these Arrangements, the Independent Person may be consulted by the Monitoring Officer and/or the Subject Councillor.

8. **Preliminary Tests**

8.1 The Monitoring Officer will put the complaint through a number of preliminary tests, in accordance with paragraph 1 of Annex 1 to these Arrangements and may do so in consultation with the Independent Person.

8.2 In the event that the Independent Person is being consulted and is unavailable or unable to act, the time limits specified in paragraph 1 of Annex 1 may either be

extended by the Monitoring Officer or the Monitoring Officer may act alone in taking the decision or action.

9. Informal resolution

9.1 The Monitoring Officer may consider that the complaint can be resolved informally at any stage in accordance with paragraph 6 of Annex 1 to these arrangements and may do so in consultation with the Independent Person.

10. Investigation

If the Monitoring Officer, in consultation with the Independent Person, decides after initial consideration of the representations that the complaint merits formal investigation, they will, within 30 working days of receiving it, appoint an Investigating Officer to undertake the investigation, and inform the Parties of the appointment.

The Investigating Officer will investigate the complaint in accordance with Annex 2 to these Arrangements

11. Hearing

If the Monitoring Officer considers that informal resolution is not appropriate or is unlikely to be achieved, then they will convene a meeting of the Hearing Panel to determine the outcome of the complaint, in accordance with Annex 3 to these Arrangements.

12. Sanctions

Where a Subject Councillor has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more sanctions in accordance with paragraph 4 of Annex 3 to these Arrangements.

13. Appeal

There is no right of appeal for the Complainant or the Subject Councillor against decisions of either the Monitoring Officer or the Hearing Panel.

14. Discontinuance of Action

In the event that the Subject Councillor has died, is seriously ill or has ceased to be an elected member or co-opted member of the City Council or Parish Council the Monitoring Officer may determine to end the complaints process.

15. Revision of these Arrangements

The City Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer [and the Hearing Panel] the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter.

Annexes

Annex 1 - Procedure on Receipt of A Complaint
Annex 2 - Procedure for Investigating The Complaint
Annex 3 - Hearing Panel Procedure

Annex 1 – Procedure on receipt of a complaint

1. Preliminary tests

1.1 The complaint will be assessed by the Monitoring Officer against the legal jurisdiction test in paragraph 1.2 below and, if applicable, the local assessment criteria test in paragraph 1.3 below. The Monitoring Officer may assess the complaint in consultation with the Independent Person:

1.2 Legal jurisdiction criteria test:

a) Did the alleged conduct occur before the adoption of the latest Code of Conduct? If the answer to this is 'Yes' the test is failed
b) Was the person complained of a councillor of the City or Parish Council at the time of the alleged conduct? If the answer to this is 'no' the test is failed.
c) Was the person complained of acting in an official capacity at the time of the alleged conduct? If the answer to this is 'no' the test is failed.
d) Did the alleged conduct occur when the person complained of was acting as a councillor of another authority? If the answer to this is 'Yes' the test is failed.
e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of supporting a finding of a breach of the Code of Conduct? If the answer to this is 'no' the test is failed
f) Is the complaint about dissatisfaction with the City or Parish Council's decisions, policies, priorities processes and governance arrangements,, etc? If the answer to this is 'Yes' the test is failed and the matter should be raised by the complainant directly with the Parish or City Council via their general complaints process.
g) Are they still a councillor of the City or Parish Council at the time of assessment? If the answer to this is 'No' the test is failed.

1.3 Local assessment criteria test:

If the complaint satisfies the legal jurisdiction criteria test, the Monitoring Officer will then apply the following local assessment criteria test:

a) The complaint is substantially the same as a complaint which has previously been made.
b) The complaint is anonymous, unless The Monitoring Officer is of the view, on the basis of corroborating evidence that it is in the public interest to accept the complaint. The Monitoring Officer may consult the Independent Person.
c) No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;
d) The complaint is malicious, or relatively minor, and in the view of the Monitoring Officer, the public interest would not be served by taking further action.
e) The Complainant is unreasonably persistent, malicious and/or vexatious;
f) The alleged misconduct happened more than 3 months ago[1];
g) Dealing with the complaint would have a disproportionate effect on both public money and/or officers' and councillors' time;
h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action;
i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;

[1] This is not always a bar to considering the complaint and each case will be considered on its facts

j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
k) The complaint is about a deceased person;
l) The complaint is about a person who is no longer a City or Parish Councillor or Co-opted councillor.

1.4 If the complaint fails one or more of the jurisdiction tests no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly, with reasons, normally within 20 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

1.5 At the discretion of the Monitoring Officer the Independent Person may be consulted prior to the rejection of a complaint.

2. Notification of complaint to Subject Councillor

2.1 Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Councillor (and, if applicable, the Parish Clerk) of the complaint.

2.2 The Monitoring Officer will invite the Subject Councillor [and, if applicable, the Parish Clerk] to submit initial views on the complaint within 10 working days, which will be taken into account by the Monitoring Officer when deciding how to deal with the complaint (see paragraph 4 below). Views received from the Subject Councillor after the 10 working day time limit may be taken into account at the discretion of the Monitoring Officer, providing the views are received before the Monitoring Officer issues their written decision on how the complaint will be dealt with.

3. Asking for additional information

The Monitoring Officer may ask the Complainant and the Subject Councillor (and, if applicable, the Parish Clerk) for additional information at any stage before deciding how to deal with the complaint.

4. What process to apply – informal resolution or investigation and/or no action

4.1 The Monitoring Officer may at any stage seek to resolve the complaint informally in accordance with paragraph 6 below. Where the Subject Councillor or the Monitoring Officer or the City or Parish Council make a reasonable offer of informal resolution, but the Complainant is not willing to accept this offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

4.2 The Monitoring Officer in consultation with the Independent Person may refer the complaint for investigation when:

a) it is serious enough from the information available, if proven, to justify the range of sanctions available to the Standards Committee (see paragraph 12 of Annex 3 to these Arrangements) or;
b) the Subject Councillor's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the City or Parish Council and there is no other avenue left to deal with it short of

investigation. In considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred

4.3 Where the complaint is referred for investigation, the Monitoring Officer will appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Annex 2 to these Arrangements.

4.4 If the complaint identifies potential criminal conduct or potential breach of other regulations by the Subject Councillor or former Councillor, or any other person, the Monitoring Officer shall report the complaint to the police or other prosecuting or regulatory authority. The Monitoring Officer will consider the complaint against the legal jurisdiction criteria test before reporting the matter to the police. Where the Monitoring Officer has referred the matter to the police the complaints process under these Arrangements will be suspended, pending a decision/action by the police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and will apply the local assessment criteria test paragraph 1.5 above.

4.5 The Monitoring Officer may decide to take no action or to defer further action on the complaint when one or more of the following apply:

a) on-going criminal proceedings or a police investigation into the Subject Councillor's conduct or where the complaint is suspended in accordance with paragraph 4.4 above;
b) investigation cannot be proceeded with, without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings;
c) the investigation might prejudice another investigation or court proceedings;
d) genuine long term (3 months or more) unavailability of a key party;
e) serious illness of a key party.

4.6 Within 35 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Councillor [and, if applicable, the Parish Clerk] of their decision and reasons for applying one of the following processes in the format of the Decision Notice template (appended to this Annex 1):

a) not to refer the complaint for investigation;
b) to refer the complaint for investigation;
c) to apply the informal resolution process either before or after an investigation;
d) to refer the complaint to the relevant political group leader for action (if applicable).

4.7 There is no right of appeal against the Monitoring Officer's decision.

5. Confidentiality

5.1 If the Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer when they initially assess the complaint (see paragraph 1 above). The Monitoring Officer may consult the Independent Person.

5.2 As a matter of fairness and natural justice, the Subject Councillor will usually be told who the Complainant is and will also receive details of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity and/or details of the complaint confidential or not disclose details of the complaint to the Subject Councillor during the early stages of an

investigation. The Monitoring Officer may withhold the Complainant's identity if they are satisfied that the Complainant has reasonable grounds for believing that they or any other person (e.g. a witness):

a) Is either vulnerable or at risk of threat, harm or reprisal;
b) May suffer intimidation, be victimised or harassed;
c) Works closely with the Subject Councillor and are afraid of the consequences, e.g. fear of losing their job;
d) Suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this);
e) May receive less favourable treatment, because of the seniority of the person they are complaining about, in terms of any existing City or Parish Council service provision or any tender/contract they may have with, or are about to submit to the City or Parish Council.

OR where early disclosure of the complaint:

a) May lead to evidence being compromised or destroyed; or
b) May impede or prejudice the investigation; or
c) Would not be in the public interest.

5.3 Relevant public interest factors favouring disclosure (not an exhaustive list) include:

a) To facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others;
b) To raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern;
c) Justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Councillor when it may not be in the public interest to disclose it to the world at large;
d) Bringing out in the open serious concerns about the behaviour/conduct of an individual.

5.4 If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision, with reasons, by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

6. Informal resolution

6.1 The Monitoring Officer may seek to resolve a complaint informally at any stage in the process, whether without the need for an investigation, or before or after an investigation has been commenced or concluded. In so doing, the Monitoring Officer will consult with the Complainant and the Subject Councillor to seek to agree what they consider to be a fair resolution, which will help to ensure higher standards of conduct for the future.

6.2 Informal resolution may be the simplest and most cost effective way of resolving the complaint and may be appropriate where (for example):

a) The Subject Councillor appears to have a poor understanding of the Code of Conduct and/or related District or Parish Council procedures; or

b) There appears to be a breakdown in the relationship between the Complainant and the Subject Councillor; or
c) The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to lead to further misconduct or allegations of misconduct; or
d) The conduct complained of appears common to a number of councillors of the City or Parish Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other District or Parish Council procedures, etc; or
e) The conduct complained of appears to the Monitoring Officer not to require a formal sanction; or
f) The complaint appears to reveal a lack of guidance, protocols and procedures within the City or [Parish Council]; or
g) The Complainant and the Subject Councillor are amenable to engaging in an informal resolution; or
h) The complaint consists of allegations and retaliatory allegations between councillors; or
i) The complaint consists of allegations about how formal meetings are conducted; or
j) The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.

6.3 Informal resolution may consist of one or more of the following actions, which do not have to be limited to the Subject Councillor, but may extend to other councillors, including the whole District or Parish Council, where it may be useful to address systemic behaviour:

a) Training
b) Conciliation/mediation
c) Mentoring
d) Apology
e) Instituting changes to the District or Parish Council's procedures
f) Conflict management
g) Development of the District or Parish Council's protocols
h) Other remedial action by the District or Parish Council
i) Other steps (other than investigation), if it appears appropriate to the Monitoring Officer

6.4 If the Subject Councillor is agreeable to, and complies with, the informal resolution process, the Monitoring Officer may report the matter to the Standards Committee and, if applicable, the Parish Council for information, but will take no further action against the Subject Councillor.

6.5 Where the Subject Councillor will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Councillor refuses or fails to carry out any agreed action, the Monitoring Officer may report the matter to the Standards Committee.

Councillors' Code of Conduct Complaint Form

Your Details

1. **Please provide us with your name and contact details.**

   Your address and contact details will not usually be released, unless it is necessary to deal with your complaint. However, we will tell the following people that you have made this complaint:

   The councillor(s) you are complaining about;
   The Monitoring Officer;
   The parish or town clerk (if applicable).

   We will provide them with your name and a summary of your complaint. In certain circumstances, it may be necessary or appropriate for us to give them full details of your complaint, if this enables us to deal with it. If you have serious concerns about your name and a summary, or details, of your complaint being released, please complete section 5 of this form.

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

2. **Please tell us which complainant type best describes you:**

   - □ Member of the public
   - □ An elected or co-opted councillor of an authority
   - □ An appointed Independent Person for the purposes of the Localism Act 2011
   - □ Member of Parliament
   - □ Local authority Monitoring Officer
   - □ Other council officer or authority employee
   - □ Other (please give details) _____

3. **Please provide us with the name of the councillor(s) you believe has/have breached the Code of Conduct and the name of their authority/authorities:**

Title	First name	Last name	Council or authority name

4. Please explain, in this section, what the councillor has done that you believe breaches the Code of Conduct.

Please explain in this section what the councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one councillor you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when he decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor has conducted himself in a manner which could reasonably be regarded as bringing his office or the Authority into disrepute, you should state what it was they said or did.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- Remember the code only applies when someone is acting in their capacity as a councillor. Explain why you think they were acting as a councillor at the time.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.
- Try to identify the provisions of the Code of Conduct which you think have been broken if you can.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

5. Only complete this section if you are requesting that your identity is kept confidential.

The Subject Councillor will usually be told who the complainant is and will also receive details of the complaint. If you ask for your identity to be withheld this request will be considered by the Monitoring Officer and the Independent Person when they initially assess the complaint.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Signed: _____

Date: _____

Return address: The Monitoring Officer
Canterbury City Council
14 Rose Lane
Canterbury
Kent
CT1 2UR

EXAMPLE TEMPLATE - DECISION NOTICE (of the Monitoring Officer): e.g. REFERRAL FOR INVESTIGATION

Parties should take care when passing on information that is in the notice or about the notice. For example, some details such as names and addresses may be confidential or private in nature, or may be personal information. As a general rule nothing related to the complaint should be placed in the public domain until there has been a finding of fault.

Complaint No:

Complaint

On [insert date], the Monitoring Officer considered a complaint from [insert name of complainant] concerning the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Decision

Having consulted and taken into account the views of the Independent Person, the Monitoring Officer decided to refer the complaint for investigation.

Potential breaches of the Code of Conduct identified

At this stage, the Monitoring Officer is not required to decide if the Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed [insert name] as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

[detail relevant Code of Conduct paragraphs]

Notification of decision

This decision notice is sent to the:

- Complainant
- councillor against whom the complaint was made [Clerk to the relevant Parish or Town Council]
- Kent County Council's Monitoring Officer (*applicable only where the Subject Councillor is serving at both District and County level*)

What happens now

The complaint will now be investigated under the City Council's Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011.

Appeal

There is no right of appeal against the Monitoring Officer's decision.

Additional Help

If you need additional support in relation to this decision notice or future contact with the City Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address].

Signed: Date

Print name:

Monitoring Officer of Canterbury City Council

14 Rose Lane, Canterbury, Kent CT1 2UR

Annex 2 – Procedure for investigating the complaint

1. Preliminaries

1.1 The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under the UK GDPR and Data Protection Act 2018, Equalities Act 2010, the Human Rights Act 1998 and other relevant legislation.

1.2 The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.

1.3 The Subject Councillor and the Complainant will be advised that the investigation is for the purposes of establishing facts and making recommendations as to whether the facts disclose a breach of the relevant code of conduct.

1.4 Witnesses will be identified at the investigation stage and wherever possible their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their cooperation.

1.5 The Investigating Officer will not make recommendations on sanctions.

1.6 The Investigating Officer will notify the Subject Councillor and the Complainant of their appointment and normally within 10 working days of being appointed:

a) provide details of the complaint and supporting documentation to the Subject Councillor (notwithstanding that the details may have already been seen at an earlier stage);
b) detail the procedure to be followed in respect of the investigation and the relevant timescales for responses and concluding the investigation;
c) detail the sections of the Code of Conduct that appear to be relevant to the complaint;
d) request contact details of any potential witnesses;
e) require that confidentiality is maintained throughout the duration of the investigation and the procedures contemplated by this Annex and that details of the complaint are not disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.

1.7 It may be necessary for the Investigating Officer to agree with the Subject Councillor which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Councillor's case and which are relevant to the complaint.

1.8 The Investigating Officer may conclude their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the Monitoring Officer.

2. Evidence of New Breaches

2.1 The Investigating Officer may find evidence of conduct by councillors that breaches the Code of Conduct but extends beyond the scope of the investigation referred to them. Their powers as an Investigating Officer relate

only to the allegation that they have been given. While that means that the Investigating Officer may consider other parts of the Code than those initially considered if they are relevant to the matter in hand, they may also find evidence of a possible breach that does not directly relate to the allegation being investigated. If this happens, the Investigating Officer should tell the person they obtained the information from that they cannot investigate the possible breach as part of their existing investigation. The Investigating Officer should advise them that they are able to make a separate complaint to the Monitoring Officer

3. Referring Cases Back to the Monitoring Officer

3.1 During the course of an investigation, it may be necessary for the Monitoring Officer to consider whether the investigation should continue, for example, if:

(a) Evidence suggests a case is less serious than may have seemed apparent originally and that a different decision might therefore have been made about whether to investigate it or not.
(b) It emerges during the investigation that the conduct under investigation was not conduct by the Subject Councillor in their role as a Councillor but rather in a private capacity.
(c) Evidence indicates something which is potentially more serious which should be referred to the police.
(d) The Subject Councillor has died, is seriously ill, has resigned from the authority or or is otherwise reasonably unable to take part in the process for the foreseeable future and is it considered that it is no longer appropriate to continue with the investigation.
(e) The Subject Councillor has indicated that they wish to make a formal apology or take other action which should resolve the matter.

3.2 In this context 'seriously ill' means that the councillor has a medical condition which would prevent them from engaging with the process of an investigation or a hearing for the foreseeable future. This might be a terminal illness or a degenerative condition.The Investigating Officer would be expected to establish this from a reliable independent and authoritative source other than the Subject Councillor. This would include where a councillor claims they are suffering from stress brought on by the investigation.

3.3 Ultimately it will be for the Monitoring Officer to conclude whether the investigation should continue. In reaching that decision, the Monitoring Officer may consult with the Independent Person before deciding to defer or end the investigation.

3.4 If the investigation has been deferred or ended the Subject Councillor and the complainant should be notified of the decision and where possible provided with timescales within which the matter will be dealt with if it has been deferred. This would not always be possible, however, particularly if the matter has been referred to the police.

4. Deferring an Investigation

4.1 An investigation should be deferred when any of the following conditions are met:

(a) There are ongoing criminal proceedings or a police investigation into the Subject Member's conduct.
(b) The investigation might prejudice another investigation or court proceedings.

4.2 An investigation may also need to be deferred for any of the reasons set out in paragraph 4.5 of Annex 1.

4.3 When it is clear that there is an ongoing police or other investigation, or related court proceedings, the Investigating Officer should make enquiries about the nature of the police, or other investigation, or the nature of any court proceedings.

4.4 If at any time during the investigation the Investigating Officer becomes aware of any circumstances that might require the investigation to be deferred, the Investigating Officer should notify the Monitoring Officer who should determine whether there should be a deferral. The Monitoring Officer may also wish to consult with the Independent Person.

4.5 In some cases, it will be possible to investigate some of the alleged conduct, where there is no overlap with another investigation or court proceedings. The Investigating Officer should highlight those areas where investigation may be possible in the investigation plan.

4.6 The Monitoring Officer or the Investigating Officer should ask the police, other relevant organisation or individual, in writing to keep them informed of the outcome of any police or other investigation, court proceedings or other relevant matter. Any important dates, for example of committal hearings should be noted in the investigation plan review.

4.7 A deferred investigation should be kept under regular review, in the interests of natural justice.

4.8 Once a decision is taken to begin the investigation again the Investigating Officer should notify in writing; the Subject councillor, the complainant, the relevant Independent Person and the relevant town or parish council of the Subject councillor is a town or parish councillor.

4.9 The investigation plan should be reviewed in the light of the outcome of any police investigation or court proceedings.

5. The draft report

5.1 On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT & CONFIDENTIAL') to the Monitoring Officer for review.

5.2 Following review of the draft report by the Monitoring Officer, the draft report will be sent in confidence to the Subject Councillor and the Complainant (not witnesses) for comment. The draft report will be marked ‘DRAFT & CONFIDENTIAL and will detail:

a) The relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
b) A summary of the complaint;
c) The Subject Councillor’s response to the complaint;
d) Relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation;
e) A list of any documents relevant to the matter;
f) A list of those persons/organisations who have been interviewed;
g) A statement of the Investigating Officer’s draft findings of fact and reasons;

h) The Investigating Officer's conclusion as to whether the Subject Councillor has or has not failed to comply with the Authority's Code of Conduct;
i) That the Investigating Officer will present a final report once they have considered any comments received on the draft.

5.3 Once the Investigating Officer has received any responses from the Subject Councillor and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled FINAL & CONFIDENTIAL.

6. Consideration of investigating officer's final report

6.1 The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person.

6.2 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is no evidence of a failure to comply with the Code of Conduct, they will inform the Parties, in writing, that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.

6.3 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:

a) take no action or
b) seek informal resolution or
c) refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in Annex 3 to these Arrangements.

7. **Confidentiality**

7.1 The procedures detailed in this Annex are all treated as confidential to those involved in the process. Some details (which would include names and addresses) may be personal data, subject to data protection laws, some content of statements or reports may be otherwise private or confidential or, may be potentially defamatory if published.

7.2 Whilst non-members are not covered by the Code of Conduct (e.g. members of the public, witnesses and non-councillor complaints) if they do decide to publish details of the complaint they may expose themselves to liability in defamation (if information turns out to be untrue) or to other liabilities e.g. for breach of confidence, or for breach of data protection laws which could arise even where the information is true. Non-members may wish to seek their own legal advice.

Annex 3 – Hearing Panel Procedure

1. Pre-hearing procedure

1.1 In order to allow the hearing to proceed fairly and efficiently, the Monitoring Officer may in appropriate cases use a pre-hearing procedure to identify:

- Which facts in the investigation report are agreed and which are in dispute.
- Whether there is fresh evidence not mentioned in the investigation report which may be put before the hearing.
- Whether there is evidence which a party wishes to put before the hearing.
- Whether the parties intend to attend; whether the parties intend to be represented in accordance with paragraph 3 and, if so, by whom; and the number and identity of witnesses to be called.
- Whether the subject councillors requests the whole or any part of the hearing to be held in private.
- Whether subject Councillor requests the whole or any part of the investigation report or other relevant documents should be withheld from the public.

1.2 The Monitoring Officer will notify the parties of the date, time and place for the hearing.

2. Rules of procedure

2.1 The Hearing Panel consists of three voting elected councillors drawn from the Standards Committee, one of whom shall be elected as Chairman and two non-voting Parish councillors when a Parish councillor is the subject of the complaint.

2.2 The quorum for a meeting of the Hearing Panel is three elected councillors and one non-voting Parish councillor (when a Parish councillor is the subject of the complaint only).

2.3 The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Councillor's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may instead submit their views on the complaint to the Hearing Panel in writing.

2.4 The Independent Person could be the same person who considered the matter at an earlier stage but if it is considered by the Monitoring officer that this may cause procedural difficulties or in any way prejudice the process another Independent Person would be invited to attend and/or comment.

2.5 The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Hearing Panel. The hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Councillor. Schedule 12A Local Government Act 1972 (as amended) may be applied to exclude the public and press from meetings of the Hearing Panel.

2.6 Once a hearing has started, the City Council's Rules of Substitution do not apply to the Hearing Panel's proceedings.

2.7 All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.

2.8 Where the Subject Councillor fails to attend the Hearing Panel and where the Hearing Panel is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance, have regard to any written representations submitted by the Subject Councillor and may resolve to proceed with the hearing in the Subject Councillor's absence and make a determination or, if satisfied with the Subject Councillor's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously.[2]

3. Right to be accompanied by a representative

The Subject Councillor represented by counsel, a solicitor, or by any other person they wish. The panel does, however, have the right to require a representative to leave if that representative disrupts the hearing. However, an appropriate warning will be given before requiring a representative to leave the hearing

4. Order of Business

4.1 Subject to paragraph 5 below, the order of business will be as follows:

a) the Panel will elect a Chair
b) there will be apologies for absence;
c) declarations of interests;
d) in the absence of the Subject Councillor, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 2.8 above);
e) introduction by the Chair, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Councillor and their representative;
f) To receive representations from the Monitoring Officer and/or Subject Councillor as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
g) To determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

4.2 The Chair may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

4.3 The Hearing Panel may adjourn the hearing at any time.

5. **Presentation of the complaint**

5.1 The Monitoring Officer, legal advisor or chairman may each make an introductory statement outlining the nature of the complaint and the purpose of the hearing, and the procedure to be followed.

[2] Janik v Standards Board for England & Adjudication Panel for England (2007)

5.2 The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points will be permitted.

5.3 The Subject Councillor or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer;The Hearing Panel may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer.

5.5 The complainant if attending would not have a right to question subject to the discretion of the Chairman.

6. **Presentation of the Subject Councillor's case**

6.1 The Subject Councillor or their representative presents their case and calls their witnesses;

6.2 The Investigating Officer may question the Subject Councillor and any witnesses called by the Subject Councillor;

6.3 The Hearing Panel may question the Subject Councillor and any witnesses called by the Subject Councillor.

6.4 The complainant if attending would not have a right to question subject to the discretion of the Chair.

7. **Summing up**

7.1 The Investigating Officer sums up the complaint;

7.2 The Subject Councillor or their representative sums up their case.

8. **Views/Submissions of the Independent Person**

The Chairman will invite the Independent Person to express their view on whether or not they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct.

9. **Deliberations of the Hearing Panel to be in private**

9.1 The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether or not, on the facts found, the Subject Councillor has failed to comply with the Code of Conduct.

9.2 The Hearing Panel may at any time come out of private session and reconvene the hearing in public (or in private if Schedule 12A Local Government Act 1972 (as amended) is applied to exclude the public and press from the meeting of the Hearing Panel), in order to seek additional evidence from the Investigating Officer, the Subject Councillor or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and by whom.

10. **Announcing decision on facts found**

10.1 The Hearing Panel will reconvene the hearing in public (or in private if Schedule 12A Local Government Act 1972 (as amended) is applied to exclude the public and press from the meeting of the Hearing Panel) and the Chairman will announce

whether or not on the facts found, the Panel considers that there has been a breach of the Code of Conduct.

10.2 Where the Hearing Panel considers that there has been a breach of the Code of Conduct, the Chairman will invite the Independent Person, the Subject Councillor and the Monitoring Officer to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take.

10.3 When deciding whether to apply one or more sanctions, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Councillor's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:

(a) What was the Subject Councillor's intention and did they know that they were failing to follow the City or Parish Council's Code of Conduct?
(b) Did the Subject Councillor receive advice from officers before the incident and was that advice acted on in good faith?
(c) Has there been a breach of trust?
(d) Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
(e) What was the result/impact of failing to follow the City or Parish Council's Code of Conduct?
(f) How serious was the incident?
(g) Does the Subject Councillor accept that they were at fault?
(h) Did the Subject Councillor apologise to the relevant persons?
(i) Has the Subject Councillor previously been reprimanded or warned for similar misconduct?
(j) Has the Subject Councillor previously breached the City or Parish Council's Code of Conduct?
(k) Is there likely to be a repetition of the incident?

10.4 Mitigating factors may include:

(a) An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
(b) A councillor's previous record of good service.
(c) Substantiated evidence that the councillor's actions have been affected by ill health.
(d) Recognition that there has been a failure to follow the Code.
(e) Co-operation in rectifying the effects of that failure.
(f) An apology to affected persons where that is appropriate.
(g) Self-reporting of the breach by the councillor.
(h) Compliance with the Code since the events giving rise to the complaint.

10.5 Aggravating factors may include:

(a) Dishonesty or breaches of trust.
(b) Trying to gain an advantage or disadvantage for themselves or others.
(c) Bullying
(d) Continuing to deny the facts despite clear contrary evidence.
(e) Seeking unfairly to blame other people.
(f) Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.

(g) Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

10.6 Having heard the representations of the Independent Person, the Subject Councillor and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.

10.7 If evidence presented to the Hearing Panel highlights other potential breaches of the City or Parish Council's Code of Conduct, then the Chairman will outline the Hearing Panel's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.

11. **Final Decision**

a) Where the complaint has a number of elements, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each element separately.
b) The Hearing Panel will make its decision on the balance of probabilities, based on the evidence before it during the hearing. Any sanction applied will be proportionate and will as much as possible relate to the breaches which have been found.
c) Having taken into account the Independent Person, the Subject Councillor and the Monitoring Officer's representations on the application of sanctions, the Hearing Panel will reconvene the hearing in public (or in private if Formatted: Indent: Left: 0 cm, First line: 0 cm Page 66 Part C/29 Schedule 12A Local Government Act 1972 (as amended) is applied to exclude the public and press from the meeting of the Hearing Panel) and the Chairman will announce:

i) the Panel's decision as to whether or not the Subject Councillor has failed to comply with the Code of Conduct, and the principal reasons for the decision;
ii) the sanctions (if any) to be applied;
iii) the recommendations (if any) to be made to the City or Parish Council or Monitoring Officer;
iv) that there is no right of appeal against the Panel's decision and/or recommendations.

12. Range of possible sanctions or Other Actions

12.1 Where the Hearing Panel determines that the Subject Councillor has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/recommended:

a) Recommending to the City or Parish Council that the Subject Councillor be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
b) Recommending to the Subject Councillor's Group Leader or Parish Council, or in the case of a ungrouped Subject Councillor, to the City or Parish Council that they be removed from all committees or sub-committees of the Council;
c) Recommending to Council that the Subject Councillor be removed from one or more of the committees on which they sit
d) Instructing the Monitoring Officer [or recommendation to the Parish Council] to arrange training for the Subject Councillor;

e) Recommending to the City or Parish Council that the Subject Councillor be removed from one or more outside appointments to which they have been appointed or nominated by the City or Parish Council;
f) Recommending to the City or Parish Council that it withdraws facilities provided to the Subject Councillor by the Council, such as a computer, website and/or email and internet access for a specified period;
g) Recommending to the City or Parish Council the exclusion of the Subject Councillor from the City or Parish Council's offices or other premises, with the exception of meeting rooms as necessary for attending City or Parish Council committee and sub- committee meetings and/or restricts contact with officers to named officers only for a specified period;
h) Reporting the Panel's findings to the City or Parish Council for information;
i) Instructing the Monitoring Officer to apply the informal resolution process;
j) Sending a formal letter to the Subject Councillor regarding future conduct;
k) Recommending to the City or Parish Council to issue a press release or other form of publicity;
l) Publishing its findings in respect of the Subject Councillor's conduct in such manner as the Panel considers appropriate.
m) Require that either alongside another sanction or separately the councillor be required to offer a public apology to the complainant or other party affected.
n) If relevant recommend to Council that the Subject Councillor be removed from their role as leader of the authority.
o) If relevant recommend the the secretary of appropriate official of a political group that the councillor be removed as group leader or other position of responsibility.

12.2 Where the Subject Councillor is a Parish or Town Councillor, the matter is referred back to their Council to say that a breach of the Code has been found and with a recommended sanction.; The Town or Parish council must then meet to consider whether to impose that sanction or to replace it with another relevant sanction. They cannot overturn the finding that there has ben a breach of the Code and if they wish to impose a different sanction they should seek advice from the clerk and/or the Monitoring Officer. The panel should also ask the Parish or Town Council to report back to the Monitoring Officer within three months to confirm that they have met to discuss the sanction, and if necessary, to write again once the sanction has been fulfilled.

12.3 Note that under the Code of Conduct failure to comply with a sanction may of itself be a breach of the Code.

12.4 The Hearing Panel has no power to suspend or disqualify the Subject Councillor or to withdraw basic or special responsibility allowances.

12.5 The Hearing Panel may specify that any sanction or range of sanctions take effect immediately or take effect at a later date and that the sanction be time limited.

13. Publishing findings

13.1 Within 20 working days of the Hearing Panel's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Councillor and a summary of the Hearing Panel's decision and recommendations and reasons for the decision and recommendations on the District Council's website.

13.2 Within 20 working days {substitute preferred number of days} of the announcement of the Hearing Panel's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, in the format of the Decision Notice template below to:

a) the Subject Councillor;
b) the Complainant;
c) [the Clerk to the Parish Council;]
d) Kent County Council's Standards Committee (*applicable only where the Subject Councillor is serving at both District and County level*);
e) City Council's Standards Committee (*applicable only where the Subject Councillor is serving at both District and County level*).

13.3 If the panel finds that the Subject Councillor did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding.

13.4 If the panel finds that the Subject Member failed to follow the Code but that no action is needed, the public summary should;

(a) say that the Councillor failed to follow the Code, but that no action needs to be taken. Page 68 Part C/31
(b) Outline what happened
(c) Give reasons for the panel's decision not to take any action.

13.5 If the panel finds that a councillor failed to follow the Code and it imposed or recommended a sanction or other action, the public summary should:

(a) Say that the Councillor failed to follow the Code.
(b) Outline what happened.
(c) Explain what sanction has been imposed.
(d) Give reasons for the decision made by the panel.

13.6 The panel's reports and minutes should be available for public inspection in the same way of other local authority committee papers.

14. Appeals

14.1 Given that the framework and sanctions are meant to be light-touch and proportionate, there is no right of appeal against a decision on a Code of Conduct complaint.

TEMPLATE – DECISION NOTICE (of Hearing Panel)

Complaint No: xxxx

On [insert date], the Hearing Panel of Canterbury City Council considered a report of an investigation into the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]

The Hearing Panel also made the following recommendation(s) [Detail recommendations]

Sanctions applied

The breach of the [insert authority name] Code of Conduct warrants a [detail sanctions applied].

Appeal

There is no right of appeal against the Hearing Panel's decision.

Notification of decision

This decision notice is sent to the:

- Councillor [name of councillor]
- Complainant
- Monitoring Officer
- [Clerk to the xxxx Parish/Town Council];
- Kent County Council's Monitoring Officer [applicable only where the Councillor is serving at both District and County level]

Additional help

If you need additional support in relation to this decision notice or future contact with the City Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address].

Signed: Date

Print name:

Chair of the Hearing Panel
Canterbury City Council
14 Rose Lane
CANTERBURY
CT1 2UR

Appendix D

Access to Information Procedure Rules

1. Legal rights to information

1.1 These rules apply to all meetings of the Council, Cabinet, regulatory committees and to any other formal committees and sub-committees established by the Council (together called meetings), and to certain decisions taken by officers as specified by law and provided for in these rules.

1.2 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law; for example, the Public Bodies (Admission to Meetings Act) 1960, the Local Government Act 1972, the Freedom of Information Act 2000 and the Data Protection Act 2018.

1.3 Previously exempt information may subsequently be made available if the reason for exemption no longer applies.

2. Rights to attend meetings and access to documents in advance

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

2.2 The Council will give at least five clear days' notice of meetings by publishing details on its website.

2.3 While meetings are open to the public any person is permitted to report on them. For these purposes, report means filming, photographing or making audio recordings of proceedings at the meeting; using any other means for enabling persons not present to see or hear proceedings at the meeting as it takes place or later, or reporting or providing commentary on proceedings at the meeting orally or in writing. These rights are subject to the Openness of Local Government Bodies Regulations 2014**.**

2.4 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 days before meetings. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Proper Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors. In the event that the meeting is convened at shorter notice, copies of the agenda and reports shall be open to inspection from the time the meeting is convened.

2.5 The Council will supply copies of any agenda and reports which are open to public inspection; any further statements or particulars necessary to indicate the nature of the items in the agenda; and, if the Proper Officer thinks fit, copies of 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.

3. Access to documents after meetings

3.1 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 Council, Cabinet and formal committees, 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.

d) Reports relating to items when the meeting was open to the public.

4. Background papers

4.1 The officer responsible for the report will set out, in every report, a list of those documents (called background papers) relating to the subject matter of the report, which in their opinion:

a) in the case of reports to the Cabinet, Cabinet committees, Cabinet members or officers when taking executive decisions, relate to the subject matter of the report or, as the case maybe, the part of the report;

b) disclose any facts or matters on which the report, or an important part of the report, is based; and

c) which have been relied on to a material extent in preparing the report, but will not include in such a list published works or those which disclose exempt or confidential information.

In addition, in the case of a report to the Cabinet, a copy of the background papers must be made available for inspection at the Council or on the Council's website.

4.2 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, as defined in The Openness of Local Government Bodies Regulations 2014 (as amended).

5. Exclusion of access by the public to meetings

5.1 **Confidential information – requirement to exclude the 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 will be disclosed.

5.3 **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 or under any enactment or by the order of a court.

Detailed guidance on the disclosure of confidential information is provided in Appendix D1.

5.3 **Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information will be disclosed. Information is only exempt if, and so long as, in all the

circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

5.4 **Meaning of Exempt Information**

Category	Condition
1. Information relating to any individual.	Information falling within paragraph 1 is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2. Information which is likely to reveal the identity of an individual.	Information falling within paragraph 2 is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information) 'Financial or business affairs' includes contemplated as well as current activities.	Information falling within paragraph 3 is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Information falling within paragraph 3 is not exempt information if it is required to be registered under: The Companies Act (as defined in section 2 of the Companies Act 2006) The Friendly Societies Act 1974 The Friendly Societies Act 1992 The Industrial and Provident Societies Act 1965 to 1978 The Building Societies Act 1986 The Charities Act 1993
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Information falling within paragraph 4 is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. 'Labour relations matters' are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act or any dispute about a matter within this paragraph).
5. Information in respect of which a claim to legal	Information falling within paragraph 5 is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the

Category	Condition
professional privilege could be maintained in legal proceedings.	exemption outweighs the public interest in disclosing the information.
6. Information which reveals that the authority proposes: to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment.	Information falling within paragraph 6 is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information falling within paragraph 7 is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The second condition is that information is not exempt information if it relates to proposed development, for which the local planning authority may grant itself planning permission, pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

5.5 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 their opinion, relate to items during which the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

6. Officer decision making

6.1 Where an officer exercising a delegated power makes a decision either under a specific express authorisation; or under a general authorisation to officers to take such decisions, and the effect of the decision is to grant a permission or a licence; affect the rights of an individual; or award a contract or incur expenditure which, in either case, materially affects the Council's financial position, the officer must produce a written record of any decision which falls within any of the above categories.

6.2 The written record must be produced as soon as reasonably practicable after the decision-making officer has made the decision and must contain the following information: the date the decision was taken; record of the decision taken along with the reasons for the decision; details of alternative options, if any, considered and rejected; and the names of any member of the council who has declared a conflict of interest in relation to the decision.

6.3 The duty is satisfied where, in respect of a decision, a written record containing the information referred to in paragraph 6.2 is already required to be produced in accordance with any other statutory requirement.

7. Record of decisions

7.1 After any meeting of the Council, 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) a statement of the reasons for each decision;
b) any alternative options considered and rejected at that meeting;
c) details of any conflict of interest declared in relation to the matter decided by any member of the decision-making body ;
d) a note of any dispensation granted by the Monitoring Officer or Standards Committee in relation to any declared conflict of interest.

7.2 As soon as reasonably practicable after an executive decision has been taken by the Leader or by a portfolio holder, they will prepare, or instruct the proper officer to prepare, a record of the decision, which will include:

a) a statement of the reasons for the decision;
b) any alternative options considered and rejected;
c) details of any conflict of interest declared in relation to the matter decided by any executive member consulted in relation to the decision;
d) a note of any dispensation granted by the Standards Committee in relation to any such declared conflict of interest.

7.3 The Council will make available for public inspection all records prepared under 7.1 or 7.2 above for six years after the date of the decision, together with copies of all reports considered in relation to such decisions. This does not require the disclosure of exempt or confidential information or advice from a political adviser or assistant.

8. Councillors' additional rights

8.1 **Attendance at Meetings**

The Procedure Rules in Parts 5,6, and 7 of the Constitution set out the provisions that apply to councillors who wish to attend meetings of which they are not a member.

8.2 **Access to Information**

Councillors may request officers to provide them with any information they reasonably require to assist them in fulfilling their responsibilities as elected representatives. However, councillors may not be able to access information which, in the opinion of the Monitoring Officer, is in draft form, contains confidential or exempt information as defined in this section, or where disclosure would breach the provisions of the Data Protection Act.

Further advice is provided in the 'Guidance on the disclosure of confidential information by councillors' appended to this section.

9. Overview Committee and Scrutiny Committee members access to documents

9.1 Subject to 9.2 below, a member of the Overview Committee or Scrutiny Committee will be entitled, on request, to copies of any document in the possession or control of the Cabinet and which contains material relating to:

a) any business transacted at a meeting of a decision-making body; or

b) any decision taken by an individual member of the Cabinet;

c) any decision taken by an officer in the circumstances mentioned in the agreed protocol for officers taking executive decisions.

These rights are additional to any other rights that members of the Council may have, as defined in Section 8 above.

9.2 A member of the Overview Committee or Scrutiny Committee (or its sub-committees) will not be entitled to:

a) any document that is in draft form;

b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising, or intend to scrutinise.

Appendix D.1

Guidance on the disclosure of confidential information by Councillors

1. Introduction

1.1 As a councillor, you will have access to a great deal of information that is confidential, either because it is personal information or because it is commercially sensitive, or it is information which would not otherwise be placed in the public arena/domain.

1.2 The handling of confidential information is an essential element in the relationships of trust that should exist between councillors, officers and the public, and a mishandling of such information and/or its accidental or deliberate disclosure is likely to damage trust as well as lead to formal proceedings being taken against the Council, individual councillors or Officers.

1.3 The Council is committed to the principles of openness and transparency. However, in the practical application of these principles, you need to have regard to legal obligations which, in some cases, may require information to be kept confidential.

1.4 The Members' Code of Conduct (paragraph 3.2 d) provides that:

'You must not 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 the person authorised to give it;

(ii) you are entitled 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.'

1.5 The Council's Constitution provides rules which you must follow in relation to inspection of and/or access to Council information. These rules are summarised in Section 6 (below) of this Guidance.

1.6 The Council policies on Whistleblowing, Data Protection, Freedom of Information, Human Rights and other statutory provisions may also be relevant to the disclosure of confidential information. You should seek advice from the Monitoring Officer or one of their deputies on the application of the law if you are in doubt.

1.7 Information in documents held by the Council belongs to the Council corporately and not to individual officers or councillors.

1.8 Nothing in these rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

1.9 Nothing in these rules:

a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of a document if, in the opinion of the proper officer, that document or part of a document contains or may contain confidential information; or
b) requires the Council to disclose to the public or make available for public inspection any document or part of a document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information.

2. What is confidential information?

2.1 In order to ascertain whether information is confidential, it is important to understand what is meant by a duty of confidence and how confidentiality can be established.

2.2 A duty of confidence arises when one person (the 'confidant') is provided with information by another (the 'confider') in the expectation that the information will only be used or disclosed in accordance with the wishes of the confider. This is generally known as the common law duty of confidence.

2.3 There are various ways in which a person or the Council may be under a duty of confidentiality (either explicitly or implied), such as:

(i) if the relationship is inherently confidential e.g. between client and lawyer;

(ii) if the relationship is personal e.g. it is between colleagues in circumstances that suggest an expectation of confidentiality;

(iii) if the source of the information will be put at risk if identified e.g. whistle blowers.

2.4 Confidentiality is unlikely to be established where the information is already known to a wide circle or is in the public domain.

2.5 Information which at one time was to be treated as confidential may subsequently cease to be confidential by passage of time or where, in the case of exempt Information, the relevant meeting did not resolve to exclude the press and public.

2.6 Confidentiality can be agreed either verbally or in writing. However, It is not necessary for the person who supplied the information to have stated expressly that the information is confidential. For example, the fact that correspondence is not marked 'confidential' does not necessarily prevent it from being confidential. In many cases, the fact that the information is confidential may be inferred from the subject matter and the surrounding circumstances.

2.7 With the consent of the 'confider', confidentiality can be set aside.

2.8 It may be difficult to establish that a confidentiality agreement existed retrospectively. This is especially true if there is little or no evidence of an attempt having been made to restrict or protect the information at the time the information was given, but, as outlined in Section. 2.3 of this Guidance, some relationships are inherently confidential and in those circumstances, confidentiality may well be implicit, rather than explicit.

2.8 Committee agenda context

The meaning of the term 'confidential' in the committee agenda context is very restricted and tightly defined in law and will relate to information that has been supplied to the Council by a government department upon terms which prevent its disclosure to the public, or information which by law, is prohibited from being disclosed to the public. The public and press must be excluded from meetings where such information is being considered.

3. What is exempt information?

3.1 Schedule 12A of the Local Government Act 1972 sets out a number of categories and circumstances of exemption: information about individuals, financial or business affairs of an individual including the Council, trade disputes, legal advice, crime and Standards Committee deliberations etc.

3.2 Reports, normally at the end of a committee agenda and on pink paper (referred to as 'the pink items'), will relate to exempt information matters which remain confidential until the Proper Officer (i.e. the Monitoring Officer) considers the public interest test and decides that it is in the interests of the public to release some or all of the information. In practice, this exercise is undertaken at the time the report is drafted and/or following a specific Freedom of Information or Environmental Information Regulations request. The public and the press may be excluded from a meeting where exempt information is being considered.

4. Other confidential information

4.1 It would be a mistake to consider that it is only 'confidential information' or 'exempt information' as defined in the legislation that should be protected from disclosure. Information other than that which is to be discussed at, or is the subject of a report to, a committee meeting may be provided to you in confidence.

4.2 Information provided expressly 'in confidence' to you (whatever words are used to describe its confidential nature), should be treated as confidential information. An example might include sensitive legal or financial information provided to you by Officers outside the context of a formal committee meeting, or sensitive information provided to you by a constituent.

5. When is information likely to be confidential?

5.1 Generally, the confidentiality or otherwise of information needs to be considered in the context of individual circumstances. By way of indicative guidance, the following categories of information would normally be treated as confidential:

a) where there is a legal restriction on the disclosure of information for example under the Data Protection Act 2018, contractual obligations, a court order or pending legal proceedings covered by the sub judice rule;
b) all reports that are the pink items in committee agendas or are otherwise described as exempt or confidential items (refer to paras. 2.10 and 3 of this Guidance). Occasionally there are mistakes and items which should be printed on pink paper are not. Always check with the Monitoring Officer or their deputy if you are in any doubt;

c) where information is supplied to a councillor by an officer or other person in confidence;

d) matters concerning terms and conditions of employment of individual officers or pending grievance or disciplinary proceedings;

e) matters concerning details of commercial negotiations;

f) personal information concerning an individual;

g) information protected by legal professional privilege (i.e. arising from a relationship of lawyer and client);

h) information which, given its nature, timing and context is such that a reasonable person would consider it to be confidential;

i) information relating to the business of working groups (there is a presumption that the business of working groups is confidential);

j) where the disclosure of information would normally tend to have a detrimental effect on the interests of the Council, the service users or third parties involved.

6. Your right as a councillor to access confidential information

6.1 The Council has a general commitment to openness. Your access to information and documents is therefore restricted only where there is a good reason for doing so.

6.2 You have a common law right to access information on a 'need to know' basis. This entitles you to access information or documents that are reasonably necessary to enable you to discharge your functions as a councillor. This would cover your role as a member of committees, sub-committees or working groups, as well as positions to which you are appointed by the Council and in the undertaking of your ward councillor responsibilities. The right is limited to a need to know and a mere curiosity or desire to know is not sufficient. The courts have also held that as a councillor, you have no right to a 'roving commission' to examine the books or documents of the Council.

6.3 One aspect of the need to know principle is proportionality. In asking for information and documents, you need to ensure that what you are asking (in terms of volume of documents, time needed to locate, research and collation of the information etc.), is commensurate with your need to know.

6.4 An officer receiving a request for information from you is entitled to know the reasons why the information is needed so that a proper assessment of the need to know can be made. Where you are dissatisfied with the officer response, you may refer the matter to the Proper Officer for a review. The Proper Officer's decision will be final.

6.5 You cannot demand to see a document which relates to business not yet due to come before a meeting.

7. When am I subject to a duty of confidentiality under the Councillors' Code of Conduct?

7.1 The duty of confidentiality under the Code applies only when you are acting in an 'official' capacity. The information must therefore have been received and/or disclosed by you in your role as a councillor. This should however not be interpreted as meaning confidential information which has been received in your role of councillor, can be disclosed with impunity in a private capacity. The duty under the Code is not limited to information supplied by officers or the Council - it also covers information given to you in your capacity as a councillor, by any person.

8. What requirements must I comply with under the Councillors' Code of Conduct?

8.1 The Councillors' Code of Conduct imposes a duty of confidentiality on you and prohibits the disclosure of confidential information except in a defined range of circumstances and subject to a number of requirements.

8.2 The defined range of circumstances

8.2.1 The first defined range of circumstances is that before disclosing confidential information, you must have the consent of the person authorised to give it. This would normally be the author of the document, the relevant director or a senior officer of the department which includes the service area. They may need to consult others before giving consent.

8.2.2 The second defined range of circumstances is that you may disclose confidential information if you are entitled by law to do so e.g. by a court order.

8.2.3 The third defined range of circumstances is that you may disclose confidential information to a third party e.g. a lawyer for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person.

8.3 **The requirements**

8.3.1 The first requirement that the disclosure must be reasonable, requires you to consider matters such as:

- whether you believe that the information disclosed and any matters contained in it, is substantially true. If you do not believe this, then the disclosure is unlikely to be reasonable;
- If the disclosure is made for personal gain e.g. where you are paid to disclose the information, the disclosure is unlikely to be reasonable;
- the identity of the person to whom the disclosure is made: it may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media;
- the extent of the information disclosed: the inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable;
- the seriousness of the matter - the more serious the matter, the more likely it is that the disclosure will be reasonable;
- the timing of the disclosure - if the matter to which the disclosure relates has already occurred and is unlikely to occur again, the disclosure is less likely to be reasonable than if the matter is continuing or is likely to re-occur;
- whether the disclosure involves the Council failing in a duty of confidence owed to another person.

Points to remember

- You must not disclose confidential information merely to make political capital/gain.
- Disclosure of confidential information to the press is most likely to involve a breach of the Councillors' Code of Conduct and is rarely justified.

- You should have regard to your fiduciary duty to the Council and council taxpayers and that you have joint responsibility to avoid the disclosure of information of a commercially sensitive nature.
- Confidential information gained by you in connection with pending or ongoing litigation should not be disclosed under any circumstances, as this would amount to a breach of trust.

8.3.2 The second requirement that the disclosure must be in the public interest needs to involve one or more of the following matters, or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:

a) a criminal offence is committed;
b) the Council or some other person fails to comply with any legal obligation to which they are subject;
c) a miscarriage of justice occurs;
d) the health or safety of any individual is at risk;
e) the environment is likely to be damaged;
f) that information tending to show any matter falling within (a) to (e), is deliberately concealed.

Points to remember

'Public interest' has been described as something that is of serious concern or benefit to the public, not merely of individual interest. The public interest does not mean 'of interest to the public' but 'in the interest of the public'. The term is not defined in law, so you will need to make a subjective judgement, in which policy and legal interpretations are both involved to some degree.

Because of the implications associated with releasing confidential information e.g. risk to an individual, risk to commercial negotiations etc, any decision to release such information has to be made with great care. In evaluating the effect of disclosing confidential information, it will be necessary for you to consider the full context of that disclosure, and to make a risk assessment of the disclosure.

Therefore:

a) identify the relevant public interest factors;
b) list the factors for and those against releasing the information;
c) evaluate the relevant public interest factors, e.g. no weight, minimal weight, moderate weight or considerable weight;
d) determine where the balance lies.

8.3.2 The third requirement that disclosure is made in good faith, will not be met if you act with an ulterior motive, for example to achieve a party political advantage or to settle a score with a political opponent.

Points to remember

The law defines good faith as a state of mind consisting in:

1) honesty in belief or purpose;
2) faithfulness to one's duty or obligation;
3) observance of reasonable commercial standards of fair dealing in a given trade or business; or
4) absence of intent to seek unconscionable advantage.

- In law, the consensus is that someone does something 'in good faith' when they do it honestly and with no ulterior motive.
- It would be prudent for you to balance any risk against the merits of disclosing confidential information. You may believe that you act 'in good faith,' in that you genuinely believe it is in the public interest to disclose certain information (such as personal information about individuals or commercially sensitive information about companies) where on a more objective test, it may not be in the public interest. An example might be the disclosure of the address of a housing benefit claimant or suspected paedophile.
- You must never release confidential information for personal gain, reward or motive.

8.4 The fourth requirement, that you comply with the reasonable requirements of the authority, means that before making the disclosure, you must comply with the Council's policies or protocols on matters such as data protection, freedom of information, human rights, whistleblowing and this Guidance (refer to Section 9 for the procedure to be applied before you disclose confidential information).

Points to remember

- Never allow your party political interests to override the interests of the Council and council tax payers in the way that you deal with access to or the disclosure of confidential information.
- Just because communication is not labelled 'confidential', you should not assume that it is for general release. You should always consider the circumstances.
- Don't take risks.

9. What procedure must I comply with before disclosing confidential information?

9.1 Where any of the defined range of circumstances do not apply (para. 8.2 of this Guidance), you must not disclose confidential information unless you have first:

i) challenged the requirement for confidentiality, by submitting a Freedom of Information/Environmental Information Regulations request to the Freedom of Information Officer; or

ii) made the disclosure under the Council's Whistleblowing Policy having first applied the range of requirements referred to in section 8.3.1 to and including 8.3.3 of this Guidance.

10. General

10.1 This Guidance is meant by way of a general guide and does not attempt to cover all eventualities. Any breaches of this Guidance may result in a complaint to the Council's Monitoring Officer, from whom further advice can be sought.

Appendix E

Planning – Local Code of Good Practice

1. Purpose and status

1.1 This protocol is a public guide to the conduct of all councillors and staff who come into contact with the planning process, not just the members of the Planning Committee and professional planning officers. The protocol demonstrates that the Council takes its planning decisions openly, impartially and for sound, justifiable planning reasons. The protocol is based upon the Local Government Association and Planning Advisory Service publication 'Probity in Planning' (April 2013) and takes account of the Localism Act 2011.

1.2 This protocol provides guidance on how the Council's planning function should be run. The Council's Standards Committee has approved it. It is supported by operational procedures approved by the Council. It is available to the public free of charge and will continue to be kept under regular review.

1.3 The protocol provides a measure against which the Council's operation of the planning system may be judged. Adherence to the protocol should reduce cause for complaint by the public.

1.4 When complaints are made they will be assessed for a breach of the Codes of Conduct, a breach of this protocol or the Bribery Act 2010. From April 2008 complaints that involve an alleged breach of the Member's Code of Conduct will be referred to the Council's Standards Committee for assessment. Failure to abide by the protocol is likely to result in a complaint being upheld. Similarly breaches of the protocol may provide grounds for a finding of maladministration by the Ombudsman. Any suspected breach of the Bribery Act 2010 will be reported to the Kent Police.

2. The general role of councillors and officers

2.1 Councillors and officers have different but complementary roles. Both serve the public but councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual councillors. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's positions.

2.2 Both councillors and officers are guided by codes of conduct. The Members' Code of Conduct adopted by Canterbury City Council provides standards and guidance for councillors. In addition, councillors are obliged to register and declare certain pecuniary interests by the Localism Act. Employees are subject to an Employee's Code of Conduct. In addition, staff who are Chartered Town Planners are guided by the RTPI's Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. In addition to these codes, the Council's standing orders set down rules which govern the conduct of Council business.

2.3 The Code of Conduct for councillors ("the Code") sets out the requirements for councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests, but it also deals with a councillor's relationships with other councillors, staff and the public, which will impact on the way in which councillors participate in the planning process.

2.4 Councillors serving on the Planning Committee, or who otherwise become involved in making a planning decision, must represent their constituents as a body and vote in the interests of the whole district. The basis of the planning system is the consideration of private proposals against wider public interests. Whilst members of the Planning Committee 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.

2.5 Councillors should also be cautious about accepting gifts and hospitality. The Code requires any councillors receiving any gift, benefit or hospitality, or a series of gifts, benefits and hospitality in their official capacity as councillors, to provide, within 28 days of its receipt, written notification of the details to the Monitoring Officer of the Council.

2.6 Similarly, officers, during the course of carrying out their duties, may be offered hospitality from people with an interest in a planning proposal. Wherever possible, such offers should be declined politely. If the receipt of hospitality is unavoidable, officers should ensure that it is of a minimal level and declare its receipt as soon as possible, having obtained the approval of their line manager. Such offers must be recorded in the Council‘s register of gifts and hospitality whether or not accepted.

2.7 Employees must always act impartially. In order to ensure that senior officers do so, the Local Government and Housing Act 1989 enables restrictions to be set on their outside activities, such as certain political activity and serving on another council.

3. Training

3.1 No councillor shall serve on the Planning Committee, whether as a permanent member or as a substitute, without having received training provided by, or on behalf of, the Head of Planning and Health.

3.2 A record of councillors’ attendance at training events will be kept so that training needs can be reviewed regularly.

3.3 Councillors shall have training or briefings at least once during each term of office or as and when new issues or legislation make additional training necessary. The Head of Planning and Health will determine when this is the case.

4. Registration and disclosure of interests

4.1 The Localism Act 2011 and the Code place requirements on Members relating to the registration and declaration of their interests and sets out the consequences for the Member‘s participation in consideration of an issue, in the light of those interests. Councillors should review their situation regularly. Advice may be sought from the Council‘s Monitoring Officer on these issues. Ultimate responsibility for fulfilling the requirements rests individually with each councillor.

4.2 A register of councillors’ interests will be maintained by the Council‘s Monitoring Officer, which will be available for public inspection. A councillor must provide the Monitoring Officer written details of relevant interests within 28 days of adoption of the local code, or within 28 days of their election, or appointment to office. Any changes to those interests must similarly be notified within 28 days of the councillor becoming aware of such changes.

4.3 The Code sets out definitions of Disclosable Pecuniary Interest (DPI) (which must be registered under the Localism Act, it is a criminal offence not to do so), Other

Significant Interests (OSI) which must be registered/disclosed under the Council's code and Other Registerable Interests (ORI) which must also ne registered/disclosed under the Council's code.

4.4 The Members' Code of Conduct states that, in general terms, simple membership of a body, such as a town/parish council or health authority, does not prevent a councillor from participation in a decision on a matter which relates to that body.

4.5 Where councillors are present at a meeting and have a Disclosable Pecuniary Interest, Other Significant Interest or Other Registerable Interest (and are aware that they have such an interest) in any matter to be considered, or being considered, at the meeting, they must:

a. disclose the Interest; and

b. explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (unless the Monitoring Officer has accepted it is a 'sensitive interest'); and unless a dispensation has been granted:

c. not participate in any discussion of, or vote taken on, the matter at the Meeting; and

d. withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered; and

e. not seek improperly to influence a decision about that business.

4.6 Where councillors have a Disclosable Pecuniary Interest, Other Significant Interest or Other Registerable Interest in any business of the Authority where they are acting alone in the course of discharging a function of the Authority (including making an executive decision), they must:

a. notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and

b. not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by them; and

c. not seek improperly to influence a decision about the matter.

4.7 Where councillors have an Other Significant Interest in any business of the Authority, they may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. Having made their representations, given evidence or answered questions they must:

a. not participate in any discussion of, or vote taken on, the matter at the Meeting; and

b. withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

4.8 Councillors serve on the Council in different capacities. A councillor who approves the making of a planning application and who sits on Planning Committee may speak and vote on that application before that Committee but must make it clear to all parties that in putting forward a proposal, there is nothing to suggest their mind is

closed to argument before or during consideration of the application at the Planning Committee.

4.9 When councillors have business or other interests, which are likely to bring them into frequent contact with the planning system, for example estate agents, builders, architects, they shall not serve on the Planning Committee, nor on any working party dealing with planning or regeneration issues.

5. Predisposition, predetermination or bias

5.1 Members of the Planning Committee must avoid bias or any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies.

5.2 The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave the committee's decision susceptible to challenge by Judicial Review.

5.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition). The latter is acceptable; the former is not and may result in a Court quashing such planning decisions.

5.4 Section 25 of the Localism Act 2011 allows that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting.

a. A councillor may not be party to a decision in which their mind is closed to argument or where the circumstances give rise to a real risk that their mind is closed.

b. Bias means having a closed mind, and having pre-determined the outcome of the matter to be decided irrespective of the merits of any arguments the councillor might see or hear at a Planning Committee meeting. Bias and predetermination are now dealt with separately from the councillor's new code of conduct.

c. Councillors are elected to provide and pursue policies, and will have political allegiances. They cannot therefore be completely impartial in decision making, even in Planning Committee, but they must always be fair.

d. Councillors must address each planning decision before them fairly and on their merits, even if they approach some issues with a view informed by their political views or by policies which they have already pursued. They must be open to new arguments up to the moment of decision.

e. Any complaint relating to the appearance of bias would need to be justified by evidence showing that the councillor had a closed mind at the time the decision was made. However, a councillor should also consider their own conscience and take the advice of officers.

f. Officers' advice is that if a councillor believes that they are biased, that they should behave as if there is a declarable interest. The councillor should speak at the beginning of the debate with the members of the public but leave the chamber when they have finished speaking

g. If, on the other hand, the councillor has scrupulously avoided forming a view in advance on the matter, they should disclose this if challenged and explain the steps taken to remain impartial. The councillor may then address the Committee and vote.

6. Development proposals submitted by councillors, officers and Council development

6.1 Proposals submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. So indeed can proposals for the Council's own development.

6.2 It is perfectly legitimate for such proposals to be submitted. However, it is important to ensure that they are handled in a way which gives no grounds for allegations of favouritism. Therefore the following will apply;

a. Prior written notification should be given to the Service Director of Place when a councillor, a member of staff or a consultant employed by the Council acts on their own planning matter, or on behalf of someone else, or when a planning matter is known to involve a family member, close friend or business associate of that councillor, member of staff or consultant

b. Councillors who submit their own proposal to the Council which they serve should take no part in its processing

c. Councillors who act as agents for people pursuing a planning matter with the Authority should play no part in the decision-making process for that proposal.

d. Proposals for the Council's own development must be treated in accordance with Government advice and in the same way as those of private developers

7. Lobbying of and by councillors

7.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward councillor or to a member of the planning committee. As the Nolan Committee's 1997 report stated:

"It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

7.2 Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved. When being lobbied, members of the Planning Committee should take care about indicating that they have already made up their mind on the issue before they consider the matter in Committee. In such situations, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the Head of Planning and Health in order that their opinions can be included in the report to the Planning Committee or the delegated report. If they do express an opinion, they should make it clear that they will reserve their

position as to how they will vote until the meeting of the Planning Committee which considers the application.

7.3 If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the decision-making committee, they should withdraw once any public or ward councillor speaking opportunities have been completed in order to counter any suggestion that members of the committee may have been influenced by their continuing presence.

7.4 It is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor.

a. Planning decisions cannot be made on a party political basis in response to lobbying; the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.

b. Members of the Planning Committee should avoid organising support for or against a planning application and avoid lobbying other councillors.

c. Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.

d. Ward Councillors will liaise with planning case officers on cases where they consider it appropriate

d1. all schedule 1 planning applications must be decided by the officers.

d2. for schedule 2 applications, where there are valid planning reasons why the planning committee could decide an application, the matter will be referred to the Nominated Officer and Nominated Member to review. Where they do not agree, the application shall be determined by an officer.

d3. For "own interest" applications these will be decided by Officers unless the Nominated Officer and Nominated Member decide whether the application should be reported to the planning committee. Where they do not agree, the application shall be determined by an officer. An own interest application is one that is made by an officer or member of the Council or an application made on or on behalf of the Council.

d4. The Nominated Member and Nominated Officer will then decide whether there are planning reasons that would warrant the planning application being decided by the planning committee. This decision will be made having regard to the Government Guidance which says:

In determining whether a referral is made, the presumption should be that decisions are delegated to officers and only exceptionally be referred to committee. At a minimum, at least one of the following statutory criteria must be met for a referral to committee to be considered to meet that threshold:

A. where the application raises a significant planning matter having regard to the development plan and any other material considerations

B. where the application raises an economic, social or environmental issue of significance to the local area

For the purpose of criteria A, the following circumstances are unlikely to raise a significant planning matter:

- *where the application for development broadly complies with a detailed site allocation and other relevant policies set out in a local or neighbourhood plan and national decision making policies set out in the National Planning Policy Framework. Significant planning matters may arise if new material considerations are raised by the application*

- *where a specific planning matter (e.g. highways or flood risk) was initially raised by a statutory consultee as a concern, but the development proposal has been modified to make it acceptable in the view of the statutory consultee (unless the nominated officer has compelling reasons to consider otherwise)*

A record of the cases that have been considered for referral to committee, the outcome of the consideration and the reasons for the decision will be kept and made public

e. Councillors who openly support a particular outcome prior to the debate at Committee should declare their position at the committee meeting and may speak but shall then withdraw from the meeting and not take part in the vote. (See the advice on bias and predetermination above).

f. A councillor is not prohibited by the above bullet point from visiting a site and/or listening to what their constituents have to say.

g. When a Planning Committee member, who is also a single ward councillor or parish councillor, is canvassed/lobbied by constituents and wishes to remain impartial, they may ask a neighbouring ward councillor to speak on their behalf. If this is not possible and the councillor decides to speak on behalf of constituents prior to the Committee meeting, they may not vote.

h. Where a councillor has received written representations directly in relation to a planning application they should pass the correspondence to the Head of Planning and Health in order that those representations may be taken into account and referred to in any committee report.

i. Unless they have an interest in the item being discussed, members of the Planning Committee are encouraged to remain in the meeting for the whole time that an item is being debated and are strongly encouraged not to vote on the matter unless they have done so.

j. Members of the Planning Committee should not leave the meeting to discuss decisions just taken with applicants/objectors, since to do so may give the wrong impression to the public.

8. Pre-application discussions

8.1 Discussions between a potential applicant and Council officers prior to the submission of an application can be of considerable benefit to both parties and are

encouraged by the Audit Commission. It is also encouraged by the Local Government Association, the National Planning Forum and the Planning Advisory Service. With the recognition of the need to allow and encourage councillors to be champions of their local communities, there has followed a realisation that councillor engagement in pre-application discussions on proposed development, in particular major schemes, is necessary to allow councillors to fulfil their role.

8.2 However, it would be easy for such discussions with councillors to become, or be seen (especially by objectors) to become, part of a lobbying process. The Localism Act, particularly S25, has given councillors much more freedom to engage in pre-application discussions. Although the term 'pre-application' has been used, the same considerations should apply to any discussions which occur before a decision is taken. In order to avoid perceptions that councillors might have fettered their discretion, such discussions should take place as follows;

a. Clarity at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place. An acknowledgement that consistent advice should be given by officers based upon the development plan and material planning considerations.

b. Officers should be present with councillors' at all pre-application meetings.

c. Councillors should avoid giving separate advice on material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations, which will be done by officers to ensure that the Council's position is co-ordinated.

d. A written record of meetings, correspondence and telephone calls will be maintained by the planning officer and kept on the case file to ensure a public record is maintained. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non - confidential issues raised or advice given can still be placed on the file to reassure others not party to the discussion.

e. The planning officer will make all necessary arrangements for meetings.

f. Care shall be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.

8.3 Councillor engagement in the pre-application process will take one or more of the following forms:

a. Ward Councillors can request a briefing about a pre-application request they have seen on the weekly list.

b. The role of Ward Councillors at this stage will be to pass on any local knowledge that might be helpful to the Officer when reviewing the scheme. This will include factors that might be of importance to the local communities which they consider should be considered/addressed in any subsequent planning application.

8.4 Any opinion expressed by planning officers on a pre-application proposal is an informal view and does not bind the planning authority to a particular decision. Officers from other departments should make it clear that their comments relate only to their own professional area and should not be construed as a "planning view". Officers should only give advice in accordance with the guidance given by any

professional bodies to which they belong as this may prejudice planning decision making.

8.5 Councillors must not discuss development proposals or planning applications which may come before the Council with developers, architects or landowners on their own.

8.6 The ward councillor can identify any application from the weekly list of planning applications for which they require a briefing from the case officer and contact the officer to arrange.

In the briefing the officer will explain the application and the relevant policies against which it will be decided. This will ensure that the ward councillor is able to answer questions from the public should they arise

Alternatively, the ward councillor can ask for a briefing from the officer at any time for example as and when they are contacted by residents about an application.

8.7 A briefing will be arranged for planning committee members on strategic development sites, before the agenda is published.

In that briefing the officers will explain the scheme and any amendments that have been made since submission. Officers will also outline the consultation responses and provide a summary of the representations that have been received. Councillors will not be permitted to debate the merits of the case but can ask for clarification of the facts

9. Reports to committee

9.1 As a result of decisions made by the courts and ombudsman, officer reports on planning applications must have regard to the following:

a. Reports should be accurate and should include the substance of any objections and other responses received to the consultation.

b. Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations, and any other material planning considerations.

c. Reports should have a written recommendation for a decision to be made.

d. Reports should contain technical appraisals which clearly justify the recommendation.

e. If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the Council's statutory duty under s38A of the Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990.

f. Any oral updates or changes to the report should be recorded in the minutes.

g. Reports should include a clear and reasoned recommendation based on the local plan and any material considerations.

9.2 Only material planning considerations will be reported to Committee and taken into account in decision making.

9.3 Only representations that are material planning considerations will be taken into account by the Head of Planning and Health in the exercise of their delegated powers.

10. Public speaking and procedures at Planning Committee

10.1 The Council has agreed that members of the public can address the Planning Committee in relation to individual planning applications. Public speaking encourages involvement of the public in the planning process. This system may help Committee members who are lobbied to remain impartial. It also allows district councillors who are not members of the Planning Committee to address the Committee.

10.2 The protocol for public speaking is set out in Appendix I of this constitution.

10.3 Electronic visual equipment is available in the Guildhall. Public speakers should submit hard copies of any photographs and drawings they wish to display at the meeting. The Council cannot accept images on CDs or memory sticks. The equipment will display maps and photographs up to A4 in size. The officers will display photographs for members of the public, but can only deal with a limited number for any one speaker. The officers will exercise their discretion when displaying material. Members of the public may not circulate written material or images at the meeting.

10.4 Save for visual representations displayed under para 10.3, new documents should not be circulated at the committee; councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. This will be made clear to those who intend to speak.

10.5 Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that councillor improperly and will create a perception of bias that will be difficult to overcome.

10.6 All speakers should sit in the public speaker's area in the public gallery before the start of the meeting. The chair will call them to the public speaker's chair at the appropriate time.

10.7 The chair will explain procedures and order of applications at the start of the meeting.

10.8 The Committee will normally decide on site visits at the start of the meeting. Where councillors' discussion identifies a need for a site visit this may be decided upon during the meeting. Items recommended and agreed for deferral will also be considered at this stage.

10.9 Where speakers still wish to speak on an item deferred for a site visit or deferred for a future committee, they must wait until the application is due to be heard on the public speakers list.

10.10 Planning applications will normally be taken in the order they appear on the Agenda.

10.11 The item may be brought forward in the Chair's discretion in situations where, for example,

a. Someone attends to hear the debate but needs to leave the meeting early because of illness, disability or caring responsibilities; or

b. An exceptionally large number of people are in attendance for one particular item.

10.12 Items on the agenda may be delayed at the meeting at the Chair's discretion in order to allow the ward councillor(s) to attend for the ward item(s).

10.13 The procedure when members of the public address the Committee is as follows:

a. Chair introduces item;

b. Planning Officer updates and presents item with reference to IT facilities, unless no Committee member wishes to speak on the item, in which case the officer will refer to updates only;

c. Chair invites members of the public to speak;

d. Committee debates the application, with the ward councillor invited to speak first;

e. Planning officer clarifies as appropriate during the debate;

f. The voting process takes place. There are only 3 types of decision: grant, refuse, or defer. The grant or refusal may be subject to a delegation to officers to carry out further work on the application – a section 101 delegation. (The Local Government Act 1972).

10.14 A properly seconded amendment to a motion is taken before the motion, provided it isn't simply a direct negative of the original motion. If the amendment is passed then a vote is taken on the amended motion. If the amendment falls then a vote is taken on the original proposal. Any decision is taken by a recorded vote of the councillors present in the chamber. The Chair has a casting vote where there is equality in the votes cast for and against a motion. The Chair will then announce the result to the meeting. The Chair may, in exceptional circumstances, alter or amend this procedure as deemed necessary.

11. Decisions which differ from a recommendation

11.1 The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (s38A Planning & Compensation Act 2004 and s70 of the Town and Country Planning Act 1990). This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.

11.2 The Planning Committee's reasons for making a decision should be clear and convincing. The personal circumstances of an applicant or any other material or non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.

11.3 Planning Committees can make a decision which is different from the officer recommendation. However, certain steps should be followed before making a decision which differs from the officer recommendation:

a. Record the detailed reasons as part of the mover's motion;

b. Adjourn the meeting for a few minutes for those reasons to be discussed and then agreed by the committee;

c. Where there is concern about the validity of reasons, consider deferring to another meeting to have the putative reasons tested and discussed;

d. Conditions should be clearly understood before the Committee votes on applications to grant permission;

e. Should the Planning Committee make a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file;

f. Councillors should explain in full their planning reasons for not agreeing with the officer's recommendation;

g. Pressure should not be put on officers to 'go away and sort out the planning reasons'. The officer should be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the Council, should one be made.

11.4 All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departure' applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated. The application may then have to be referred to the relevant secretary of state, depending upon the type and scale of the development proposed (s77 of the Town and Country Planning Act 1990). If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.

12. Committee site visits

12.1 The Planning Committee may only defer the determination of applications for a site visit in accordance with guidelines set out below.

12.2 All site visits must be agreed at a meeting of the Planning Committee.

12.3 At the start of the committee meeting, the Chair will ask whether any councillor wishes to recommend a site visit. Any councillor so doing (including ward councillors) should give a reason falling into one of the categories set out in Section 12.5 below.

12.4 National standards and local codes also apply to site visits. Site visits should only be used where the benefit is clear and substantial; officers will have visited the site and assessed the scheme against policies and material considerations already. Where a site visit can be 'triggered' by a request from the ward councillor, the 'substantial benefit' test should still apply

12.5 A site visit is only likely to be necessary if:

a. The impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers the comments of the applicant and;

b. Objections cannot be expressed adequately in writing and/or

c. The proposal is particularly contentious.

12.6 Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, should not be used as a lobbying opportunity by objectors or supporters. This should be made clear to any members of the public who are there.

12.7 A written record of the reasons why a site visit is called will be kept.

12.8 The procedure and protocol set out in the guidelines below must be followed in all cases:

a. Members of the public and other interested parties will be notified by the planning team of the committee's decision to go on site. Notification will give an approximate time of the meeting and also an indication where councillors will meet on site.

b. Where a councillor has already expressed a view on the planning merits of an application, they should consider whether a substitute councillor should attend in their place.

c. Planning Officers will ensure that the applicant is aware of councillors' decision for a site visit, and will make necessary arrangements to ensure that access to the site is available.

d. The purpose of the site visit is to enable all members of the Planning Committee to inspect the site of a proposed development to enable them to better understand the impact of that proposed development. It is not the function of the visit to receive representations or debate issues.

e. Councillors and relevant officers will meet on site. The site visit is an informal meeting but the Chair of the Planning Committee, or in their absence the Vice-Chair or other nominated person will guide proceedings if necessary.

f. Officers will be available to explain the application.

g. Speakers will be allowed at the Chair's discretion and limited to three minutes but will be restricted to identifying features of the area that are relevant to the consideration of the planning application. No representation on the merits of the application will be allowed.

h. Where a ward councillor is also a member of the Planning Committee, they should restrict comments on site to points of information or clarification and should avoid commenting upon the merits of the proposal or otherwise, until the following meeting of the Planning Committee.

i. Before leaving the site, councillors may ask questions or seek clarification of any issues which have been raised.

13. Review of decisions

13.1 Councillors should visit a sample of implemented planning permissions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, thereby strengthening public confidence, and can help with reviews of planning policy.

13.2 Information about planning appeals will be formally reported to the planning committee.

13.3 This policy will also be kept under review by the Planning Committee and, where appropriate, by the Standards Committee of the Council.

14. Complaints and record keeping

14.1 Whatever procedures a council operates, it is likely that complaints will be made. However, the adoption of this Local Code should reduce the occasions on which complaints are justified. It should also provide less reason for people to complain in the first place.

14.2 The Council already has a fully developed local complaints system. So that complaints may be fully investigated (and in any case as a matter of general good practice) record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council‘s case.

14.3 Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved with that application to understand what the decision was and how and why it was reached. Particular care needs to be taken with applications determined under officers’ delegated powers.

14.5 Such decisions should be as well documented and recorded as those taken by the Planning Committee. These principles apply equally to Planning Enforcement and Development Plan matters. Monitoring should be undertaken regularly. Every report should contain a full planning history of the site.

15. Applicability of the Code

15.1 This Code of practice is intended to be binding upon councillors and act as a guide to others (including members of the public) as to the conduct expected of all parties on matters relating to planning in the district.

15.2 Members of the Planning Committee and others to whom this code applies must make their own judgments as to its application to specific planning matters, including individual planning applications. In most cases, its applicability will be clear. If any councillor is in doubt, they may seek advice from the Monitoring Officer. However, the final decision must be for the councillor to determine.

15.3 A breach of the Code is a serious matter and, although usually not amounting to a breach of the criminal law, may incur an adverse report from the Local Government Ombudsman and/or action under the Councillors’ Code of Conduct.

Appendix F

Licensing – Local Code of Good Practice

1. Introduction

1.1 This code of good practice (the Licensing Code) gives advice to councillors (including co-opted councillors) who:

- are members of the Licensing Committee and who sit on the Licensing Sub-Committee panels that hear the applications;
- wish to attend or address the Licensing Committee or Sub-Committee on any licensing issue;
- are involved outside the Committee on licensing applications or other licensing matters – including informal occasions such as meetings with officers or public and consultative meetings;
- are involved in applications for licences under the Licensing Act 2003, the Gambling Act 2005 or any other licensing legislation.

1.2 A key aim of the Licensing Code is to ensure that there are no grounds for suggesting that a licensing decision has been biased, partial or is not well founded in any way. Councillors must make these decisions openly, impartially, with sound judgement and for justifiable reasons.

1.3 This is particularly important, as licensing applications will be subject to close scrutiny both because applicants may be seeking to maximise the business potential of their premises and because the quality of the environment in which local residents and the wider community live and work may be detrimentally affected through the grant of inappropriate licences.

1.4 The Human Rights Act 1998 has implications for the licensing system and has created enhanced requirements for procedural fairness, transparency and accountability in decision making.

1.5 This Licensing Code is intended to minimise the prospect of legal or other challenge to decisions. Non-compliance without good reason could be taken into account in investigations into a breach of the Members' Code of Conduct or possible maladministration or may have implications for the standing of councillors and the Council as a whole.

1.6 Licensing applications heard by councillors will be determined by the sub-committee of the main Licensing Committee. It should be borne in mind that, given the small numbers of councillors on each sub-committee hearing, the scrutiny of any interests held by councillors making those decisions will be greater.

2. Relationship with the Members' Code of Conduct

2.1 The Members' Code of Conduct must always be complied with and the rules in that code must be applied before considering this Licensing Code.

2.2 This Licensing Code is not intended to form a part of the adopted Members' Code but is a separate document, which is both supportive of the Members' Code and the source of expanded guidance in the particular area of licensing.

2.3 To distinguish it from the Members' Code, this document is referred to as the Licensing Code.

3. Disclosable Pecuniary Interests

3.1 The Localism Act 2011 places a duty to register or to disclose at committee all Disclosable Pecuniary Interests (DPI) and prohibits participation in the business of the Council where a Councillor has such an interest, unless a dispensation is granted. The current list of DPIs is set out in the list attached to the Members' Code.

3.2 The requirement to notify the Monitoring Officer of a DPI applies not only to a Councillor's own interests but also to those of the councillor's spouse/civil partner or a person with whom the councillor is living as spouse or as if they were civil partners, if the councillor is aware that that person has the interest. In this Licensing Code such a person is referred to as a "relevant person".

3.3 Failure to so notify/disclose a DPI in the circumstances required by the Localism Act 2011 is a criminal offence. Therefore, the requirements as to notification, disclosure and participation must be followed scrupulously and councillors should review their situation regularly. Whilst advice can be sought from the Monitoring Officer, ultimate responsibility for compliance rests with individual councillors.

3.4 The Members' Code of Conduct also requires Members to register Other Registerable Interests (ORI) i.e. any unpaid directorships and provides a definition of Other Significant Interests (OSI). A councillor may have a DPI, OSI or ORI in relation to a licensing matter in a number of circumstances affecting them or a relevant person. Examples include, but are not limited to:

- an application for a premises licence for premises owned or leased by the Councillor or a relevant person;
- an application for a premises licence for a premises close to property owned by the councillor or a relevant person, in particular where the grant of a licence could affect the councillor's pecuniary interest in that property (e.g. by affecting the value of the property);
- an application for a review of a premises licence made by the councillor's, or a relevant person's, employer.

3.5 Unless a councillor has received a dispensation from the Monitoring Officer or Standards Committee, they must not participate in a discussion or vote on any application in which they or a relevant person has a DPI, ORI or OSI.

3.6 Whether or not a DPI or ORI has been entered onto the Register of Members' Interests or is the subject of a pending notification, councillors must comply with the disclosure procedures set out in the Members' Code of Conduct.

3.7 The Members' Code requires councillors to withdraw from the room at a meeting during a discussion and vote upon an issue in which they have a DPI, OSI or ORI. Failure to disclose a DPI is a criminal offence. The requirement to disclose OSIs and ORIs is set out in the Members' Code of Conduct and whilst failure to comply will not be a criminal offence, it will be a breach.

3.8 Where a councillor who is due to sit on a hearing panel or sub-committee has a DPI, OSI or ORI in a matter to be determined at that hearing panel or sub-committee, they should notify the Democratic Services team as soon as they receive the committee papers so that a substitute member can be organised. This is particularly important as such sub-committees and hearing panels have a small membership.

3.9 Where a councillor has a DPI, OSI or ORI (either themselves or through a relevant person) they may not participate in the debate or vote on a licensing matter and must withdraw from the room. This applies whether or not the councillor is wishing to speak as a member of the committee, as a ward councillor, as a representative, or as a private individual (there are additional restrictions on speaking in a Licensing Sub-

Committee which are set out in paragraphs 5.4 and 5.5 below). Where a councillor has a DPI in an application to be considered at a hearing panel or a sub-committee, they may appoint a representative to attend on their behalf. If a councillor with a DPI wishes to attend personally in order to make representations, they must obtain a dispensation prior to the meeting.

3.10 Therefore if a councillor has a DPI, OSI or ORI in a matter being considered at a Committee or Sub-Committee (either their own interest or through an interest of a relevant person) they must:

- declare the interest verbally at the meeting as soon as they become aware of it, irrespective of whether it is already registered on the Register of Member Interests;
- if it is declared at the meeting under the requirement above, but is not included on the Register of Members Interests (RoMI), ensure that the Monitoring Officer is notified of the DPI or ORI within 28 days of the meeting, for purposes of registration on the RoMI;
- withdraw from the room and not participate in or give the appearance of participating in the debate or the vote;
- not be present in the room to represent ward/ objectors/ supporters/ personal views.

4. Predetermination and Bias

4.1 Councillors must also be aware of and act within the rules on predetermination and bias. Avoidance of bias or predetermination is a principle of natural justice which has evolved through the courts, although S25 of the Localism Act 2011 is also relevant. Even if a councillor does not have a DPI or is not acting in breach of the Members' Code, they may cause a decision to be invalid if they participate while predetermined or biased. The rules regarding predetermination and bias are likely to be more strictly applied where the Council is making "quasi-judicial" decisions, than in the case of other decisions to be made by the Council.

4.2 The basic legal position is that a councillor should not take part in making a decision on a licensing matter if they are biased or are predetermined in the matter. Councillors should bring an unbiased, properly directed mind to the consideration of any matters before them at Committee. This does not mean that councillors are not entitled to have and to express opinions about general licensing matters, or licensing cases. However, they must approach, and must be seen to approach, matters before them with an open mind. See also section 5.6 below regarding councillor representation.

4.3 In this respect a distinction is to be drawn between those councillors who are making the decision (i.e. speaking and voting as part of the hearing panel or sub-committee) and those councillors seeking merely to influence the decision (e.g. making representations on behalf of an objector). The prohibition in respect of predetermination or bias only affects those actually making the decision. A councillor who is predetermined or who is biased may still make representations at a hearing panel or sub-committee (provided that they do not also have a DPI).

Predetermination

4.4 The law also makes a distinction between predetermination, which rules out participation in decision-making, and predisposition, which does not.

4.5 A councillor is entitled to have and to express views on local matters, both general licensing matters and more specific applications. These views may indicate that a councillor has a predisposition towards a particular policy or viewpoint. This is

perfectly acceptable and a councillor with a predisposition may take part in decision-making.

4.6 A predisposition will move on to becoming predetermination if, in relation to any matter before the Committee, a councillor has taken a stance which indicates that they have finally closed their mind on the matter and that nothing that they hear at Committee will alter their position.

4.7 Section 25 of the Localism Act 2011 expressly provides that a councillor shall not be taken to have had a closed mind just because they have previously done anything that directly or indirectly indicated what view they took, or would or might take, in relation to a matter. Therefore a councillor will not be predetermined merely because they have made statements about a licensing matter in the past. However, this does not mean that a councillor is free to say or do anything and still participate in the debate and vote. If by their actions and words the councillor makes it clear that they will be voting a certain way, no matter what information is presented at the hearing panel or sub-committee, then they will be predetermined and should not take part in the decision making.

4.8 There is acceptance that a councillor may legitimately consider matters in several capacities, as different factors may apply to different decisions. Where premises require both a licence and planning permission, councillors may be asked to sit on both the Planning Committee and a Licensing Sub-Committee. Premises which are sexual entertainment venues are likely to need both a licence under the Licensing Act 2003 and a licence under the Local Government (Miscellaneous Provisions) Act 1982 and again councillors may be asked to sit on both committees. While the statutory regimes in such cases are different, often the factors to be taken into account can be similar. In these circumstances, councillors should carefully consider whether anything they have done or said in making the earlier decision would demonstrate a pre-determination of the second decision. If that is the case, the councillor should not take part in the decision making at the second committee, sub-committee, or hearing panel.

Bias/Conflict of Interest

4.9 A councillor should not be party to decisions in which they are actually biased or give the appearance of being biased to the reasonable observer. The test for the appearance of bias is whether a fair-minded and informed observer, having considered the facts, would conclude that there was a possibility that the decision maker was biased. This can also be described as having a conflict of interest.

4.10 Bias may arise by virtue of a councillor being closely connected with a person who has a vested interest in the application – either the applicant or an objector. This may result from a personal connection, such as an applicant being a relative or friend, or result from the councillor promoting a particular viewpoint (e.g. by being part of a lobby group). The role of the Sub-Committee is to consider applications in accordance with the legislation and to balance the interests of persons with competing views and this may not be possible where a councillor is closely connected with a particular party.

4.11 In addition, circumstances which raise the possibility of bias may also lead to an accusation of a breach of the Members' Code, as the Members' Code states that councillors must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for themselves, their family, friends or close associates. Where this might occur, councillors should not take part in the decision-making.

Particular Committees

5. Making representations to Licensing Sub-Committee

5.1 This Licensing Code deals with all licensing matters, but there are particular rules as to who can be heard at a Licensing Sub-Committee (which determines applications under the Licensing Act 2003 and the Gambling Act 2005).

5.2 In accordance with S18 of the Licensing Act 2003 (as amended), any person can make representations in relation to an application to Canterbury City Council for the grant of a premises licence and such representations will (if they meet the other requirements of S18 of the 2003 Act) be treated as relevant representations for the purposes of the Act. In accordance with section 51, any person may now (in accordance with the conditions set out in Regulations) apply for a review of a premises licence under the Licensing Act 2003 where Canterbury City Council is the licensing authority. It also applies to variation applications under Section 34, Club Certificates under Section 72 and review hearings under Section 52 of the 2003 Act.

5.3 The provisions of the Gambling Act 2005 are more prescriptive. Only Responsible Authorities and Interested Parties (as defined in the Gambling Act 2005) are able to make representations.

5.4 Only "parties" – i.e. the applicant and any persons who have made relevant representations (under the Licensing Act 2003 or the Gambling Act 2005 as applicable) are permitted to speak at a Licensing Sub-Committee, although any party may be assisted or represented by another person or may call upon a witness to make a solely factual statement. This is subject to giving appropriate notice to the Licensing Officer served adequately in advance, any representations made and the decision of the Licensing Sub-Committee.

5.5.1 A councillor may only address the Committee in the following circumstances (providing they don't have a DPI):

i) where the councillor has themself submitted a relevant representation and is therefore a party;
ii) where the councillor has specifically been asked by a party (i.e. the applicant or a person who has made a relevant representation) to represent them;
iii) Where they are called as a witness.

5.5.2 It is helpful for councillors, when making representations, to identify to officers which of the above categories they fall into. However, in considering whether to attend a Licensing Sub-Committee in any of the above capacities, councillors should remember that they will not be able to appear (either on their own behalf or as a representative) if they have a DPI and do not have a dispensation.

5.6 Where a councillor has made a representation on an application or has called for a review of a licence, it is very likely that they will have pre-determined the application or would be seen to be biased and so should not sit on the Licensing Sub-Committee dealing with that application or review. To avoid any accusations of bias and/or having to cancel or postpone meetings because of councillor interests, councillors should not sit on Licensing sub-Committees to determine applications in their own ward.

6. Making representations to committees sitting under the 1982 Act

6.1 The requirements of the Local Government (Miscellaneous Provisions) Act 1982 with regard to the making of representations on applications for sex establishment licences are less detailed than those of the Licensing Act 2003 or the Gambling Act 2005. The 1982 Act does not make specific provision for objectors to be heard at a Sub-Committee, but it is the Council's policy to permit objectors to be heard. Therefore as above, a councillor may address the Sub-Committee either having

made an objection themselves, or as a representative of an objector if requested to do so by the objector. The guidance in paragraphs 5.4 and 5.5 above therefore apply equally to 1982 Act.

Sub-Committees

7. Making representations at Licensing Sub-Committee

7.1 The Licensing Sub-Committee hears appeals on taxi matters and other licensing matters not covered under the delegated authority to the Director Place or the Head of Planning and Health. In most of the matters dealt with by the Licensing Sub-Committee, members of the public do not have rights to make representations and the Sub-Committee will be making a decision after having heard the Licensing officers and the applicant. If a councillor wishes to make representations to the Licensing Sub-Committee, they should contact the Licensing team for advice on whether this is possible, having regard to the type of application upon which the councillor wishes to make a representation.

Specific Areas of Guidance

8. Membership of Parish Council

8.1 Where a Parish Council makes representations on a licensing application, a councillor who is also a member of that Parish Council should not sit on a Licensing Sub-Committee determining that application. A councillor should not become involved, at a City Council level, in applications for licences made by the Parish Council on which they serve.

8.2 Even where a parish councillor who is also a city councillor is not able to sit on the sub-committee, they will have the same right as any other councillor to address the Committee (as set out above) provided they do not have a DPI.

9. Lobbying by councillors

9.1 Councillors can, of course, lobby and campaign on particular developments, but they should recognise that this may remove them from the decision-making process.

9.2 If a councillor leads, represents or is a member of a group whose primary purpose is to lobby to promote or oppose the grant of a particular licence, they will be considered to have predetermined an application for that licence.

9.3 The position in 9.2 is distinct from membership of general interest groups which reflect a councillor's area of interest, e.g. the Licensed Victuallers Association, CAMRA, associations supporting live music, etc. If that organisation has made representations on an application, but the councillor has not been involved in preparing those representations, they will not have predetermined merely due to that membership.

9.4 Councillors should not lobby other councillors regarding their views on licensing applications, nor should they, outside of the Sub-Committee, try to persuade other councillors how to vote.

9.5 Councillors should not decide or discuss how to vote on licensing applications at political group meetings or lobby other councillors to do so. Political group meetings should never dictate how councillors vote on licensing applications.

10. Representations from Councillors at the consultation stage

10.1 Councillors who wish to take part in the debate and vote at Sub-Committee should refrain from making representations as part of the consultation process, as this may imply predetermination.

11. Lobbying of Councillors

11.1 Lobbying is a normal and perfectly proper part of the political process. Those who may be promoting or affected by a licensing decision will often be seeking to influence it through an approach to their elected ward councillor, another councillor or a member of the Sub-Committee. However lobbying can, where a councillor is a member of the Sub-Committee which will determine the application, lead to the integrity and impartiality of a councillor being called into question. This can in turn affect the validity of a licensing decision.

11.2 A councillor who wishes to participate in the determination of a licensing application should explain to persons lobbying or attempting to lobby that it would prejudice their impartiality and ability to participate in the decision if they discuss how they intend to vote or express sympathies with a point of view in advance of the meeting. For the avoidance of doubt, a councillor will not be predetermined:

- by just listening to viewpoints from residents or interested parties;
- by making comments which fall short of prejudging the issue;
- by seeking information through appropriate channels;
- by asking questions at the Sub-Committee which reflect the issues raised.

11.3 When a councillor participates in making a licensing decision, their overriding duty is to the community as a whole and not just people in their ward. As decisions need to be taken impartially, a councillor should not improperly favour or appear to improperly favour any person, company, group or locality. To do so is likely to be a breach of the Members' Code.

11.4 In addition to the requirement set out in the Members' Code to declare any gift or hospitality with an estimated value of at least £100, councillors should not accept gifts or hospitality from any person involved in or affected by a licensing application. It is advisable to let the Monitoring Officer know if you feel you have been exposed to excessive lobbying or offers of gifts or hospitality linked to a licensing application. If you have personally received written representations on a licensing application you should forward copies of these to the Licensing Officer as soon as possible, as there are strict time limits for the receipt of representations in most licensing matters.

12. Contact with applicants, objectors and supporters

12.1 Councillors should refer those who approach for assistance on procedural or technical licensing matters to relevant officers in the Licensing team.

12.2 Councillors who wish to consider a licensing application should not agree to formal or informal meetings with applicants, or groups of objectors. Unlike in the case of planning applications, it is considered that councillors who will be considering an application should not attend presentations on e.g. a major new licensing proposal, even if it is part of a wider presentation organised by officers.

13. Policy formulation by the Council

13.1 Individual licensing applications are dealt with under officer delegation or by the Licensing Sub-Committee. The Licensing Committee has the role of considering and formulating policy and recommending the adoption of the same to Council.

13.2 Councillors may take part in both policy formulation and determining licensing applications. However, when attending meetings on policy formation, councillors

should follow the guidance on pre-determination if they wish to take part in subsequent decisions on licensing applications. This will be particularly relevant where the policy being formulated is site specific.

14. Site inspections

14.1 It is important to remember that a site/vehicle inspection is a formal part of the licensing hearing process. The visit will usually be made prior to the hearing but can if necessary be made at the conclusion of the evidence. All members of the hearing panel / Sub-Committee must all attend and will be accompanied by an officer. Inspections made prior to the hearing will primarily be intended to appraise councillors of conditions in the vicinity of the premises.

14.2 Where a site inspection is held the following conditions must be complied with:

14.2.1 No hospitality should be accepted at site inspections;

14.2.2 Councillors should endeavour to keep together as a group and not engage individually in discussions with any applicants, objectors or third parties who may be present;

14.2.3 Councillors taking part in the licensing decision must not express views to anyone present. If this happens, it will usually lead to a cessation of the process and a rehearing by a new sub-committee;

14.2.4 It is acceptable to ask officers at the site inspection questions to seek clarification on matters relevant to the site inspection;

14.2.5 The site inspection should be properly recorded in the minutes as part of the hearing panel / sub-committee's proceedings;

14.2.6 All councillors should remember the purpose of the site inspection and should refrain from making comments not relevant to the application to be considered by the Sub-Committee. A site inspection is not a general public meeting and councillors should not treat it as such;

14.2.7 Councillors who wish to determine an application should not enter a site subject to a licensing proposal other than as part of an official inspection, even in response to an invitation.

15. Contact with Officers

15.1 General guidance is given in the protocol on councillor and employee relations in Appendix G of the Constitution, and that is not repeated here.

15.2 Councillors should not put pressure on officers to put forward a particular recommendation. However this does not prevent a councillor asking questions or submitting views to a relevant officer.

15.3 Officers must act in accordance with the employee code of conduct and any relevant professional codes of conduct, for example the Institute of Licensing's rules for professional conduct. As a result licensing officers may on occasion take a view which could be at odds with the views, opinions or decisions of the Committee or its members.

16. Licensing applications by Councillors and officers and Council applications

16.1 Proposals to the Council by serving and former councillors and officers and members of their families or persons with whom they have a close association can easily give

rise to suspicions of impropriety, if not handled transparently. So indeed can applications made on behalf of the Council.

16.2 Councillors (and officers involved in the licensing process) who submit applications in a personal capacity should notify the Monitoring Officer and play no part in its processing or determination and should avoid contact, whether direct or indirect with members of the relevant sub-committee concerning the application. Failure by a councillor to comply with these principles could be a breach of the Members' Code.

16.3 It is perfectly legitimate for such applications to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism. Councillors should carefully consider using agents to submit and take forward their own applications. Without a dispensation, councillors will not be able to attend a Sub-Committee dealing with their own application, as they will have a DPI in that matter. If they wish to make representations at the Sub-Committee they should apply for a dispensation or appoint a representative to make representations on their behalf.

16.4 Serving councillors and officers should avoid acting as agents for people pursuing a licensing application, and where they do so should play no part in the decision making process for that proposal.

16.5 Councillors considering an application must of course consider whether the nature of any relationship with the councillor submitting the licensing application could lead to an accusation of bias. Mere membership of the same political group is unlikely to lead to an appearance of bias, but a close friendship could.

17. Decision making

17.1 Councillors making licensing decisions must:

- come to meetings with an open mind and demonstrate they are open minded;
- not vote or take part in the meeting's discussions on a proposal unless present to hear the entire case (including being present at any site inspection, unless there are no objections from the applicant or those who have made representations);
- come to a decision only after due consideration of all information reasonably required upon which to base such a decision;
- give reasons for their decisions;
- make the licensing decision in accordance with the requirements of the relevant licensing legislation, having regard to relevant guidance and policy;
- request further information if it is felt there is insufficient information before the Committee to reach a decision.

18. Training

18.1 Councillors must not participate in decision-making meetings dealing with licensing matters unless they have attended any training prescribed by the Monitoring Officer.

Appendix G

Protocol for councillor and officer relations

1. Introduction

1.1 The relationship between councillors and officers is an essential ingredient in the successful working of the organisation. This relationship within the authority is characterised by mutual respect, informality and trust. Councillors and officers feel free to speak to one another openly and honestly. Nothing in this protocol is intended to change the 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. 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 It is important that councillors and officers remember that they all have an obligation to enhance the Council's reputation and do what they can to avoid criticism of councillors or officers in public.

1.3 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. Roles of councillors and officers

2.1 The respective roles of councillors and officers can be summarised as follows:

Both councillors and officers have a duty to behave responsibly and properly for the proper control of the Council, but their responsibilities are distinct. Councillors 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 councillors and to the authority, and to carry out the authority's work under the direction and control of the Council, and the committees of the Council.

Mutual respect between councillors and officers is essential to good local government.

2.2 Councillors

Councillors have three main areas of responsibility:

a) determining the policy of the authority, on the advice of the officers, and giving it political leadership;

b) monitoring and reviewing the performance of the authority in implementing the policy and delivering services;

c) acting as advocates on behalf of their constituents.

2.3 Chairs and Vice-Chairs

Chairs and Vice-Chairs of committees, panels, working groups and similar bodies have additional responsibilities. Because of those responsibilities, their relationships with employees may differ from, and be more complex than, those of councillors without those responsibilities. 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 relation to their duties in the event of a change in the political composition of the authority.

2.4 Cabinet

Executive councillors are elected councillors who have been given the responsibility for providing the Council's political administration. It is their role to develop and formulate policies that help guide employees in carrying out the Council's activities and the provisions of services. They also have responsibility for matters of major principle.

They are politically accountable to the Council and the electorate for the functions contained within their individual portfolios of responsibilities, severally and jointly. It is therefore necessary for executive councillors to have timely access to advice, support and relevant information to fulfil this role effectively.

2.5 Overview Committee and Scrutiny Committee

When attending Overview or Scrutiny Committee meetings, officers should be questioned only on facts and explanations relating to policies and decisions. Officers may be asked to explain and justify advice they have given to executive councillors and may also be asked to explain and justify decisions taken under delegated powers.

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.

Councillors on the Overview and/or Scrutiny Committees are entitled to expect the same level of help and advice from officers as is given to the Cabinet.

Where the Council engages officers to support the overview and scrutiny function, councillors should recognise that these officers continue to be responsible to the Council as a whole and not to one particular part of it.

2.7 Backbench councillors and those in opposition

As individual councillors, all councillors have the same rights and obligations in their relationship with officers and should be treated equally. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between officers, particularly those at a senior level in the organisation, and the administration will differ from that with councillors in opposition groups.

2.8 Officers

The role of officers is to give advice and information to councillors and to implement the policies determined by the authority. The role of officers is also the management of staff and services in accordance with best practice and statutory authorisation.

The usual point of contact for councillors should be a member of the Council's senior management team and heads of service, although individually they may indicate to councillors' matters on which (e.g. the release of factual information) they are content that junior members of staff may be approached.

In giving such advice to councillors, and in preparing and presenting reports, it is the responsibility of the officer to express their 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 they should not seek to

pressure the officer to make a recommendation other than in accordance with the officer's professional view.

Certain officers e.g. Head of Paid Service, Joint Chief Executive, Monitoring Officer, Chief Finance Officer (Section 151 Officer) and the directors have responsibilities in law over and above their legal and professional obligations to the authority and to individual councillors. Councillors must respect such obligations, and must not obstruct officers in the discharge of these additional responsibilities, nor victimise officers for discharging them.

No officer below Council grade 16 will normally be required to attend before a committee unless agreed by a member of the Council's senior management team.

3. Summary of councillor and officer expectations

3.1 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 councillors 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) hot to have personal issues raised with them by officers outside the agreed procedures;

l) that officers 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 their relevant Code of Conduct;

n) support for the role of councillors as the local representatives of the authority, within any scheme of support for councillors which may be approved by the authority from time to time.

3.2 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 and when they are on their own;

g) not to request an officer to do anything they are not empowered to do, nor undertake work outside normal duties or outside office hours, nor to provide information to which the councillor is not entitled;

h) 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;

i) that councillors will at all times comply with their relevant Code of Conduct.

3.3 Limitations upon behaviour

The distinct roles of councillors and officers necessarily impose limitations upon behaviour. By way of illustration, see the points below (not an exhaustive list).

a) Close personal relationships between councillors and officers can confuse these separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular councillor or officer may secure advantageous treatment.

b) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues.

c) Relationships with particular individuals or party groups should not be such as to create public suspicion that an officer favours that councillor or group above others. The issue of officer attendance and advice to political groups is specifically covered below.

d) The questioning of, or comments addressed to, an officer during a meeting shall be managed by the Chair in a manner which ensures mutual respect between all those participating.

e) An officer, in responding to a question, might be required to admit conduct which constitutes grounds for disciplinary action. The officer may decline to answer the question, when the issue shall be reported by the Monitoring Officer to the appropriate director for consideration and investigation if deemed necessary.

3.4 Matters of general concern

The Staff and Safety Joint Consultative Group is established to enable councillors and officers to have a forum within which matters of general concern can be discussed.

4. Political groups

4.1 The operation of political groups is now an integral feature of local government, and such political groups have an important part to play in the development of policy and the political management of the authority. It is in the interests of the authority to support effective operation of political groups, but carried too far this can pose particular dangers in terms of the impartiality of officers.

4.2 Reports

a) Political groups may request a Joint Chief Executive or a Service Director to prepare a report on matters relating to the authority for consideration by the group.

b) The Joint Chief Executive or Service Diirector may invite other senior officers to contribute to such reports, but no officer can be instructed to do so.

c) Officer reports to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Reports will not deal with any political implications of the matter or any option, and officers will not make any recommendation to a political group.

4.3 Officer attendance

a) Any political group may request a Joint Chief Executive or a Service Director to attend a meeting of the group to advise on any particular matter relating to the authority.

b) The Joint Chief Executive or Service Director may arrange for other senior employees with their consent to attend or for the attendance of a representative in their stead, or may decline to attend or to provide a representative where they are of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.

c) Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Advice will not deal with any political implications of the matter or any option, and officers will not make any recommendation to a political group.

d) If any officer, attending such a meeting, declines to speak on a particular topic, councillors should seek to avoid any embarrassment and seek to support the officer in so doing.

e) Officers will respect the confidentiality of any matter which they hear in the course of attending a political group meeting.

f) Officers should not be expected to be present at political group meetings or part of meetings when matters of party business unrelated to Council business are discussed, nor when such a meeting includes persons who are not members of the Council.

g) Where officers provide information or advice to political group meetings in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant decision making body when the matter in question is considered.

5. Reporting improper conduct

5.1 Procedure for officers

From time to time, the relationship between councillors and officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or councillors, officers will have recourse to a complaint under the Code of Conduct. In the event of that complaint being upheld, the Standards Committee may recommend a particular course of action which the councillor is expected to follow. If this does not take place, the matter will be referred to the Joint Chief Executives , who, having advised the appropriate group leader may recommend a course of action to be taken. The Head of Paid Service will make the final determination should a tie break be needed.

5.2 Procedure for councillors

In the event that a councillor is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate senior manager. Where the officer concerned is a member of the senior management team, the matter should be raised with the Joint Chief Executives. Where the employee concerned is a Joint Chief Executive , the matter should be raised with the Monitoring Officer. If the matter cannot be resolved informally, it may be necessary to invoke the council's Disciplinary Procedure with reference to the Officer Employment Procedure Rules if appropriate.

6. **The media**

Dealings with the media must comply with the Code of Recommended Practice on Local Authority Publicity and the Council's Communication protocol.

7. Correspondence

7.1 Where it is necessary for an officer to copy their correspondence to another councillor, this should be made clear to the original councillor. In other words, 'blind copies' should not be employed.

7.2 Official letters, on behalf of the Council, which create legally binding obligations or give instructions on behalf of the Council, should never be sent out over the name of a councillor.

7.3 Councillors are responsible for data protection compliance when acting in the role of Data Controller and will be responsible for the secure storage of correspondence with local constituents. Councillors will be provided with IT equipment, a secure email address and access to storage on the Council network to support this role.

8. Support services to councillors

8.1 The only basis on which the Council can provide support services of this kind to councillors is to assist them in discharging their roles as members of the Council. They are for use on Council business and to help councillors in their roles as advocates for their local communities. They should not be used in connection with party political campaigning.

Appendix H

Petition Scheme

The Council welcomes petitions as a way for people to let us know their concerns.

These guidelines apply to all petitions submitted to Canterbury City Council, with the exception of those set out in Section 3.

Section 1: Submitting a petition

1.1 Anyone who lives, works or studies in the district may organise or sign a petition. They must include a qualifying address that is within the district – so for someone studying or working in the district but living elsewhere, the place of work or study would be the qualifying address. Addresses quoted that are outside the district are invalid.

1.2 A petition must contain at least 15 valid signatures. Any petition with less than 15 valid signatures is treated as ordinary correspondence and referred to the relevant service area for a response.

1.3 Petitions may either be referred to a meeting of Council or to an officer for attention. The procedure for petitions submitted to Council is described in Section 5 of this note. Matters referred directly to an officer are dealt with as ordinary correspondence.

1.4 Petitions submitted for a full Council debate must include a minimum of 1,000 valid signatures from people who live, work or study in the area.

1.5 Petitions can be sent by post or delivered in person, addressed to the Head of Corporate Governance, at Canterbury City Council, 14 Rose Lane, Canterbury CT1 2UR. Alternatively, they can be sent by email to democracy@canterbury.gov.uk

1.6 An electronic or 'e-petition' is only accepted if submitted on the Council's own e-petitions webpage. Petitions submitted from third-party websites will be accepted if they contain the information required in section 2 below. Petitions submitted without the required information will be treated as ordinary correspondence and referred to the appropriate department for attention.

1.7 A combined paper and e-petition can be accepted if the petition wording is the same.

1.8 Petitioners have the option to present their petitions at any meeting of the full Council except for the annual meeting or an extraordinary meeting. Dates and times of the meetings can be found on the Council website.

1.9 If any petition organiser does not wish to present their petition to a full Council meeting, it is referred to the Head of Corporate Governance, logged and referred to the appropriate department for attention.

Section 2: What a petition must contain

2.1 A petition must include a short, clear statement on the subject of the petition, which must relate to the functions, powers or duties of the Council. It should also state what lawful action the petitioners wish the Council to take.

2.2 The petition organiser must provide their name, address and contact details so that they can be contacted by the Council.

2.3 Signatories to paper petitions must provide their name and the valid address where they live, work or study in the district, and a signature. The wording of the petition must be included at the top of every page of the paper petition.

2.4 E-petition signatories must include their name, valid address within the district and email address.

2.5 Petitions that do not follow these guidelines may be rejected by a Joint Chief Executive. If that happens, the petition organiser will be informed of the reasons. The officer's decision is final.

Section 3: Petitions that are excluded

3.1 The Council will not take action on any petition that a Joint Chief Executive considers is vexatious, abusive or otherwise inappropriate, and will explain the reasons for this in our acknowledgement of the petition.

3.2 This petition scheme does not apply to the following, where other procedures apply:

Consultation petitions

These are petitions submitted in response to an invitation from the Council for feedback on a particular proposal or application. For example, planning or licensing applications or proposals for parking restrictions. It also includes matters which are the subject of statutory consultation processes such as the local plan. Consultation petitions, received by the required date, are included with other consultation responses reported to the Cabinet, committee or officer taking the relevant decision.

Statutory petitions

Legislation sometimes requires the Council to consider petitions, for example, a petition for a community governance review. Petitions in this category are dealt with in accordance with the relevant statutory requirements. This also applies to petitions relating to matters where there is already an existing way of reviewing or right of appeal, such as council tax banding or non-domestic rates.

Section 4: What the Council does when it receives a petition

4.1 The Council notifies the petition organiser of the steps it plans to take.

If officers can deal with the matter under delegated authority, and agree that the requested action should be done, the organiser is informed and the petition closed.

If the matter is referred to the Cabinet or a committee, the petitioner is notified.

4.2 The petition details are added to the Council's petitions log and published on our website, except in cases where this would be inappropriate (i.e. where a petition discloses personal data).

Section 5: How the Council responds to a petition

A – Petitions submitted for debate on issues not on the Council agenda (threshold 1,000 valid signatures)

5.1 Petitions for debate are reported to the next convenient meeting of full Council.

Petitions are not considered at the annual meeting of Council, or at extraordinary meetings of Council, unless such is convened to consider the subject matter of the petition in question.

5.2 The petition organiser, or their nominee, is invited to address the Council meeting for up to three minutes on the subject of the petition.

5.3 Any other petitioner at the same meeting who is presenting a petition, signed by no less than 15 signatories and on the same or a related matter, but who is seeking a different outcome, is heard by the Council for three minutes after the speaker to the substantive petition but prior to the Council debate.

5.4 After this but prior to the debate, the Lord Mayor invites the Leader or their nominee to make a proposal in relation to the petitioner's call for action.

The petition is then debated.

5.5 These petitions are considered before the normal business of the meeting, and are considered in the order in which they were received, unless the Lord Mayor determines otherwise.

5.6 A maximum of 30 minutes is allowed at the start of each Council meeting for considering petitions, and any petitions not reached in the time allowed are referred to the relevant committee for consideration, or deferred until the next Council meeting.

5.7 Before or during the debate, the Lord Mayor may ask the Council if it wishes to vary the length of time allowed for petitions.

5.8 Full Council decides how to respond to petitions debated at Council meetings. It may decide to take the action the petition requests, or not to take the action requested (for reasons put forward in the debate), or to commission further investigation into the matter, for example by a relevant committee.

Where the issue is one on which the Cabinet is required to make the final decision, the Council can decide whether to make recommendations to inform that decision. The petition organiser receives written confirmation of this decision. This confirmation is also published on the Council's website.

B – Petitions submitted in response to items on the Council agenda (threshold 15 valid signatures)

5.9 A petition can be submitted concerning an item on the Council agenda so that the petitioner can speak at the meeting. The deadline for submission is no later than 12.30pm two working days before the meeting (i.e. Tuesday at 12.30 pm for a Thursday evening meeting). This allows time for the petition to be validated.

5.10 These petitions are considered before the normal business of the meeting and in the order they are received, unless the Lord Mayor determines otherwise.

5.11 If more than one petition is received on the same subject, each supporting the same outcome, they are treated as two separate petitions but only the organiser of the first petition received, or their nominee, is invited to address the meeting.

5.12 Any other petitioner presenting a valid petition signed by at least 15 signatories, on the same or related subject matter but seeking a different outcome, is heard under the same item.

5.13 The petition organiser, or their nominee, has up to three minutes to present the petition at the meeting. The Lord Mayor then advises that the petition will be taken into account during the consideration of the relevant item.

5.14 Valid petitions received after the deadline that relate to items on the Full Council agenda are accepted, but the petition organisers are not able to speak.

C – Petitions submitted to Council unrelated to published agenda items (threshold 15 valid signatories)

5.15 Any petition containing a new 'call for action' is referred by the Lord Mayor to the Cabinet, a committee or an officer for attention. The Joint Chief Executives advise the Lord Mayor on the appropriate routing.

5.15/1 The Leader or their nominee will be invited by the Lord Mayor to give an initial response to the petition request if they wish to.

5.16 Matters referred to the Cabinet or a committee are accompanied by an officer report setting out relevant information. The Cabinet or Committee can decide to:

- take a decision, informed by the officer report
- commission a report, if additional information is required
- refer the matter to the appropriate officer for determination and response, or
- reject the petition request

Petitions referred to the appropriate officer

5.17 When a petition is referred to an officer, the officer will respond to the petition organiser directly.

Section 6: Cabinet and Committees referring matters back to Council

6.1 Petitions are normally debated by the Cabinet or a committee that has the ability to determine the matter. Petitions are only debated by Full Council where they relate to a matter on the Council agenda, or have met the threshold for a Full Council debate.

6.2 A petition referred to the Cabinet or a committee will only be referred back to Council, with a recommendation from the relevant body, if the proposed resolution is outside the budget and policy framework and therefore requires Council approval.

Section 7: Petitions that are not accepted

Duplicate Petitions

7.1 When more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition received will be invited to address the relevant meeting. The Head of Corporate Governance will notify the petition organiser.

Repeat Petitions

7.2 A petition will not normally be considered if it is received within six months of another petition being considered by the authority on the same matter.

Rejected Petitions

7.3 Petitions are not accepted if, in the opinion of a Joint Chief Executive , they are rude, offensive, vexatious, defamatory, scurrilous or time-wasting, or do not relate to something that is the responsibility of the authority, or over which the authority has some influence.

Petitions received during the pre-election period (sometimes known as 'purdah')

7.4 Prior to an election, during what is called the 'pre-election period', politically controversial material may need to be restricted. In such cases a petition may be handled differently, and the Council will explain the way it will be dealt with. The hearing of petitions at meetings during this time may be deferred at the discretion of the Lord Mayor.

Section 8: Amendments to these guidelines

The Council reserves the right to vary these guidelines as and when necessary. However, any changes will not be applied retrospectively.

Appendix I

Public participation at meetings

1 Full Council

1.1 Any member of the public may either present a petition or put a question, provided that it is supported by not less than 15 valid signatories and has been given to a Joint Chief Executive not later than 12.30pm two working days before the meeting.

1.2 The Council will deal with such requests in accordance with the following procedure:

1.2.1 the Lord Mayor, at their discretion, may determine the order in which the petitions and/or questions are taken;

1.2.2 no speech shall exceed three minutes, except with the consent of the Council;

1.2.3 no debate shall take place upon any matter put before the Council by way of petition or question, except at the discretion of the Lord Mayor, when the Leader or the Chair of an appropriate committee may respond. The Leader or the Chair may agree to a written response being sent on behalf of the council.

1.2.4 members of the public are not permitted to speak on matters wholly listed under Part II of a council agenda, which excludes the press and public.

1.2.5 The council will not accept public questions or petitions during the period from the announcement of a General Election or any other elections to polling day.

2. Cabinet

Public speaking procedure rules at Cabinet are set out in Part 6 of the Constitution - Executive Functions, Rules and Procedures.

3. Planning Committee

3.1 Criteria for public speakers at meetings of the Planning Committee

3.2 Speakers must give notice to Democratic Services not later than 12.30pm on the working day before the meeting.

3.3 The number of speakers for each planning application is limited to:

3.3.1 Three persons or group representatives in favour, three persons or group representatives against the proposal; plus

3.3.2 a representative of the Parish Council, Canterbury Heritage and Design Forum, or Whitstable Society in whose area the proposed development is situated;

3.3.3 a representative of an advisory/amenity group or resident association speaking for a proposal, and one against a proposal, whose terms of reference have a direct interest in the proposal;

3.3.4 the applicant or their agent, but not both, who shall also be afforded the opportunity to speak last. This will protect at least one slot for the applicant/agent. Subject to availability, other slots are available under 3.3.1 should both wish to speak.

3.3.5 In addition, district councillors who are not members of the committee may be permitted to address the Planning Committee in relation to planning applications in their wards or immediately adjacent to their wards. At the discretion of the Chair of the committee, other councillors whose wards may be affected by a planning application may be permitted to address the committee. Councillors registering to speak shall be heard immediately before the applicant/agent taking the last speaking slot.

3.3.6 All slots will be allocated on a first come first served basis. A person may speak as an individual or as a representative of a group or organisation.

3.4 With the exception of elected representatives no more than one person per household shall be entitled to speak, including persons wishing to speak on behalf of someone else, unless offering opposing views.

3.5 In circumstances where more than three persons wish to speak in support or as objectors, the first three registered in each case will have the right to speak. Those not speaking shall be provided with the names of the relevant ward councillors.

3.6 All persons speaking shall be strictly limited to three minutes each. No person shall speak more than once.

3.7 At a site visit speakers will be allowed at the Chair's discretion and limited to three minutes but will be restricted to identifying features of the area that are relevant to the consideration of the planning application. No representation on the merits of the application will be allowed.

3.8 Members of the public are not permitted to speak on matters wholly listed under Part II of a committee agenda, which excludes the press and public.

4. Licensing Sub-Committee

4.1 Right and responsibilities of parties attending hearings

4.1.1 Hearings will normally be held in public, and will be governed by the Licensing Act 2003 (Hearings) Regulations 2005.

4.1.2 Only a person who has made a written representation to the Licensing Authority, or a person representing that person, may act as a party at the hearing.

4.1.3 Parties will normally be invited to sit within the body of Council Chamber near the microphones during the hearing.

4.1.4 If a party (including the applicant) wishes to have any documentary or other evidence supporting their case considered at the hearing, they should strive to submit it to the Licensing Authority at least seven working days before the hearing. This will allow the Licensing Authority to make the materials available to others.

4.1.5 Parties wishing to submit film or other materials to Licensing Hearings are referred to the guidance set out in Appendix F to the Constitution: Licensing – Local Code of Good Practice.

4.1.6 Documentary or other evidence not submitted until the hearing may only be used if all the other parties at the hearing agree.

5. Other committees

5.1 The following arrangements shall apply to:

- Audit Committee
- General Purposes Committee
- Governance Committee
- Joint Transportation Board
- Licensing Committee
- Overview Committee (see also Overview & Scrutiny procedure rules, Part 7 of the Constitution)
- Scrutiny Committee (see also Overview & Scrutiny procedure rules, Part 7 of the Constitution)
- Whitstable Harbour Board

5.2 It shall not apply to:

- Cabinet (see Cabinet procedure rules Part 6 of the Constitution)
- Standards Committee
- Appointments Committee
- Licensing Sub-Committee (see Section 3 above)
- Planning Committee (see Section 2 above)
- Full Council (see Section 1 above)
- Planning Sub-Committee

5.3 Any member of the public may, at meetings of the committees listed in section 5.1 , present petitions and/or speak, for no more than three minutes, upon any item on the agenda for that meeting, prior to the committee's discussion of that item, provided that notice has been given to Democratic Services not later than 12.30pm on the working day before the meeting.

5.4 Any member of the public who requests to speak at a meeting of the Council or one of its committees on behalf of an organisation must ensure that they have the necessary authority from that organisation to do so.

5.5 Members of the public are not permitted to speak on matters wholly listed under Part II of a committee agenda, which excludes the press and public.

5.6 The committee may refuse to allow a member of the public to speak or continue to speak if it appears that the speech is defamatory, mere vulgar abuse, inflammatory, or for other good reason.

5.7 In relation to the Annual Parking Review, there will be no speakers heard on any application where they are supporting the officer recommendation and no councillor wishes to speak against it.

Appendix J

Canterbury City Council Communication Protocol

1 Introduction

1.1 Communicating with the people the Council serves, the people it works with and its own staff has always been important. In the past that conversation was very much one way. Today, two-way engagement is key. Life is changing: the traditional media is fragmenting, digital channels are encouraging conversations that are often in real time, and councils need to explain the very difficult challenges they are facing.

1.2 Engaging with the outside world and colleagues should be everyone's default position. The council, its officers and its councillors cannot communicate enough. This protocol is designed to provide officers and councillors with a framework that will help make their communication effective, targeted and legally sound.

1.3 This protocol also applies when the Council works with third parties on communications issues.

2. The Communications team

2.1 The role of the communications team is to protect and strengthen the Council's reputation among residents, councillors and officers. The team is here to help officers and councillors get their messages across to the right audiences at the right time, in ways that are highly effective and provide real value for money.

3. Guidance for Council officers

3.1 Officers approached by the media for information or comment should immediately direct them to the communications team.

3.2 Officers should not approach the media or pass on information, confidential or otherwise, without first consulting with the communications team. Doing so will be a disciplinary matter.

3.3 As employees of the Council, officers need to be mindful of how they communicate in a private capacity also, especially when using social media. Posting on Facebook, Twitter, LinkedIn, Instagram or any other social media platform, or commenting on an online story, places information into the public domain. If an employee takes a party-political stance or criticises the Council or their colleagues on social media, therefore, they could bring the Council into disrepute. This also applies to small actions like liking or retweeting someone else's post.

3.4 A good rule of thumb is: would an officer be happy for their line manager, a councillor, the management team or the press to read their post and reproduce it? Making it clear the views expressed are not necessarily those of the Council will not always be an effective defence.

3.5 Social media accounts run on behalf of the Council or the services it runs should only be created with the approval of the Head of Policy and Communications. Once an account is created, the communications team will retain password access in case the account is hacked or there is any other sort of issue out of hours. Existing accounts should also be managed in this way.

3.6 To get the best from the communications team, officers should alert them to their successes, achievements and any other good news as soon as possible. They

should also warn the team about potential issues that may adversely affect the Council's reputation or become controversial.

3.7 Officers have an obligation to alert the communications team to public criticism of the Council whether in meetings, in the press, online or on social media.

3.8 In the internet and social media age, officers should try to give priority to requests from the communications team for information. Journalists are under constant pressure to produce stories and are more inclined than ever to publish without checking their facts or getting both sides of the story, or carrying a comment from the council. We have to try hard to get our side heard.

3.9 The communications team is the guardian of the Council's brand. Officers should not create any sort of marketing material without first consulting with the communications team. This includes, but is not confined to, signs, posters, leaflets, brochures, booklets, e-newsletters etc, whether printed or online. It is particularly important to seek the expertise of the communications team when using the council's logo.

3.10 The communications team is available to proofread all of the Council's communications without the outside world. Officers and their contractors are strongly advised to take advantage of this service. Spelling mistakes on items such as signs are embarrassing, will be picked up by the press and will cost council taxpayer's money to correct.

3.11 When booking advertising, officers should carefully consider the audience they are hoping to reach, the most effective medium to reach that audience and the best way of minimising the costs involved. The communications team is on hand to offer the very latest advice and help with wording. The communications team should be alerted in any case to assess whether an advert will generate publicity, positive or otherwise.

3.12 Public Notices are subject to a contract administered by the Text Production Unit (TPU).

3.13 Officers should be mindful that Council projects could lead to opportunities to generate advertising and sponsorship revenues and should factor this into their business plans.

3.14 Officers should not engage outside marketing, public relations, digital or graphic design agencies or communications consultants without first consulting with the Head of Policy and Communications.

4. Guidance for councillors

4.1 Councillors must make it clear when they are speaking publicly in a party political capacity as opposed to speaking on behalf of the Council.

4.2 Councillors and their political parties are free to issue their own press releases containing party political information and opinions, or to post them on social media, but no Council resources can be used to do so. This also extends to the use of political avatars on Council email accounts: they are not allowed.

4.3 If a councillor is approached by the media to speak on the Council's behalf, they should contact the communications team to be briefed with the most up-to-date information. If this is not possible, they should let the team know the nature of the enquiry, who it was from and what was said after the event. This will minimise the possibility of councillors and officers giving conflicting information and will save embarrassment.

4.4 When using social media, councillors must be aware of the legal and ethical pitfalls as well as the requirements of the Councilors' Code of Conduct.

4.5 Councillors should avoid saying anything that might be interpreted as abusive, defamatory, in contempt of court or that endorses comments from others, for example by liking or retweeting, that could be interpreted as such – see below.

4.6 The role of both the Lord Mayor and Sheriff is non-party political and should be kept away from controversy.

5. Relations with the media

5.1 Who should be quoted in press releases, social media posts and responses to the media?

Unless it is an operational matter, councillors should be quoted. Those councillors are:

- Leader of the Council
- Deputy Leader
- Cabinet portfolio holders
- Chair or Vice-Chair of the Audit Committee
- Chair or Vice-Chair of the General Purposes Committee
- Chair or Vice-Chair of the Governance Committee
- Chair or Vice-Chair of the Licensing Committee
- Chair or Vice-Chair of the Overview Committee
- Chair or Vice-Chair of the Scrutiny Committee
- Chair or Vice-Chair the Planning Committee
- Chair or Vice-Chair the Standards Committee
- Chair of Whitstable Harbour Board

5.2 In their absence, or during the pre-election period, the relevant member of management team or another appropriate officer will speak, depending on the subject matter.

5.4 Every effort will be made to quote the most appropriate councillor, according to the subject matter, but there will be times when the speed needed for a response makes an officer quote acceptable.

5.5 Where responsibilities of councillors overlap, and agreement cannot be reached on who should be quoted, the Leader of the Council will have the final say. In their absence, the Deputy Leader or Joint Chief Executive will make that decision.

5.6 The Lord Mayor and Sheriff may be quoted at times of crisis, to promote community cohesion and following significant events affecting the nation as a whole.

5.7 If an officer is quoted, they should be named. This gives officers a human face and avoids the Head of Policy and Communications or the Senior Media Manager being the only people who appear in the local press.

5.8 There are times when it is appropriate for Council press releases to quote third parties, at the discretion of the Head of Policy and Communications.

5.9 If a quote is needed on a matter of policy or in response to a party political press release, statement or issue, the communications team will refer journalists to the appropriate councillor or political party.

6. Before council decisions are taken

6.1 Where a decision is likely to be of significant interest, a press release may be issued at the same time as the relevant agenda. It must be objective and explanatory.

7. When a decision has been made

7.1 After meetings of the full Council, the communications team, in discussion with the relevant director(s) or the Leader, will decide whether a press release should be generated on any specific decision.

7.2 After a Cabinet or committee meeting, the communications team, the Chair or relevant officers will identify individual issues warranting extra publicity as soon as possible.

7.3 Every effort should be made to accommodate media requests for interviews after a meeting.

8. Press briefings

8.1 A briefing is a useful way of explaining important or complicated Council developments to journalists. They must be organised by the communications team and are there to give background information and context, and to allow questions to be asked.

8.2 Where possible, the relevant councillor, committee Chair or Vice-Chair should attend such briefings, while being mindful that having too many people involved is in danger of becoming unworkable.

8.3 Briefings on operational matters can be led by the appropriate officers.

9. Our own channels of communication

news.canterbury.gov.uk

9.1 The Canterbury Newsroom has been designed to host a range of different types of content about the Council including press releases, human interest and day-in-the-life features about our work and blogs. The newsroom is also where we publish important information for residents or warnings and advice during an emergency. All of this content can then be promoted via our social media channels. Statements on controversial issues can be carried on this site in full.

9.2 It will carry advertising but is not designed to compete with established news organisations.

9.3 The content it carries should fully comply with this protocol, especially the need for it not to promote the interests of any political party or group.

District Life

9.4 The Council has the ability to produce a magazine called District Life which aims to keep residents and businesses in touch with developments relating to the Council. It is non-party political, and must be factual and objective. It can contain a non-party political editorial column from the Council Leader and can feature councillors.

9.5 District Life carries the advertising of organisations whose values accord with its own.

Email newsletters

9.6 Our email newsletters are an increasingly effective way of communicating with our Residents. Their content should always be free of political bias, must be factual and must be objective.

9.7 Email newsletters can be sponsored or can carry advertising.

Social media accounts

9.8 Social media is an effective way of getting the Council's messages or important information across to a large audience quickly and effectively. It is also an important tool in engaging with the public and facilitating two-way conversations both on behalf of the council and its partners.

9.9 Social media is increasingly used by the public as a way to ask for customer services-style information and to make complaints.

9.10 Social media posts and responses to comments must be non-party political, factual and objective.

9.11 As well as posting on from its own pages or accounts, the communications team will also post on the relevant community Facebook groups.

9.12 Social media is also a cost-effective way for the Council to advertise.

Communicating in a major emergency or in a reputational crisis

9.13 Under the Civil Contingencies Act 2004, we have a statutory duty to communicate during an emergency. That process is governed by the Council's Media and Public Warning and Informing Plan.

9.14 It is vital that the Head of Policy and Communications and/or Senior Media Manager are alerted as soon as possible in an emergency, in line with the Council's Emergency Plan.

9.15 There will be times when we face a crisis that has the potential to severely damage our reputation. How we respond is governed by the Crisis Communications Plan which will be included in our Business Continuity Plan. Again it is vital that the Head of Policy and Communications and/or Senior Media Manager are alerted to any criticism of the council as soon as possible especially in an age dominated by social media.

10. **Other useful information**

The law

10.1 According to the Code of Recommended Practice On Local Authority Publicity which springs from s4 of the Local Government Act 1986, our communications should be:

- lawful
- cost effective
- objective
- even-handed
- appropriate
- have regard to equality and diversity
- be issued with care during periods of heightened sensitivity

10.2 Most of these principles are self explanatory. Ensuring our official communications are appropriate means they are politically neutral, should not directly rival the

operations of commercial news organisations, should be freely available and should be very clear that it is generated by the Council.

10.3 Everyone who communicates with the wider world, including councillors and officers, ought to be mindful of the raft of legislation they could fall foul of including the Defamation Act 2013, the Contempt of Court Act 1981 and the Copyright, Designs and Patents Act 1988 among others.

10.4 The communications and legal teams will always be on hand to offer appropriate advice.

11. The pre-election period (sometimes known as purdah)

11.1 Between the notice of an election or referendum and the vote itself, the Council should not publish material touching on controversial issues that could be construed as party political or could influence the decision of voters.

11.2 Publicity can still be issued, but it cannot include written or photographic reference to politicians during the pre-election period, or quotes from them.

11.3 When in doubt, officers should seek the advice of the Head of Policy and Communications, the Head of Legal and Monitoring Officer or the Deputy Monitoring Officers. .

Appendix K

Protocol for use of council resources by councillors

Introduction

1. The purpose of this Protocol is to provide a guide to the use of Council resources by Councillors.

Resources provided to Councillors

2. The Council provides a range of facilities to support Councillors, such as stationery, photocopying, telephone, an email address and IT equipment (which includes any access to the Council's systems via any on-site or remote access link), to enable Councillors to carry out their duties as a councillor. Members must make sure that they use the Council's resources for proper purposes only and when using the Council's resources, Members must have regard to the Local Authority Code of Publicity and the Member Code of Conduct.

3. The Council is prohibited from publishing any material of a party political nature and Members should ensure that when using or authorising the use by others of the Council's resources, that such resources are not used for purely political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which the Member has been elected or appointed.

Members may therefore use Council resources and facilities for political purposes in connection with the following business:

(a) holding ward surgeries;
(b) dealing with correspondence from constituents;
(c) communicating group activities;
(d) meetings between group members.

Members should not use Council resources and facilities (which includes their council email address and headed paper templates) :

(a) to advocate personal views that could be attributed to the Council;
(b) for political purposes. For example electioneering or canvassing.
(c) for personal or business use

4. A Member's use of Council resources must not extend to political parties more generally.

5. The Council agrees to de minimis usage that would otherwise be contrary to this Protocol, but which is so small in extent, that a reasonable person knowing all the facts would take the view that it should not be thought of as to be included in what is being controlled, prohibited or otherwise included in this Protocol.

6. The use by a Member, of any Council resources for purely political purposes, including designing and distributing party political material produced for publicity purposes and

support of any political party or group activity, elections and campaigning, is likely to amount to a breach of the Member Code of Conduct.

7. During the election period (which runs from the publication of the notice of election to the close of the polls), Members must not use their Council email address in any ward newsletters which contain election or campaigning material.

8. Provided that the use of any Council resource is not purely in connection with political purposes and there is no cost to the Council nor any liability for the Council arising from its use for secondary purposes, it is a matter for each individual Member as to whether or not they use it for private and family purposes. Members will however need to take into account any additional costs that may arise from extending software licences and the replacement of equipment (excluding marginal shortening of the life of items of equipment (for example modest use of a printer)). Members must also take into account security issues related to confidential information and the processing and disclosure of information under the Data Protection Act 1998.

9. Members are under an obligation to ensure that any secondary use of IT equipment supplied by the Council is acceptable and appropriate and that such use does not contravene the Member Code of Conduct, Council codes, protocols etc, the Misuse of Computer Act 1990 and any other relevant UK and European legislation.

10. Advice or clarification can be sought from the Monitoring Officer

Appendix L

Canterbury City Council
Councillor and Co-opted Members' Allowances Scheme

The Local Authorities (Members Allowances) (England) Regulations 2003 (as amended)

1. Introduction

1.1 This amended scheme was originally approved by Canterbury City Council on 19 February 2015. With effect from 1 April 2015 a basic allowance of £4853 per annum was paid to each member of the authority who is a councillor. The members allowances are to be amended by the council each year in accordance with the Canterbury City Council pay award percentage increase as agreed being the index linking measurement. In the event that some or all of the pay award is in the form of a lump sum increase, the average percentage of the staff award will be calculated as the agreed index linked measurement for councillors. The Joint Chief Executives will notify the political group leaders of the proposed increase. Any deviation from the percentage or average percentage will be the subject of a full council decision. Advice may be sought from the, East Kent Independent Remuneration Panel, in response to any review requested by members and any changes in the law or the administrative or political structure of the council.

1.2 The allowance will be paid monthly on the 25th of the month, direct to a bank. When the term of office of a councillor begins or ends other than at the beginning or end of a financial year, a proportion of the basic allowance will be paid, based upon the number of days in office in the particular month of payment.

1.3 Special Responsibility allowance shall be paid to members annually in the sums listed below. This will be paid monthly on 25th of the month, direct to a bank. Where a councillor takes up or relinquishes any such special responsibilities during a period, a proportion of the Special Responsibility allowance will be paid, based upon the number of days during which his special responsibilities subsist in the particular month of payment.

1.4 For chairs of committees and sub-committees, whilst any system of rotating chairs continues, these allowances will be shared between the Group Spokespersons on the relevant committee or sub-committee. If another councillor is elected as chair for a meeting in the absence of the scheduled chair, no additional allowance is payable.

1.5 No councillor shall be entitled to more than one special responsibility allowance, which includes the political group leader and deputy leader payments. Where a councillor holds more than one office, then the highest of the special responsibility allowances shall apply.

1.6 The allowances payable to Leaders of groups is pro-rata to the number of councillors in each group. The Joint Chief Executives are hereby given delegated authority to adjust the sums payable should numbers change.

2. Councillor Allowances 2025/26

Description	2025/26 £ per annum
Members Basic Allowance	6850.69
Special Responsibility Allowances (only one may be claimed)	
Leader	23233.94
Deputy Leader	7096.08
Cabinet member	5722.65
MAJOR Committee – Chair Overview Committee Scrutiny Committee Planning Committee* Licensing Committee* *no additional for sub-ctte	5150.38
MAJOR Committee – Vice-Chair	1144.53
MINOR Committee – Chair Audit Committee Whitstable Harbour Board	1144.53
MINOR Committee – Vice-Chair	286.13
AD-HOC COMMITTEE – Chair Governance Committee Standards Committee Appointments Committee General Purposes Committee	672.27
Independent Person – Standards Committee	610.04 per person
Independent Member – Whitstable Harbour Board	610.04 per person
Group Leader (if largest SRA)	171.68 per Councillor
Deputy Group Leader (if largest SRA)	114.46 per Councillor
Civic allowances	
Lord Mayor	7096.08
Sheriff	5150.38

3. Further provisions

3.1 Travelling, subsistence and motor mileage allowances

3.1.1 Councillors (which includes independent/co-opted 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 commercial rate laid down from time to time by HM Revenue and Customs, currently 45p per mile for the first 10,000 miles and 25p per mile thereafter.

If a councillor 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.

For journeys outside Kent the second class rail fare is paid (irrespective of whether the councillor chooses to use a car), together with taxi fares, parking charges and

underground fares incurred. Where it is impracticable for a councillor to travel by train because the venue is difficult to get to within the time allowed, or extra passengers/luggage has to be taken, car mileage may be allowed at the appropriate rate, provided approval from a Joint Chief Executive for this exception is obtained prior to the journey.

3.1.2 Travel by motorcycle and bicycle will be reimbursed at the rate of 24p per mile.

3.2 For each additional official car passenger payment will be:

- 1st passenger - 3p per mile
- 2nd and subsequent passengers up to maximum 4 - 2p per mile

3.3 Reimbursement for travel by taxi will apply only in exceptional cases. The rate for travel by taxi will not exceed:

a) in cases of urgency, or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid.

b) in any other case, the amount of the fare for travel by appropriate public transport (second class for train travel)

c) the rate of travel by a hired motor vehicle other than a taxi shall not exceed the rate which would have been applicable had the vehicle belonged to the member who hired it, provided that where the Deputy Chief Executives so approves, the rate may be increased to an amount not exceeding the actual cost of hiring.

3.4 In the case of travel by air bookings and payment will be made directly by the council to the agent or operator.

3.6 Travelling, subsistence and motor mileage allowances may be payable for attendance at meetings of:

- Full Council
- Cabinet
- Committees, Sub-committees and Boards
- Steering groups and working parties approved the Council, Cabinet or Committees
- Meetings to exercise any joint decision making arrangements entered into with another authority
- Chair's briefings and other pre-arranged meetings in order for a councillor to perform their role as a Chair or Vice-Chair
- National and regional conferences, seminars or training events that have been paid for by the Council
- Meetings of the Kent Association of Local Councils (KALC) or its regional associations
- Briefing meetings and events organised by the Council's Corporate Leadership Team to which councillors are invited
- Attendance at Group Leader's meetings
- Attendance at tender openings
- Meetings of any outside body or partnership listed on the Council's list of outside bodies and multi-agency partnerships or other joint body, when attending as the council's representative
- Attendance at Group Leaders Meetings

The list of approved Working Groups and Task and Finish reviews to be inserted as approved by the Annual Council Meeting, Cabinet or Overview Committee from time to time.

3.7 Where any councillor attends any committee to speak on an item with the Chair's consent, this attendance will be an approved duty for payment of travelling expenses.

3.8 Councillors are entitled to claim travel expenses for committee briefings and for all partnership meetings or Chair and Vice-Chair meetings with the Lead Officer and these meetings become approved duties.

3.9 This scheme does not allow for travel expenses to be paid to individual councillors arranging meetings with officers as this is deemed to be part of the councillor's role and members allowances paid are calculated to reflect these extra duties.

3.10 That for any other ad hoc briefings, e.g. on major developments, councillors from all groups will need to be invited to these briefings in order for travelling allowances to be paid.

3.11 No allowance shall be payable if such a payment would be contrary to provision made by or under any enactment.

3.12 Where an Independent/co-opted member is either the Chair or Vice Chair of a committee, they should receive the same special responsibility allowance as would an elected member occupying the position. In addition, all Independent/co-opted members should, unless otherwise specified by the Council, be entitled to claim travel, subsistence and dependent carers allowance at the appropriate rates that apply for councillors.

3.13 Subsistence allowances will be paid at the same rate as appropriate officer subsistence rates where absence from normal residence on approved duty exceeds 4 hours provided claims are supported by receipts. Out of pocket expenses, e.g. coffees and teas, may be claimed where absence exceeds 4 hours and expenditure has been incurred.

3.14 The cost of meals taken on a train during a period when there is entitlement for day subsistence allowance may, if reasonable, be paid in full.

4. Carers' Allowances

4.1 Councillors may claim this allowance as reimbursement of costs they incur for carers looking after children or elderly, infirm or sick relatives while the member is carrying out an "approved duty".

4.2 Councillors are entitled to claim the allowances for periods starting up to an hour before it starts and an hour after it finishes in order to allow for essential travelling time. The councillor is responsible for making the care arrangements and the Council can accept no responsibility for anything that might happen as a result of those arrangements.

4.3 Carers' allowances are not payable for carers who are close relatives or normally resident in the member's home or are under 16 years of age. Payment will only be made after the member has submitted a statement of claim for each use of a carer.

4.4 The rate of payment is the Real Living Wage, as defined by the Living Wage Foundation, applying for the time being, irrespective of the age of the person providing the care.

4.5 A councillor cannot claim for multiple carers for multiple dependants. The duties for which carers' allowance may be paid are those referred to in 3.2 - 3.7 and 3.9 - 3.10 above.

5. **Support for councillors with disability**

5.1 The Council is committed to supporting people with disability who are elected to the Council and will assist with any disability-related costs of being a councillor, for example where there is difficulty using public transport or a need for sign language interpreters or a hearing loop.

5.2 The Council will make 'reasonable adjustments' to accommodate the needs of councillors with disability or specific care needs, who would otherwise be placed at a disadvantage compared to a non-disabled councillors and wherever possible will ensure the needs of councillors with disability can be accommodated e.g. meeting rooms and group offices are fully accessible so that all councillors can play a full and effective part in the running of the council.

5.3 A Joint Chief Executive will have the discretion to make payments for expenses incurred by councillors with disability on travel within the district in addition to the amount included in the basic allowance where the member would have a particular difficulty carrying out an approved duty.

5.4 The Head of Corporate Governance will work to overcome any barriers that arise as a result of a disability. They will arrange specialist equipment where this is deemed necessary for the performance of the role.

6. Allowances will be paid monthly on the 25th of the month, one month in arrears. Mileage will be paid subject to a claim being received.

7. In any month in which the election of the whole council falls, payment of basic allowances and special responsibility allowances may be suspended until the following month to avoid overpayments to councillors retiring or not re-elected.

8. This scheme may be amended at any time during the course of the financial year by resolution of the council. In the event of the scheme being amended, the operative date of the amendment will be the day following the Council resolution unless the resolution back-dates the whole or part of the scheme terms.

9. Any duties performed before the date of the amendment will attract allowances prescribed in the scheme as originally made or previously amended and only duties performed after the operative date of the resolution will attract allowances prescribed by the amended scheme.

10. Increases to the Basic Allowance and Special Responsibility Allowances are to be indexed to the Canterbury City Council officer pay award each financial year until such time as they are reviewed.

11. No attendance allowances are payable under this scheme.

12 The Local Government Pension Scheme is not available to members or co-opted members.

13. If any councillor, without good reason, fails on several occasions to attend meetings they should attend, or if they merely put in token appearances, the conduct of that councillor can be referred to a Standards Committee.

14. **Maternity and paternity**

14.1 All councillors shall continue to receive their Basic Allowance in full for a period up to six months in the case of absence from their councillor duties due to leave related to maternity, paternity, adoption, shared parental leave or sickness absence.

14.2 Councillors entitled to a Special Responsibility Allowance shall continue to receive their allowance in full for a period up to 6 months, in the case of absence from their councillor duties due to leave related to maternity, paternity, adoption, shared parental leave or sickness absence.

14.3 The councillor taking maternity, paternity, adoption, shared parental leave or sickness absence leave will not be deemed to be the appointed councillor if a replacement has been appointed in their place for their period of absence. The councillor taking leave of absence will be entitled to claim the Basic and any SRA allowances they were entitled to claim during their designated period of absence but will not be the role holder.

Appendix M

Officer Employment Procedure Rules

Explanatory note

These rules are to be read, where appropriate, with the Scheme of Delegation to officers.

1. In this Part:

   - "the 1989 Act" means the Local Government and Housing Act 1989;
   - "disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001; and
   - "member of staff" means a person appointed to or holding a paid office or employment under the authority.
   - Local Authorities (Standing Orders)(England) Regulations 2015

2. Subject to paragraphs 3 and 5, 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, a Joint Chief Executive or by an officer nominated by them.

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

   (a) the officer designated as the head of the authority's paid service;
   (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts) i.e. s151 Officer or Monitoring Officer;
   (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
   (d) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups) or
   (e) A Joint Chief Executive who does not hold a statutory role.

4. (a) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment 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 that person.

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

5. 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.

6. All appointments will be made in accordance with the Council's Recruitment Procedure.

7. Appointments of any assistant to a political group shall be in accordance with the wishes of that group.

8. Declarations

(a) The authority will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are related to an officer of the Council or serving councillor/member. This statement will be included in appropriate recruitment literature.

(b) Where a candidate has declared such a relationship, the officer or serving councillor/member will not form part of any interview panel and may not be directly involved in the recruitment process.

9. Seeking support for appointment

(a) Where an officer or councillor has supported or has a personal interest in assisting an applicant to the Council, they may not be involved directly in the recruitment process. Under these circumstances the officer or councillor must declare an interest and stand down from the recruitment and selection process.

(b) Councillors must not stand as referees for officers or candidates for appointment as officers of the authority.

10. In the following paragraphs –

(a) "the 2011 Act means the Localism Act 2011 (b);
(b) "chief finance officer", disciplinary action", "head of the authority's paid service" and "monitoring officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
(c) "relevant independent person" means a person appointed under section 28(7) of the 2011 Act;
(d) "local government elector" means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;
(e) "the Panel" means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
(f) "relevant meeting" means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
(g) "relevant officer" means the chief finance officer, head of the authority's paid service, monitoring officer or Joint Chief Executive, as the case may be.

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

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

13. In paragraph 10, "relevant independent person" means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

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

    (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
    (b) any other relevant independent person who has been appointed by the authority;
    (c) a relevant independent person who has been appointed by another authority or authorities.

15. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 12, but may do so.

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

17. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular:

    (a) any advice, views or recommendations of the Panel;
    (b) the conclusions of any investigation into the proposed dismissal; and
    (c) any representations from the relevant officer.

18. The dismissal procedure to be followed in relation to officers listed in paragraph 3 a), b) and e) above is set out in the flowchart below and detailed in the Terms of Reference for the Appointments Committee, Independent Persons Panel and Disciplinary Appeals Committee within Part 5.1 of the Constitution.

19. The Appointments Committee may suspend the Head of Paid Service, Monitoring Officer, S151 Officer and Joint Chief Executive who does not hold a statutory role while an investigation takes place into alleged misconduct. Before deciding to suspend the Committee shall invite the officer to make representations unless it is impracticable to do so. The committee shall continue to review any continuing suspension every two months. In carrying out such review the Committee shall consider any representations made by the officer.

20. *"In cases of urgency the Head of the Paid Service may suspend the Chief Finance Officer or the Monitoring Officer, following consultation with the Chair of the*

Appointment Committee where practicable whilst an investigation take place into alleged misconduct. The Head of the Paid Service shall, before deciding to suspend, invite the officer to make representations unless it is impractical to do so. The Appointment Committee shall review the suspension as soon as is practicable and in any event no later than two months following the original decision to suspend".

21. The Head of Paid Service, S151 Officer, Monitoring Officer and the Joint Chief Executive who does not hold a statutory role have a right of appeal to the Disciplinary Appeals Committee against any decisions made by the Appointments Committee to take disciplinary action short of dismissal.

Allegations received in relation to disciplinary matters in respect of the Designated Statutory Officers (the Head of the Paid Service, the Monitoring Officer and the Chief Finance Officer) and Joint Chief Executives

Appointments Committee (AC) convened

The AC considers the allegation[s]. The Designated Statutory Officer (DSO) / Joint Chief Executive invited to comment. AC considers their comments and the complaint / allegation and may then decide on any of the following actions.

Option 1
No further action

This should be immediately communicated to DSO/JCX and the complainant notified if necessary.

Option 2
Informal unrecorded oral warning

If the matter is not serious but there is some minor fault or error on the part of the DSO/JCX then the AC can issue an informal un-recorded warning

Option 3
Case to answer/further investigation required

If following consideration of the DSO's/JCX's response the AC believes that the case cannot be dismissed and requires further investigation and that, if the allegations were to be upheld they would result in a sanction greater than an informal warning, the AC should appoint an Independent Investigator (II) and consider suspension.

Appointment of the Independent Investigator (II)

From a list of suitably qualified individuals the AC will provide the DSO/JCX with three names from which the DSO/JCX will select. Only genuine conflicts of interest etc. should be acceptable reasons for rejection by the DSO/JCX. If the DSO/JCX does not agree within 14 days of receipt of the list the AC will be free to appoint their choice from the list.

Suspension

The AC will have the power to suspend. Suspension will be reviewed after a period of two months and will only be extended following consultation with the II and consideration of any objections/representations from the DSO/JCX.

Role of the II

The II will determine the process they will follow, which will be dependent upon the nature of the allegations and availability of information. It may be a process of evidence gathering, hearing submissions etc. which will lead to the formulation of a recommendation for consideration by the AC

Report by the II and consideration and decision by the AC

On completion of the investigation the II will prepare a report with recommendations and rationale for submission to the AC.

The AC will afford the DSO/JCX the opportunity for a hearing to allow the postholder to challenge the recommendations of the II, call witnesses etc.

The AC may decide to call witnesses for clarification. The DSO/JCX and II should attend this meeting and both parties afforded the opportunity to summarise their case and will have the usual opportunities to present evidence and cross examine witnesses etc. Both parties will have the right to be represented at the hearing. The hearing should be conducted in accordance with the ACAS code of practice, which is in private.

Recommendation of the AC

Following either consideration of the report of the II or a full hearing of the case the AC will essentially have the following options:

1. No case to answer
2. Recommend informal resolution or other appropriate procedures
3. Refer back to the II for further investigation
4. Disciplinary action short of dismissal
5. Propose dismissal

No case to answer

Appropriate communication should be prepared in agreement with the DSO/JCX to ensure that as far as possible there is no damage to the post holder's reputation.

Action short of Dismissal

A decision to take action short of dismissal should be communicated in writing to the DSO/JCX with rationale for the decision. The DSO/JCX has the right to appeal to the Disciplinary Appeals Committee against this decision.

Recommendation to dismiss

If there is a recommendation to dismiss, the reports of the AC and the II should then be sent to Independent Persons Panel (IPP) for its consideration. The DSO/JCX may make written representation to the IPP.

Composition, role and process of the IPP

The IPP will be a committee of the Council, appointed under section 102(4) of the Local Government Act 1972, and will comprise only independent persons (at least two) appointed under S28 (7) of the Localism Act 2011. Appropriate training should be provided to these independent members. Both parties should be present or represented* at the meeting. The IPP should receive any oral representations from the DSO/JCX in which case it should invite any response of behalf of the AC to the points made, and may ask questions of either party. The IPP should review the decision and prepare a report for Council. This report should contain clear rationale if they disagree with the recommendation to dismiss.



Report to full Council

Following consideration by the IPP a report will be presented to Council. This report should comprise the recommendation of the AC, the II's report and any comments on the recommendations for dismissal from the IPP. In the light of this information, Council should consider the recommendation to dismiss. The DSO/JCX should be allowed to attend this meeting and address the Council. The II may also be invited to attend to provide clarification if required. Following this consideration Council should either confirm or reject the recommendation to dismiss. It may at this stage impose a lesser sanction (in which case there would be no right of appeal)



Notice of dismissal and Executive Notification Procedure

The DSO/JCX will not be issued with the notice of the dismissal until:

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

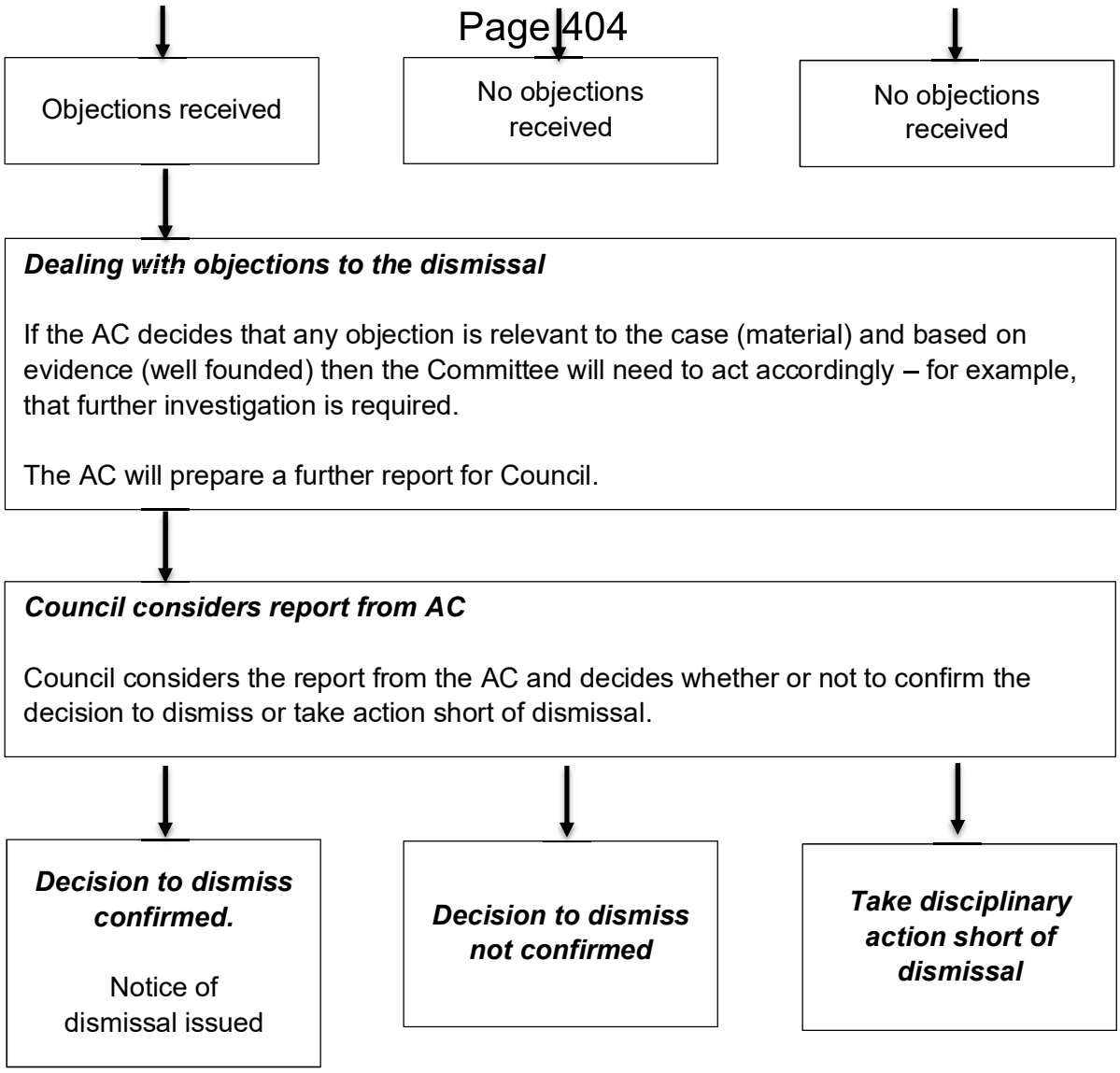
b) the proper officer has notified every member of the executive of this information together with the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the executive to the proper officer; and

(c) either—

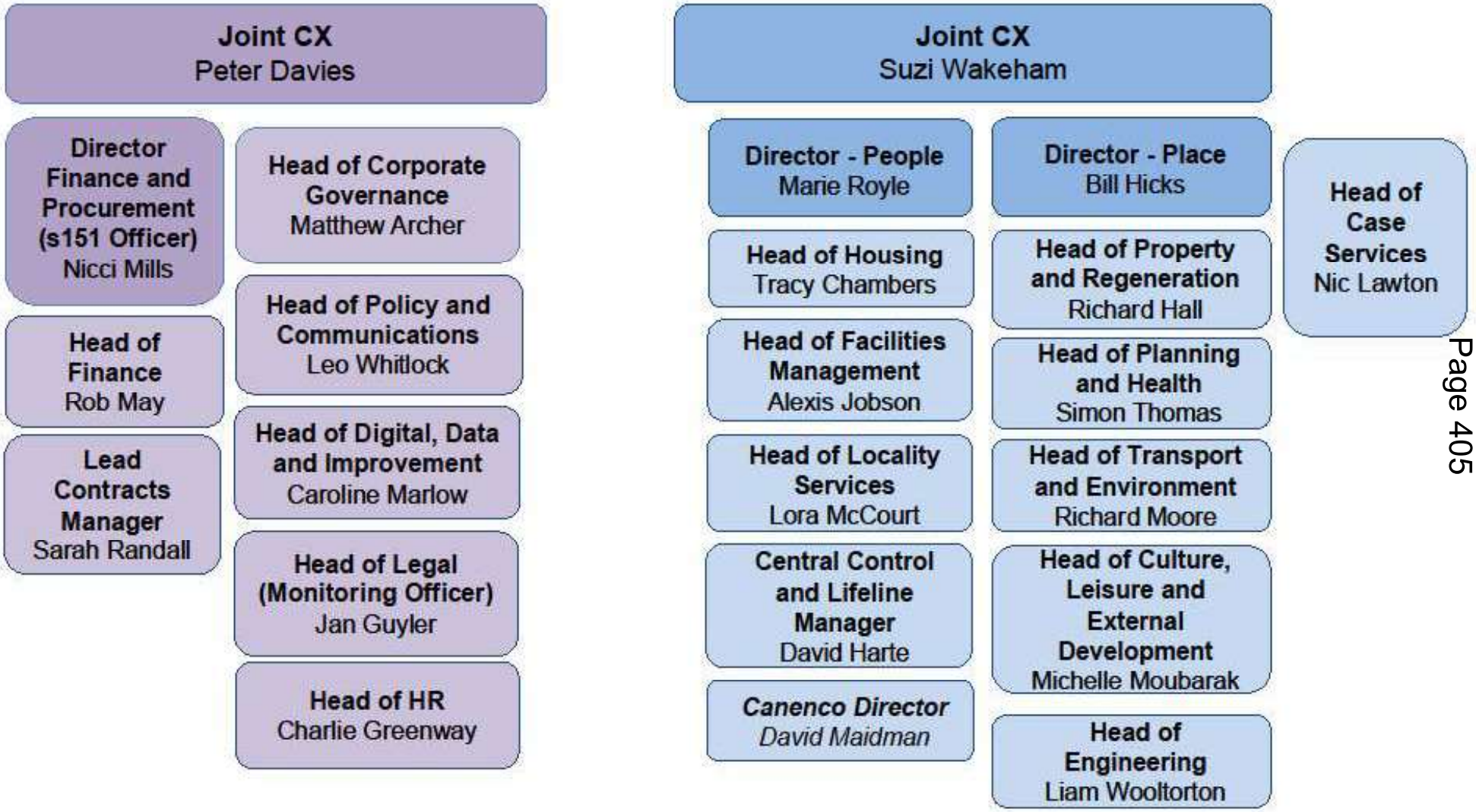
  (i) the Leader has, within the period specified, notified the Council that neither he nor any other member of the executive has any objection to the dismissal;

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

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


Objections received
No objections received
No objections received
Dealing with objections to the dismissal
If the AC decides that any objection is relevant to the case (material) and based on evidence (well founded) then the Committee will need to act accordingly – for example, that further investigation is required.
The AC will prepare a further report for Council.
Council considers report from AC
Council considers the report from the AC and decides whether or not to confirm the decision to dismiss or take action short of dismissal.
Decision to dismiss confirmed.
Notice of dismissal issued
Decision to dismiss not confirmed
Take disciplinary action short of dismissal

Senior Management Team Structure Chart



Appendix O

Council Companies

1. **Introduction**

The Council has various statutory powers to enable it to set up a company which may take various forms (Council Owned Entity – COE). The Council must effectively manage the relationship between the Council and the COE to ensure that the COE can deliver the objectives established for it by the Council and to ensure transparent and robust governance processes for both the Council and the COE.

The Council currently has three such entities -

- Canenco (Local Authority Trading Company) – responsible for the delivery of waste collection and grounds maintenance services

- Stour Environment Credit Ltd (Joint Venture Company) - responsible for the provision of environmental credits to developers to enable development

- PartnershipOne (Joint Venture Company) - responsible for the delivery of Revenues (including council tax and business rates collection), Benefits and front-line customer services

2. **Principles of Governance of COEs**

Any decisions or recommendations in relation to COEs shall be formed with clear reference to the principles outlined below.

3. The Council's governance arrangements will seek to ensure the following:

Appropriate Controls and Freedoms

- The COE will be provided with sufficient freedoms to allow it to achieve its objectives, but
- The Council will retain sufficient controls to ensure that its investment is protected, that appropriate social and financial returns on investment can be obtained in line with the COE's confirmed in the business case and business plan and that the trading activities of the COE are, wherever possible, conducted in accordance with the values of the Council.

Appropriate Relationships, Integrity and Accountability

- Procedures operate in a way that protects the commercial interests of the COE, those procedures will ensure that the Council can carry out its functions as an investor, as a trustee of public funds and a Council committed to due responsibility for the exercise of its functions.
- The Cabinet, a Cabinet Committee or the Leader can make decisions based upon complete and accurate consideration of COE business plans or proposals,
- The Cabinet, a Cabinet Committee or the Leader can evaluate social and financial benefits and returns in line with the business plan, and
- The Council's Overview and Scrutiny Committee(s) are able to exercise their powers in relation to the Cabinet's decision making.

Understanding of roles of the Council and the COE

- That there is sufficient induction, regular training and other materials in place so that:

    - their legal duties,
    - stewardship of assets,
    - the provision of the governing documents,
    - the external environment, and
    - the total structure of the Council and the COE

are appropriately understood by Councillors in their various roles including as a Member of the Council, the Cabinet, Overview and Scrutiny Committees, Guarantor Board, by officers of the Council and by Directors of the COE and that the standards outlined in the Lawyers in Local Government Code of Practice are met.

4. Roles, Responsibilities and Decision Making

The creation of any new COE (including subsidiaries) or significant change in purpose of an existing COE is a Key Decision and will require a business case. The relevant Portfolio Holder will be consulted in the development of the business case and the business case must be approved in accordance with the Cabinet decision making processes outlined in Article 6 – Executive Functions, Rules and Procedures and Appendix D – Access to Information procedure rules.

5. The Council is the Guarantor/ Owner for each COE. As a default this function is discharged by the Leader of the Council. The Guarantor/ Owner can appoint a Guarantor Representative which will usually be a Corporate Director or a senior officer appointed to act on their behalf. The Guarantor/ Owner or Guarantor Representative will ordinarily approve all reserved matters unless referred to Cabinet/Cabinet Committee or the Leader. Reserved matters are matters that are reserved for decision by the Council.

6. Reserved matters follow the Council's Cabinet decision making processes set out in Article 6 – Executive Arrangements and will be treated as subject to Appendix D – Access to Information Procedure Rules. Decision on Reserve matters relating to companies where the council has a controlling interest, or a minority interest will be taken in the same manner as wholly owned COEs. The constitution notes that in the case of COEs which are not wholly owned a Cabinet Decision is subject to the consent of the other guarantors in the entity which shall be governed in accordance with the provisions of the relevant Guarantor Agreement.

7. Each wholly owned COE will be governed by a formally constituted Board which is tasked with delivering the Guarantor's objectives and informing the Guarantor/ Owner on strategic and key operational matters.

8. The appointment and dismissal of Directors (including non-executive Directors) is a reserved matter for the Guarantor/ Owner/ Owners. Directors are responsible for the management of the business of the COE with exception of the reserved matters.

9. The City Council's Overview and Scrutiny Committee(s) are responsible for scrutiny of the Cabinet's decisions in relation to COEs and can make recommendations to the Cabinet on COE related matters. Cabinet decisions on COEs are subject to the Call-in processes outlined in Article 6.

10. Scrutiny Committees can invite COE representatives to attend meetings to provide

information to support the scrutiny of the Cabinet. This does not extend to scrutiny of the COE and its performance.

11. Access to Information - refer to the Access to Information Procedure Rules in the constitution, which covers access to meetings and documents of the Council, the Cabinet and its Committees.

12. Reserved matters which require Guarantor/ Owner consent are defined in the Articles of Association or Guarantor Agreement for each COE. The process for approving and recording decisions relating to reserved matter will be defined within the Guarantor Agreement and will be consistent across all COEs as far as possible. Such decisions are Cabinet Decisions and are also captured by the Council's Access to information Procedure Rules.

13. Each COE will maintain strong controls framework with adequate financial records which meet appropriate company standards. Each should have the documents set out below:

- Business Case – assesses the risks and benefits involved in the creation of proposed COEs
- Articles of Association – sets out the constitution of the COE
- The Guarantor Agreement – sets out the rights of the Council as the sole/co-guarantor and how it can exercise those rights
- The Funding Agreement – sets out what financial assistance is to be provided by the Council to the COE and on what terms
- The Business Plan – forward looking, setting out what the COE will do and the objectives of the business and how they are to be achieved
- The Guarantor Annual Report – looking back, providing a review of progress against the one year business plan
- Guarantor Board Agenda and summary or meeting discussions and decisions
- Annual performance reports

14. All of the above documents and details about which individuals sit on the Guarantor Board and Board of Directors are accessible by Councillors and members of the public unless they contain exempt or confidential information.

Appendix P

Protocol for live streaming of meetings

Hybrid meetings - general

The **purpose** of hybrid meetings is to allow certain individuals to take active part in committee meetings or briefings remotely when they are not able to attend the venue in person.

1. Hybrid committee meetings

Who can take part in a hybrid committee meeting remotely?

- Officers from third parties who need to take active part but who are not able to attend in person.
- Council officers who need to take active part but are not able to attend in person.
- Elected members who are not members of the committee, but who need to be present to answer questions and cannot attend in person e.g. Cabinet Members

Once the meeting software allows for a waiting room facility, members of the public who have registered to speak on items will be offered the opportunity to attend remotely. Pre-recorded contributions will not be introduced initially due to the added complexity of incorporating speakers into the virtual arrangements.

Who cannot take part in a hybrid committee meeting remotely?

- No elected member who intends to cast a vote can join a committee meeting remotely: they must be physically present.
- Any individual not taking an active part in a committee meeting; they do not need hybrid access as they can watch / listen to the meeting streamed online.

Advice for all before the committee meeting starts:

- Sit in a quiet space with good lighting and a neutral, plain background
- Make sure you are not in silhouette
- Test your microphone and camera before the meeting starts
- Plug in your meeting device, or make sure it has sufficient battery
- Test your wifi connection, and if necessary take steps to ensure you have the best connection possible (ask other people using your wifi to refrain from using excessive bandwidth while you are in the meeting).
- Mute notifications on your device (e.g. calendar appointments, chat notifications) just before you join
- Mute your mobile phone

Hybrid Committee meetings - general points to note

1. Hybrid committee meetings will be live-streamed via the Council's YouTube channel and website.

2. Hybrid Committee meetings will be recorded, so an audiovisual record of each meeting will be available to the public on the Council's website after each meeting has ended.
3. Members of the public attending in person to observe or speak, or taking part remotely to speaker, should be aware that they may appear on camera.
4. If you attend a hybrid meeting in person at the Guildhall and do not wish to appear on camera please make an officer aware or email democracy in advance of the meeting
5. The live stream of a hybrid committee meeting cannot be 'adjourned, only 'ended', so if there is poor remote communication, disturbance in the chamber or any other communication difficulty, a timed period of adjournment can be affected by manually switching off the cameras and mics within the chamber and remotely, but the stream will not be halted.
6. All individuals taking part in hybrid committee meetings must ensure that no sensitive documents or materials are visible via the cameras used.

Hybrid Committee meeting protocols for officers and third parties

1. Join the meeting five minutes before the meeting start time, if you are attending the entire meeting, with your camera on but your mic off. If you are attending for a particular item only, please listen and follow the agenda online then join ready for you item.
2. For third parties, the DSO will admit you to the meeting. Be aware that you will be entering straight into the live meeting (not a waiting room) so your mic should be muted, your camera should be on and you should be ready to be on camera.
3. Ensure that the name you display on joining the meeting is correct.
4. Keep your microphone muted until invited to speak by the Chair.
5. Let the DSO / Chair know if you want to speak or respond to a point by raising a virtual hand (press the raised hand icon third from right on the bottom row of icons. To cancel the raised hand, press it again) and wait to be invited to speak.
6. Do not use the in-meeting chat facility, unless it is to alert the DSO to technical issues. Be aware that anything written in the in-meeting chat may be seen by everyone 'present' in the Google Meet.
7. Have your camera on for the duration of the item / meeting, but your mic off when not speaking.
8. If you need to leave a meeting early, let the DSO know by sending a Google chat message.
9. You must share any presentation/s you are planning to give during the meeting with the DSO before the meeting starts, so that members have a back-up if the connection is poor.
10. The Chair may decide, if an officer's connection is poor and clear communication is not possible, to remove the officer from the meeting. The Chair may then decide whether to defer the item the officer was present to advise upon, or not.

Hybrid committee meeting protocol for elected members

1. No political insignia like rosettes and badges, either physically or ‘virtually’ in the form of avatars, etc, are to be worn.
2. Join the meeting five minutes before the meeting start time, if you are attending the entire meeting, with your camera on but your mic off. If you are attending for a particular item only, you can watch or listen to the broadcast and join 2 minutes before its scheduled start time / the DSO will message you when your item is about to start.
3. Ensure that the name you display on joining the meeting is correct.
4. Have your camera on for the duration of the item / meeting, but your mic off when not speaking.
5. Let the DSO / Chair know if you want to speak or respond to a point by raising a virtual hand (press the raised hand icon third from right on the bottom row of icons. To cancel the raised hand, press it again) and wait to be invited to speak
6. Do not use the in-meeting chat facility, unless it is to alert the DSO to technical issues.
7. If you need to leave a meeting early, let the DSO know by sending a Google chat message.
8. Do not attempt to share your screen.
9. The Chair may decide, if an elected member’s connection is poor and clear communication is not possible, to remove the elected member from the meeting. The Chair may then decide whether to defer the item the elected member was present to advise upon, or not.