

DEMOCRACY AND GENERAL PURPOSES COMMITTEE MEETING

Date: Wednesday 26 January 2022
Time: 6.30 pm
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Mrs Blackmore (Vice-Chairman), Cooke, Cooper, English, Hastie, McKay, Perry, Purl (Chairman) and R Webb

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

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1. Apologies for Absence	
2. Notification of Substitute Members	
3. Urgent Items	
4. Notification of Visiting Members	
5. Disclosures by Members and Officers	
6. Disclosures of Lobbying	
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
8. Minutes of the Meeting Held on 23 November 2021	1 - 4
9. Presentation of Petitions (if any)	
10. Question and Answer Session for Members of the Public	
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Issued on Tuesday 18 January 2022

Continued Over/:



Alison Broom, Chief Executive

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PART II

To move that the public be excluded for the items set out in Part II of the Agenda because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test.

Head of Schedule 12 A and Brief Description

19. Exempt Appendix 2 (Independent Remuneration Panel - Recruitment of Independent Person) Interview Assessment Form	Paragraph 1 – Information relating to an individual	224 - 226
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INFORMATION FOR THE PUBLIC

In order to ask a question at this meeting, please call **01622 602899** or email committee@maidstone.gov.uk by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Monday 24 January 2022). You will need to provide the full text in writing.

If your question is accepted, you will be provided with instructions as to how you can access the meeting.

In order to make a statement in relation to an item on the agenda, please call **01622 602899** or email committee@maidstone.gov.uk by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Monday 24 January 2022). You will need to tell us which agenda item you wish to speak on.

If you require this information in an alternative format please contact us, call 01622 602899 or email committee@maidstone.gov.uk.

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MAIDSTONE BOROUGH COUNCIL

DEMOCRACY AND GENERAL PURPOSES COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY 23 NOVEMBER 2021

Present: Councillors Mrs Blackmore, Cooke, Cooper, English, Kimmance, Perry, Purle (Chairman) and M Rose

Also Present: Councillors Brindle, Harper, Newton, Spooner and Springett

57. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Hastie and R Webb.

58. **NOTIFICATION OF SUBSTITUTE MEMBERS**

Councillor Kimmance was present as a Substitute for Councillor Webb.

59. **URGENT ITEMS**

There were no urgent items.

60. **NOTIFICATION OF VISITING MEMBERS**

Councillors Brindle, Harper, Newton, Spooner and Springett were present as Visiting Members for Item 14 – Church Road, Otham Review.

Councillor Harper was present as a Visiting Member for the following additional items:

Item 15 – Governance Working Group – Update;

Item 16 – Local Government Boundary Review – Council Size Submission;
and

Item 17 – Whole Council Elections – Further Options.

61. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

62. **DISCLOSURES OF LOBBYING**

Councillors Blackmore, Cooke, Kimmance and Perry had been lobbied on Item 14 – Church Road, Otham Review.

Councillors Perry and Cooke had been lobbied on Item 16 – Local Government Boundary Review – Council Size Submission.

Councillor Cooke had been lobbied on Item 17 – Whole Council Elections – Further Options.

63. EXEMPT ITEMS

RESOLVED: That all items be taken in public as proposed.

64. MINUTES OF THE MEETING HELD ON 8 SEPTEMBER 2021

RESOLVED: That the Minutes of the meeting held on 8 September 2021 be approved as a correct record and signed.

65. PRESENTATION OF PETITIONS

There were no petitions.

66. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

67. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

68. COMMITTEE WORK PROGRAMME

RESOLVED: That the Committee Work Programme be noted.

69. REPORTS OF OUTSIDE BODIES

There were no reports of Outside Bodies.

70. CHURCH ROAD, OTHAM REVIEW

The Head of Policy, Communications and Governance introduced the report which had been requested by the Policy and Resources Committee to identify lessons learnt in relation to the refusal of the planning application at Church Road, Otham. The lines of enquiry set by this Committee had been followed, and assistance provided by an independent expert.

The Monitoring Officer explained that planning and legal officers work to their professional code of conduct and should not be expected to change their professional view in order to agree with Members' opinions. Members were entitled to take a different view to officers after full consideration of the matters before them and officers could assist Members with drafting where they could see arguable sustainable grounds for a position, but otherwise it was for Members to come to a decision. It was stated that care must be taken to comply with the Member Code of Conduct to not compromise the integrity of officers.

The Committee expressed that the Highways Authority, Kent County Council (KCC), as a statutory consultee provided evidence to them which the committee had weighed against conflicting advice from Planning Officers. The highways evidence was considered to have added weight because KCC seldom raise such objections. There was significant local concern and pressure to refuse the application, and Members felt that the highways objections should be tested on the evidence. Members considered that they had taken their decision in knowledge of the facts and it was felt that experienced Planning Committee Members did not need further training as recommended.

It was acknowledged that it would be beneficial for members of the public to be provided with more information on the planning process and how objections were considered.

In passing their resolution it was noted that the review would be reported to Policy and Resources Committee alongside the views of the Committee.

RESOLVED: That the report not be accepted, with the exception of recommendation d) that more information be provided to the public on the planning process and how objections are considered, with additional information to be added to the Council's website.

71. GOVERNANCE WORKING GROUP - UPDATE

The Head of Policy, Communications and Governance introduced the report and asked the Committee to refer to the timetable which set out the proposed approach to developing the new constitution. The Committee was also asked to review the Governance Arrangements Working Group membership to ensure all groups were represented.

In response to comments, the Monitoring Officer advised that the code of conduct was not within the Committee's remit, but would be for the Audit, Governance and Standards Committee to consider if necessary.

RESOLVED: That

1. The Governance Arrangements Working Group membership be amended to add Councillors Munford and Hastie to ensure all groups of the Council are represented; and
2. The proposed approach and timetable to the drafting of the new constitution be noted.

72. LOCAL GOVERNMENT BOUNDARY REVIEW - COUNCIL SIZE SUBMISSION (REPORT TO FOLLOW AFTER MEMBER EVENT)

The Democratic and Electoral Services Manager introduced the report and explained that the timetable had been revised and circulated to the Committee separately. The last of the three Member workshops achieved a council size recommendation of 48, with 75% voting in favour. Individuals and groups could submit their own size recommendation to the

Local Government Boundary Commission for England (LGBCE), but if the Council did not put forward their own submission there was a risk that a size would be imposed by the LGBCE that the Council did not support.

Concern was expressed about Councillor workload and the potential for this to be increased if the number of Members was reduced, and several Members expressed a preference to retain the current Council size. However, it was acknowledged that the evidence presented made a strong case for a size submission of 48 and that this would be supported.

RESOLVED: That Council be recommended to approve the Council Size Submission document, as attached at Appendix A to the report, as the Council's formal submission to the Local Government Boundary Commission for England as part of the Council's Local Government Boundary Review.

73. WHOLE COUNCIL ELECTIONS - FURTHER OPTIONS

The Democratic and Electoral Services Manager introduced the report which set out further options on whole council elections, as requested by the Committee as the motion on whole council elections was not passed at Council.

RESOLVED: That the options available on whole council elections be noted.

74. DURATION OF MEETING

6.30pm to 8.11pm.

2021/22 WORK PROGRAMME

	Committee	Month	Origin	CLT to clear	Lead	Report Author
Governance Review Working Group Update	D&GP	16-Feb-22	Officer Update		Angela Woodhouse	Angela Woodhouse
LGBR Update - Consultation Response Principles and Outline	D&GP	16-Feb-22	Officer Update		Ryan O'Connell	Ryan O'Connell
Revised Constitution	D&GP	09-Mar-22	Officer Update		Angela Woodhouse	Angela Woodhouse
LGBR Update - Proposed Consultation Response	D&GP	09-Mar-22	Officer Update		Ryan O'Connell	Ryan O'Connell
Member Training & New Governance / Constitution	D&GP	TBC	Cllr Request		TBC	TBC
Committee Meeting Times	D&GP	TBC	Cllr Request		TBC	TBC
 Local Government Reform	D&GP	TBC	Cllr Request	Yes	Alison Broom	Angela Woodhouse

**DEMOCRACY AND GENERAL
PURPOSES COMMITTEE**

26 JANUARY 2022

**Independent Remuneration Panel – Appointment of
Independent Person**

Final Decision-Maker	COUNCIL
Lead Head of Service	Angela Woodhouse (Head of Policy, Communications and Governance)
Lead Officer and Report Author	Lara Banks (Democratic Services Officer)
Classification	<p>Public report with private appendices.</p> <p><u>Exempt Category</u> – the information contained within Appendices 2-3 is considered exempt under the following paragraph of Part 1 of Schedule 12A to the Local Government Act 1972: Paragraph 1 – Information relating to any individual.</p> <p><u>Public Interest Test</u> - it is not in the public interest to make the information contained in this exempt Appendix public as to do so would reveal personal details of a member of the public who has applied to serve as an Independent Person. Similarly, it would be inappropriate to conduct the interviews in public because of the likely disclosure of information relating to an individual.</p>
Wards affected	All

Executive Summary

Ahead of the Council’s move to executive arrangements, the Independent Remuneration Panel is required to meet to make their recommendations to Council on the Member Allowance Scheme. In order to do this, a third member of the panel needs to be appointed.

Purpose of Report

Decision.

This report makes the following recommendations to this Committee:

1. To consider the applications received to fill the vacancy on the Independent Remuneration Panel
2. That a recommendation be made to Council for the preferred candidate to be appointed as an Independent Person on the Independent Remuneration Panel for the review taking place in February 2022.

Timetable	
<i>Meeting</i>	<i>Date</i>
Democracy and General Purposes Committee	26 January 2022
Council	31 January 2022

Independent Remuneration Panel – Appointment of Independent Person

1. INTRODUCTION AND BACKGROUND

- 1.1 In accordance with the requirements of the Local Authorities (Members' Allowances) (England) Regulations 2003, the Council is required to have an Independent Remuneration Panel (IRP), the purpose of which is to make recommendations to the Council on its Members' Allowance Scheme and that of Parish Councils.
 - 1.2 These include recommendations on childcare allowances, pension arrangements, and travel and subsistence among other considerations.
 - 1.3 The Council will be moving to an executive system of governance from its next annual meeting for the Municipal Year 2022/23. The IRP is required to meet to review the Members Allowance Scheme ahead of the new governance arrangements coming into place.
 - 1.4 The panel consists of three Members, and there is currently one vacancy. This was advertised on the Council's website and the advert can be seen at Appendix 1.
 - 1.5 It is proposed that the interview be conducted in private because of the likely disclosure of information relating to an individual.
 - 1.6 As no applications had been received at the time of publication, the deadline for submission has been extended and applications will be sent to Committee Members for their consideration ahead of the interviews.
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2. AVAILABLE OPTIONS

- 2.1 That the Committee recommend to Council the appointment of an Independent Person to the Independent Remuneration Panel.
 - 2.2 That the Committee do not recommend to Council the appointment of an Independent Person to the Independent Remuneration Panel. This is not recommended as it would prevent the review of the Members' Allowance Scheme ahead of the change to the governance system.
-

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 That the Committee recommend to Council the appointment of an Independent Person to the Independent Remuneration Panel. This will ensure that a full panel is able to meet on the 8th and 22nd February 2022 to

agree the Members' Allowance Scheme, which can then be recommended to Council within the appropriate timeframe.

4. RISK

- 4.1 There is a risk that an unsuitable person will be appointed to serve on the panel, however the selection process is designed to minimise this possibility.
-

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 The Committee will interview the candidates and recommend the appointment of the preferred candidate to full Council at their meeting on 31st January 2022.
- 5.2 The IRP will then meet on the 8th February and 22nd February 2022.
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6. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Job advert
 - Exempt Appendix 2: Interview Assessment Form
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7. BACKGROUND PAPERS

None.



MAIDSTONE BOROUGH COUNCIL

INDEPENDENT REMUNERATION PANEL

INDEPENDENT MEMBER REQUIRED

Applications are invited from members of the public to sit on the Independent Remuneration Panel for Maidstone Borough Council. The panel consists of three Members, and there is currently one vacancy.

The successful applicant will take part in making a recommendation to the Authority on the amount of allowances that should be payable to elected members for various roles, responsibilities and arrangements. These will include making recommendations on child care allowances, pension arrangements, and travel and subsistence among other considerations.

In accordance with the requirements of the Local Authorities (Members' Allowances) (England) Regulations 2001, the Council is required to have an Independent Remuneration Panel whose purpose is to make recommendations to the Council on its Members' Allowance Scheme and that of Parish Councils.

Applicants must be able to demonstrate political impartiality, a high degree of personal integrity, and be able to analyse information and reach conclusions for consideration by the Council as a whole.

You should live or work in the Borough but cannot be considered for the appointment if you:-

- Have been an employee of the Council in the last five years or are a current employee;
- Are a Member of the Council to which the Panel makes its recommendations;
- Are a relative or close friend of an employee or Member of the Council;
- Are disqualified from being or becoming a member of an authority.

KEY DATES

Applicants must be available for the following key dates:

Wednesday 26 January 2022, 6.30pm – Interviews held at the Town Hall, Maidstone

Tuesday 8 February 2022, 9.30am – 4.00pm – Meeting of the Independent Remuneration Panel

Tuesday 22 February 2022, 9.30am – 4.00pm – Meeting of the Independent Remuneration Panel

There is no remuneration for this position but subsistence and travelling expenses would be paid.

For an informal discussion about this appointment, please contact Ryan O'Connell, Democratic and Electoral Services Manager on 01622 602503.

For an application form, please e-mail: committeeservices@maidstone.gov.uk

The closing date for applications is Friday 14 January 2022.

**DEMOCRACY AND GENERAL
PURPOSES COMMITTEE**

26 January 2022

Workforce Strategy Update Report

Final Decision-Maker	Democracy and General Purposes Committee
Lead Head of Service	Stephen McGinnes, MKS Director
Lead Officer and Report Author	Bal Sandher, Head of HR Shared Services
Classification	Public
Wards affected	No wards

Executive Summary

The Council has had a Workforce Strategy since 2008 and this has been reviewed and developed as the priorities and environment have changed. As part of the approval the Policy and Resources Committee requested that the Employment Committee should receive progress updates twice per year. Following the Committee Structure Review undertaken by the Democracy Committee in the 2018/19 municipal year, the functions of the Employment Committee now fall under the Democracy and General Purposes Committee.

At Appendix 1 the report sets out the progress made against the action plan that supports the Workforce Strategy.

Purpose of Report

The report is for noting.

This report makes the following recommendations to this Committee:

1. That the progress of the actions set out in the Workforce Strategy be noted.

Timetable

Meeting	Date
Democracy and General Purposes Committee	26 January 2022

Workforce Strategy Update Report

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The Workforce Strategy has an impact on all aspects of the corporate priorities.	Bal Sandher, Head of HR
Cross Cutting Objectives	The Workforce Strategy has an impact on all objectives.	Bal Sandher, Head of HR
Risk Management	The overarching risk is that if the council does not have a Workforce Strategy it may fail to put in place the appropriate resources to implement actions to deliver the priorities and outcomes for delivery of the Council's Strategic Plan.	Bal Sandher, Head of HR
Financial	Workforce costs are the single biggest area of expenditure for the Council, accounting for around half of the Council's total budget. The Workforce Strategy therefore has a financial impact, but this is costed within the normal annual budget. Specific initiatives described within this report are also funded from within existing budgets.	Section 151 Officer & Finance Team
Staffing	The Workforce Strategy will have an impact on staff – this should be a positive impact as we work to ensure that there are improvements.	Bal Sandher, Head of HR
Legal	Although there may be specific actions arising out of the Strategy that require legal input, there is nothing identified in the plan overall that will have legal implications.	(Corporate Governance), MKLS
Privacy and Data Protection	No personal data is contained in the report.	(Corporate Governance), MKLS
Equalities	No impact identified because of this update report. As an employer the Council has a duty to fulfil under the Equality Act 2010. This is ongoing and is embedded in the processes to deliver the Work Force Strategy	Equalities and Corporate Policy Officer
Public Health	No impact identified at this time	Bal Sandher, Head of HR
Crime and Disorder	No impact identified at this time	Bal Sandher, Head of HR
Procurement	No impact identified at this time	Bal Sandher, Head of HR

Biodiversity and Climate Change	<p>The work to address the culture change programme will support the action 9.1 of the Biodiversity and Climate Change Action Plan:</p> <p>Provide briefings and training for Councillors and Officers on climate change and biodiversity to create a culture change and ensure climate change and biodiversity are integrated into decision making</p>	Biodiversity and Climate Change Officer
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2. INTRODUCTION AND BACKGROUND

2.1 The current key themes of the Workforce Strategy are:

- Organisation culture and change;
- Resourcing;
- Development, and
- Reward.

There has been progress against all the themes, much of which is cross cutting and affects more than one theme.

2.2 Organisation culture and change

2.2.1 There have been a number of initiatives that we have implemented to support the work we started on culture change caused by the changing working practices due to Covid-19. To further support the work on culture change, consultants from RedQuadrant have been appointed and will be working with us on this project. In December, the project kick-off meeting for the Culture Change Project took place with RedQuadrant. The work will consist of three streams of activity. The first stream focuses on leading culture change with culture specialists working with our Wider Leadership Team. The outcomes of this work will result in our leader's role modelling the desired behaviours and ensuring symbols of culture reflect and enable the desired culture. The second stream brings together representation of the whole system to enable us to capture and share many of the changes that have already happened due to Covid which we want to encourage and sustain. The third stream, is focussed on identifying, recognising and building upon those people and interventions that are already positively impacting our culture and ensuring that we celebrate and encourage others to participate. Over the next six months we will be supported by RedQuadrant to ensure the positive impacts of this work which will set us up with new ways of working and interactions that will support our on-going cultural success.

2.2.2 The senior structure of the council is also being reviewed and proposals on a new design is currently being explored. The changes in the senior level structure will ensure the Council can deliver the Strategic Plan in terms of our priorities which includes work on affordable housing, town centre strategy and spatial planning. The proposals will also include

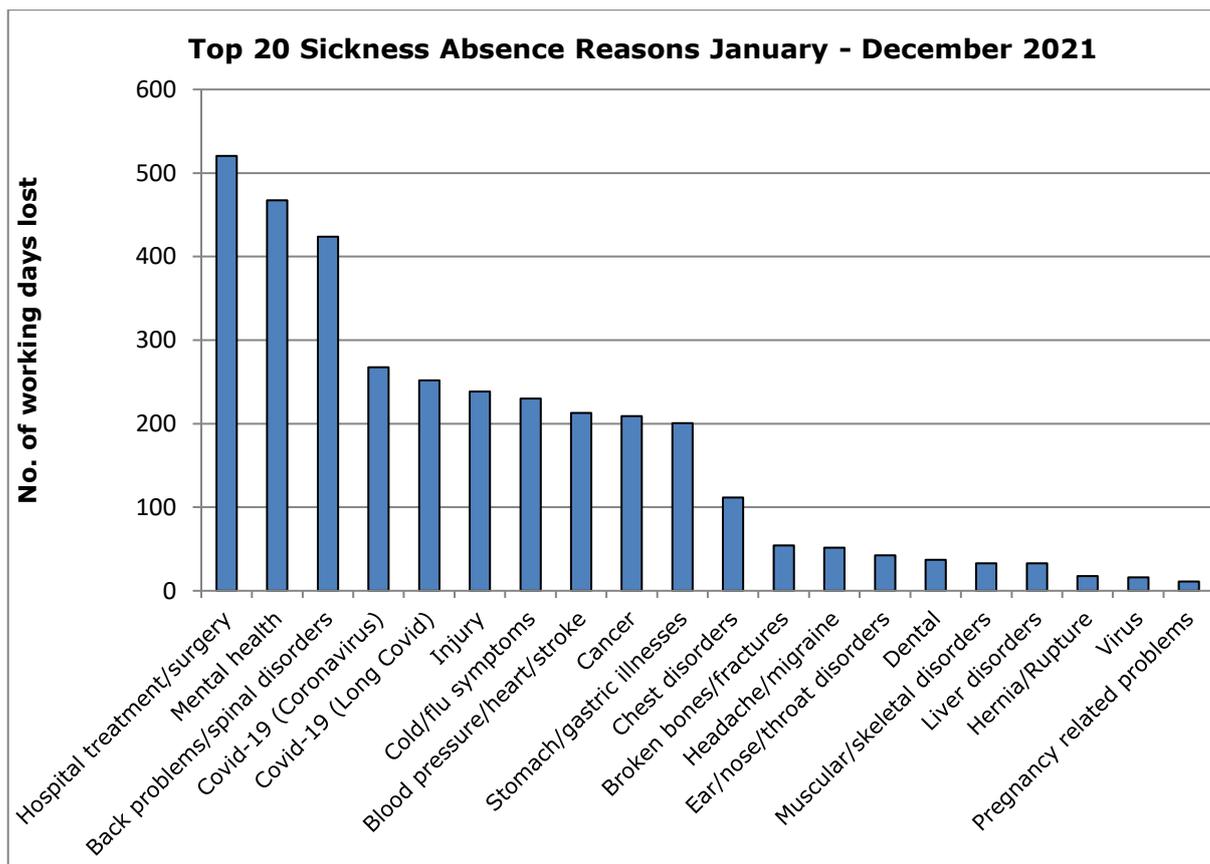
development opportunities for our senior staff to ensure job enrichment for post holders.

- 2.2.3 The engagement group that was set up earlier in the year and made up from staff across the council have been meeting up regularly to discuss and action new ways of improving employee engagement. The representatives on the group take ideas back to their teams to consider and bring their feedback to the next group meeting. We are shortly launching "Let's talk....." a virtual opportunity to get together with work colleagues for an informal catch-up. The first session took place in December and was "Let's talk...Christmas". The Group are also setting up One Service sessions, which will be quarterly online webinars run by different services to share their knowledge with other people. The first One Service in the new year will be led by the IT Team and will be on keeping people cyber secure (both at home as well as in the workplace).
- 2.2.4 The annual STRIVE awards normally take place as part of the One Council event that is held in February. The staff Engagement Group are currently discussing with their teams thoughts for this year's STRIVE Awards, which was explored in the meeting held in December to agree how the event will run during this year.
- 2.2.5 The staff Engagement Survey was carried out 2 years ago. Another engagement survey will go out to all staff to complete in January 2022. The survey will be the same as that run 2 years ago designed and delivered internally by our Policy Team. The results of the survey will be communicated to everyone and action planning based on the outcomes of the survey will be carried out by Wider Leadership Team and the Maidstone Engagement Group.

2.3 Resourcing

- 2.3.1 The council absence rates are closely monitored on a monthly and quarterly basis. The number of days lost due to sickness absence continue to remain low; the absence rate per Full Time Equivalent (FTE) for the year January to December 2021 was 6.75 days.

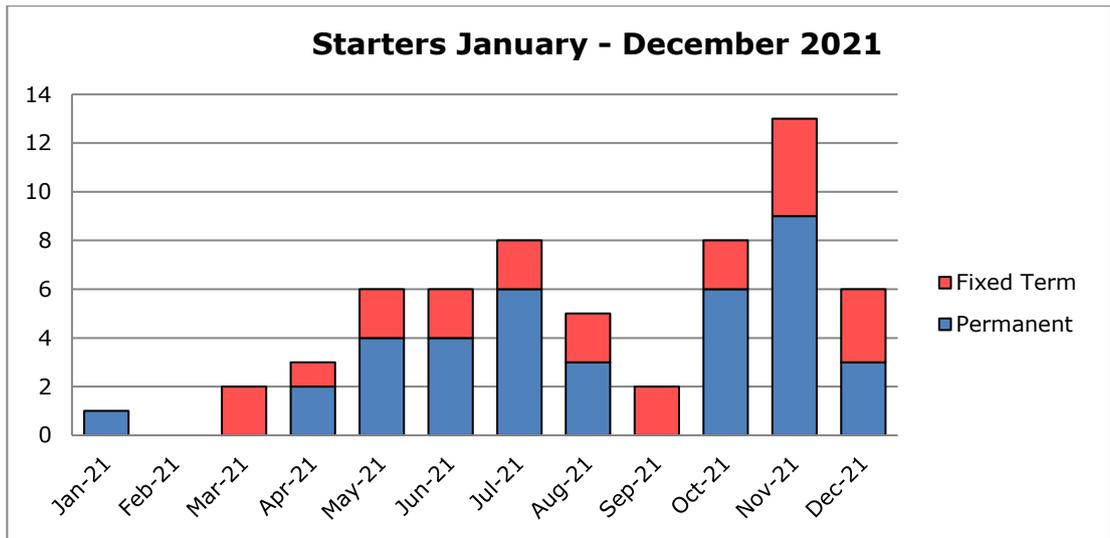
The most common reasons for sickness are shown in the chart below:



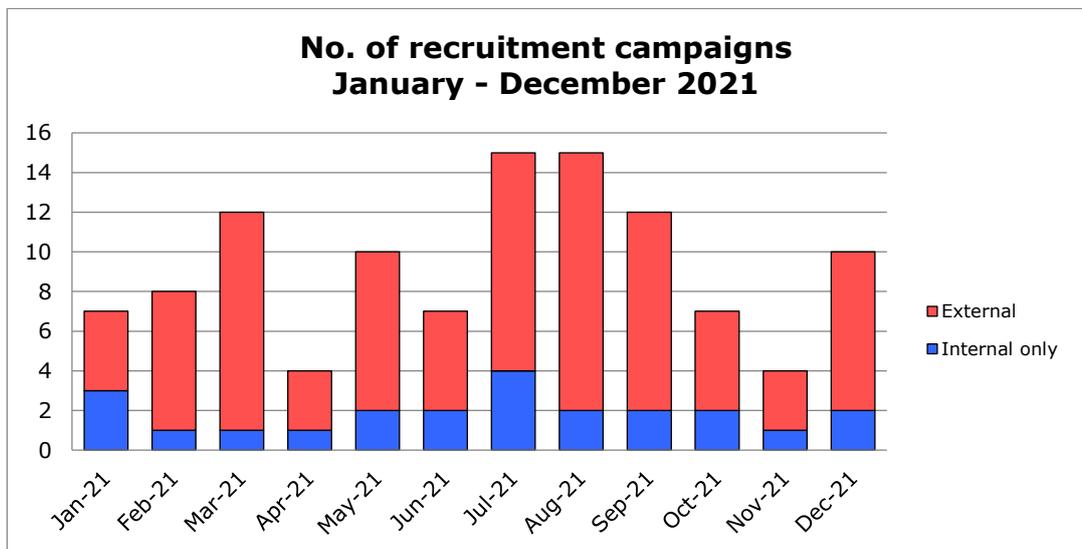
Hospital treatment/surgery was the main reason for sickness absence in 2021 with 520.4 working days lost, followed by mental health problems at 467.49 working days lost, and back problems/spinal disorders at 423.93 working days lost. During 2019/2020, mental health was the main reason for sickness absence with a total of 871 days lost, however figures have substantially fallen during 2021/22.

2.3.2 During the period from January to December 2021 the HR team has supported managers in recruiting 60 new staff at the council. This has included permanent and fixed term contracts to various positions at the council. In addition, there were 48 staff on permanent contracts and 12 staff on fixed term contracts that left the organisation over this period.

The Council's turnover during the year January to December 2021 was 9.25%. According to figures published by the Local Government Association in March 2021, the average turnover has been reported as 13.4%. However, the data is based on figures during 2019/20 which is before the pandemic.



A total of 111 recruitment campaigns were carried out during January to December 2021 and includes both internal and external recruitment. The number of recruitment campaigns has risen significantly and has more than doubled since 2020 when a total of 48 campaigns were carried out.



2.3.3 We are currently in the process of recruiting to the Mid Kent Services Director and two Head of Service roles (Head of Mid Kent Audit and Head of Finance). These are critical appointments for the council and we will need to ensure the candidates with the right level of skills and experience are appointed to the posts in order to take the organisation forward.

2.3.4 In November 2018 the council was awarded with the Disability Confident Committed certificate. The Council has been successful in its renewal to Disability Confident status and gained the Committed certificate for a further 3 years. Disability Confident provides

employers with the knowledge, skills and confidence they need to attract, recruit, retain and develop disabled people in the workplace.

2.4 Development

- 2.4.1 There has been further advancements to our HR & Payroll system (iTrent) that we have implemented to allow managers to obtain information for their staff through the system. Manager dashboards are now available in the system which is a powerful tool that provides graphical representations of staff absence, learning and recruitment data. This allows managers to access key information easily from one place and help managers to make informed decisions about their service. We have also introduced organisational charts for staff to view from the system and used e-signatures for our new Hybrid Policy that allowed staff to read and sign the document electronically.
- 2.4.2 The training plan for 2021-2022 has been agreed and focuses on providing a full programme of training and support to managers and frontline staff. Through focus groups we were able to identify the priority training needs for managers which will support them as we all adapt to agile ways of working. New programmes have been run on managing hybrid teams, supporting people through change, and leading with self-compassion. Workshops are being delivered in the office and on-line. We are currently in the process of giving managers access to a web-resource called My SmartPath; this is an online resource with animations, videos, articles, quizzes, expert interviews, etc all with practical ideas for managers to get access to quick help and support on key areas of managing people.
- 2.4.3 The Learning & Development team have continued to provide a programme of training for all staff. So far in the 2021/2022 year, 45 training events have been delivered to staff. This has been a range of online and in-person training covering the full range of programmes in the Training Plan. From January to the end of March 2022, there are a further 36 events available to staff to attend.
- 2.4.4 The pandemic has also required many frontline staff to manage and support difficult conversations with residents. To support frontline staff with these conversations, training is being offered to address issues that relate to mental health, safeguarding and wellbeing. The usual programme of Health and Safety training and Safeguarding training will be available, and the HR Team continue to deliver training in areas such as Managing Change, Recruitment and Selection, Resilient Teams for Managers and Team Facilitation Skills.
- 2.4.5 The Council has 7 apprentices employed within the Council, and a further 7 existing employees studying for professional qualifications as part of an apprenticeship scheme. This enables the council to use the apprenticeship levy to meet the cost of professional training for staff and ensures we will continue to meet the public sector requirement of having 2.3% of the workforce as apprentices.

- 2.4.6 We regularly review our policies to ensure the council complies with current employment law and ACAS guidelines. There are also a number of policies that have been created jointly with Swale and Maidstone Councils. In order to ensure these are up to date, a Joint Policy Group was created with representation from Maidstone Managers, Swale Managers, Health & Safety Officers and Trade Union representatives.

Policies relating to Disciplinary, Capability, Grievance and Attendance Management were amended to reflect improved practices and a new policy on Hybrid Working was created to replace the Home Working Policy in consultation with the group. The new policy supports the changes to working practices and recognises that a shift to a more flexible style of working can bring a number of benefits to the delivery of our services.

As part of the Hybrid Working policy launch, staff were invited to attend webinars and a separate manager webinar was also created for training and guidance. An intranet toolkit is being developed which will hold all the relevant information regarding Hybrid Working.

2.5 Reward

- 2.5.1 The council has commissioned a salary benchmark survey that will be conducted by Korn Ferry (previously known as Hay) to analyse our current pay practice at role level against similar posts for public and not for profit (south east) and Industrial and Service Sector markets sector. The Council's Pay Policy is to pay at the median level and the pay review will help us to identify any changes in the external market that may impact on pay grades as well as remaining competitive in the job market.
- 2.5.2 There have been a number of benefits that have been promoted as well as wellbeing events organised over the last few months.

These have included:

- World Menopause Day on 18th October. Staff were invited to attend a webinar to help raise awareness of the menopause and the support options available to them.
- Flu vaccine clinics were organised in the council offices and the Depot to ensure all staff that expressed an interest were able to have the jab.
- Cycle to work scheme and Tusker car scheme have both been promoted with a number of staff signing up to the schemes
- World Mental Health day in October was promoted to raise awareness on mental health and to highlight the council resources and support available on our eLearning system, support from the Mental Health First Aiders and webinars on areas such as wellbeing and anxiety.
- Our Employee Assistance Provider, Care First held weekly short lunchtime webinars on a variety of health topics

In addition, HR Surgeries have continued to be organised for staff to provide the opportunity to contact a member of the HR team for advice and support on a confidential basis. These are always busy with staff contacting the HR Advisor to ask questions on policies, benefits and contractual issues.

- 2.6 The Workforce Strategy sets out the key themes and there is an associated action plan that has been updated on a regular basis to ensure the council continues to develop. The action plan is at Appendix I.
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3 AVAILABLE OPTIONS

- 3.1 The Committee is asked to note the progress to date and agree that work continues on the current action plan. Members could substitute alternative actions or add to the existing ones.
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4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is for the Committee to note the developments and support the on-going work.
-

5 RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
-

6 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Workforce Strategy was developed with input from the managers in the organisation and discussed with both the trade unions and Staff Forum.
-

7 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Developments based on the Workforce Strategy are regularly communicated to managers and staff through the council's newsletter, Team Talk activities, consultation with trade unions, Managers Forum and by email.
- 7.2 Actions within the Workforce Strategy are regularly reviewed by the Wider Leadership Team and twice a year by the Committee.

8 REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Workforce Plan Progress January 2022

9 BACKGROUND PAPERS

Workforce Strategy

https://www.maidstone.gov.uk/_data/assets/pdf_file/0007/164653/MBC-Workforce-Strategy-2016-to-2020-final-002.pdf

Appendix I Workforce Plan Progress January 2022

Key Theme	Need / Driver	Outcome	Action	Responsibility	Update / Timescale
21 Organisational culture and change	Increased partnership work.	Flexibility in workforce movement.	Secondments arranged into and out of partner sector	HR Manager	Ongoing
	Maintain and develop the organisation culture to be consistent with the values and priorities	Increased levels of employee engagement	Employee engagement survey	Wider Leadership Team (WLT)	Run another engagement survey in Jan 2022 Team talks ongoing. Delivered One Council briefing on 10 Feb 2021 which includes staff awards. Monthly webinars led by CEO continue to be delivered. New staff engagement group created. Hold meetings regularly and develop an engagement plan with involvement of staff group – monitored by WLT
			Team talks/briefs; One Council meetings; Service planning and appraisal		
			Develop a Council engagement plan		
Changes in the way we work	Guidance on agile working for managers and staff	HHR	HR Manager	Framework provided to managers on different workstyles to meet the needs of the business and change in working practices	
				Joint Swale and Maidstone policy on agile working agreed – training provided to managers and staff	
Workforce culture	Organisational culture meets the changes in working practices	HHR	Review behaviours, values and competencies to support agile ways of working Identify structure and processes to support changes Outline future programme of change for the council		

					Update council policies to meet changing working practices and employment law changes – complete Sept 2021
		Training needs for staff on agile working, mental health and wellbeing	Training for staff and managers to support agile working and manage mental health and wellbeing conversations	L&D Manager	Training Plan for 2021-2022 agreed by WLT. Monthly webinars delivered on wellbeing including mental health. Run new programmes on managing hybrid teams, supporting people through change, and leading with self-compassion
Increased income generation including through regeneration and commercialisation	Organisation structure designed to meet key priorities		Senior management structure and development programme Strengthen creative and innovation skills Expansion of Payroll services	Chief Executive Officer (CEO) with Corporate Leadership Team (CLT) and WLT HHR	Review current senior management structure in order to meet council priorities– April 2022 To be delivered through the culture change programme Payroll service for Dartford Borough council - ongoing. To explore opportunities with other external organisations to expand payroll service.
Senior Leadership is visible	Employees feel that senior leaders are approachable, listen and live the values		One Council briefings, back to the floor and attending local team meetings	Policy, Wider Leadership Team (WLT)	One Council briefings All staff monthly webinars – held virtually Directors attending team meetings – held virtually
			WLT to visit staff during wellbeing week and birthday teas	WLT	On hold.
Employees are engaged with organisation purpose	Employees know where they fit in to the organisation and how they help deliver priorities		Team talks delivered by line managers	WLT Line managers	Ongoing

	Organisation design	Accommodation design meets the new ways of working	Changes to office accommodation to meet agile ways of working	HHR Head of Commissioning & Business Improvement	Staff survey results reviewed. HOS feedback received. Accommodation options considered and changes to be taken forward
Key Theme	Need / Driver	Outcome	Action	Responsibility	Update/ Timescale
23	The organisation is fully resourced with the right skills to deliver council priorities	Streamlined processes for greater efficiency	Review induction programme for all staff	Head of HR (HHR) Web Team	New digital onboarding induction programme has been designed – launched Sept 2020
		Council is presented in the best light to attract good candidates	Council jobs provide attractive information for candidates	HHR/HR Manager	Recruitment advertising contract tendered and awarded. New job page created with information on the borough and the council. Organise recruitment campaign to appoint 3 Senior Management positions – Jan 2022
		Competitive employment package to attract and retain good people	Appropriate use of market supplements in skill shortage areas	HR Manager	Ongoing and has improved recruitment in hard to fill areas (Planning and Building Control)
		Maximise effectiveness of the full team to deliver council priorities	Line managers are trained and address performance and absence issues	Line managers	Absence management and Performance management training on-going. New absence records created in iTrent to monitor Covid-19 absence and general sickness
	A representative and balanced workforce	Increase the % of employees under the age of 25	Apprenticeship programme Graduate programmes	HHR	Training and qualifications agreed for existing staff through the apprenticeship levy. Recruitment of apprentices to continue. Create a graduate programme opportunities
	A representative and balanced workforce	Council that values equality, diversity and inclusion	Meet the Disability Confident employer status Calculate and report on the Gender Pay Gap	HHR	Ongoing Figures to be updated and published on the Govt website to meet the deadline of 31 March 2021. Minimal difference between male and female pay rates

	The organisation is fully resourced with the right skills to deliver Council priorities	No skill / knowledge gaps because of retirements or turnover	Succession planning and multi-skilling to ensure business continuity	WLT	To complete 'Developing Everyone' analysis following Clear Review Performance conversations in April 2022
		Organisational effectiveness increased, workloads reduced	Change in mind-set of employees to overcome challenges in their roles	L&D Manager	Personal Best training for staff – to be delivered in 2021/22
Key Theme	Need / Driver	Outcome	Action	Responsibility	Update/Timescale
24	Development Develop consistency of approach by leaders and managers	Managers and leaders know what is expected of them as a 'Maidstone Manager'	Management development; 360°feedback. All new managers to go through the manager induction programme	L&D Manager and WLT	New online induction programme for managers launched in Jan 2021 Management development framework updated
			Pilot new software on performance management	L&D Manager	Clear Review system – implementation programme completed in Feb 2021
	The organisation is fully resourced with the right skills to deliver council priorities	Blended approach to learning All employees engaged in personal development	All employees have development plan; training plan in place to address future skill gaps	L&D Manager Line managers	Recorded in Clear Review and managed by managers during regular meetings.
			Development of new eLearning package with tailored programmes	L&D Manager	Tender process completed and contract awarded
	A flexible workforce	Internal recruitment and selection enables horizontal movement to develop careers and give employment stability	Streamline processes for internal re-deployment. Training for new roles and ways of working eg arising from service reviews and business transformation	HHR	Ongoing
	A flexible workforce	Develop a range of skills	Secondments encouraged	HHR	Ongoing
			Work shadowing process developed to facilitate people spending time in other areas	HHR	WLT/CLT – on hold

	A safe workforce	A strong health and safety culture with minimal accident levels.	Deliver the Health and Safety action plan	Health and Safety Officer Line managers	Ongoing monitoring through the Health & Safety Committee.
Key Theme	Need / Driver	Outcome	Action	Responsibility	Update/Timescale
25	Retain competitive position as an employer	Reinforce benefits package so that employees feel they are fairly rewarded.	Update and re-issue employee handbook	HR Manager	Completed
			Health and wellbeing initiatives developed	HR Manager Community Development	Ongoing, Well-being week being arranged for June 2022. Roll out wellbeing events during the rest of the year. Flu vaccinations delivered in Nov 2021 Webinars introduced on staff wellbeing and support provided through EAP and occupational health
			Total benefits statement developed	HHR	Webinars on total rewards and benefits delivered regularly
			Enhance rewards and benefit provision at the Council	HR Manager	Ongoing – continuous review of benefits and rewards Introduced payroll giving benefit
		Employees feel they are fairly rewarded	Review salary grades based on market pay data Review rewards in terms of future working methods Promote current rewards and benefits	HHR	Benchmark salaries against external market – March 2022 Regular communication provided on staff benefits Review on car travel allowances – completed
		Staff feel valued for their contribution	Awards ceremony continued and strengthened	HHR	Reviewed by engagement group for 2022
			Mechanisms developed to increase the ways for recognising staff	HHR	Ongoing Revised recognition process through policy & performance introduced

Agenda Item 16

Democracy and General Purposes Committee

26 January 2022

Pay Policy Statement 2022

Final Decision-Maker	Democracy and General Purposes Committee
Lead Head of Service	Bal Sandher, Head of HR Shared Service
Lead Officer and Report Author	Bal Sandher, Head of HR Shared Services
Classification	Public
Wards affected	None

Executive Summary

A Pay Policy Statement must be agreed by Full Council for publication by 31st March 2022. The Pay Policy Statement should set out the main aspects of the remuneration strategy of the council.

The Council met the target to publish a Pay Policy Statement in previous years; this has been updated to reflect changes during the year and the amended document at appendix 1 is presented for consideration by the Committee and subsequently to be recommend to Full Council and thereafter publication.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

1. That the Council be recommended to agree the proposed Pay Policy Statement set out at appendix 1 to this report prior to publication on the council's web site.

Timetable

Meeting	Date
Democracy and General Purposes Committee	26 January 2022
Council	23 February 2022

Pay Policy Statement 2022

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	This statement makes no changes to the current situation and there are no implications due to the content of the pay policy statement.	Bal Sandher, Head of HR
Cross Cutting Objectives	There is a statutory requirement to publish an annual Pay Policy Statement as outlined under legal implications set out below.	Bal Sandher, Head of HR
Risk Management	The risks are reputational if the council fails to publish a Pay Policy Statement	Bal Sandher, Head of HR
Financial	There are no direct financial implications arising from publication of the pay policy statement. The Council's pay policy reflects its overall strategic and financial priorities.	Bal Sandher, Head of HR
Staffing	This statement makes no changes to the current situation and there are no implications due to the content of the pay policy statement	Bal Sandher, Head of HR
Legal	The requirement to publish an annual Pay Policy Statement is set out in Section 38 (1) of the Localism Act 2011. Publication also satisfies the requirements to publish certain data, set out in the Local Government Code on Transparency 2015	Bal Sandher, Head of HR
Privacy and Data Protection	No personal data is contained in the report	Policy and Information Team
Equalities	No impact identified as a result of this update report. As an employer the Council has a duty to fulfil under the Equality Act 2010. This is ongoing and is embedded in the current processes.	Bal Sandher, Head of HR
Public Health	No impact identified at this time	Bal Sandher, Head of HR
Crime and Disorder	No impact identified at this time	Bal Sandher, Head of HR
Procurement	No impact identified at this time	Bal Sandher, Head of HR

2. INTRODUCTION AND BACKGROUND

- 2.1 Section 38 (1) of the Localism Act 2011 came into force on 15 January 2012 and required English and Welsh local authorities to produce a pay policy statement for 2012/13 and for each financial year after that. The government consulted on a revised code in 2015 and the draft pay policy statement reflects the requirements of the revised code.
- 2.2 The matters that must be included in the statutory pay policy statement and the revised code of practice are as follows:
- a local authority's policy on the level and elements of remuneration for each chief officer;
 - a local authority's policy on the remuneration of its lowest-paid employees (together with its definition of "lowest-paid employees" and its reasons for adopting that definition);
 - a local authority's policy on the relationship between the remuneration of its chief officers and other officers and in particular the pay multiple between the two;
 - a local authority's policy on other specific aspects of chief officers' remuneration: remuneration on recruitment, increases and additions to remuneration, use of performance-related pay and bonuses, termination payments, and transparency;
 - an organisation chart or description of the number and grades of staff in the top three layers of the organisation, with information on the grades of all those with salaries in excess of £50,000;
 - details of trade union facility time including the trade union representatives for each of the recognised trade unions.
- 2.3 The reference to 'chief officer' refers to the statutory posts of Head of Paid Service, Monitoring Officer and Section 151 Officer plus any Deputy Chief Officers, which in our organisation includes anyone at Head of Service or above.
- 2.4 With regard to the process for approval, the pay policy statement:
- Must be approved formally by the council meeting
 - Must be approved by the end of March each year
 - Can be amended during the year
 - Must be published on the authority's website
 - Must be complied with when the authority sets the terms and conditions for a chief officer
- 2.5 The Act specifically mentions that the pay policy statement may set out the authority's policies relating to other terms and conditions for chief officers and in the interest of open government there are recommendations that the pay policy statement sets out as much information relating to employee terms and conditions as is practical.
- 2.6 Terms and conditions of employment for employees is a function for which the Democracy and General Purposes Committee has delegated responsibility within the constitution.

- 2.7 The general approach of the Democracy and General Purposes Committee has been to take the same approach to senior members of staff as that taken with all other employees in relation to the benefits available and the review processes followed. The council has a thorough approach that applies best practice in the areas of remuneration and equal pay.
-

3. AVAILABLE OPTIONS

- 3.1 The Council could choose to publicise a reduced version of the Pay Policy Statement that meets the minimum requirements of the Act but this is not recommended as it does not satisfy the need for transparency and means that the data is not seen in the context of the good work already undertaken by the council.
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is the format of the Pay Policy Statement set out at Appendix I as it gives consistency from previous years and meets the requirements of the legislation.
-

5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
-

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 As this is a statement of what is already in place and does not make any changes to the current position there has been no consultation to date; the report to the Democracy and General Purposes Committee forms the basis of consultation to ensure that this format is acceptable before going to full council.
-

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Once the report is agreed by Full Council the information will be updated in the tables and organisation structures in Appendix 1(H) including the actual pay figures for the year ending March 2022 before it is uploaded to the council's web site. These figures cannot be calculated until March payroll is complete. The most up to date information will also be used for the pension contributions table and the election payments.

8. REPORT APPENDICES

- Appendix I: Pay Policy Statement 2022

9. BACKGROUND PAPERS

None

Maidstone Borough Council

Pay Policy Statement - March 2022

1. Introduction

The key themes of the Workforce Strategy are:

- Organisation culture and change;
- Resourcing;
- Development; and
- Reward

These strategic themes recognise the importance of pay and rewards as fundamental to our role as an employer. Our work on pay and rewards began in 2006 with an equal pay audit resulting in significant changes to the council's terms and conditions. The work continued through the implementation of the Work Force Strategy and the development of a Total Rewards approach to remuneration for council staff.

Maidstone Borough Council has its own terms and conditions and undertakes local pay bargaining with trade unions.

2. Terms and Conditions – Decision Making

Terms and conditions for employees are determined by the Democracy and General Purposes Committee but where a decision has a budgetary implication beyond the agreed in year budget this will also require agreement from the Policy and Resources Committee.

3. Reward Strategy

The Reward Strategy was developed in full consultation with trade unions, staff and Members. This was a very thorough piece of work that ensured the Council managed the terms of employees at all levels in the same way and applied the principles of equal pay and performance management to the scheme that was developed. The strategy has been refined over time but the principles have remained in place.

The principles for the reward strategy are to:

1. Support a **performance** orientated organisation;
2. Provide an **attractive** employment package at all levels;
3. Be relevant to a **modern** local government authority;
4. Have a pay structure that is **transparent** and straightforward;
5. Reward people **fairly** and consistently;
6. Move toward a **Total Reward** approach; and
7. To be **affordable** within the Medium Term Financial Strategy.

The reward strategy takes a 'Total Reward' approach to the benefits package received by employees at the council to ensure that maximum benefit is gained from all aspects of what is on offer to employees. The key elements of this package are set out below.

3.1 Pay Scale and Pay Progression

Our policy for grades within the organisation is to apply an objective assessment of the relative 'size and value' of all our roles using a formal job evaluation process. Posts are graded through the HAY Job Evaluation Scheme and this process measures the requirements of the role against the key criteria of Know How, Problem Solving and Accountability when all the duties are being performed and the employee is fully effective in the role. Job evaluators are drawn from different parts of the organisation and trained to use the HAY scheme; every panel has one trade union representative as part of the panel. The **Lowest Paid** employees are defined as those whose posts have HAY points of up to 66 which place them into grade 2 of the pay scale, the same process is applied to Chief Officers whose roles are evaluated at the highest level of points. It is the policy of the organisation to refer to the HAY salary data for Local Government and to reflect the median salary for the south east public and not for profit sector. In April 2020, the council agreed to move to the real Living Wage which is independently calculated by the Living Wage Foundation. This gave a significant increase to low paid staff by matching them to the hourly rate of £9.30 per hour. The real Living wage rate of pay was also applied in April 2021 to ensure our lowest paid staff are rewarded appropriately to meet their living cost needs.

Each pay scale has up to seven increments which recognises that with development in a role over time an employee's skills are of more value to the organisation and therefore warrant a higher salary. There are fewer incremental points in the lower grades and more in the more complex roles. New appointments to post will normally be at the first point of the grade unless there is evidence of a skill shortage in line with the criteria set out in the Market Supplement Policy. The pay scale is at Appendix I(A).

Incremental progression is assessed against the agreed Competency Profile for the role and evidence of the necessary Performance Standards and agreed objectives being met. Assessment takes place on an annual basis but will be linked to the clear and continuous performance at the level required at each incremental step. Standard progression for fully effective performance is not beyond scale point four; in grades 13 – 16 there are an additional three high performance increments which may be awarded for performance which is over that usually required in the post. The rules for pay progression are set out in Appendix I(B).

Incremental progression is assessed by an employee's line manager in consultation with the Head of Service and Director who has to approve the recommendations within their Directorate; this is monitored by Corporate Leadership Team. The process and timetable for appraisals and incremental progression for the Chief Executive and Directors is set out at Appendix I(C).

3.2 Market Supplements

Currently there are eighteen employees in receipt of Market Supplements within the council; this is an increase of two from the previous year; the policy is at Appendix I(D).

3.3 Pension

The council offers access to the Local Government Pension Scheme (LGPS) which is a significant benefit to employees and is one of the aspects of the Total Rewards package. The LGPS is a defined benefits scheme which requires contribution rates from employees of between 5.5% and 12.5% depending on earnings in accordance with the following table; in April 2014 there was an option to make lower level contributions with the introduction of the 50/50 scheme.

Pensionable pay	Main Section	50/50 Section
Up to £14,600	5.50%	2.75%
£14,601 - £22,900	5.80%	2.90%
£22,901 - £37,200	6.50%	3.25%
£37,201 - £47,100	6.80%	3.40%
£47,101 - £65,900	8.50%	4.25%
£65,901 - £93,400	9.90%	4.95%
£93,401 - £110,000	10.50%	5.25%
£110,001 - £165,000	11.40%	5.70%
More than £165,000	12.50%	6.25%

The employer contribution rate for 2021/22 will be 17.6% although this does vary from year to year, this is the future service rate excluding past service deficit.

The pension scheme is standard between all local government employers and in broad terms offers a pension benefit equivalent to 1/49th of pensionable salary per year of service, where pensionable salary is calculated on a career average with benefits paid at state retirement age.

Although most of the rules associated with the scheme are set centrally there are a few areas where local employers must define their own policy; the discretionary policy is attached at Appendix I(E). In broad terms it is not the policy of the council to increase pension benefits to employees through any form of enhancement.

Kent County Council is the administering authority for the Maidstone Borough Council scheme.

3.4 Pay Protection and Redundancy Payments

The council has a Redundancy Policy which sets out the approach that must be followed if posts are going to be affected because of organisational change. The procedure sets out the approval process and the consultation timetable, it also sets out the terms for redundancy and the pay protection policy, the pay protection policy is set out at Appendix I(F).

Any payments paid to an employee in relation to redundancy shall be in accordance with the statutory redundancy payments scheme and any other regulations applicable except that the Council will calculate a week's pay on actual earnings where this is in excess of the statutory maximum figure. *(Local Govt. (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000).*

The policy of the organisation regarding re-employment following redundancy is that if a redundant employee commences local government employment within one month of the redundancy then the redundancy payment must be returned. Any other re-employment will only be considered where all other council rules on recruitment or procurement have been followed.

3.5 Other payments

Honoraria

The council has a policy to recognise situations where an employee takes on more responsibility on a temporary basis; this helps to provide continuity of service delivery and development opportunities. In 2021/22 there were ten people in receipt of Honoraria during the year and by the end of March this had reduced to two staff.

Cash and Non-cash Awards

As part of the Total Rewards package the council has mechanisms for recognising exceptional contributions both from individuals and teams. In 2021/22 these were received by thirteen employees and there was a total of £4,625 paid in cash awards.

Stand-By payments

A review of standby duties and payments was carried out in May 2020. This resulted in amending the Standby Allowance Policy to ensure that those employees who are required to take part in standby rotas and respond to call out duties are treated consistently across the Council and remunerated fairly for the duties. The standby payments are paid to a small number of employees (forty five in 2021/22) who are on an out of hours on-call rota for specialist duties such as emergency planning, collecting stray dogs or attending noise complaints. The level of remuneration is up to £146.81 for each week of being on-call.

Car Allowances

In 2010 the council removed the facility for lease cars but retained a lease car allowance; in 2012 it was agreed that there would be no further allocation of the Lease Car Allowance in the future and that the current allowance would be frozen. During the period since 2010 cars have been removed as the lease expired and the affected employees have moved onto the allowance and there are no remaining lease cars in the council. In 2010 there were in excess of ninety employees receiving either a lease car or cash alternative and this figure has reduced to fifteen by March 2022 a reduction of one from the previous year. Mileage rates for those receiving this allowance are currently up to 28 pence per mile.

A car allowance of up to £1239 is given to those employees that are required to have a vehicle for their role and by March 2022 there were 115 members of staff in receipt of this allowance. The majority of those staff in receipt of this payment are within the statutory services or shared services which require external visits e.g. planning, environmental health and housing. Mileage rates for those receiving this allowance are at the HMRC level (in 2021/22 this was 40 pence per mile).

In 2020 a further review was carried out on car allowances and a decision was made to change the policy to reflect new ways of working as well as meeting the council's Green agenda. This has resulted in the lease car and essential car allowance payments being removed on pay protection for staff that no longer meet the new criteria for the Essential Car User allowance. Changes to the number of staff receiving the car allowances will reduce over the pay protection period.

Bonuses

The council does not make use of bonuses as part of its own remuneration package.

3.6 Special fees and arrangements

Special fees may be paid for certain additional duties. In general these are connected to election duties and the funding for the allowance will not come from the council's own budget. An additional fee is paid for the role of Returning Officer for the District elections, this statutory role may be allocated to the Chief Executive or other officer within the council. Additional fees may be paid when an employee undertakes the role of Returning Officer, Counting Officer or other similar role, on behalf of another authority or organisation.

The council has adopted the Kent schedule of fees which is attached at Appendix I(G).

3.7 Other employee benefits

The council provides access to an Employee Assistance Programme which gives both telephone and face-to-face counselling on a range of issues. The council has access to an Occupational Health Service which helps to ensure that employees are properly supported to avoid taking sick leave and to return to work as soon as possible.

The council supports employees in their role with a development plan and training opportunities to ensure they are fully qualified to give excellent service.

On an annual basis the council has an Awards Ceremony which recognises the best achievements during the preceding year. The council also recognises long service and during 2014 this scheme was changed to recognise service over a longer period with shopping vouchers – the first level of recognition is at ten years and every five years thereafter up to forty years.

Salary sacrifice schemes – the council offers a salary sacrifice scheme to employees for the purchase of bicycles. In December 2018, the Council introduced another salary sacrifice scheme for the purchase of cars. There is no cost to the Council of these schemes.

Buying annual leave – subject to agreement with their manager, employees are allowed to sacrifice some of their salary to buy more annual leave. In 2021/22 there were twenty three members of staff that used this benefit.

4. Monitoring

Salary budgets are monitored through the normal budget management processes by line managers. Members and senior officers regularly consider the Medium Term Financial Strategy and in particular to consider ways to reduce costs to the council.

As required by the Equality Act 2010 the council undertakes an equal pay audit of salaries which is published on the council's web site. This helps to identify whether there are significant differences in any employees that have the protected characteristics.

From April 2017 under the Equality Act 2010 employers with more than 250 employees have been required to publish statutory gender pay gap calculations on an annual basis. The data must be a snapshot of salary data on 31 March 2020 and must be published on our own website and a government website by 30 March 2021.

The Code of Recommended Practice for Local Authorities on Data Transparency 2011 required that salary data was published on the highest earning staff within the council; this was actioned by March 2011 as required by the code. There has now been further qualification of the salary threshold for publication which has been set at £50,000 and above. This information is at Appendix 1(H).

The Code of Recommended Practice for Local Authorities on Data Transparency September 2011 (updated 2015) also requires that there is a process established to monitor the rate of growth of senior earnings compared to all other employees in the organisation. The formula required is to calculate the pay multiple of the Chief Executive compared to the median earnings of all other employees and where there is any significant change year on year this should be explained. It is the council's policy to use this pay multiple to monitor the relationship between remuneration of chief officers and other employees.

The recommendation in the 'Hutton Review of Fair Pay' 2011 has been followed:

'the pay multiple should be calculated on the basis of all taxable earnings for the given year, including base salary, variable pay, bonuses, allowances and the cash value of any benefits in kind'

The calculation for earnings changed in 2016 from previous years following the guidance from the Local Government Association (LGA). In previous years the calculations have included earnings subject to national insurance contributions but this has been amended to include just the taxable earnings; the main difference between these two is the pension contribution made by the employee.

Taxable Pay

	Chief Executive earnings	Median	Pay Multiple
2019/20	134,564	22,366	6.02
2020/21	121,958	23,731	5.13
2021/22	145,699	23,706	6.15
% change from previous year	19.47%	-0.11%	19.88%

The main difference in the Chief Executives pay relates to the payment received for her role as Returning Officer in the Police Crime Commissioner and Local elections for 2021/22. In the previous year, elections did not take place due to the Covid-19 pandemic and therefore the Chief Executive did not receive any payments for elections.

It is important to emphasise that the pay policy of the council is to pay at the market median and this is only reached at the top of the incremental pay points for each grade. This ensures that people are paid at a lower level than the council policy until they have fully matured into the role and, although these are contractual payments, they are withheld if performance is not satisfactory at the expected level.

5. Trade Union Facility time

The Council recognises three trade unions, UNISON; UNITE and the GMB. However, there are only representatives for UNISON and UNITE.

The Trade Union (Facility Time Publication Requirements) Regulations 2017 came into force on 1st April 2017 which requires public sector employers to publish specified information relating to facility time provided by trade union officials. Under the regulations, the relevant information will need to be published on an annual basis for the period 1st April to 31st March.

The council has a history of co-operative employee relations and with a range of fair employment policies there is a low level of trade union activity. None of the trade union representatives spend more than 50% of their working time on trade union duties; the council allows reasonable time for trade union duties (attending management meetings, pay negotiation, etc.) but no time is given for trade union activities (canvassing for additional membership etc.).

The total number of employees who are trade union representatives is:

	Headcount	Full Time Equivalent (FTE)
UNISON	2	2
UNITE	0	0
GMB	0	0

Percentage of time spent by union officials on facility time is:

Percentage of time	Number of employees
0%	0
1-50%	2
51%-99%	0
100%	0

Note: only 6% of facility time is spent by union officials

Percentage of pay bill spent on facility time:

Total cost of facility time	£5,956
Total pay bill	£14,934,245
Percentage of pay bill	0.03%

There has been no time spent on paid trade union activities.

6. Contact for further information

If you require any further information regarding the salary policy of the council you should contact Bal Sandher, Head of HR Shared Services on 01622 602165 or by email on baljinder.sandher@midkent.gov.uk

Appendix I(A)

Pay Scale 2021 – 2022

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Maidstone Salary Scales with Hourly Rates wef 1st April 2021								
Grade	Know How Points	Spine point 1	Spine point 2	Spine point 3	Spine point 4	Spine point 5	Spine point 6	Spine point 7
2	Up to 66	18,333						
		9.5025						
3	76	18,524	18,641					
		9.6015	9.6621					
4	87	18,826	18,927	19,210				
		9.7580	9.8103	9.9570				
5	100	19,869	20,367	20,875	21,397			
		10.2986	10.5567	10.8200	11.0906			
6	115	21,597	22,094	22,603	23,122			
		11.1943	11.4519	11.7157	11.9847			
7	132	23,764	24,227	24,784	25,353			
		12.3175	12.5575	12.8462	13.1411			
8	152	26,669	27,402	28,156	28,930			
		13.8232	14.2031	14.5940	14.9951			
9	175	29,804	30,624	31,466	32,331			
		15.4482	15.8732	16.3096	16.7580			
10	200	33,476	34,480	35,514	36,580			
		17.3515	17.8719	18.4078	18.9603			
11	230	36,798	37,811	38,851	39,918			
		19.0733	19.5984	20.1374	20.6905			
12	264	42,799	44,083	45,406	46,768			
		22.1838	22.8493	23.5351	24.2410			
13	304	47,465	48,888	50,355	51,905	54,249	56,593	58,936
		24.6023	25.3399	26.1003	26.9037	28.1186	29.3336	30.5480
14	350	62,817	65,654	68,493	71,331	74,702	78,171	80,482
		32.5596	34.0301	35.5016	36.9726	38.7199	40.5180	41.7158
15	460	83,272	86,912	90,554	94,196	97,837	101,478	105,526
		43.1620	45.0487	46.9364	48.8242	50.7114	52.5986	54.6968
16	608	110,501	113,641	116,784	119,925	123,068	126,208	131,246
		57.2754	58.9030	60.5321	62.1601	63.7892	65.4168	68.0281

Appendix I(B) **Pay Progression**

1. Annual Inflation Award

Annual pay consultation will consider the cost of living, the position of MBC pay in comparison to the market but affordability will be the foremost consideration. Consultation will commence annually in September with the aim to reach agreement within the budget cycle so that payment can be made in April salaries.

The Chief Executive and Head of HR are responsible for undertaking pay negotiation with trades unions but the Policy and Resources Committee takes ultimate responsibility for agreeing the budget.

2. Pay progression within grade

The pay scale has up to four standard increments which recognise that with development in a role over time an employee is of more value to the organisation and therefore warrants a higher salary. There are fewer incremental points in the lower grades and more in the more complex roles. New appointments to post will normally be at the first point of the grade unless there is evidence of a skill shortage in line with the criteria set out in the Market Supplement Policy.

Progress through the grade will be assessed annually. This will not be an automatic progression but will require an assessment against the agreed Competency Profile and Performance Standards for the position. Where the employee has progressed towards the full competency profile they will be awarded an increment. Assessment for incremental progression will take place by October each year. This will therefore not be linked to the annual appraisal but will take place mid-year. Increased increments will be paid with effect from 1st October.

Employees must have six months service in their role by the 1st October to be eligible for assessment, if they are more recently appointed they will receive a review after six months in the position, thereafter they will be reviewed annually for the October increment.

Individuals will need to consistently demonstrate the behaviours required by the Competency Profile and Performance Standards for their role in order to maintain their incremental position. One off performance will not be sufficient to merit or maintain an increment.

Where individuals do not sustain the level of performance or where they have been assimilated to the top of the grade but are assessed as not having the full range of competencies they will be given time to improve but their pay will be frozen until they drop to the pay level that matches their performance, this includes any rise in annual pay as a result of pay inflation. This is outside the normal Pay Protection policy as it does not represent an organisational

change. Where the individual is assessed as not meeting the requirements of the grade their performance will be treated as a capability issue.

3. High Performance Increments (HPI) – Grades 13-16

In addition to the standard incremental progression which is linked to fully meeting performance objectives there are an additional three incremental points in grades 13 to 16. These incremental points will be linked to sustained high performance and should not be awarded for one off projects for which either an ex-gratia payment or cash award may be more appropriate. These HPI's recognise the impact of senior managers on the high performance of the organisation and they should only be used where it is possible to demonstrate that the individual has added significant value over and above what might be seen by other fully effective performers in the same role.

High Performance Increments will be considered in line with the mid year review for effect in October. The HPI may be awarded on either a consolidated or non-consolidated basis. Recommendation for an HPI must be made by a Director to the Corporate Leadership Team for grades 13 and 14, by the Chief Executive to the Member and Employment and Development Panel (MEDP) appraisal sub-committee for Directors (grade 15) and by the Leader to the MEDP appraisal sub-committee for the Chief Executive.

Consideration of some or all of the following factors is appropriate when an award of an HPI is recommended:

- Flexibility to manage new services following structure changes
- Innovative ways of working to improve performance and reduce costs
- Management of services outside the council e.g. shared services
- Continued performance at a level above the current grade but where there are no suitable opportunities for promotion
- Increased income to the council from selling services

It is important to emphasise that the HPI will not be the norm for pay progression and movement onto these increments will be carefully monitored to ensure that there are no equal pay implications.

4. Career Grades and Incremental Progression

A Career Grade offers the opportunity of a long path of progression to a particular professional position. As such the nature of the role and the requisite competencies are likely to vary considerably between the entry point and final destination. This means that through Job Evaluation the Career Grade is likely to span several grades and have many steps. To enable this clear stepped progression there may be some need to have interim points between the normal incremental points e.g. in recognition of the achievement of some particular milestone. These half incremental steps will be allowed providing that there is prior agreement with the Head of HR and that they are applied equally to all those who meet the criteria and are set out as part of the agreed career grade structure. Progress through the career grade will need to be evidence based and the Head of HR will need to agree to the progression if it is between grades.

Appendix I(C)

Chief Executive and Director Appraisal Process

The appraisal panel for the Chief Executive will comprise of a sub-committee of the Employment Committee.

This committee will also take a ‘grandparent’ role to review and comment on the full annual appraisal and objectives for the Directors as set by the Chief Executive.

An indicative timetable and process for the Chief Executive and Directors is set out below:

Process	Dates	Papers Required
Chief Executive Appraisal and Director review	March	
Mid-Year Review – CEO with sub-committee	By mid September	Appraisal documents with agreed objectives and development plan – to be reviewed and up-dated
Mid-Year Review - Directors with CEO	September	Appraisal documents with agreed objectives and development plan – to be reviewed and up-dated
Chief Executive preparation Documents complete for circulation to sub- committee	January	Previous years appraisal & Mid Year Review Knowledge, Skills and Performance Standards Strategic Direction Competency Framework Appraisal Preparation document Briefing note on appraisal preparation
Chief Executives appraisal with sub committee	February	Appraisal produced from the meeting
Directors appraisals with CEO	February	Directors appraisals then CEO to write up and agreed by Directors
Sub-committee review of Directors appraisals	March	Previous years appraisal & Mid Year Review Knowledge, Skills and Performance Standards Strategic Direction Competency Framework Appraisal completed by Chief Executive & Director

MARKET SUPPLEMENTS FOR PAY

Introduction

The Council will utilise a Market Supplement to ensure that competitive salaries will attract and retain key workers in skill shortage areas without distorting the pay structures for all other employees. A Market Supplement for recruitment or retention purposes will only be used where there are clear business reasons that cannot be better addressed through the total benefits package, the work environment or department skill mix. It is recognised that pay is only one factor contributing to our attractiveness as an employer and other aspects of employment, particularly those relating to development, should be applied rather than using just a Market Supplement.

All jobs are graded using the HAY Job Evaluation system and the defined pay policy of the Council is to pay at Market Median where the market used is the HAY Local Government salary data. This is also checked against local Kent salary surveys to ensure that it is robust for the geographical region. This approach ensures that the employees of Maidstone Borough Council are paid at a fair level in comparison to other workers in similar employment groups.

However there is recognition that in certain professions there are either national or regional skill shortages and Maidstone needs to be responsive to the competition for these skills. In the longer term our aim will be to train employees to move into these specialist areas and to ensure that the specialists' skills are used properly within the organisation. In the short-term Market Supplements may be used.

Identification of the Skill Shortage

Recruitment Campaigns

Where there is no anticipated shortage there will need to be a minimum of two appropriate external recruitment campaigns within a 12 month period to establish that it is not possible to fill a position before it is agreed there is a requirement for a market supplement.

Salary Survey

The salary survey is conducted on an annual basis and gives details of the comparative salaries for defined positions in the south east. This clearly identifies the median salaries and is particularly relevant for local government roles. This will enable the identification of positions which may be vulnerable and where there is more than a 10% salary difference from the median there should be consideration of the need for a market supplement. The existence of this difference alone is unlikely to be sufficient justification and further analysis will be required to identify whether this has had an adverse impact on the Council's ability to recruit and retain.

National Information

Within local government there are certain identified skill shortage areas. These are identified through data collection from the Employers Organisation. In 2016 these skills were listed as:

1. Children's social workers
2. Planning officers *
3. Building control officers *
4. Environmental health officers *
5. Educational psychologists
6. School crossing patrol
7. Adult social workers
8. Trading standards officers
9. Solicitors and lawyers
10. Mental Health Social Workers

* category of worker employed by MBC

This national picture is the first indicator of a shortage. Where there is an identified shortage nationally the manager will still be required to demonstrate that this applies to the local area. This proof can be gained through the outcome of a relevant recruitment campaign during the previous 12 month period or through information from agencies about the availability of particular skill sets.

Market Supplement for Recruitment Purposes

The level of supplement will be agreed between the Director and the Head of HR in consultation with the Head of Finance. It will be paid as part of monthly salary and will be pensionable. The supplement will not be subject to the cost of living award and will not be taken into account for any salary related enhancements eg overtime which will be paid at the normal salary rate.

The Market Supplement will be given for a minimum two year period initially. This will be annually reviewed to confirm that the supplement is still necessary and at the appropriate level. Where a reduction in level is the outcome of the review this will not take effect until the minimum two years has expired. Reductions will follow the process set out in section 5.

The payment of a Market Supplement must be within the Director's agreed budget. Approval must be given by the relevant Director and the Head of Human Resources who will ensure that all alternative options have been explored.

Market Supplement for Retention Purposes

Whilst the Market Supplement is principally to enable the Council to be able to compete in a highly competitive market to attract new employees, there may be exceptional cases where a supplement should be considered for existing employees. This may occur in situations where a new recruit is offered a supplement which would then cause equally mobile colleagues to leave and seek a similar salary elsewhere. There may also be occasions where an employee with a specialist skill needs to be retained to ensure business continuity.

The level of supplement will be agreed between the Director and the Head of HR in consultation with the Head of Finance. It will be paid as part of monthly salary and will be pensionable. The supplement will not be subject to the cost of living award and will not be taken into account for any salary related enhancements eg overtime which will be paid at the normal salary rate. The Market Supplement will be given for a minimum two year period initially. This will be annually reviewed to confirm that the supplement is still necessary and at the appropriate level. Where a reduction in level is the outcome of the review this will not take effect until the minimum two years has expired. Reductions will follow the process set out in section 5.

Agreement to the Market Supplement (or appointment above the bottom of the grade) will require the completion of the form at Appendix 1.

Payment of a Retention Supplement must only be considered in exceptional circumstances and particular attention must be paid to the Equal Pay issues.

Removal of the Supplement

The availability of skills varies over time. As professions are identified as skill shortage areas and salaries rise they can attract an increased number of trainees. Where this is the case the Council would not wish to incur unnecessary costs, i.e. paying more for a skill than the median rate if this would be sufficient to attract high quality applicants.

Management Team will review the posts attracting a supplement annually in January. When it is clear that a particular profession or skill area no longer necessitates a market supplement this will be withdrawn over a phased period of 2 years – with the withdrawal of 25% of the supplement every six months until the employee returns to the normal rate for the job. The assessment of the on-going need will relate to the national skills assessment combined with local salary reviews and the response to recruitment campaigns. When a market supplement is to be withdrawn the employee will be notified by the end of January and the phased withdrawal will commence in April of that year. In this way the annual pay award should help to offset any reduction.

Appendix I(E)

Maidstone Borough Council Policy and Procedural Issues Local Government Scheme Regulations Employer Discretions

This paper confirms the pension policy of Maidstone Borough Council as it relates to the exercise of discretions contained in the Local Government Pension Scheme Regulations 2013 and the LGPS (Transitional Provisions, Savings and amendments) Regulations 2014. Last updated June 2014.

The policy statement applies to all members of staff who are eligible to be members of the LGPS, as defined in the regulations i.e. employees with a contract of employment of over 3 month's duration and who are under 75 years of age and are contractually enrolled at the start of employment. Those with contracts of less than 3 months, including casuals, can join but need to elect to do so.

Employees who are members of the pension scheme are only entitled to receive pension benefits if they have 2 years or more service. Under LGPS 2014 Regulation 18, if an employee leaves within 2 years of the start of their employment their contributions can be repaid or transferred to another scheme, unless there is some fraudulent offence or misconduct in connection with the employment

Principles

The Authority will treat any individual retirement case and decisions on its merits.

Decisions relating to retirement will be made taking into account the business case and business implications, the financial implications, employment law consideration, the regulations and the legality of each case. It may also take into account long term savings, affordability, skills and skills retention and impact on service delivery.

The definition of business efficiency shall include, but not be limited to financial savings and/or quality improvements judged on a case by case basis.

Each decision will be made free from discrimination on the grounds of any protected characterising – age, disability, gender reassignment, marriage or civil partnership, pregnancy & maternity, race, religion and belief, sex, sexual orientation or any other personal criteria.

The Authority's decisions relating to retirement and the release of pension benefits will be in line with the current pension regulations. These regulations may be updated from time to time and the Authority will default to the regulations if the policy is not explicit on any current or future regulation.

Decisions relating to the release of deferred benefits to former employees will refer to the relevant pension policies applicable at the time of their employment. In such cases, the decision as to the release of deferred benefits will be on a case by case basis and will take into account the criteria detailed in these principles. Guidance may be sought from the pension administrators as required.

Regulation 9 (1) & (3) - Contributions

Maidstone Borough Council will apply the nationally determined employee contribution rates and bands. These are subject to change and may be varied.

Maidstone Borough Council will pay the rate of contributions determined in the regulations for employees whose pay is reduced through ill health or during authorised unpaid leave, including child related leave.

The calculation of pensionable pay will include basic annual salary plus any other pensionable salary items including – Market Supplement/ Premium, Overtime, Bonus, Honorarium, Salary Supplements. The pensionable pay will be reviewed monthly and based on earnings for that month to identify the appropriate band and contribution percentage

Maidstone Borough Council will notify employees of their individual contribution rates in their payslips or by letter at least annually.

Regulation 16 (2)e and 16 (4)d – Shared Cost Additional Pension Contributions (SCAPC)

It is not Maidstone Borough Council's general policy to operate a SCAPC where a scheme member wishes to purchase extra annual pension (up to the limit defined in the regulations).

Where a scheme member has a period of child related leave or authorised unpaid leave and elects, within 30 days of return to work, to pay a SCAPC to cover the amount of pension 'lost' during the period of absence, in these circumstances Maidstone Borough Council is required to contribute 2/3rds of the cost. If an election is made after the 30 day time limit the full costs will be met by the scheme member.

Employees who have the option to pay contributions in respect of a period of unpaid absence must elect to do so within 30 days of the date of the notice issued to them by the Human Resources Section stating the amount of contributions to be paid. This time limit may be extended by the Head of Human Resources if the employee can demonstrate exceptional circumstances so as to justify an extension of time.

TP Regulations 1(1)(c) of Schedule 2 – whether to allow the rule of 85 to be 'switched on' for members age 55-59.

It is not Maidstone Borough Council's general policy to make use of the discretion to 'switch back on' the 85 year rule protections unless there are clear financial or operational advantages to the council. Each case will be considered on its merits by Head of Human Resources, the Head of Finance and the relevant Director.

Regulation 17 (1) – Shared Cost Additional Voluntary Contributions (SCAVC)

It is not the current policy of the Borough Council to operate a shared cost Additional Voluntary Contribution Scheme for employees. However, this policy will be reviewed from time to time by the Head of Human Resources in conjunction with the Chief Finance Officer, subject to Member's approval.

Regulation 21 (5) – In determining Assumed Pensionable Pay whether a lump sum payment made in the previous 12 months is a 'regular lump sum'.

Maidstone Borough Council will maintain a list which details what Maidstone Borough Council considers being a regular lump sum payment made to our employees to be used in the calculation of the Assumed Pensionable Pay

Regulation 22 (7)(b) & 22 (8)(b) - Aggregation of Benefits

Employees who have previous LGPS pension benefits in England and Wales will automatically have these aggregated with their new LGPS employment unless they elect within 12 months of commencing membership of the LGPS in the new employment to retain separate benefits. Maidstone Borough Council has the discretion to extend this period beyond 12 months and each case will be considered on its own merits by the Head of Human Resources, the Head of Finance and the relevant Director.

Regulation 30(6) – Flexible Retirement

It is Maidstone Borough Council's policy to only provide consent for flexible retirement and the immediate payment of benefits where there are clear financial or operational benefits to the council. Any such consent requires the agreement of the Head of Human Resources and the relevant Director and each case would be considered on its merits.

If consent has been given under Regulation 30 (6) it is not Maidstone Borough Council's general policy to waive any actuarial reduction unless there are exceptional circumstances.

Regulation 30(8) Waiving of Actuarial Reductions

It is not the policy of the Borough Council to give consent to the immediate payment of benefits to employees under this regulation unless there is a demonstrable benefit to the organisation which would take full account of any extra costs to be borne by the Authority. In circumstances where a request is made for an early payment of a deferred benefit this is unlikely to be granted except in the most extreme cases of hardship; circumstances must be exceptional and would not reasonably be expected to prevail i.e. the occurrence of a disaster or accident etc. Financial hardship alone would not normally be deemed sufficient. Any such consent shall be agreed by the Head of Human Resources, Head of Finance and the relevant Director taking account of all the details involved in the case.

Where a scheme member has previously been awarded a preserved benefit, it is not generally the policy of Maidstone Borough Council to give consent under this regulation to the early payment of benefits, however each request will be considered and full account taken of any costs to be borne by the authority. Any consent shall be agreed by the Head of Human Resources, Head of Finance and the relevant Director taking account of all the details involved in the case. It is not the council's general policy to waive any actuarial reduction in these circumstances.

Regulation 31 – Award of Additional Pension

Maidstone Borough Council has the discretion to award additional pension (up to the additional pension limit defined in the regulations) to an active member or within 6 months of leaving the scheme to a scheme member who was dismissed on grounds of redundancy or business efficiency.

Maidstone Borough Council will only exercise this discretion in exceptional circumstances and where there is a proven total benefit to the organisation which includes any costs that might be borne by the authority. Any consent shall be agreed by the Head of Human Resources, Head of Finance and the relevant Director taking account of all the details involved in the case.

Regulation 100 (6) – Aggregation of Benefits

If a scheme member wishes to transfer any pension benefits they have built up in other schemes to the Local Government Pension Scheme, it is the policy of Maidstone Borough Council that the election must be made within 12 months of the Pension Section being notified that the employee has become an active member of the Kent Scheme.

If the 12 month period has elapsed then the member may make a case for any exceptional circumstances to be considered by the Head of Human Resources, the Head of Finance and the relevant Director within Maidstone Borough Council and by the Pension Scheme Administrator, both organisations must agree to the late transfer.

Appendix I(F)

PAY PROTECTION POLICY

Introduction

The Council believes that an integral feature of any successful organisation is its ability to identify the need for change and to manage that change, taking into account management's aspirations as well as the aspirations and well-being of its employees.

Whilst the Council is committed to providing security of employment and to minimising the personal impact of organisational change there will be occasions when it will be necessary to reorganise services and the way in which they are delivered. In these circumstances the provisions of this policy will apply.

Scope

This policy applies to any employee who, as a consequence of organisational change, is required by management to move to a new post or suffers a reduction in basic hours worked within the standard working week. The provisions of this policy do not apply where an employee moves to another position as a result of:

- a) action taken in accordance with the Council's disciplinary or capability procedures
- b) the need for re-deployment on health grounds
- c) unacceptable standards of work performance
- d) a request from the individual or by mutual agreement between the individual and the Council
- e) a voluntary application to another position within the Council
- f) the removal of a Market Supplement following an annual review, any loss would be dealt with in accordance with the Market Supplement Policy

Protection Period

Protection of earnings will be given for a period of 24 months. The first twelve months will be protected at the full earnings of the role held by the employee prior to the change. The second period of 12 months will be at half the rate of the new earnings compared to the earnings of the role held prior to the change. After a period of 24 months the employee will move to the salary and earnings of the new post. The employee will be moved to the salary point of the pay scale for the grade of the new post that is closest to the salary of the previous post. In most cases this is likely to be the highest incremental point of the relevant grade.

In exceptional circumstances, and where there may be a cost advantage to the organisation (e.g. where redundancy costs would be very high) there may be agreement with the Chief Executive, the Head of Finance and Head of Human Resources to extend this period to a maximum of five years.

Calculation of Protection

Earnings protection will be calculated as an average of the earnings in the four months preceding the organisational change. This will include basic salary, essential car user allowance, lease car cash allowance, stand-by payments and an average of overtime and out of hour's payments.

Earnings in the new post will be off-set against protected earnings and if for any particular pay period the earnings in the new post exceed the protected earnings then the higher earnings will be paid for that pay period.

Where the period of protection spans the annual pay award the protected pay will be reduced by an amount equivalent to any increase in pay in the new substantive post.

Conditions of Protection

Protection of earnings is conditional upon the employee undertaking any shift work, standby or other duties which may be required in the new post. Where there are increased earnings as a result of these additional duties this will result in an equivalent decrease in pay protection. In circumstance where the employee is required to drive and the post is designated as an Essential Car User or the level of mileage is such that the employee qualifies for the Essential Car User Allowance this will be paid but the level of pay protection will be reduced by the equivalent amount.

Protection of earnings is also conditional upon the employee accepting any subsequent offer of a suitable alternative post which attracts a salary in excess of that of the new post.

Overtime will be paid at the new rate (i.e. the real rate attached to the post) not at the protected rate.

Pension Implication

It has been the Borough Council's policy to issue a certificate of protection of pension benefits to protect employees who suffer detriment by being required to take a cut in pay or who are prevented from having future pay increases by having their pay frozen. Any certificates issued may continue to apply to pension forecasts whilst they are still valid. Following the pension changes on 1 April 2008 there were no further certificates of protection issued but up to 31 March 2014 there are options for pension calculation to be based over a longer time period, affected employees should contact the pension administrator.

Terms and Conditions other than Pay

Annual Leave entitlements and length of notice period required from the employee will not be protected and those applicable to the new post will be effective from the date of transfer.

Appendix I(G)

ELECTORAL REGISTRATION OFFICERS AND STAFF (Kent AEROS) – SCALE OF FEES

Proposed scale of fees for District/Borough and Parish Council elections and Neighbourhood Referendum held on or after 1st April 2021

1. The scale of fees are uplifted annually, by using the NJC award pay award for local government and approved by the Kent Chief Executives Group.
2. Kent County Council's scale of fees uses a calculation based upon per 1000 electorate. Kent AEROS' scale uses a calculation of per 500 electorate because of small parishes.
3. In order to ensure consistency the Kent AERO's scale reflects the KCC 2021 Scale and is usually in line with the NJC increase
4. The Kent AEROS' scale has been uplifted by 2% in line with KCC Scale of Fees as the NJC awards are yet to be agreed.

	Item	Current 2020 £	Proposed 2021 £
Stationery and Equipment			
1.	Printing and publishing all notices, forms and other documents, providing stationery and sundries, and other miscellaneous expenditure including postage, telephone calls and faxes		
2.	Stationery and equipment at each polling station, including depreciation	Reasonable and appropriate cost	Reasonable and appropriate cost
3.	Hire of any building or room for the purpose of the election and the expenses attending the use of any building or room, including temporary polling stations if necessary		
4.	Fitting-up polling stations including the provision, transport and erection of voting compartments, the hire of necessary furniture (where this is not	51	

	otherwise available) and the return to store afterwards		
5.	Ballot Papers – provision and printing		
6.	Register of Electors – purchase		
7.	Printing or production of official poll cards and postal vote packs		
8.	Delivery of official poll cards by hand	Second class postage rate	Second class postage rate
Travelling expenses			
9.	Travelling expenses to DRO's staff to make arrangements for the poll or otherwise in connection with the conduct of the election	48p per mile	49p per mile
10.	Presiding Officer travelling expenses	15.32	15.63
11.	Poll Clerk travelling expenses	8.90	9.08
12.	Travelling expenses for staff in connection with the counting of votes, at the discretion of the DRO	8.90	9.08
Polling Station Staff			
13.	One Presiding Officer at each Polling Station – single election	223.35	227.82
14.	For each PO at a Polling Station – combined election or difficult station due to local circumstances (at the discretion of the Returning Officer (RO))	274.37	279.86
15.	For a PO who acts as a supervisor at a Polling Place where there is more than one Polling Station	(additional) 10.82	(additional) 11.04
16.	Supervising Officer (SO) – for every 10 polling station overseen	223.35	227.82
17.	For each Poll Clerk (PC) at a Polling Station – single election (see Notes)	139.52	142.31
18.	For each Poll Clerk at	52 165.91	169.23

	a Polling Station – joint election or difficult station due to local circumstances (at the discretion of the Returning Officer (RO))		
19.	For each training session provided by the DRO for Presiding Officers, Poll Clerks or count staff	191.47	195.30
20.	For each Presiding Officer and Poll Clerk attending training	49.58	50.57
21.	An allowance for each polling station to have available a mobile phone on polling day	5.36	5.47
22.	For the employment of persons in connection with the counting of the votes, clerical and other assistance required by the RO – for each 500 electors or part in a contested election	78.13 (per 500)	79.69
23.	For the employment of persons in connection with the issue and opening of postal ballot papers – for each 100 postal voters or part	76.58	78.11
24.	For the recount of votes – for each 500 electors or part	4.50	4.59
25.	Payment to the District/Borough for the use of Council staff to support the RO in the conduct of elections as follows:		
(a)	Contested election – (i.e. without District/Borough) for each 500 electors (or part)	60.52 (per 500)	61.73 (per 500)
(b)	Contested joint election (i.e. with District/Borough) – for each 500 (or part)	30.26 (per 500)	30.87 (per 500)
26.	Contested single election – payment to DRO for	33.82	34.50
		53	

	the management and conduct of the election – for each 500 electors or part		
27.	Contested joint election – payment to DRO for the management and conduct of the election – for each 500 electors or part	46.70	47.63
28.	For each Counter attending training	16.07	16.39
29.	For each Count Supervisor and Count General Assistant attending training	32.15	32.79
30.	Reasonable refreshments for staff involved in the verification and count	Maximum £5.25 per head	Maximum £5.36 per head
31.	Payment to District/Borough Council for the use of Council staff at an uncontested election – for each 500 electors or part	16.69 (per 500)	17.02 (per 500)
32.	RO fee for the conduct of elections as follows:		
(a)	Uncontested District/Borough election – single fee	57.92	59.08
(b)	Uncontested Parish election – single fee	19.85	20.25
33.	For clerical and other assistance required by the Returning Officer at an uncontested election – for each 500 electors (or part)	21.25	21.68

Notes

1. The fees are calculated on the number of local government electors on the register of electors and entitled to vote at the last day for publication of the notice of election.
2. At parish polls the fees relating to polling staff **may** be pro rata.
3. **Items 10, 11 and 12** – variable mileage rates may be applied where fixed travel is considered appropriate.
4. **Item 24** – in special circumstances, the RO may recover actual costs

5. **Item 31** – the payment referred to applies (in the case of a parish election) to each ward of the parish.

Appendix I(H)

Details of remuneration and job title of certain senior employees whose basic salary is between £50,000 and £150,000.

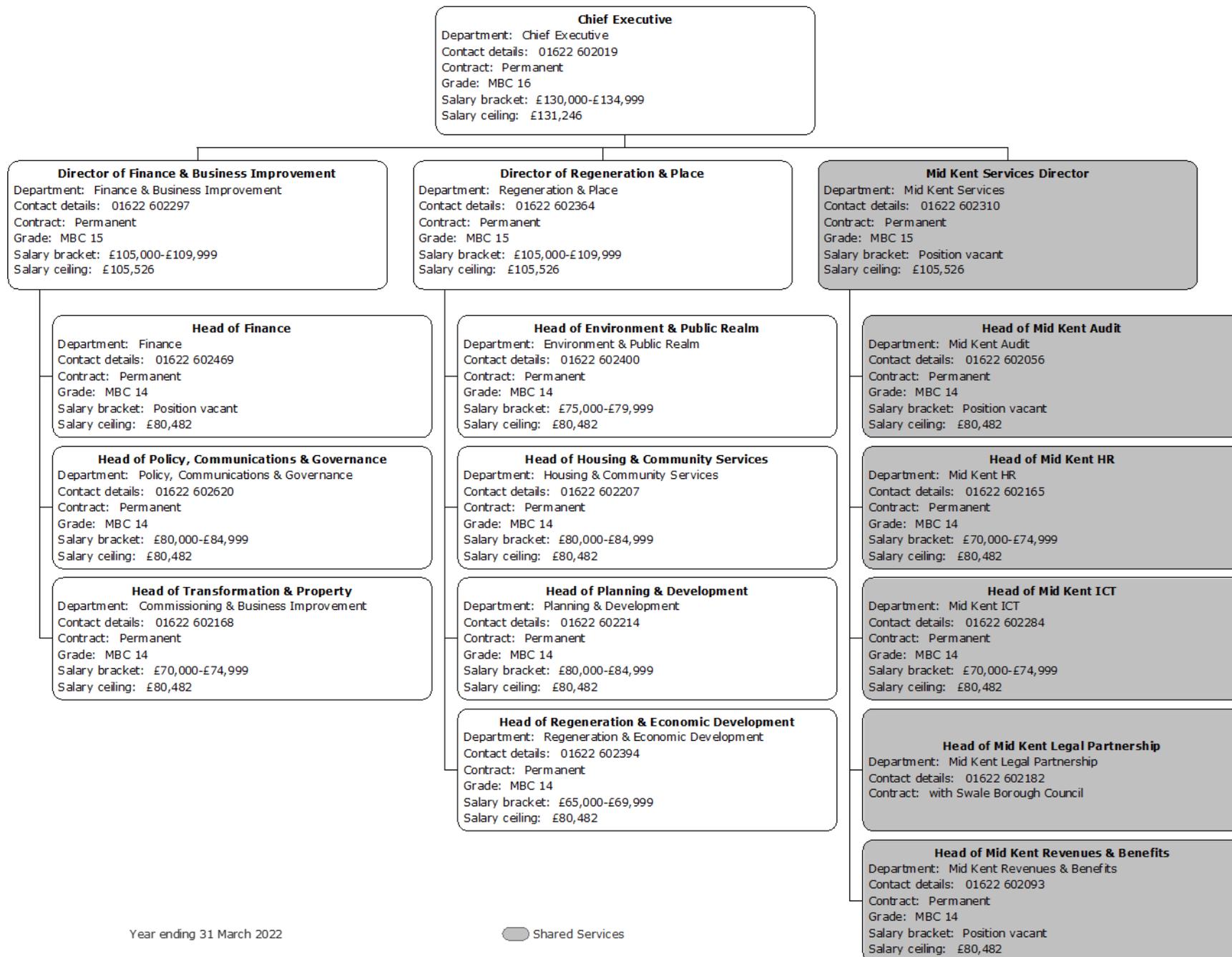
Position	Department	Remuneration	No of staff	Budget	Other services/responsibilities
Chief Executive	Chief Executive	£150,000 - £154,999	541	£21,421,030	Returning Officer responsible for all elections & Head of Paid Service
Director of Finance and Business Improvement	Finance and Business Improvement	£105,000 - £109,999	107	£9,867,020	Section 151 Officer
Director of Regeneration and Place	Regeneration and Place	£105,000 - £109,999	286	£8,824,100	
Head of Housing and Community Services	Housing and Community Services	£80,000 - £84,999	78	£3,104,665	
Head of Planning and Development	Planning and Development	£80,000 - £84,999	46	£1,225,530	
Head of Policy, Communications and Governance	Policy, Communications and Governance	£80,000 - £84,999	65	£2,854,900	Data Protection Officer
Head of Transformation & Property	Transformation & Property	£75,000 - £79,999	25	£398,670	
Head of Mid Kent HR	Mid Kent HR	£70,000 - £74,999	16	£539,290	Head of shared service with Swale Borough Council
Head of Mid Kent ICT	Mid Kent ICT	£70,000 - £74,999	32	£1,240,940	Head of shared service with Swale and Tunbridge Wells Borough Councils.
Head of Regeneration and Economic Development	Regeneration and Economic Development	£65,000 - £69,999	37	£935,530	
Building Control Manager	Building Control	£65,000 - £69,999	6	£57,980	
Development Manager	Development Management	£60,000 - £64,999	21	£385,490	
Parking Services Manager	Parking Services	£60,000 - £64,999	15	-£2,245,300	Manager within shared service with Swale Borough Council
Head of Environment and Public Realm	Environment and Public Realm	£55,000 - £59,999	105	£5,255,495	
Housing & Inclusion Manager	Housing and Inclusion	£55,000 - £59,999	52	£1,473,275	
IT Programme Manager	Mid Kent ICT	£55,000 - £59,999	2	£0	Manager within shared service with Swale and Tunbridge Wells Borough Councils.
Major Projects Team Leader	Major Projects	£55,000 - £59,999	8	-£556,340	
Corporate Insight, Communities & Governance Manager	Corporate Insight, Communities & Governance	£55,000 - £59,999	16	£468,600	
Strategic Planning Manager	Strategic Planning	£55,000 - £59,999	7	£915,620	
Economic Development & Regeneration Manager	Economic Development & Regeneration	£50,000 - £54,999	10	£226,880	

Museums Director	Museum	£50,000 - £54,999	20	£542,330	
Transformation & Digital Services Manager	Transformation	£50,000 - £54,999	8	£351,030	

**Number of employees whose remuneration in 2021/22
is at least £50,000 in brackets of £5,000**

Remuneration band	Number of employees in band
£50,000 - £54,999	6
£55,000 - £59,999	7
£60,000 - £64,999	2
£65,000 - £69,999	2
£70,000 - £74,999	2
£75,000 - £79,999	1
£80,000 - £84,999	3
£85,000 - £89,999	0
£90,000 - £94,999	0
£95,000 - £99,999	0
£100,000 - £104,999	0
£105,000 - £109,999	2
£110,000 - £114,999	0
£115,000 - £119,999	0
£120,000 - £124,999	0
£125,000 - £129,999	0
£130,000 - £134,999	0
£135,000 - £139,999	0
£140,000 - £144,999	0
£145,000 - £149,999	0
£150,000 - £154,999	1
Total	26

Data transparency: Maidstone Borough Council organisation chart



Agenda Item 17

Democracy and General Purposes Committee

26 January 2022

New Constitution: Consideration of Draft Sections

Final Decision-Maker	Council
Lead Head of Service	Jayne Bolas, Monitoring Officer and Angela Woodhouse, Head of Policy, Communications and Governance
Lead Officer and Report Author	Angela Woodhouse, Head of Policy, Communications and Governance Oliviya Parfitt, Democratic Services Officer
Classification	Public
Wards affected	All

Executive Summary

Appendix A contains the relevant draft constitution sections for the new Governance Model. As agreed at the meeting of this Committee in November 2021 the sections included for consideration relate to the role of the Leader, Policy Advisory Committees, Overview and Scrutiny, Procedure Rules and the Administration's programme. Further reports on the remaining sections of the constitution will come to this Committee in February and March 2022.

Purpose of Report

Consideration and agreement.

This report makes the following recommendations to this Committee:

1. Consider the new draft constitution sections relating to the role of the Leader, Policy Advisory Committees, Overview and Scrutiny, Procedure Rules and the Administration's Programme proposed by the working group attached at Appendix A, for inclusion in the new draft constitution and the options at para 3 and provide direction on the way forward.
2. All drafting agreed to be in accordance with legal requirements.

Timetable

Meeting	Date
Democracy and General Purposes Committee	26 January 2022
Democracy and General Purposes Committee	16 February 2022
Democracy and General Purposes Committee	9 March 2022
Council	13 April 2022

New Constitution: Consideration of Draft Sections

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>The new constitution will need to ensure effective decision-making processes are in place to achieve the strategic priorities.</p>	Head of Policy, Communications and Governance
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The new constitution will need to ensure effective decision-making processes are in place to achieve the strategic priorities.</p>	Head of Policy, Communications and Governance
Risk Management	Covered in the risk section at 5.	Head of Policy, Communications and Governance
Financial	<p>It was agreed that the cost for the new constitution will be met from reserves. The cost estimate was made prior to the Chair of the Democracy and General Purposes Committee leading the member working group taking on the drafting and the working group expanding the scope of the work; consequently, the cost now involved is likely to be in excess of that originally envisaged.</p>	Section 151 Officer & Finance Team

<p>Staffing</p>	<p>The drafting of the new constitution has been supported by the Head of Policy, Communications and Governance, Monitoring Officer and a Democratic Services Officer. As the new draft is not just a simple change to reflect the revised governance structure agreed by Full Council (i.e. the move from a Committee system to an Executive system for member decision making) but an entirely new structure for the Constitution with multiple other changes the work has been significant so far in terms of time.</p>	<p>Head of Policy, Communications and Governance</p>
<p>Legal</p>	<p>The Localism Act 2011 amended and inserted Part 1A of the Local Government Act 2000. The provisions enable a Council to operate one of three permitted forms of governance:</p> <ul style="list-style-type: none"> (a) Executive arrangements; or (b) A committee system; or (c) Arrangements prescribed by the Secretary of State. <p>The executive arrangement may consist of a 'executive' leader and cabinet under the 2000 Act, section 9C (3); or the directly elected mayor and cabinet model of governance under section 9C (2). The executive may not exceed 10 members of the Council, to include the Leader and/or Mayor.</p> <p>The executive arrangement of a Council must include provision for the appointment of one or more overview and scrutiny committees to review and scrutinise executive decisions made, or other action taken – LGA 2000, section 9F.</p> <p>The 2000 Act divides the functions into Council functions, local choice and executive functions. The allocation of functions is prescribed under the Local Authorities (Functions and Responsibilities)</p>	<p>Interim Deputy Head of Legal Partnership</p>

	<p>(England) Regulations 2000 (as amended). Anything not listed in these regulations is an executive function.</p> <p>The Council is required to have an up-to-date written Constitution setting out how the Council conducts its business, who takes which decisions and how to work with the Council. The Constitution should contain the Council's Standing Orders, the Code of Conduct, information required by the Secretary of State and other information as the Council considers appropriate – section 9P LGA 2000.</p> <p>Comments on the proposals in this report and the appendix and how they meet legal requirements have been included in the report and on the draft documents.</p> <p>The protocol on Councillor/Officer relationships at 4.3 of the constitution sets out the roles of Councillors and Officers.</p> <p>In brief, Councillors are expected to:-</p> <ol style="list-style-type: none"> 1. Make policy; 2. Contribute to the good governance of the area; 3. Represent the interests of their Ward and Constituents fairly and impartially; 4. Participate in the governance of the Council and represent the Council on outside bodies; 5. Maintain the highest standards of conduct and ethics; and 6. Comply with their obligations under the Constitution. <p>And under the role of Officers: Officers are responsible for giving advice to all Councillors and for implementing the proper decisions of the Council.</p>	
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Privacy and Data Protection	No impact.	Corporate Insight, Communities and Governance Manager
Equalities	The recommendations do not propose a change that will require an equalities impact assessment.	Corporate Insight, Communities and Governance Team
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Head of Policy, Communications and Governance
Crime and Disorder	It is proposed that the requirements for legislative requirements for Overview and Scrutiny of Crime and Disorder Reduction will be contained within the terms of reference for the new Maidstone Overview and Scrutiny Committee (this requirement is currently discharged by the Communities, Housing and Environment Committee).	Head of Policy, Communications and Governance
Procurement	There has been and will continue to be a need procure external legal advice to assist with the development of the constitution.	Head of Policy, Communications and Governance
Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and none have been found.	Biodiversity and Climate Change Manager

2. INTRODUCTION AND BACKGROUND

2.1 The constitution is the key governance document for the Council and should set out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are prescribed in law and others are a matter for the Council to choose. The constitution should make clear to members of the Council, its Officers and the public how the council works, what people's rights are and how all decisions will be made in accordance with the law. It is a key document and needs to be as clear as possible and kept regularly under review and updated.

2.2 In May 2021 the Council approved the following motion:

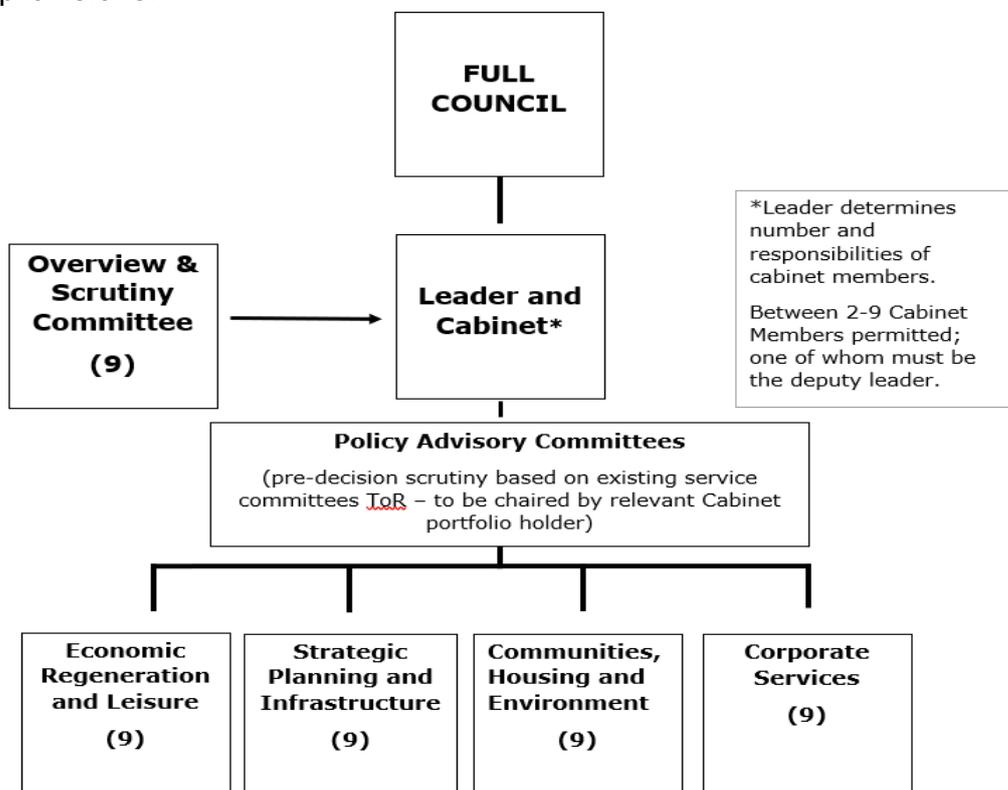
" (1) That Council agrees, in principle, to revert to executive arrangements from its next Annual Meeting for the municipal year 2022/23 onwards.

- (2) That Council recognises the substantial work required to bring forward final proposals, to review interim arrangements and other aspects of member involvement.
- (3) That Democracy & General Purposes Committee be requested to consider the matters outlined in (2) and put a proposed executive arrangements model to Council for adoption in order to allow the executive arrangements to be adopted to meet the principle agreed in (1)."

2.3 The Democracy and General Purposes Committee appointed a working group to develop a new model. The Working Group identified the principles that would be important in the new model and subsequent constitution:

- Member inclusivity throughout the decision-making process
- Increased transparency of decision making
- A member led decision making process; and
- Increased pre-decision scrutiny

A model was developed to meet the principles above with the addition of four Policy Advisory Committees (PACs) to a traditional Leader and Executive model aligned to portfolios to ensure greater member involvement at a pre-decision stage. The single overview and scrutiny committee (OSC) will also undertake crime and disorder functions. All Cabinet decisions, except those outlined as part of the administration’s programme (individual or collective), are proposed to be subject to pre-decision scrutiny at the relevant PAC, unless dealt with under the urgency provisions.



*This diagram does not include regulatory/statutory/other Committees such as; Audit, Governance and Standards, Licensing, Planning, Crime and Disorder Committee, Appointment Sub-Committee, Democracy and General Purposes Committee.

- 2.4 In response to questions, it was clarified at Democracy and General Purposes Committee meeting on 8 September 2021 that “(t)he Constitution would be created using a previous version the 2014 when the Council had an executive model in place, and the Legal Team with external expert advice would lead this work.” This reflected the distinctive roles and responsibilities of councillors and officers i.e. it would be for Councillors to set direction and principles and for officers (and in this case an external legal expert with specialist expertise) to the draft the constitution on that basis for the working group to review, debate and refine. In contradiction to this practice the proposed draft constitution has been written and formatted by the Chairman of the Democracy and General Purposes Committee and presented to the working group with advice and comment then offered by an external advisor and council officers. The proposed new constitution is a complete rewrite and not a redrafting of the current or past constitutions. The current draft recommended by the working group cannot be cross referenced to the current, past or model constitutions easily and this creates challenges in identifying changes and their implications; it has not been written in plain English.
- 2.5 On 29 September 2021 Council approved the new model of executive governance proposed by Democracy and General Purposes Committee.

The agreed resolutions are outlined below:

1. “That the Executive Model outlined at paragraph 3.3 of the report to the Democracy and General Purposes Committee, attached as Appendix 1¹ to the report of the Committee, be adopted at the Annual Meeting of the Council in 2022.
2. That the timetable for developing and implementing the new Executive Model set out in paragraph 2.4 and section 7 of the report to the Democracy and General Purposes Committee, attached as Appendix 1 to the report of the Committee, be approved.
3. That the use of reserves to fund the work required to review and redraft the Constitution be approved.”

As part of the proposal, it was agreed that the Governance Arrangements Working Group would continue to operate and review the redrafted significant parts of the constitution prior to Democracy and General Purposes recommendation to Council for adoption.

- 2.6 In November 2021 Democracy and General Purposes considered and noted the below approach to drafting the new constitution:

Topic	Working Group Meetings	DGP – Committee	Council
Leader and Cabinet <ul style="list-style-type: none"> • PACs and OSC • Procedure Rules 	Framework 11 November 2021 and 2 nd Meeting TBC November	26 January 2022 (publication on 18	

¹ see diagram above

<ul style="list-style-type: none"> • Leader’s annual speech/administration’s programme • Local Choice Functions 	Draft Constitution Sections considered by working group on 9 December 2021	January 2022)	
Member Rights <ul style="list-style-type: none"> • Access to Information • Agenda items • Questions • Decision making including key decisions 	Framework 16 December 2021 Draft Constitution considered by working group on 13 January 2022	16 February 2022 (publication on 8 February 2022)	
Remaining Constitution	Draft Constitution considered by working group on 17 February 2022	9 March 2022 (published on 1 March 2022)	13 April 2022 (published on 5 April 2022)

2.7 In accordance with the timetable the Committee is asked to consider the following sections of the new constitution, Attached at Appendix A:

Section	Topic
Part A1.	The Council and the Constitution
Part A2.	Core Provisions of the Constitution
Part B1.	Responsibility for Functions
Part B3.	Responsibility for Executive Functions
Part B4.	Functions of Other Committees
Part C1.	Council Procedure Rules
Part C2.	Committee Procedure Rules
Part C3.	Executive Procedure Rules
Part C5.	Maidstone Crime and Disorder Reduction Rules

2.8 **Appendix A** includes the draft sections relevant to the themes agreed for consideration. Part A has been included as this sets out the provisions and higher principles of the new constitution and relates to the areas to be considered and covered in Parts B and C: Administrative Programme, Overview and Scrutiny Committee, Policy Advisory Committees, Procedure Rules and Local Choice Functions. The changes regarding member rights and access to information are for discussion at the February meeting and have been highlighted as needing further legal advice and input. They have not been removed from Part A, B or C as presented so as not to affect the flow of the document. For completeness the minutes of the working group meetings that have taken place to review the constitution are included at Appendix C.

2.9 Information in **Appendix A** which relates to parts of the constitution identified for the February meeting will be brought back to the Committee for consideration then. The Committee is not asked to consider or approve any aspects relating to access to information, questions, rights or decision making including key decisions, this will be considered in detail in February by this Committee.

2.10 Attached at **Appendix B** is a list of significant changes, where legal advice has been given that these changes are not in accordance with the law or impractical this is highlighted with the external lawyer's comments provided. This should be read alongside **Appendix A**.

2.11 **Part A**, sets out the higher-level principles and core provisions of the constitution.

2.12 **Part B**, contains provisions on responsibilities for discharging the functions of the Council and for making decisions.

2.13 **Part C**, sets out various rules of procedure around how certain proceedings of the Council are regulated and how decisions are made.

2.14 **Changes of Significance by Topic**

Some of these changes are necessary to implement the new governance model; these are in italics and some are changes brought about by the working group. As can be seen from the notes below many changes are not for the purpose of implementing the new governance model.

- Policy Advisory Committees and Overview and Scrutiny Committee

- *Four Policy Advisory Committees have been included these mirror the current service committees albeit that these advisory committees do not have decision making powers in accordance with the new governance model. These were identified in the model presented to Council in September as part of the new governance model.*
- Chairs for PACs will be nominated by the Leader, their appointment is by the Committee. *The intention is that they will be a Member on the Executive* however, the Leader cannot appoint a Chair as these are appointed by the Council or the Committee. The report from Democracy and General Purposes to Council highlighted that ideally PACs would be chaired by Portfolio Holders.
- *There will be one Overview and Scrutiny Committee with 13 Councillors, they will not carry out pre-decision scrutiny on matters that go through Policy Advisory Committees, they will exercise call-in and the crime and disorder reduction functions.* No reference to the number of meetings. The membership number has been determined by the working group.

- Procedure Rules

- A change has been made from "Members of the Public" to "Local resident" and "Local resident and Service User" in relation to public rights change this has been introduced via the working group in

response to concerns on public attendance at meetings from residents who don't live in the Borough.

- The role of the Mayor in relation to the Council meeting and the application of all procedure rules. In the present constitution we have rule (e) under chairing the meeting which has been omitted from the draft:

“the ruling of the Mayor as to the application of these rules shall be final unless challenged by a Councillor who gains the support of two thirds of those councillors present and voting”

A new rule has been added that where a situation arises and the application of a procedure rule is disputed, if it is a point of order raised by an individual member the Mayor's/Chairman's decision will be final. The Member Dispute Panel will be considered at the next meeting.

- Member Dispute Panel – this will be considered in more detail in February under member rights, as the Mayor or Chair's rule at a meeting is final then this panel will meet retrospectively to then consider the decision made in respect of a point of order – it is unclear how this will work in practice. This has come forward via the working group.
- The Cabinet is referred to as the Executive and Cabinet Members as Members on the Executive, the Executive will be scheduled to meet 8 times per year.
- For meetings of the Executive, Visiting Members have to give written notice to speak 1 clear day before the meeting.
- Any 3 members can refer a nuisance or service failure matter to the Executive – this will be considered in February under Members' rights.
- Urgency for decisions of the Executive– can be over-ruled by the Chair of Overview and Scrutiny Committee and a simple majority of the group leaders.
- Restriction to local residents and service users for speaking and questions, currently it's members of the public.
- Removal of the Planning Referral Body.
- Introduction of referral of enforcement matters to the Planning Committee.
- Petitions – a change has been put in place that requires 1,000 signatures for a petition to be considered at a Council Meeting. This change has come in via the working group.

- *Administration's Programme*
 - There is a *requirement for the Leader to present an Annual Administration's Programme* within 60 days or at the Annual meeting of the Council. "Pledges" made in this speech can then be considered by the Executive without first going through the PACs. This concept was introduced in the September report from DGP to Council.
 - *Local Choice Functions*
 - *These are functions which may either be allocated to be dealt with by the executive or not under the functions' regulations. The draft constitution sets out proposals for how these should be allocated which the committee will need to consider. The draft includes all those local choice functions within the Regulations which are exercisable by a District Council. This is set out in Part B of Appendix A.*
-

3. AVAILABLE OPTIONS

3.1 To Agree the Draft Sections as Per Appendix A

The working group have spent a significant amount of time reviewing and developing the sections of the constitution attached. As the new constitution is a complete rewrite rather than a simple review and insertion of new sections to fulfil the requirements of the change in governance models, the committee should review and consider the implications thoroughly.

3.2 Amend the sections as presented

The Committee may wish to put forward amendments to the text as is written.

3.3 Request the governance working group rewrite sections

The Committee could request that sections are revised if Councillors do not wish that significant parts are changed

3.4 Request a simple redraft of the current constitution

The Committee could request that the current constitution is redrafted to purely incorporate the changes to an Executive model of governance as approved at Council. An example section could be provided by the external legal advisor. This would be in line with the direction set out at the DGP meeting in September 2021.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The Committee could take any of the options above.

There are concerns about the practical application and use of the document for example, with the ability to ensure the smooth running of meetings and applying procedure rules with the removal of mayoral/chairman discretion, and other Councillor discretions and having to cross reference in places to apply the constitution. There is also a need for detailed legal advice to be

provided on aspects of the Constitution which are due to be presented to committee at future meetings.

5. RISK

- 5.1 There are several risks that need to be considered as the constitution is developed.
- 5.2 **Reputational Risk**
If the Council does not have an appropriate decision-making framework in place, and cannot make timely decisions or take appropriate actions, the Council's reputation will be compromised. As currently drafted the speed of decision making as set out in the new constitution. The Constitution as drafted is being reviewed by officers and external solicitors and any concerns will be reported to the committee at the appropriate stage.
- 5.3 **Legal Risk**
Risk of something being unlawful in the constitution as drafted or in the way in which it governs decision making. A number of unlawful matters have already been identified and raised as articulated in Appendix B and these have been brought to Members' attention to address the risk. Any further concerns will be reported to the committee at the appropriate stage.
- 5.4 **Practicality of the document and decision making**
There is a risk that the proposed new constitution as drafted will have an adverse impact on the smooth running of decision making and meetings. Concerns have been raised by various parties of the possibility of officers being unable to advise effectively and clearly using the constitution as currently drafted and key councillor roles being hindered such as the Leader, the Mayor and Committee Chairs. Whilst mitigation has been put in place in terms of advice to the working group this advice has not been well received thus far. There is a duty for those advising decision makers to ensure they provide the best advice possible for the benefit of the whole Council to ensure good governance. Comments in Appendix B show concerns on the application of the constitution and have been highlighted elsewhere in this report.
- 5.5 **Timing**
A timetable for completing the constitution redrafting is in place and is on track. As the development of the constitution has taken a different approach than anticipated, mitigations have been put in place including additional meetings of the working group and advice and input from the external legal advisor

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Democracy and General Purposes Committee through the governance arrangements working group have been involved in the development of the new executive model as a Member-led process. Consultation has previously

been carried out via councillor survey as part of the development of the new model and this has informed the development of the new constitution.

6.2 Council approved the next steps for developing the new executive model of governance at its meeting in September as outlined below:

Activity	Date	Purpose
Publication of Proposals	October 2021	Publish Proposals and required notices
Working Group	October 2021 to March 2022	Develop Constitution
Officers	October 2021 onwards	Officers to develop staffing to support new arrangements ready for 1 May 2022
Panel	January - March 2022	Members Allowance Scheme reviewed
DGP	March 2022	Recommend constitution to Council
Council	April 2022	Approve Constitution and members Allowance Scheme

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 The process for drafting the constitution is set out at paragraph 2.3 of this report.

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Working Group Drafted Constitution Sections
- Appendix B: Table of significant changes with comment
- Appendix C: Notes of the working group meetings

9. BACKGROUND PAPERS

Report to Council 29 September 2021 – New Executive Model

MAIDSTONE BOROUGH COUNCIL



CONSTITUTION

JANUARY 2022

[2022-01-14_MBCconstitution_v4_d5 \(002\).docx](#)[2022-01-14_MBCconstitution_v4_d3.docx](#)

VERSION CONTROL

Version	Date	By	Description
1	October 2021	JRGP	Initial text and structure
2	23 Nov 2021	JRGP	1 st working draft ahead of D&GP meeting
3	15 Dec 2021	JRGP	2 nd working draft: addresses initial Weightmans & Working Group feedback
4	13 Jan 2022	SG	3 rd working draft: Further Weightmans markups

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ANNEX: MANAGEMENT STRUCTURE

ANNEX: GUIDE TO THE CONSTITUTION

PART A - CORE PROVISIONS

[2022-01-14_MBCconstitution_v4_d5\(002\).docx](#)[2022-01-14_MBCconstitution_v4_d3.docx](#)

A1. The Council and the Constitution

1. The Council

- 1.1. The Maidstone Borough Council is constituted by virtue of Section 2 of the Local Government Act 1972 as consisting of the Chairman and the Councillors, being the Mayor and the Members.
- 1.2. The Council shall exercise all its powers and duties in accordance with the law and with this Constitution.

2. Purpose of this Constitution

The Council is required by law to have a written constitution setting out how the Council operates, how decisions are made and the rules and procedures that need to be followed. The arrangements making up this Constitution have the purpose of: -

- 2.1. Ensuring that the strategies, policies, ethos & direction of the Council are determined by elected Members;
- 2.2. Facilitating decision-making closest to those elected Members who can be held politically accountable for such decisions by other Members and also by Local Residents [\(as defined in Part A2, provision 1.1\)](#);
- 2.3. Maintaining political accountability during periods of no overall control by any individual Political Group;
- 2.4. Providing elected Members with the information, mechanisms & forums needed to represent Local Residents effectively and to hold those responsible for discharging functions to account; and
- 2.5. Enabling Local Residents opportunities to be heard and to participate directly in the proceedings of the Council, the Committees & the Executive.

Commented [SG1]: The issue regarding the definition of "local residents" and the fact that people do not have to reside locally to be able to have a say in how the Council runs if they are affected by its decisions and services still needs to be resolved

Commented [SG2]: My view remains that the wording in the current constitution more accurately reflects the purpose of a constitution than the proposed wording

3. The Structure of this Constitution

- 3.1. This Constitution, in all six parts, together with annexes, appendices & schedules, and also with the Glossary of Terms, is the Constitution of the Maidstone Borough Council.
- 3.2. The six parts cover different areas and have differing levels of status.
 - 3.2.1. Part A contains the higher-level principles and core provisions of the Constitution.
 - 3.2.2. Part B contains provisions on responsibilities for discharging the functions of the Council and for making decisions.

3.2.3. Part C sets out various rules of procedure around how certain proceedings of the Council are regulated and how decisions are made. This also impinges on how the Council enters into certain transactions. These are intended to be binding on all bodies of the Council.

3.2.4. Parts D & E set out respectively the Codes and Protocols followed by the Council. These are intended to be binding on the Council’s Officers and on its decision-making bodies save that the Council may resolve to make a decision notwithstanding the content of these Codes and Protocols.

3.2.5. Part F contains final provisions such as the statutory Scheme of Allowances.

3.3. The Parts and provisions of this Constitution should not conflict. Where however provisions in this Part A conflict with any provision in any other Part of this Constitution, the provisions in this Part A shall prevail.

Commented [SG3]: I still think this is unnecessary, will cause significant practical problems and is not the way documents would normally be interpreted.

4. Citation

4.1. Within any Chapter, a reference to a numbered Provision, Rule or Clause shall refer to the contents of that Chapter of the Constitution unless specified otherwise. Within an Appendix to a Chapter, references to a numbered Paragraph shall likewise refer to the contents of that Chapter.

4.2. The contents of this Part A, and also Parts B, D, E & F are correctly referred to as Provisions (e.g. "Provision 4.2"), save for any appendix whose content is correctly referred to as Paragraphs.

4.3. The individual chapters of Part C may be referred to by Chapter number (e.g. "Chapter C1") or by their title (e.g. "Council Procedure Rules"). Within these particular chapters, the contents are correctly referred to as Rules (e.g. "Rule 2" or "Council Procedure Rule 2").

5. Interpretation

5.1. Every Provision in this Constitution, including every Rule, Clause or Paragraph, must be interpreted in the light of its purpose.

5.2. The purpose of any such Provision in this Constitution is to be gathered first and foremost from the words used in that Provision.

5.3. Where particular words or phrases are defined within the Local Government Acts, they shall have the same meaning for the purposes of this Constitution unless negated by a particular definition within this Constitution or by the context in which the words or phrase are used.

- 5.4. A number of definitions for particular words or phrases are contained in the Glossary of Terms. These are capitalised throughout this Constitution.
- 5.5. Where the words used provide for any ambiguity or for alternate interpretations of a Provision, that Provision shall be construed in accordance with any particular statement of purpose applying to that provision or to that Part or sub-Part of the Constitution. Where there is no such particular statement of purpose, the general purpose of the arrangements making-up this Constitution set out above in Provision 2 of this Chapter shall apply.

6. Monitoring and Reviewing this Constitution.

- 6.1. The Democracy & General Purposes Committee shall monitor and review the operation of the Constitution and associated guidance at least once a year to ensure that the aims and principles of the Constitution are given full effect.
- 6.2. A key role for the Monitoring Officer is to regularly review the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended to better achieve the purposes set out in Provision 2.

7. Changes to the Constitution

- 7.1. Subject to Provision 7.2 below, changes to the constitution will only be approved by the Full Council after consideration of the proposal by the Democracy & General Purposes Committee.
- 7.2. The first exceptions to Provision 7.1 is the power of the Monitoring Officer to make amendments to correct typographical errors and to make any purely consequential changes that are required to ensure the text reflects any directly applicable changes in the Local Government Acts and related legislation, or any provision under them. The other exceptions apply to the following Council bodies or Officers in respect of particular Chapters or parts thereof: -

Section	Body / Officer	Subject or Scope
Chs. B3 & B5	Leader	Delegations of Executive Functions to Officers and individual portfolio holders
Ch. B5	Chief Executive	Division of delegated matters amongst Officer roles
Ch. B6	Chief Executive	Appointment of new Proper

		Officers
Ch. C6	Executive	Crime & Disorder Reduction Rules

8. Suspension & Derogation

- 8.1. The Core Provisions contained in this Part A may not be suspended or excepted.
- 8.2. The Provisions in Part B may not be suspended or excepted.
- 8.3. The Rules of Procedure in Part C provide for the circumstances in which particular Rules may be suspended. No other suspension or exception shall be permitted.
- 8.4. The nature of the Codes in Part D and the Protocols in Part E are such that the Council may resolve to make any exception to their terms as the Council may see fit.
- 8.5. No other suspension, exception or derogation shall be permitted other than in accordance with this Provision 8.

9. Publicity and Information

- 9.1. The Democracy & General Purposes Committee and the Monitoring Officer shall ensure that the *Guide to the Constitution* ("the Guide") is produced and maintained alongside the Constitution itself. [The Guide shall serve as the summary and explanation of the Constitution and shall be attached as an Appendix.](#)
- 9.2. The Council shall ensure that a copy of this Constitution and the Guide are readily available to Local Residents, Members and Officers alike. This shall include maintaining copies on the Council's website.
- 9.3. This shall include offering all newly elected Members a hard copy of the Guide, as well as providing soft copies of both the Guide and the Constitution, and ensuring the same are covered in any induction training.

Commented [SG4]: In my view as a result of section 17 of the Interpretation Act 1978 there is still a requirement to have an introduction and summary as part of the constitution itself. My view also remains that it would be better to do that as a practice even if it were not a legal requirement.

A2. Core Provisions of The Constitution

1. THE RESIDENTS

1.1. Rights of Local Residents

"Local Residents" in this Constitution means people who reside work or own or operate a business in-of the Borough of Maidstone or who and users-of its services or are affected by its decisions or services ("Local Residents") and shall have the following rights in respect of the Council. These are subject to the Rules of Procedure in Part C of this Constitution where they pertain to the proceedings of the Council.

Commented [SG5]: See comment above re "local residents"

1.1.1. **Voting.** Local Residents on the electoral roll have the right to vote in elections of the Members, and in any local referendum or poll.

Commented [SG6]: This is a somewhat simplistic and inaccurate comment. The modular constitution simply states that: "Citizens have the right to: vote at local elections if they are registered.." which arguably is little better, though part of the problem comes from the lack of definition of "local residents"

1.1.2. **Information.** Local Residents shall have the right to: -

- (a) Attend meetings of the Council, the Committees and the Executive;
- (b) Make such recordings and records of such meetings as they wish;
- (c) Know via the Forward Plan what Key Decisions and Other Material Decisions will be taken by the Executive and when;
- (d) Copies of reports and background papers, and any records of decisions made;
- (e) Inspect the Council's accounts and make their views known to the External Auditor.

Commented [SG7]: anyone can attend such meetings it cannot as a matter of law be restricted to "local residents" however defined.

Commented [SG8]: See comment above

Commented [SG9]:

Commented [SG10]: There is no longer a legal requirement to publish a "Forward Plan" of key decisions though advance notice of key decisions is required.

1.1.3. **Participation.** Local Residents shall have the right: -

- (a) At meetings of the Council, the Committees and the Executive,
 - To ask questions and to receive answers,
 - To address the meeting, and
 - To present petitions in accordance with the Petition Scheme;
- (b) Via consultations, that shall always include an online option, to give their views;
- (c) To lobby their local Ward Members.

1.1.4. **Complaints.** Local Residents have the right to make complaints and to have these determined objectively by: -

- (a) the Council itself under its Complaints Scheme and arrangements as to Member conduct;
- (b) where applicable, the Local Government and Social Care Ombudsman.

1.2. Responsibilities

~~The rights of individual~~ If Local Residents ~~shall in part be contingent upon that individual not~~ disrupting or participat~~ing~~ in the disruption of meetings or engag~~ing~~ in abusive or threatening behaviour or a course of behaviour amounting to harassment of any Member or Officer ~~then this will affect the way in which the Council interacts with those Local Residents in the exercise of those rights~~. In these instances, the Council may take action such as removing individual Local Residents from meetings and/or managing their contact with Officers and/or Members.

Commented [SG11]: I still do not think this is lawful. Whilst the Council is entitled to take steps to manage people who believe inappropriately that does not change their "rights" it simply means that the way in which the Council interacts with people in relation to those rights can be modified. The wording in the current constitution on this point is a more accurate reflection of the legal position.

2. THE MAYOR

2.1. Election of the Mayor

- 2.1.1. The Mayor shall be elected by the Council annually in accordance with the Council Procedure Rules in Part C of this Constitution, and the Deputy Mayor shall be appointed in accordance with the same.
- 2.1.2. In preparing for the election of the Mayor and the appointment of the Deputy Mayor, the Council shall have regard to the Protocol on Mayor & Deputy Mayor Pre-Selection contained in Part E of this Constitution.

2.2. Efficient Role of the Mayor

The Mayor and, in his or her absence, the Deputy Mayor shall have the following responsibilities: -

- 2.2.1. To preside at meetings of the Council so that its business can be carried out efficiently and with regard to the rights of elected Members and the interests of Local Residents;
- 2.2.2. To ensure that the Council meeting is a forum for the debate of matters of concern to Local Residents and a place at which Members who are not on the Executive are able to hold the Executive to account;
- 2.2.3. To promote public involvement in the Council's proceedings & activities;
- 2.2.4. To uphold & promote the purposes of this Constitution and to be the conscience of the Council.

2.3. Dignified Role of the Mayor

The Mayor and, in his or her absence, the Deputy Mayor shall also: -

- 2.3.1. Be the First Citizen of the Borough of Maidstone and shall take precedence, save for members of the Royal family and the Lord Lieutenant of Kent when present in the Borough;
- 2.3.2. Promote the Council as a whole and act as a focal point for the community;
- 2.3.3. Attend such civic and ceremonial functions as the Council and he or she determine to be appropriate.

3. THE MEMBERS

3.1. Composition & Eligibility

- 3.1.1. **Composition.** The Council shall comprise of a number of Members, otherwise called councillors, with one or more Members elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State ("Scheme of Elections").
- 3.1.2. **Eligibility.** Only registered voters of the Borough or those living or working there will be eligible to hold the office of councillor (or Member).

3.2. Election & Terms of Members

- 3.2.1. The ordinary election of a third (or as near as may be) of all Members will be held on the first Thursday in May in each year until 2023 inclusive, in accordance with the Scheme of Elections.
- 3.2.2. From 2024, whole council elections shall be held on the first Thursday in May of that year and then every four (4) years thereafter.
- 3.2.3. The terms of office of Members will ordinarily be four (4) years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four (4) years later.

3.3. Role of Members

All Members will: -

- 3.3.1. Collectively be the ultimate policy-makers and will carry out a number of strategic & corporate functions;
- 3.3.2. Contribute to the good governance of the Borough;
- 3.3.3. Effectively represent the interests of their Ward and Local Residents;
- 3.3.4. Respond to enquiries & representations, and offer representation & assistance in respect of the Council, to individual Local Residents.

3.4. Rights of Members to Access Information & Meetings

- 3.4.1. An elected Member is entitled by virtue of his or her office to have access to all documents in the Council's possession,

Commented [SG12]: This is due to be considered at the meeting of DGP Committee on 16 February. In my view it still does not accurately reflect the law and the committee will need to be given full and detailed legal advice on this point (as will full Council when it ultimately considers the constitution).

including those containing Exempt or Confidential Information, and to attend all meetings of a Member body even where the public have been excluded, where he or she has a need to know.

- 3.4.2. Any officer or body with delegated authority to make a decision under this Constitution determining whether a Member has a need to know certain information shall consider the prima facie existence of that need to know where: -
- (a) The Member sits on the relevant Member body considering a matter to which the information relates, or is likely to sit on that body as a substitute.
 - (b) The Member is considering exercising or is exercising any Rights in Respect to Proceedings summarised in Provision 3.5 below in connection with such a matter; or
 - (c) The information relates directly to matter the Member's role in representing their Ward.

This is subject to there being exceptional circumstances where it would be manifestly unreasonable for the Council to acknowledge a need to know certain information and/or where disclosure of that information to the Member would be contrary to some other enactment.

- 3.4.3. The Access to Information Procedure Rules in Part C seek *inter alia* to apply this principle, subject to the proviso that where there is any conflict in the application of those Rules and the principles in this Provision 3, the principles in this Provision 3 shall prevail.

3.5. Rights in Respect to Proceedings

To assist Members in their work, their rights in respect of the proceedings of the Council shall include: -

- 3.5.1. The right, together with four (4) others, to requisition an Extraordinary Meeting of the Council;
- 3.5.2. The right to move amendments to any Motion by the Leader concerning the Administration's Programme for the Municipal Year;
- 3.5.3. The right to move a Motion on Notice at a meeting of the Council;
- 3.5.4. The right to ask Questions on Notice at meetings of the Council, the Committees and the Executive;

- 3.5.5. The right to have a subject added to the agenda of a meeting of a Committee;
- 3.5.6. The right to refer the determination of a planning application affecting the Member's Ward to the Planning Committee;
- 3.5.7. The right to refer a breach of planning control to the Planning Committee;
- 3.5.8. The right, together with two (2) others, to refer a serious nuisance or a major service failing directly to the Executive;
- 3.5.9. The right, together with two (2) others, to call-in a decision of the Executive for scrutiny;
- 3.5.10. The right to issue a Member Call for Action;
- 3.5.11. The right to refer a dispute about his or her rights under this Constitution to a Panel of the Democracy & General Purposes Committee for determination.

This is a non-exhaustive statement of Member rights, the contents of which are without prejudice to any rights arising under any other Provision within this Constitution or the law.

3.6. Conduct

Members will at all times observe the Members Code of Conduct in Part D of this Constitution and the Protocol on Member/Officer Relations set out in Part E of this Constitution.

3.7. Allowances

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

4. DECISIONS

4.1. Principles of decision making

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

- 4.1.1. reasonableness i.e. not being manifestly unreasonable;
- 4.1.2. due consultation;
- 4.1.3. the taking of professional advice from Officers;
- 4.1.4. the need to explain the reasons for decisions and the options considered;
- 4.1.5. respect for human rights and procedural fairness;
- 4.1.6. a presumption in favour of openness;
- 4.1.7. clarity of aims and desired outcomes; and
- 4.1.8. the Public Sector Equality Duty.

4.2. Rules of Procedure

Subject to the Provisions of this Chapter, all decisions must comply with the Rules of Procedure in Part C of this Constitution.

4.3. Types of decision

Decision types may be classified in a number of ways

4.3.1. The Member-Body Responsible

- (a) Functions may be reserved for the Full Council as a matter of law or Local Choice. These in turn maybe subdivided into between:
 - (i) those the Full Council must retain by law,
 - (ii) those the Full Council chooses to retain, and
 - (iii) those delegated to Committees and/or to Officers.
- (b) Functions not so reserved are the responsibility of the Executive. These may similarly be delegated by the Executive.

4.3.2. Significance

- (a) ~~fXX Key Decisions definition~~Key decisions will be those which :
 - (i) result in the Council incurring expenditure, or making savings, of more than £250,000; or

~~(a)~~ *are significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough.*

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(b) Procedural and De Minimis Decisions are those decisions pertaining to procedural matters and those decisions of little or no policy significance where expenditure or loss is less than [£XX].

Commented [SG13]: There needs to be clarity about what "other material decisions are and what this means for the decision making process.

(c) Other Material Decisions are those decisions not otherwise falling into (a) or (b).

4.3.3. **The Administration’s Programme:** Whether the matter for decision is contained within the Administration’s Programme for the Municipal Year or whether it arises in another way.

4.3.4. **The Nature of the Decision:** ranging from general policy to quasi-judicial in particular cases

4.4. Responsibility for decision making

The remaining Provisions in this Chapter set out the principles by which particular types of decision or decisions relating to particular areas or functions are the responsibility of which Member body of the Council and/or Officer Role.

Part B of this Constitution gives effect to these Core Provisions by setting out the responsibility for decisions and functions in more detail.

4.5. Decision making in Certain Individual Cases

Decisions in individual cases that involve the determination or consideration of the civil rights and obligations or criminal responsibility of any person will follow a proper procedure. Such a procedure shall accord with the requirements of natural justice, procedural fairness and human rights as the context may require.

5. THE FULL COUNCIL

5.1. Introduction

- 5.1.1. Full Council is a formal meeting of the Mayor and Members and may also be referred to as "the Council" where the context allows. Full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework. Full Council must also by law take decisions on a number of specific matters.
- 5.1.2. Full Council provides a central forum for debate and gives the opportunity for Members and indeed Local Residents to hold those discharging functions to account.

5.2. Types of Meeting

There are three types of Council meeting: -

- 5.2.1. The Annual Meeting
- 5.2.2. Other Ordinary Meetings
- 5.2.3. Extraordinary Meetings

5.3. Proceedings at Meetings of the Council

All meetings of Full Council are subject to the Council Procedure Rules contained in Part C of this Constitution.

5.4. Functions of Full Council

Subject to the detailed specification maintained in Part B of the Constitution, the only a meeting of the Council will make decisions in respect of those matters reserved for it by law or by Local Choice that are not in turn delegated.

5.5. Meaning of Policy Framework, etc.

- 5.5.1. The Policy Framework means the following Plans and Strategies:
 - (a) Those required by law to be adopted by the Council. These include:
 - (i) Crime and Disorder Reduction Strategy;
 - (ii) Licensing Authority Policy Statement including any Cumulative Impact Policies;

- (iii) Local Development Framework - Plans and alterations which together comprise the Development Plan and Development Plan Documents;
 - (iv) Sustainable Community Strategy;
 - (v) Policies made under the Gambling Act (including any resolution relating to casinos);
- (b) Those which the Council has decided should be adopted by the Council meeting as a matter of Local Choice:
- (i) The Strategic Plan
- 5.5.2. The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure (including the Capital Strategy) and the setting of virement limits.

6. THE COMMITTEES

6.1. Outline of the Council's Committees

- 6.1.1. The Council shall establish a number of different committees, of variable standing, to assist in the decision-making of the Council and the discharge of its functions.
- 6.1.2. These are: -
 - (a) Policy Advisory Committees;
 - (b) The Overview & Scrutiny Committee;
 - (c) Regulatory Committees;
 - (d) Committees in respect of governance, standards and general purposes;
 - (e) The Employment Committee.
- 6.1.3. These Committees shall be subject to the requirements for political balance and proportionality laid down in Sections 15-17 & Schedule 1, Local Government and Housing Act 1989.
- 6.1.4. Part B of this Constitution contains further provisions where Committees are responsible for the discharge of the Council's functions.
- 6.1.5. Part C of this Constitution contains Rules of Procedure applying to the Committees.
 - (a) The Committee Procedure Rules shall apply to all Committees.
 - (b) The Access to Information Procedure Rules shall apply to all Committees.

6.2. Policy Advisory Committees

- 6.2.1. There shall be up to four Policy Advisory Committees ("PACs") consisting each of nine (9) Members.
- 6.2.2. The purpose of the PACs shall be: -
 - (a) To involve Members who are not on the Executive in the work of the Executive and to promote collegiate working between the Executive and such Members;
 - (b) As a forum for: -
 - (i) Members to raise issues pertaining to the discharge of the Council's functions;

- (ii) Officers and/or the Executive to inform Members and seek feedback via reports for noting and comment;
- (iii) Budget and Performance Monitoring.
- (c) To provide an appraisal and opinion of proposed decisions, reflecting the balance on the Council, before they are made with a view to reducing the need for calling-in of decisions.
- 6.2.3. The portfolios of the PACs shall be assigned by the Proper Officer according to a set formula and method. This shall be specified in Part B of this Constitution.
- 6.2.4. The Executive shall ~~appoint~~ nominate a Member on each PAC to coordinate its activities with the Executive. The PAC shall appoint one of its members and to act as Committee Chairman.
- 6.2.5. Each PAC shall elect a member who is not on the Executive to act as its vice-chair, with preference in the election process to be given to Members on the PAC belonging to the non-Administration Political Groups.

Commented [SG14]: If these are committees of the Council then only either the Council or the committee can appoint the Chairman. It could be that the expectation (set out in the constitution) is that it will appoint the person nominated by the Leader or the Executive.

6.3. The Overview & Scrutiny Committee

- 6.3.1. There shall be an Overview & Scrutiny Committee of the Council consisting of thirteen (13) Members who are not on the Executive plus up to two (2) non-Members co-opted in accordance with the Rules of Procedure.
- 6.3.2. The purpose of the Overview & Scrutiny Committee shall be: -
 - (a) To review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions;
 - (b) To make reports and/or recommendations to the Full Council and/or the Executive in connection with the discharge of any functions;
 - (c) To consider any matter affecting the Council, the Borough or Local Residents;
 - (d) To act as the Council’s Crime & Disorder Scrutiny Committee for the purposes of Section 19, Police and Justice Act 2006; and
 - (e) To exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive.
- 6.3.3. Part B of this Constitution shall set out a more detailed specification of the functions of the Overview & Scrutiny Committee.

- 6.3.4. The Members on the Overview & Scrutiny Committee shall elect one of their number to chair that Committee and another to act as vice-Chair, with preference in the election process to chair that Committee being given to members from the largest non-Administration Political Group on the Council
- 6.3.5. The role and powers of the Overview & Scrutiny Committee are not affected by whether or not a decision relates to a matter within the Administration's Programme.
- 6.3.6. The Overview & Scrutiny Committee must report annually to the Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

6.4. Regulatory Committees

- 6.4.1. There shall be a Licensing Committee consisting of thirteen (13) Members.
- 6.4.2. The purpose of the Licensing Committee shall be to exercise the licensing and gambling functions on behalf of the Council including: -
 - (a) the creation and review of the statutory and non-statutory policies;
 - (b) the setting of fees and charges including making recommendations to the Council as required; and
 - (c) via the Licensing sub-Committee, to make decisions about individual licensing matters and appeals where not otherwise delegated to Officers
- 6.4.3. The Members on the Licensing Committee shall elect one of their number to chair that Committee and another to act as vice-Chair.
- 6.4.4. There shall be a Planning Committee consisting of thirteen (13) Members.
- 6.4.5. The functions of the Planning Committee shall be to determine town and country planning and development control matters and associated issues.
- 6.4.6. The Members on the Planning Committee shall elect one of their number to chair that Committee and another to act as vice-Chair.

6.4.7. Part B of this Constitution provides for the functions & responsibilities of these Committees.

6.5. Governance, Standards & General Purposes

6.5.1. There shall be an Audit, Governance & Standards Committee consisting of nine (9) Members.

6.5.2. The purpose of the Audit, Governance & Standards Committee shall include: -

- (a) The promotion and maintenance of high standards of Member and Officer conduct within the Council;
- (b) Adoption and reviewing the Council's Annual Governance Statement;
- (c) Independent assurance of the adequacy of the financial and risk management framework and the associated control environment;
- (d) Independent review of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment; and
- (e) Overseeing the financial reporting process.

6.5.3. There shall be a Democracy & General Purposes Committee consisting of nine (9) Members.

6.5.4. The functions of the Democracy & General Purposes Committee shall include: -

- (a) Acting as the guardian of this Constitution, working with the Monitoring Officer to ensure that it is maintained and adhered to;
- (b) Being responsible for Member training and development and acting as a champion of the role & rights of individual Members;
- (c) Via its Disputes Panel, determining individual Member complaints and grievances as to the rights of Members under this Constitution, albeit without prejudice to the role of those Members presiding at meetings;
- (d) Determining matters relating to elections, electoral registration;
- (e) Other democratic services responsibilities and functions;

6.5.5. Part B of this Constitution provides more detail of the role & responsibilities of these Committees.

6.6. The Employment Committee

- 6.6.1. There shall be an Employment Committee consisting of nine (9) Members.
- 6.6.2. The purpose of the Employment Committee shall be *To undertake the following functions:* -
- (a) To develop and approve the Council's human resources strategies, policies and officer terms and conditions of employment subject to the approval of any budget implications by the Cabinet and/or Council as appropriate.
 - (b) To appoint: -
 - (i) a Chief Officers Appointments Panel to consider appointments at chief officer and head of service level;
 - (ii) a Chief Officers Investigation and Disciplinary Panel to consider any disciplinary allegations against chief officers and head of service level (excluding the Chief Executive, Monitoring Officer and Section 151 Officer);
 - (iii) a Chief Officers Disciplinary Appeals Panel to consider appeals against dismissal by any chief officer or heads of service (excluding the Chief Executive, Monitoring Officer and Section 151 Officer) or disciplinary action short of dismissal by any chief officer or head of service (including the Chief Executive, Monitoring Officer and Section 151 Officer); and
 - (iv) a statutory officers investigation and disciplinary panel to consider any disciplinary allegations against the Chief Executive, Monitoring Officer and Section 151 Officer.
 - (c) Dealing with employment and staffing matters unless otherwise delegated.

6.7. Miscellaneous

- 6.7.1. Any sub-Committee of any of the aforementioned Committees shall:
- (a) Be drawn mainly from the membership of the parent Committee;
 - (b) Be subject to the rules on political balance cited above;
 - (c) Hold its meetings in public;

- (d) Report the minutes of its proceedings to its parent Committee; and
 - (e) Be subject to the prima facie need to know of Members of its parent Committee, save for the Licensing Committee in respect of any sub-Committee determining an application.
- 6.7.2. Any Working Group of any of the aforementioned Committees shall:
- (a) Be limited in its terms of reference to exploratory work on behalf of its parent Committee;
 - (b) Report the minutes of its proceedings to its parent Committee;
 - (c) Be drawn primarily though not necessarily exclusively from the membership of its parent Committee, and shall aim for inclusivity though not subject to the requirements of political balance cited above.
- 6.7.3. For any other body that is neither constituted by this Constitution nor by a Political Group, involving two (2) or more Members that endures for six (6) months or more, the Proper Officer shall ensure that: -
- (a) The existence of the body is documented;
 - (b) The body is assigned to a Parent body, being a Member body that is formally constituted under this Constitution;
 - (c) It reports the minutes of its proceedings to its Parent body.
- 6.7.4. For the avoidance of doubt, the Executive is not to be treated as a Committee of the Council for the purposes of this Provision 6.

7. THE EXECUTIVE

7.1. Role and Form

- 7.1.1. The Executive shall be responsible for all of the functions of the Council that are not designated by law or this Constitution (where permitted by law) to other Member bodies.
- 7.1.2. The Executive shall consist of the Leader together with at least two (2), but no more than nine (9), Members appointed to the Executive by the Leader.
- 7.1.3. Members appointed the Executive shall be referred to as "Members on the Executive". Individual Members on the Executive assigned portfolios may be referred to as "Lead Member for [portfolio name]".

7.2. The Leader

- 7.2.1. The Leader will be a Member elected to the position of Leader by the Council.
- 7.2.2. The Leader will hold office until:
 - (a) He or she resigns from the office; or
 - (b) He or she is no longer a Member; or
 - (c) The earlier of: -
 - (i) The fourth Annual Meeting following his or her election, or
 - (ii) The Annual Meeting following Whole Council Electionssave that the Leader may be removed from Office at an earlier date by resolution of the Council.

7.3. The Deputy Leader

- 7.3.1. The Leader may designate one of the Members on the Executive as the Deputy Leader.
- 7.3.2. The Deputy Leader may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.
- 7.3.3. The Leader may, if he thinks fit, remove the Deputy Leader from office at any time.

7.4. Other Members on the Executive

Other Members on the Executive shall hold office until:

- 7.4.1. they resign from office; or
- 7.4.2. they are no longer Members; or
- 7.4.3. they are removed from office by the Leader acting in accordance with the provisions for removal in the Rules of Procedure in Part C.

7.5. The Administration's Programme

- 7.5.1. By the latter of sixty (60) days from his or her election or the Annual Meeting, the Leader and/or the Executive shall submit to Full Council for consideration & approval the Administration's Programme for the remainder of the Municipal Year.
- 7.5.2. Where Full Council does not approve the Administration's Programme within the time-scales set out in Provision 7.5.1 above, with or without amendments agreed by Full Council, the Executive and the Officers shall use their best endeavours to secure that such a programme, acceptable to the majority of Members, is so approved. In this event, a proposal for the Administration's Programme shall be put to each meeting of Full Council until one is approved.
- 7.5.3. Where the Administration's Programme is approved by Full Council but either sets out proposed changes to the Budget & Policy Framework, or otherwise conflicts with the Budget & Policy Framework, this shall not alter the prevailing Budget & Policy framework unless Council resolves explicitly that the Budget and Policy Framework should be so amended; if no such resolution is made the Executive and the Officers shall undertake the work necessary to bring detailed implementation proposals for such changes to a future meeting of Full Council for approval.
- 7.5.4. Where the Administration's Programme is approved by Full Council and contains particular pledges within the scope of Executive Functions that are not in conflict with the existing Budget & Policy Framework, each of those particular pledges shall then form priority items for consideration by the Executive and not require prior consideration by a Policy Advisory Committee. This shall not prevent the Leader or a competent Member on the Executive choosing to place the matter before a Policy Advisory Committee nevertheless.

7.6. Delegations, Decisions and Proceedings of the Executive

- 7.6.1. The Leader shall maintain a Scheme in Part B of this Constitution setting out which individual Members on the Executive, Committees of the Executive, Officers or Joint Arrangements are responsible for the exercise of particular Executive Functions.
- 7.6.2. No Key Decision or Other Material Decision in respect of a matter shall be placed before the Executive or any individual Member on the Executive, and no report prepared for them by Officers, unless: -
- (a) A report on the matter has previously been considered by a meeting of any Policy Advisory Committee;
 - (b) The matter is a reference to the Executive from another Committee, including the Overview & Scrutiny Committee, whose terms of reference allowed the matter to be considered;
 - (c) The matter was the subject of a particular pledge contained within the Administration's Programme approved by the Full Council and does not conflict with the Budget & Policy Framework;
 - (d) The matter was the subject of a Motion before Full Council referred directly to the Executive for consideration;
 - (e) The matter was the subject of a Member Agenda Item Request that has been considered by any Committee and that Committee has resolved to request an Officer's report on the matter be submitted directly to the Executive;
 - (f) The matter concerns a Nuisance or serious service failure and at least three (3) Members have submitted a request it be considered by the Executive;
 - (g) The matter is urgent and the Urgency Arrangements set out in the Executive Procedure Rules in Part C of the Constitution have been engaged.
- 7.6.3. Key Decisions and Other Material Decisions [which are made by members or member bodies](#) shall be made in public, either at a meeting of the Executive or at another meeting convened for the purpose of making the [decision](#). [This will not prevent all or part of matters being considered in private in accordance with the Access to Information Procedure Rules if confidential or exempt information is likely to be discussed but the decision will always be made in public.](#)

Commented [SG15]: How will this be dealt with in the context of decisions involving exempt information?

- 7.6.4. Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part C of this Constitution.

8. THE OFFICERS

8.1. Roles to be Appointed

- 8.1.1. The Council shall engage such staff as it considers necessary to carry out its functions.
- 8.1.2. The following shall be designated as Chief Officers: -
- (a) The Chief Executive (and Head of Paid Service);
 - (b) The Director of Finance & Business Improvement;
 - (c) The Director of Regeneration & Place;
 - (d) *[XX Insert Others]*
- 8.1.3. The following Statutory Officers must be appointed and/or designated: -
- (a) Head of Paid Service;
 - (b) Chief Financial Officer; and
 - (c) The Monitoring Officer
- 8.1.4. The role of Head of Paid Service may be undertaken by the same person, if a qualified accountant, who undertakes the role of Chief Finance Officer. The role of Monitoring Officer however must not be undertaken by a person also undertaking either the role of Head of Paid Service or the role of Chief Finance Officer.

Commented [SG16]: I believe that Cumbria CC did obtain an opinion from James Goudie QC that it would be unlawful to have the same person being CFO and HPS, notwithstanding that there was no explicit bar to this.

8.2. Appointments

- 8.2.1. The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out in Part C of this Constitution.

8.3. Delegations to Officers

- 8.3.1. *[XX Purpose of delegation e.g. efficiency, service maintenance, not Policy]*
- 8.3.2. *[XX Specification in Part B]*

8.4. Principles of Officer Support of Member Bodies

In employing and organising Officer support for the different roles within the Council, the Council will follow a number of key principles with a view to delivering efficient and effective services:-

- 8.4.1. all Officers are employed by, and are accountable to, the Council as a whole, and the Council will both expect and respect the political neutrality of Officers in the discharge of their functions;
 - 8.4.2. adequate support from Officers is provided for the discharge of all the functions of the Council and specifically the roles of the Council, the Committees, the Executive and individual Members representing their communities;
 - 8.4.3. day to day managerial and operational decisions are the responsibility of the Council's Directors, Service Heads, and other Officers;
 - 8.4.4. the Council seeks to avoid creating potential conflicts of interests for Officers arising from the separation of the Executive and Scrutiny roles; and
 - 8.4.5. all Officers have access to appropriate training and development to help them support the various functions of the Council and its Members effectively.
- 8.5. The roles, responsibilities and rights of Officers and Members are set out in the Protocol on Officer-Member Relations in Part E of this Constitution.

Commented [SG17]: Presumably you do not have political assistants?

8.6. Scope of Statutory Officer Roles

- 8.6.1. The functions of the role of Head of Paid Service shall include reporting to Full Council on the manner in which the discharge of the functions of the Council is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.
- 8.6.2. The functions of the role of Monitoring Officer include: -
 - (a) Working with the Democracy & General Purposes Committee to maintain the Constitution;
 - (b) Ensuring lawfulness and fairness of decision making;
 - (c) Supporting the Standards Committee;
 - (d) Conducting investigations or instructing others to carry out investigations on his or her behalf;
 - (e) Advising whether Executive decisions are within the Budget and Policy Framework;
 - (f) Providing advice to Members and Officers.
- 8.6.3. The functions of the role of Chief Finance Officer include: -

- (a) Ensuring lawfulness and financial prudence of decision making
- (b) Administration of financial affairs
- (c) Contributing to corporate management
- (d) Providing advice
- (e) Giving financial information

8.7. Conduct

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

8.8. Structure

The Head of Paid Service shall determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out in an Annex to this Constitution.

9. JOINT ARRANGEMENTS

9.1. Outline of Arrangements

The Council and the Executive may: -

- 9.1.1. enter into arrangements or agreements with any person or body;
- 9.1.2. co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- 9.1.3. exercise on behalf of that person or body any functions of that person or body.

9.2. Joint Arrangements

- 9.2.1. The Council may establish Joint Arrangements with one or more local authorities and/or their Executives to exercise functions which are not Executive Functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 9.2.2. The Executive may establish Joint Arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- 9.2.3. Except as set out below, the Executive may only appoint members of the Executive to a joint committee and those members need not reflect the political composition of the Council as a whole.
- 9.2.4. The Executive may appoint Members to a joint committee from outside the Executive in the following circumstances:
 - (a) the joint committee has functions for only part of the area of the Borough, ~~and that area is smaller than two fifths of the Borough by area or population~~. In such cases, the Executive may appoint to the joint committee any Member whose Ward is wholly or partly contained within the area;
 - (b) the joint committee is between the County Council and this Borough Council only and relates to functions of the Executive of the county council. In such cases, the Executive of the County Council may appoint to the joint committee any Member for an electoral division which is wholly or partly contained within the area.

Commented [SG18]: I am still not sure where the 2/5 area requirement comes from?

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

9.2.5. Details of any Joint Arrangements including any delegations to joint committees are set out in Part B of this Constitution.

9.3. Access to information

9.3.1. The Access to Information Rules in Part C of this Constitution apply to any joint arrangements.

9.4. Delegation to and from other local authorities

9.4.1. The Council may delegate functions that are not Executive Functions to another local authority or, in certain circumstances, the Executive of another local authority.

9.4.2. The Leader or, in the absence of any direction by the leader to the contrary, the Executive, a member of the executive or a committee of the Executive may delegate Executive Functions to another local authority or the Executive of another local authority in certain circumstances.

9.4.3. The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

Commented [SG19]: Is this intended to cover situations where it concerns purely an executive function/functions?

9.5. Contracting out

The Council (for functions which are not Executive Functions) and the Executive (for Executive Functions) may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council’s agent under usual contacting principles, provided there is no delegation of the Council’s discretionary decision making.

10. FINANCE, CONTRACT AND LEGAL MATTERS

10.1. Financial management

The management of the Council’s financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part C of this Constitution.

10.2. Contracts

10.2.1. Every contract made by the Council will comply with the Contract Procedure Rules set out in Part C of this Constitution.

~~10.2.2. Any contract with a value exceeding £[xx] entered into on behalf of the Council in the course of the discharge of an Executive Function shall be made in writing. Such contracts must either be signed by at least two Officers of the Council or made under the common seal of the Council attested by at least one Officer.~~

Commented [SG20]: Not sure this part is necessary given that the statement is made that all contracts must comply with the Contract procedure Rules?

10.3. Legal proceedings

The Head of Mid Kent Legal Partnership is authorised to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or any part of it, or in any case where the Head of Mid Kent Legal Partnership considers that such action is necessary to protect the Council’s interests.

Commented [SG21]: I am still not clear whether this is an officer of the authority?

10.4. Authentication of documents

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

10.5. Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Mid Kent Legal Partnership. 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 Mid Kent Legal Partnership should be sealed. The affixing of the Common Seal will be attested by the Head of Mid Kent Legal Partnership or some other person authorised by him or her.

PART B - RESPONSIBILITIES

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B1. Responsibility for Functions

1. INTRODUCTION TO THIS PART

- 1.1. Core Provision 4 in Chapter A2 of this Constitution outlined the how the Council approaches decision-making and how decisions or functions of the Council might be classified. The principal classification relates to how functions divide between the Council and the Executive. Functions must in law be: -
 - 1.1.1. Council Functions that are either: -
 - (a) Retained by Full Council, or
 - (b) Delegated to Committees;
 - 1.1.2. Executive Functions;
 - 1.1.3. Local Choice Functions where the law states that a function may but need not be exercised by the Executive.
- 1.2. In addition to this apportionment between Member bodies, responsibility for functions may be delegated to Officers for the purposes of operational effectiveness.

2. EXECUTIVE FUNCTIONS

Executive Functions are those functions that are not Council Functions and also not Local Choice Functions assigned to the Council. Where functions are not specified in law or this Constitution to be Council functions then they will be presumed to be the responsibility of the Executive.

3. FUNCTIONS THAT ARE NOT TO BE THE RESPONSIBILITY OF THE EXECUTIVE (WHOLLY COUNCIL FUNCTIONS)

These are the functions set out in Schedule 1, Functions & Responsibilities Regulations.

4. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

- 4.1. These are functions set out in Schedule 2, Functions & Responsibilities Regulations, where the Council has agreed the following apportionment:

FUNCTION	MEMBER BODY
Any function under a local Act	Council

Commented [SG22]: I have reviewed this and it includes all the local choice functions in the Regs which are District functions – many of the local choice functions are County functions.

The determination of an appeal against any decision made by or on behalf of the Council	Council
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Borough	Council
The appointment of any individual: <ul style="list-style-type: none"> • to any office other than an office in which they are employed by the Council; • to anybody other than the Council; • a joint committee of two or more authorities; or • to any committee or sub-committee of such a body; and the revocation of any such appointment 	Council
Any function relating to contaminated land	Executive
The discharge of any function relating to the control of pollution or the management of air quality	Executive
The service of an abatement notice in respect of a statutory nuisance	Executive
The inspection of the Borough to detect any statutory nuisance	Executive
The investigation of any complaint as to the existence of a statutory nuisance	Executive
The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Executive
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Executive
The making of agreements with other authorities for the placing of staff at the disposal of those other authorities.	Executive

B3. Responsibility for Executive Functions

1. BACKGROUND

- 1.1. The Executive is responsible for all functions that are neither Council Functions in law nor those Local Choice Functions assigned to the Council.
- 1.2. The Executive is also responsible for co-ordinating the development of the Budget & Policy Framework and the presentation of proposals to Full Council.

2. DECISION MAKING & DELEGATION

- 2.1. The proceedings of the Executive are subject to the Executive Procedure Rules in Part C of this Constitution.
- 2.2. The Appendix to this Chapter sets out the roles, responsibilities and limitations to delegation for each Member on the Executive, as determined by the Leader.
- 2.3. Chapter B5 also sets out delegations to Officers that include Executive Functions.

APPENDIX: EXECUTIVE ROLES

[Role 1 Title]

Area of Responsibility	Particulars	Limitations
[Area 1]	[Particular 1-1]	
	[Particular 1-2]	
	[Particular 1-3]	
[Area 2]	[Particular 2-1]	
	[Particular 2-2]	
	[Particular 2-3]	
[Area 3]	[Particular 3-1]	
	[Particular 3-2]	
	[Particular 3-3]	

[Role 2 Title]

Area of Responsibility	Particulars	Limitations
[Area 1]	[Particular 1-1]	
	[Particular 1-2]	
	[Particular 1-3]	
[Area 2]	[Particular 2-1]	
	[Particular 2-2]	
	[Particular 2-3]	

[Area 3]	[Particular 3-1]	
	[Particular 3-2]	
	[Particular 3-3]	

[Role 3 Title]

Area of Responsibility	Particulars	Limitations
[Area 1]	[Particular 1-1]	
	[Particular 1-2]	
	[Particular 1-3]	
[Area 2]	[Particular 2-1]	
	[Particular 2-2]	
	[Particular 2-3]	
[Area 3]	[Particular 3-1]	
	[Particular 3-2]	
	[Particular 3-3]	

[Role 4 Title]

Area of Responsibility	Particulars	Limitations
[Area 1]	[Particular 1-1]	
	[Particular 1-2]	

	[Particular 1-3]	
[Area 2]	[Particular 2-1]	
	[Particular 2-2]	
	[Particular 2-3]	
[Area 3]	[Particular 3-1]	
	[Particular 3-2]	
	[Particular 3-3]	

[Role n Title]

Area of Responsibility	Particulars	Limitations
[Area 1]	[Particular 1-1]	
	[Particular 1-2]	
	[Particular 1-3]	
[Area 2]	[Particular 2-1]	
	[Particular 2-2]	
	[Particular 2-3]	
[Area 3]	[Particular 3-1]	
	[Particular 3-2]	
	[Particular 3-3]	

B4. Functions of Other Committees

1. COMMITTEES SUPPORTING GOVERNANCE ARRANGEMENTS

1.1. POLICY ADVISORY COMMITTEES

- 1.1.1. Where portfolios are assigned to individual Members on the Executive, the Proper Officer, in consultation with the Leader of the Council, shall assign to each PAC one or more portfolios mirroring these.
- (a) Where portfolios are not assigned to individual Members on the Executive, the Proper Officer, in consultation with the Leader of the Council, shall assign to each PAC portfolios according to the Default Scheme in the Appendix to this Chapter of the Constitution.
 - (b) Where the Leader has assigned portfolios of limited scope to individual Members on the Executive, such that material matters in the Default Scheme are not so assigned to any Member, the Proper Officer in consultation with the Leader of the Council, shall assign such matters to one or more PACs.
 - (c) PAC's are advisory committees and may only advise the executive on matters within their remit and do not have any power to make decisions on those matters.

1.2. OVERVIEW & SCRUTINY COMMITTEE

1.2.1. Policy Development and Review Functions:

- (a) To assist the Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- (b) To hold enquiries, conduct research, community and other consultation in the analysis of policy issues and possible options;
- (c) To consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (d) To question Members on the Executive and/or Committee Chairmen and Chief Officers about their views on issues and proposals affecting the area;
- (e) To liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

1.2.2. **Scrutiny Functions:**

- (a) review and scrutinise the decisions made by and performance of the Executive and/or committees and council officers both in relation to individual decisions and over time;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) question members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with
- (d) plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (e) make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (f) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the committee and local people about their activities and performance;
- (g) question and gather evidence from any person (with their consent).

1.2.3. **Finance Functions:** The Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to it.

1.2.4. **Officers:** The Overview & Scrutiny Committee may exercise overall responsibility for the work programme of the officers employed to support its work.

1.2.5. **Annual Report:** The Overview and Scrutiny Committee must report annually to the full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

2. **JOINT ARRANGEMENTS**

2.1. **KENT JOINT WASTE MANAGEMENT COMMITTEE**

2.1.1. **Membership:** comprises the portfolio holders or designated members with responsibility for waste within the 12 Districts and

the County. Each Councillor will be entitled to one vote and will act as the Partner Authority's appointed member.

- 2.1.2. Partner Authorities may each appoint another named person to act as a Deputy for their appointed Kent Joint Waste Management Committee Member. Where the appointed Committee Member is unable to attend a meeting, their Deputy may attend and speak in their absence and may vote.
- 2.1.3. The purpose of the Joint Waste Management Committee (Objectives) is to:
 - (a) Ensure the delivery of the Joint Municipal Waste Management Strategy and Vision for Kent;
 - (b) Provide a platform for cooperative and joint working to improve or deliver services;
 - (c) Act as a single voice for strategic waste issues for Kent local authorities and to influence Central Government and other bodies as necessary on key strategic waste issues;
 - (d) Increase awareness of waste as a resource and to interact with other stakeholders to promote waste minimisation and achieve an economically, environmentally and socially sustainable waste strategy;and
 - (e) Work with and support as required statutory agencies, non-governmental organisations (NGO's), small and medium sized enterprises (SME's), business, scientific and commercial organisations and other bodies who are in pursuit of developing, supporting and influencing the future direction of sustainable waste/resource management.
- 2.1.4. The key functions of the Joint Waste Management Committee are to:
 - (a) Ensure the implementation, monitoring and review of the approved Joint Municipal Waste Strategy for Kent;
 - (b) Advise on the future development of the Joint Municipal Waste Strategy for Kent;
 - (c) Produce the Draft Annual Action Plan, including a budget, for approval by the Partner Authorities;
 - (d) Take decisions relevant to the implementation and future development of the Joint Waste Management Strategy and the Approved Annual Action Plan;

- (e) Authorise any relevant expenditure as outlined in the budget of the Approved Annual Action Plan;
- (f) Undertake joint funding applications relevant to the implementation and future development of the Joint Waste Management Strategy and the Approved Annual Action Plan;
- (g) Act as a forum for consideration of strategic/operational municipal and other waste management issues in Kent;
- (h) Encourage the adoption and sharing of waste management best practices and initiatives;
- (i) Co-ordinate baseline evaluation and monitoring of services; Facilitate constructive partnership working;
- (j) Inform and raise awareness of Councillors, officers, and the community with regards to key waste management and resource issues;
- (k) Consult and engage key interested bodies and stakeholders;
- (l) Influence, advise and lobby government and other agencies, both nationally and internationally, where to do so is consistent with Kent's Joint Municipal Waste Strategy and the Purpose of the Joint Waste Management Committee; and
- (m) Carry out such other activities calculated to facilitate, or which are conducive or incidental to the discharge of the Joint Waste Management Committee's function in implementing the Approved Annual Operating Plan.

2.2. JOINT TRANSPORTATION BOARD

- 2.2.1. **Membership:** 9 Councillors from Maidstone Borough Council; and 9 Councillors from Kent County Council ("KCC") representing divisions in Maidstone Borough area; and representatives of the Parish Councils in the District.
- 2.2.2. **Purpose:** Collaboration on the delivery of highways functions where KCC is the Highway authority, in the interests of Maidstone residents.
- 2.2.3. **Terms of Reference:**
 - (a) The Joint Transportation Board ("JTB") will consider:
 - (i) capital and revenue funded works programmes
 - (ii) traffic regulation orders
 - (iii) street management proposals

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

- (b) Be a forum for consultation between KCC, Parish Councils and the Council on policies, plans and strategies related to highways, road traffic and public transport.
- (c) Review the progress and out-turn of works and business performance indicators.
- (d) Recommend and advise on the prioritisation of bids for future programmes of work.
- (e) Receive reports on highways and transportation need within the district.
- (f) 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 the normal arrangements in consultation with KCC.
- (g) The quorum for a meeting shall be four comprising at least two voting members present from each of KCC and the Council.
- (h) In alternate years a Member of KCC (who is a member of the JTB) will chair the JTB and a Council Member (who is a member of the JTB) will be Vice-Chairman of the JTB and then a Member of the Council will chair the JTB and a KCC Member will be Vice-Chairman of the JTB and so on following on the arrangements which existed in the year before this agreement came into force.
- (i) The Strategic Planning and Infrastructure Committee will be the lead body on behalf of the Council.

Appendix: Default Scheme for Policy Advisory Committees**FINANCE & CORPORATE SERVICES**

- The Council Tax Base and recommendations to Full Council concerning financial decisions
- Financial management and performance across the Council including virement between services, business rates, council tax, and revenue & benefits functions
- Land and property including acquisition (by agreement or compulsorily), disposal, appropriation and development with the exception of the declaration of Open Space surplus to requirements
- Compulsory purchase orders on planning grounds and/or recommending to Council the making of compulsory purchase orders
- Strategic budget-related staffing issues
- Health & Safety Strategy and reporting
- The Council's functions as Shareholder in Maidstone Property Holdings Limited
- People strategy and workforce plan
- Medium Term Financial Strategy to include, though not exclusively, Capital Investment Strategy, Council tax support scheme, business rates and income generation
- Communication and Engagement Strategy
- Corporate Improvement Plan
- Information Management Strategy
- Risk Management Strategy including CounterFraud
- Commissioning Strategy
- Asset Management Strategy including assets of community value
- Council Accommodation Strategy
- Emergency and Resilience Planning
- Commercialisation Strategy

- Information and communications technology (ICT)

COMMUNITIES, HOUSING & ENVIRONMENT

- The Council's strategic objectives with regard to Communities, Housing, Public Health and the Environment
- Revenue estimates and capital programmes in respect of the same
- All strategic budget related staffing matters in respect of the same
- To take the lead within the Council in ensuring that the Council achieves inclusiveness and productive community engagement
- Open Space in respect of Section 123 of the Local Government Act 1972 or any other similar enactment and related disposals
- Housing Strategy
- Community Development Strategy
- Climate Change Framework
- Parish Charter, Parishes and Community Governance
- Crime and Disorder Reduction Strategy (and recommend changes to full Council); and Community Safety Strategy to include CCTV
- Compact with Voluntary and Community Sector
- Public Health, Healthy Living and Health Inequalities Strategy
- Waste Management, Waste Minimisation and Recycling Strategy
- Private Water Management
- Responsibility for Safeguarding children and adults who come into contact with Council services and activities
- District flood risk management functions
- Public Conveniences
- Street Scene and Environmental Strategy to include Clean Neighbourhood Enforcement, monitoring
- Enforcement of Air Quality Policies
- Renewable Energy Strategy

- Contaminated Land Strategy
- Community Safety, Protection and combatting anti-social behaviour
- Parks and Open Spaces 10 Year Plan including play areas and allotments
- Bereavement Services – Vinters Park Crematorium and Maidstone Cemetery

ECONOMIC REGENERATION & LEISURE

- The Council's strategic objectives with regards to Maidstone as a decent place to live, cultural and leisure pursuits, a sense of place, with access to quality open space, sports and leisure facilities
- Maidstone's Heritage and Culture together with its leisure facilities play a key role in regeneration and in improving and sustaining the Borough's economic development and health and wellbeing
- Revenue estimates and capital programmes in respect of the same
- All strategic budget related staffing matters in respect of the same
- Festivals and Events Policy including the Hazlitt Theatre and Arts Centre contract
- Tourism Destination Management Plan
- Maidstone Culture and Leisure Business Plan
- Museums 20 Year Development Plan
- Maidstone Market
- Public Realm Design Guide and Public Arts Policy
- Economic Development Strategy
- The Council's roles as corporate trustee in respect of Cobtree Manor Estate (Reg Charity Number 283617) and land of the same name.
- The Council's role as corporate trustee in respect of the Queen's Own Royal West Kent Regiment Museum Trust (Reg Charity Number 1083570)

STRATEGIC PLANNING & INFRASTRUCTURE

- The Council's strategic objectives for planning, sustainability and transportation
- Revenue estimates and capital programmes in respect of the same
- All strategic budget related staffing matters in respect of the same
- Potential application of Schedule 2 to the Noise and Nuisance Act 1993 to the Borough
- Development Plan, including the Maidstone Borough Local Plan and Neighbourhood Plans (subject to approval by Council)
- Spatial planning documents such as supplementary planning documents and planning policy advice notes;
- Master Plans and development briefs; The Infrastructure Delivery Plan; and The Community Infrastructure Levy (CIL), spending strategic CIL funds
- Development Management, Enforcement, Building Control
- Car Parking Plans and Strategy
- Low Emissions Strategy, smoke free premises and control of pollution
- Integrated Transport Strategy
- Park and ride and district highways functioning

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
100F - Deciding whether documents for inspection in connection with Committees contain exempt information under a paragraph of Schedule 12A.	Directors and Heads of Service	Democratic Services Officer
100G (optional) - Maintain a list of Members and list of delegations to Officers and the like.	Head of Policy, Communications and Governance	Democratic Services Officer

PART C - RULES OF PROCEDURE

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C1. Council Procedure Rules

1. INTRODUCTION

- 1.1. The Rules in this Chapter regulate the business at Full Council meetings. Other member bodies are subject to other Rules of Procedure set out later in this Part.
- 1.2. The purpose of these Rules is to ensure that the Council meeting: -
 - 1.2.1. Provides a forum for the debate of matters of concern to Local Residents; and
 - 1.2.2. Acts as a place at which Members who are not on the Executive are able to hold the Executive and others discharging functions to account.

Commented [SG27]: This is a slightly odd formulation. The primary forum for scrutinizing and holding the executive to account is the Overview and Scrutiny Committee not full council. And the purpose of the rules is really to regulate and manage the Council as a decision making forum.

2. MEETINGS

2.1. Calling Annual and Ordinary Meetings.

Subject to Rule 3 on the timing of the Annual Meeting, these meetings shall take place in accordance with a calendar of meetings agreed by Council Resolution.

2.2. Calling of Extraordinary Meetings.

The Proper Officer shall call an Extraordinary Meeting of the Council where requested by: -

- 2.2.1. the Council by resolution;
- 2.2.2. the Mayor;
- 2.2.3. the Monitoring Officer; and
- 2.2.4. any five (5) Members.

Any meeting should be held within 21 days of the receipt of the requisition, unless a resolution of the Council requesting a meeting does so in respect of some future date.

In the event that the Mayor refuses to call or does not call a meeting within seven (7) days of receipt of such a requisition, those members of the council, on that refusal or on the expiration of those seven (7) days, as the case may be, may forthwith call an Extraordinary meeting of the Council.

2.3. Time & Place of Meetings

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

2.4. Notice of and Summon to Meetings

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five (5) clear working days before a meeting, the Proper Officer will publish on the Council's website and send a summons signed by him or her electronically to every Member (or on request by post or by leaving it at their usual place of residence or other address). The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available. No business other than that specified in the summons to the meeting may be considered at a meeting of the Full Council.

2.5. Cancellation of Meetings

In exceptional circumstances the proper officer may cancel or alter the time or location of any meeting.

3. THE ANNUAL MEETING OF THE COUNCIL

3.1. Occurrence of the Annual Meeting.

In a year when there is an ordinary election of Members, the Annual Meeting shall take place within 21 days of the retirement of the outgoing Members. In any other year, the Annual Meeting will take place in March, April or May.

3.2. Business of the Annual Meeting.

The Annual Meeting will:

- 3.2.1. elect a person to preside if the Mayor and Deputy Mayor are not present, or if the Mayor is not present and the Deputy Mayor is to be a candidate for election as Mayor;
- 3.2.2. elect the Mayor;
- 3.2.3. consider whether any items should be taken in private because of the likely disclosure of Confidential or Exempt Information;
- 3.2.4. approve and sign the minutes of the last meeting;
- 3.2.5. appoint the Deputy Mayor;
- 3.2.6. receive any announcements from the Mayor;
- 3.2.7. receive congratulations from local scholars;

- 3.2.8. elect the Leader should the post have become vacant;
- 3.2.9. receive the Leader's appointment of Members to the Executive and scheme of delegation in respect of Executive Functions;
- 3.2.10. consider any motion moved by the Leader in respect of the Administration's Programme;
- 3.2.11. agree a Scheme of Seat Allocations for the Committees;
- 3.2.12. adopt the scheme of delegation in respect of non-Executive Functions;
- 3.2.13. consider any business set out in the summons convening the meeting; and
- 3.2.14. consider matters where confidential or exempt information may be revealed.

4. BUSINESS OF ORDINARY MEETINGS

Ordinary meetings will:

- 4.1. elect a person to preside if the Mayor and Deputy Mayor are not present;
- 4.2. receive any declarations of interest from Members and Officers and deal with any applications for dispensations;
- 4.3. receive any disclosures of lobbying by Members;
- 4.4. consider whether any items should be taken in private because of the likely disclosure of Confidential or Exempt information;
- 4.5. approve and sign the minutes of the last meeting;
- 4.6. receive any announcements from the Mayor;
- 4.7. receive any petitions or deputations;
- 4.8. receive questions from, and provide answers to, Local Residents in relation to matters which in the opinion of the Member presiding at the meeting are relevant to the business of the Council;
- 4.9. allow Local Residents to speak in accordance with Rule 13 on Public Speaking;
- 4.10. the following will receive and respond to questions from Members in chronological order of receipt:
 - 4.10.1. The Leader;

- 4.10.2. Member on the Executive with a portfolio to which the question relates,
- 4.10.3. Other Members who chair a Committee with terms of reference to which the question relates;
- 4.11. receive the Leader's Report on Current Issues and the Group Leaders' responses;
- 4.12. deal with any business from the last Council meeting;
- 4.13. consider any motion moved by the Leader in respect of the Administration's Programme where this has not hitherto been approved by the Council for the Municipal Year;
- 4.14. receive reports from the Executive or the Committees where there are recommendations for the Council to take a decision;
- 4.15. receive reports about the business of Joint Arrangements and external organisations which include matters for decision;
- 4.16. consider motions in the order in which notice has been received;
- 4.17. consider any other business specified in the summons to the meeting; and
- 4.18. consider matters where Confidential or Exempt information may be revealed.

5. QUORUM AT MEETINGS

The quorum of any meeting of the Council will be one quarter of the whole number of Members.

6. PRESIDING AT THE MEETING

- 6.1. The Mayor or in his or her absence the Deputy Mayor will preside at meetings of the Council.
- 6.2. If both the Mayor and the Deputy Mayor are absent, the Members present at the meeting will choose another Member to preside: -
 - 6.2.1. any power or duty of the Mayor to conduct a meeting including exercising a second or casting vote, may be exercised by the Member presiding at the meeting;
 - 6.2.2. if the Mayor or Deputy Mayor arrive after the start of the meeting the Member then presiding will vacate the chair and the Mayor or Deputy Mayor will take the chair.

7. DURATION OF MEETINGS

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- 7.1. Each unfinished meeting will adjourn at 10.30 pm unless a majority of Members present vote to extend the meeting to 11.00 pm at which time the meeting will stand adjourned;
- 7.2. The time and date of the continuation of the adjourned meeting will be decided by a majority of those Members present, or if no decision is reached, by the Proper Officer in consultation with the Mayor and Leader, and it should normally take place within ten (10) working days of the meeting.

8. PRESENTATION OF PETITIONS

- 8.1. Appendix A sets out the nature of those petitions received by the Council that are to be considered by the Full Council.
- 8.2. No more than three (3) petitions may be presented per meeting.
- 8.3. Where a petition is presented: -
 - 8.3.1. Only one person may speak to a petition for a maximum of five (5) minutes. They should have signed the petition, be a Local Resident and be a supporter of the body submitting the petition. This may include someone acting for that petitioner in a professional capacity.
 - 8.3.2. At a Council meeting, at the conclusion of the speech of the presenter, a debate will take place on the petition for up to a period of twenty minutes or if the petition has at least 1,500 signatures, with no time limit on the debate. The debate should take place with the intention that the petition and the views of the Council will then be referred to the appropriate Committee. The debate will be subject to normal council debating rules with the exception that at the end of the debate no vote will be taken, but the petitioner will have an opportunity to speak for a further period of three (3) minutes responding to the issues raised in the debate.
 - 8.3.3. If the Mayor determines that it is inappropriate to debate the petition as a separate item at Full Council, then the petition will be considered later at the same Council meeting in conjunction with any report that has been placed on the agenda concerning the matter raised in the petition.
 - 8.3.4. Any report relating to the subject matter of the petition will be placed on the agenda immediately following the presentation of petitions or in the order petitions are presented if more than one petition is presented at the meeting.

- 8.4. Petitions which are not to be presented in person at meetings of the Council will be reported to it. Debate shall take place as per Rule 8.3 above, save that there will be no speeches by a presenter.

9. QUESTIONS ON NOTICE

- 9.1. At every Ordinary meeting of the Council, save for the Annual meeting, there shall be: -
- 9.1.1. A one (1) hour session for Local Residents; followed by
- 9.1.2. A half-hour session for Members
- to pose Questions on Notice concerning the business of the Council.
- 9.2. The questions may be asked of: -
- 9.2.1. The Leader;
- 9.2.2. A Lead Member to whose portfolio the question relates;
- 9.2.3. Other Members who chair a decision-making Committee with terms of reference to which the question relates.
- 9.3. Appendix B on Questions from Notice sets out the process for giving notice of such questions prior to the Council Meeting and record keeping subsequent to the meeting.
- 9.4. **Order of Questions**
- Questions will be asked of the relevant Members in the order that notice of them was received, except that the Mayor may group together similar questions.
- 9.5. **Posing a Question at the Meeting**
- The Mayor will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf, in which event the answer given by the relevant Member shall also be written and sent to the questioner.
- 9.6. **Supplementary Questions**
- A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question if it would not have been allowed as a Question on Notice or because it does not arise directly out of the question or reply.

9.7. Nature of Reply

The form and content of reply to an original or a supplementary question will be at the discretion of the Member giving the reply, unless in respect of an original question a written request has been received specifying a specific form of reply or replies. He or she may decline to give a full or any reply if in his or her opinion to do so would involve an unreasonable amount of labour or cost.

10. LEADER'S REPORT ON CURRENT ISSUES

- 10.1. At every Ordinary Meeting of the Council except the Annual Meeting, the Leader shall report to the Council on current issues. The leaders of every other Political Group shall then have the right to respond, focusing primarily but not exclusively on the issues raised by the Leader. Each statement may last for up to five minutes.
- 10.2. After the Leader and the other Group Leaders have spoken, the Mayor will open the item to questions from Members for a period of fifteen (15) minutes. Questions may be on any subject relevant to the role of the Leader.

11. INVITATION OF THIRD PARTIES TO COUNCIL

- 11.1.1. An Ordinary Meeting of Council may invite, through the Leader or Mayor, a third party to attend a meeting to speak and answer questions on a particular item on the agenda.
- 11.1.2. An item on the agenda of an Ordinary Meeting of Council may be deferred if Council agrees that a third-party contribution to the discussion is necessary.

12. MOTIONS ON NOTICE

- 12.1. Subject to the exceptions listed in Rule 12.4 below, written notice of every motion must be delivered to the Proper Officer not later than six (6) clear working days before the meeting of the Council at which it is to be moved. Motions will be set out in the summons for the Council in the order received, with the names of the signatories, unless the Member giving notice states, in writing, that they propose to move it at a later meeting or withdraw it.
- 12.2. A Notice of Motion requires signing by at least one third of the Members of the Council where the matter is subject to the limitations in Rule 17.
- 12.3. Notices of Motions will be entered in a book open to public inspection.
- 12.4. Exceptions to the requirement for written notice include: -

- 12.4.1. Motions in respect of reports by Committees or the Executive as per Rule 14;
- 12.4.2. Procedural Motions as per Rule 15.
- 12.5. Proposals for the Administration's Programme for the Municipal Year must similarly be made in writing and submitted to the Proper Officer by 4pm three (3) Clear Days before the day of the meeting where this is listed as an agenda item. Such proposals may only be submitted by the Leader or by a Member identifying themselves on the public record as a candidate for election as Leader at the coming meeting.
- 12.6. Amendments to the recommended Budget, or alternative proposals, are to be made in writing and delivered to the Proper Officer by 4pm on the Monday before the meeting. In proposing any changes to the Budget any amendment must ensure that the proposal achieves a balanced budget.
- 12.7. If a motion set out in the summons is not moved at the meeting by a Member who gave notice, or by another Member, it will be deemed withdrawn unless deferred by the Council.
- 12.8. If the subject of a motion concerns a matter of a quasi-judicial nature, and the matter appears within the competence of a Committee or other Member body, at the meeting the Mayor shall declare the motion referred to that Committee or Member-body without debate, and the motion shall be so referred. If the subject of the motion is any other matter of a quasi-judicial nature, at the meeting the Mayor shall refer the matter to the relevant Officer(s) and declare the motion disposed of.
- 12.9. If the subject of a motion comes within the province of any Executive Function, at the meeting: -
 - 12.9.1. The Mayor shall first allow for a debate.
 - 12.9.2. If the Member moving the motion so proposes, and the Member seconding the motion is in agreement, the Mayor shall call a vote on whether to refer the matter directly to the Executive for consideration.
 - (a) Should Council so resolve, the motion shall be referred.
 - (b) Should Council refuse to so resolve, the motion shall be deemed to have fallen.
 - 12.9.3. If there is no proposal to refer the matter directly to the Executive, the Mayor shall refer the matter to the relevant Policy Advisory Committee.
- 12.10. If the subject of a motion concerns a matter within the competence of any other Committee: -

12.10.1. The Mayor shall first allow for a debate;

12.10.2. The Mayor shall then declare the motion referred to the relevant Committee for consideration.

12.11. For the purposes of Rule 12.10, any motion that seeks to amend any Provision within Part A of this Constitution, or any Rule within Part C of this Constitution, shall be regarded as within the competence of the Democracy & General Purposes Committee.

12.12. Every motion must be relevant to the Council's powers or duties or to a matter which affects the Borough.

12.13. Any motion which in the opinion of the Proper Officer after consultation with the Head of Legal Partnership is out of order, or illegal, will be submitted to the Mayor who will decide whether it is accepted and the Proper Officer will notify the Member(s) accordingly.

12.14. This Rule 12 is subject to the over-riding requirement that any motion before the Full Council concerning a Member's rights to access information or documents must be determined by the Full Council.

Commented [SG28]: This will need to be considered alongside the Access to Information Procedure Rules

13. PUBLIC SPEAKING AT COUNCIL

Where the meeting is open to the public, a Local Resident or a representative of a local organisation may speak at the invitation of the Mayor in respect of an item on the agenda. Notice of a request to speak must be given to Democratic Services by no later than 4pm one clear working day before the relevant meeting. Public speaking is subject to the following time limits:

13.1. The total time for speaking on an item on the agenda is twelve (12) minutes; within that twelve (12) minute period, each speaker has a maximum of three (3) minutes.

13.2. In addition to the twelve (12) minutes, a relevant Parish Council representative may be allocated a maximum of three (3) minutes each; where there are several such speakers, they will be asked by the Proper Officer to appoint a single spokesperson to represent all views.

13.3. When these times have expired, speakers will not be allowed to speak further unless asked by the Mayor to clarify a point of fact.

14. REPORTS BY COMMITTEES AND THE EXECUTIVE

14.1. The Council will consider reports by Committees who are empowered to make recommendations to the Council and also reports of the Executive making recommendations. Motions concerning such reports, where the

subjects of these reports are included in the Summons for the purposes of Rule 2.4, do not require notice for the purposes of Rule 12.

15. RULES OF DEBATE

15.1. 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 seconded.

15.2. Right to require motion in writing

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

15.3. Secunder's speech

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

15.4. Content and length of speeches

Speeches must be directed to the matter under discussion or to a personal explanation or point of order. No speech may exceed three (3) minutes without the consent of the Mayor, except when moving a motion submitted in accordance with Rule 12 or Rule 14 above, when the mover will be entitled to speak for five (5) minutes, or except when a Group Leader is moving his or her Group's budget proposals at the Budget Making Council, or the Leader is moving the Administration's Programme, when the mover will be entitled to speak for ten (10) minutes.

15.5. When a Member may speak again

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

15.5.1. to speak once on an amendment moved by another Member;

15.5.2. to move a further amendment if the motion has been amended since he or she last spoke;

15.5.3. if his or her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he or she spoke was carried);

- 15.5.4. in exercise of a right of reply;
- 15.5.5. on a point of order; and
- 15.5.6. by way of personal explanation.

15.6. **Amendment to motions**

- 15.6.1. 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 wordsas long as the effect of (b) to (d) is not to negate the motion.
- 15.6.2. 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.
- 15.6.3. If an amendment is not carried or accepted by the motion's proposer and seconder, other amendments to the original motion may be moved.
- 15.6.4. If an amendment is carried, or accepted by the motion's proposer and seconder, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 15.6.5. If there are no further amendments the Mayor will put the substantive motion to the vote.

15.7. **Alteration of motion**

- 15.7.1. A Member may when moving a motion of which he or she has given notice under Rule 12, alter it with the consent of the meeting and the other signatories. The meeting's consent will be signified without discussion.
- 15.7.2. A Member may alter a motion which he or she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

15.7.3. Only alterations which could be made as an amendment may be made.

15.8. Withdrawal of motion

A Member may withdraw a motion which he or she has moved with the consent of the seconder. No Member may speak on the motion after the mover has withdrawn it.

15.9. Right of reply

15.9.1. 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.

15.9.2. The mover of the amendment has a right of reply to the debate on his or her amendment (before the right of reply of the mover of the original motion).

15.9.3. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, if he or she has spoken on it.

15.10. Motions which may be moved during debate

15.10.1. When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to amend a motion;
- (b) a Closure motion (as below);
- (c) to move;
- (d) that the meeting continue until 11.00pm;
- (e) to exclude the public and press in accordance with the Access to Information Rules;
- (f) to not hear further from a Member named under Rule 16.3 or to exclude them from the meeting under Rule 16.4;
- (g) to suspend a particular Council procedure rule;
- (h) to give the consent of the Council where its consent is required by this Constitution;
- (i) to extend the time limit for speeches;
- (j) to determine the time and date of the adjourned meeting in accordance with Council procedure Rule 7.2; and
- (k) to put the motion in parts to the vote.

15.11. Closure motions

15.11.1. A Member may move, without comment, the following motions at the end of a speech of another Member:

- (a) to proceed to the next business;
- (b) that the question be now put;
- (c) to adjourn a debate; or
- (d) to adjourn a meeting.

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

15.11.3. If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he or she will put the procedural motion to the vote. If it is passed he or she will give the mover of the original motion a right to reply before putting his or her motion to the vote.

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

15.12. Point of order

A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules, the rest of the Constitution, or the law. The Member must indicate the Provision, Rule or law and the way in which he or she consider it has been broken. The ruling of the Mayor on the matter will be final.

15.13. Personal explanation

A Member may make a point of personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member (whether or not made at the meeting) which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

16. CONDUCT OF ELECTED MEMBERS

16.1. Standing to speak

When a Member speaks at Full Council they must usually stand and address the meeting through the Mayor. If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a personal explanation.

16.2. Mayor standing

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

16.3. Member not to be heard further

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

16.4. Member to leave the meeting

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

16.5. General disturbance

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he or she thinks necessary, or may adjourn and re-convene elsewhere.

17. PREVIOUS DECISIONS & MOTIONS**17.1. Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of Motion is signed by at least one third of the whole number of the Council.

17.2. Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one third of the whole number of the Members.

18. VOTING

18.1. Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

18.2. Mayor's casting vote

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote, regardless of whether he or she has used his or her first vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

18.3. Means of Voting

Unless a recorded vote is demanded under Rule 18.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

18.4. Recorded vote

If five Members present at a Council meeting, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

18.5. Right to require individual vote to be recorded

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

18.6. Recorded votes at Budget meetings

Immediately after any vote is taken at a Budget Decision Meeting, on any decision related to the making of the calculation or the issuing of the Council Tax as the case may be there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

18.7. 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.

19. MINUTES

19.1. Signing the minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

19.2. 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 meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

19.3. Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Mayor put them and shall record all questions and answers in accordance with Rule 9.

20. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

21. EXCLUSION OF PUBLIC & RECORDING OF MEETINGS

- 21.1. Members of the public and press may only be excluded in accordance with the Access to Information Rules in Part C of this Constitution or Rule 23 (Disturbance by Public).
- 21.2. Any member of the public or press attending meetings of the Council may record such meetings in open session using whatever non-disruptive methods that they consider appropriate, including filming, photographing, audio recording and use of social media. Anyone filming a meeting is asked to focus only on those actively participating
- 21.3. Recording of any part of a meeting held in closed session is not permitted.
- 21.4. All attendees should be made aware that they may be filmed or recorded whilst attending a meeting and that attendance at the meeting signifies consent to this.

22. DISCLOSURE OF INTERESTS

- 22.1. A Member with a Disclosable Pecuniary Interest or Other Significant Interest in a matter to be considered, or being considered at a meeting must:
- 22.1.1. disclose the interest; and
 - 22.1.2. explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to Rule 22.3 below); and unless they have been granted a dispensation;
 - 22.1.3. not participate in any discussion of, or vote taken on, the matter at the meeting unless they have been granted a dispensation; and
 - 22.1.4. withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
 - 22.1.5. not seek improperly to influence a decision about that business.
- 22.2. A Member with an Other Significant Interest, may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member will withdraw from the meeting room immediately after making representations, answering questions or giving evidence.
- 22.3. Where a Disclosable Pecuniary Interest or an Other Significant Interest has been agreed by the Monitoring Officer as being a Sensitive Interest, the Member need only disclose the existence of the interest but not its nature.

23. DISTURBANCE BY PUBLIC

23.1. Removal of member of the public

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

23.2. Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared and may adjourn the meeting and/or re-convene elsewhere.

24. SIGNATURES OF MEMBERS

Where any of these Rules require a Member to sign or consent to a document or requisition to be provided to the Proper Officer, an authentic email message from that Member shall suffice. Where there is a requirement for more than one (1) Member to sign or consent to a document or requisition, the Members may indicate the same to the Proper Officer through multiple counterparts.

25. SUSPENSION OF THESE RULES

All of these Council Procedure Rules except Rules **16.2, 18.5, 18.6** and **19.2** may be suspended by motion on notice or without notice if at least one half of the whole number of Members are present and the majority present approve. Suspension can only be for the duration of the meeting.

Appendix A: The Council's Petition Scheme

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Appendix A: Petitions

1. The Council welcomes petitions from Local Residents. Subject to Para.2 below, all petitions received by the Council that are signed by at least 100 Local Residents will be presented or reported to the relevant Member body.
2. The Member body to which a petition is presented or reported shall depend on whether or not it pertains to an Executive Function and the number of signatories.
 - 2.1. For Executive Functions where the number of signatories is at least 1,000 Local Residents, the petition shall go to the Executive.
 - 2.2. For Executive Functions where the number of signatories is fewer than 1,000 Local Residents, the petition shall go to the relevant Committee.
 - 2.3. For non-Executive Functions where the number of signatories is at least 1,000 Local Residents, the petition shall go to Full Council.
 - 2.4. For non-Executive Functions where the number of signatories is fewer than 1,000 Local Residents, the petition shall go to the relevant Committee. Where the petition concerns a matter not otherwise within the competence of a Committee, the petition shall go to the Democracy & General Purposes Committee.
3. If so required by a signatory to a petition, it may be presented in person at meetings of the relevant Member body, subject to compliance with the following procedure:-
 - 3.1. The wording of the petition to be presented to be presented must be given in writing to the Proper Officer at least two (2) weeks before the day of the meeting. Ward Members will be notified of the wording of petitions when received;
 - 3.2. If a petitioner has submitted a petition of at least 100 signatures requesting a Senior Officer of the Council to attend, give evidence and provide information on activities for which they are responsible, then that Senior Officer will attend;

Para.**Appendix A: Petitions**

- 3.3. Petitions must be presented to the Proper Officer at least one (1) clear day before the day of the meeting (i.e. two days) of the relevant Member body;
 - 3.4. No more than three (3) petitions may be presented per meeting;
 - 3.5. If more than one petition is notified to the Proper Officer to the same meeting, they shall rank in order of priority according to the time of notice given;
 - 3.6. No petition may be presented relating to an application for a licence;
 - 3.7. No petition may be presented to the Annual Meeting of the Council or to any meeting of the Audit, Governance and Standards Committee.
4. Petitions which are not to be presented in person at meetings of the Council or appropriate Committee will be reported to that body.
 5. Provision will be made for a facility to submit petitions electronically.
 6. Any checking or sampling of signatories by Council Officers to verify the number of signatories shall give due consideration to the rights of younger Local Residents whose names may not yet appear on the Electoral Roll on account of their age.

Appendix B: Questions on Notice

Para.

Appendix B: Questions on Notice

1. **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing (including by electronic mail) to the Proper Officer no later than close of the office one clear working day before the day of the meeting. Each question must give the name and address of the questioner and must name the relevant Member to whom it is to be put.

2. **Number of questions**

At any one meeting no person may submit more than one question.

3. **Scope of questions**

The Proper Officer may reject a question if in his or her opinion:

- 3.1. it is not about a matter for which the Council has a responsibility or that affects the Borough;
- 3.2. it is defamatory, frivolous or offensive;
- 3.3. it cannot be answered with sufficient accuracy without unacceptable disclosure of Confidential or Exempt information;
- 3.4. the Local Resident seeking to ask a question has previously withdrawn questions on three consecutive occasions, any further question from that person will be refused unless that person confirms in writing that they will be attending the meeting to ask the question. If that person does not attend the meeting after confirming they will do so, no further action will be taken with regard to that question.
- 3.5. the question has been asked at a previous meeting of the Council either in the exact or similar form and/or;
- 3.6. the question concerns a planning matter about which questions have been posed at the last two (2) meetings of the same Member body, or at two (2) out of the last three (3) such meetings;
- 3.7. the Council has resolved the issue raised and the question has been brought to a close.

Para. *Appendix B: Questions on Notice***4. Record of questions**

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

6. Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer that is sent to the questioner. The written response will be included in the minutes with a note that a written response was given either because of a lack of time or because the relevant Member was not present.

7. Response to Questions

- 7.1. Where the question is discussed and answered during the meeting, the responses to the questions will not be minuted, as the Council webcasts its meetings so there is already a full record of the response. The minutes will state whether the Member responded to the question or not and will refer the public to the webcast for the full response.
- 7.2. If the webcast has failed prior to the start of the meeting, a summary of the answer will be included in the minutes.

C2. Committee Procedure Rules

1. INTRODUCTION & PURPOSE

- 1.1. The Rules in this Chapter regulate the business of the Committees and may be cited as the Committee Procedure Rules. They also apply to any Sub-Committee with any such qualification or modification as may be specified or evident from the context.
- 1.2. The purpose of these Rules is to ensure that the Committees: -
 - 1.2.1. Function smoothly and efficiently;
 - 1.2.2. Reflect the political balance of the Council as whole, as far as possible and in accordance with the law;
 - 1.2.3. Act as a place at which Members, including those who are not on the particular Committee, are able to raise matters of concern;
 - 1.2.4. Enhance the quality & transparency of decision-making, especially in respect of Executive Functions;
 - 1.2.5. Are accessible directly to Local Residents.

2. APPOINTMENTS TO COMMITTEES

2.1. Appointments to Committees are made at the Annual Council Meeting or, when a vacancy occurs, at the next available meeting of the

2.1. Council, in accordance with the legislation and rules on political balance. The Proper Officer shall appoint Members to Committees in accordance with the wishes of the Group Leaders and the Scheme of Seat Allocations agreed by Full Council.

- 2.2. Any Member on a Committee may give notice to the Proper Officer of his or her resignation from a particular Committee of which he or she is on.
- 2.3. A Group Leader may request, and the Proper Officer shall give effect to, the removal from a particular Committee of a Member belonging to his or her Political Group, subject to the Group Leader also requesting that an alternative Member belonging to his or her Political Group be appointed to that Committee.
- 2.4. **Co-Option of Non-Members**

The Overview and Scrutiny Committee, the Audit, Governance & Standards Committee, or any sub-committee of either, shall be entitled to recommend to Council the appointment to it of people as [XX non-voting?] co-optees.

Formatted: No bullets or numbering

Commented [SG29]: Strictly Council appoints committees and members though it must give effect to the proportionality rules in the 1989 Act and regulations. The wording in the current constitution, "Appointments to Committees are made at the Annual Council Meeting or, when a vacancy occurs, at the next available meeting of the Council." Is a more accurate representation of the law.

2.5. Members as Substitutes on Committees

- 2.5.1. For each Committee, the Proper Officer shall appoint a minimum of the three (3) Members belonging to each Political Group, up to the number of committee seats allocated to that Political Group, who may act as Substitutes on that Committee.
- 2.5.2. A Member who acts as a Substitute on a Committee may sit at meetings of that Committee in place of a Member on that Committee belonging to the same Political Group ("Full Member"), where that Full Member is either absent from that meeting or opts to attend that meeting as a Visiting Member instead.
- 2.5.3. A Member attending a meeting as a Substitute will have all the powers and duties of a Member ordinarily on that Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting for.
- 2.5.4. Members may attend meetings as Substitutes only:
 - (a) if the substitution is notified when the item is called on the agenda;
 - (b) if the Full Member arrives after the substitution has been made, and opts to take his or her seat, and no other Full Members belong to that Political Group are absent, the substitution shall end and the Member attending as a Substitute shall cease to sit on the Committee and shall be deemed a Visiting Member.
 - (c) if the Full Member leaves before the conclusion of the meeting a substitution can be made if it has been notified when the item is called on the Committee agenda.

Commented [SG30]: What if a group does not have 3 members who can act as substitutes? In the current constitution it is up to 6. Also in my view it would be better if these were appointed by full council, though the law on substitutes generally is a little vague.

Commented [SG31]: Whilst the law is not clear on this point it is in my view doubtful whether substitution for a single item or part of a an agenda as opposed to the meeting as a whole would be lawful. It is not a practice I am aware of other authorities adopting.

3. CHAIRING OF COMMITTEES

3.1. Committee Chairmen and Vice-Chairs to be Committee Members

No Member may serve as the Chairman or vice-Chair of any Committee unless he or she is on that Committee. Where a Member serves as Chairman or vice-Chair of a Committee, and then ceases to be on that Committee, he or she shall cease to be the Chairman or the vice-Chair (as the case may be).

3.2. Policy Advisory Committees

3.2.1. The Chairman of each Policy Advisory Committee for the Municipal Year shall be the ~~Member~~ appointed by ~~the Committee. the Executive in line with Provision 6.2, Chapter A2 of this Constitution.~~ The ~~Executive Committee~~ may revise this

appointment during the course of the Municipal Year.

Commented [SG32]: See comment above re chairmen of PACs

- 3.2.2. The vice-Chair of each Policy Advisory Committee shall be elected by the Members on that Committee at their first meeting of the Municipal Year using the following procedure. The purpose of this procedure is to give preference to Members who belong to non-Administration Political Groups.
- (a) Nominations will open firstly to Members on the Committee who belong to non-Administration Political Groups.
 - (b) Should more than one Member be nominated at this stage, there shall be a vote amongst all Members on the Committee to elect the vice-Chair from those nominated.
 - (c) Alternatively, should just a single Member be nominated at this stage, the Member so nominated shall be declared elected vice-Chair.
 - (d) Alternatively, should no Members be nominated at this stage, nominations will then be opened to all Members of the Committee and a vice-Chair elected accordingly.

3.3. Overview and Scrutiny Committee

- 3.3.1. The Chairman of the Overview & Scrutiny Committee shall be elected by Members on that Committee at their first meeting of the Municipal Year using the following procedure. The purpose of this procedure is to give preference to Members belonging to the largest non-Administration Political Group.
- (a) Nominations will open firstly to Members on the Committee who belong to the largest non-Administration Political Group.
 - (b) Should more than one Member be nominated at this stage, there shall be a vote amongst all Members on the Committee to elect the Chairman from those nominated.
 - (c) Alternatively, should just a single Member be nominated at this stage, the Member so nominated shall be declared elected as Chairman.
 - (d) Alternatively, should no Members be nominated at this stage, the process shall be attempted again with nominations opened to Members on the Committee belonging to all non-Administration Party Groups.
 - (e) Should this stage also fail to attract any nominations, the process shall be attempted again with nominations opened to all Members on the Committee.

3.3.2. The vice-Chair of the Overview & Scrutiny Committee shall be elected by the Members on the Committee at their first meeting of the Municipal Year with nominations open to all Members on the Committee (save for the Chairman).

3.4. Other Committees

All other Committees shall elect a Committee Chairman and a vice-Chair at the first meeting of the Municipal Year with nominations open to all Members on the Committee.

3.5. Vacancies Arising

A vacancy arising during the Municipal Year in respect of a Committee Chairman or vice-Chair shall be filled using the same procedure for appointment or election applying at the beginning of the Municipal Year with any election taking place at the next meeting of the Committee.

3.6. Chairing Meetings

3.6.1. The Committee Chairman shall chair each meeting of that Committee. In his or her absence, the vice-Chair shall chair the meeting unless the vice-Chair opts to remain at the meeting but not take the chair.

3.6.2. Where the Committee Chairman is both absent from a meeting of the Committee, and the vice-Chair is also absent or is present but opts not to take the chair, and the meeting is nevertheless quorate, then: -

- (a) The Members on the Committee who are present shall elect of their number to chair the meeting;
- (b) Should the Committee Chairman or a previously absent vice-Chair subsequently arrive, he or she shall take the chair for the remaining duration of the meeting and the Member elected in (a) shall vacate the chair.

3.6.3. The process in Rule 3.6.2(a) shall apply where either the Committee Chairman or the vice-Chair has been chairing a meeting but had to leave resulting in both being absent or in the Chairman being absent and the vice-Chair opting not to take the chair.

4. HOLDING OF MEETINGS

4.1. Ordinary meetings of the Committees shall be held according to a calendar of meetings agreed by resolution of the Council.

- 4.2. The Proper Officer may, after consulting the Chairman and vice-Chair of a Committee, cancel or postpone any meeting of that Committee.
- 4.3. The Proper Officer may, after consulting the Chairman and vice-Chair of a Committee, call a special meeting of that Committee.
- 4.4. The Proper Officer shall call a special meeting of a Committee where one is requested by:
 - 4.4.1. the Chairman;
 - 4.4.2. Full Council; or
 - 4.4.3. The Monitoring Officer.
- 4.5. The Proper Officer shall call a special meeting of a Committee where: -
 - 4.5.1. At least three (3) Members on that Committee sign a requisition for such a meeting; and
 - 4.5.2. The requisition specifies matters for consideration that are within the terms of reference or competence of that Committee, and are: -
 - (a) sufficiently urgent such that it would be un-reasonable to wait until the next Ordinary meeting, or
 - (b) are of a size & significance relative to the forecast workload of the next Ordinary meeting such as to warrant a Special meeting.
- 4.6. The Proper Officer shall call a meeting of the Overview & Scrutiny Committee within five (5) working days of a call-in being received.

5. NOTICE OF MEETINGS AND BUSINESS TO BE DISCUSSED

- 5.1. The agenda for any Committee meeting shall be set following discussion between the Committee Chairman, the vice-Chair, and Officers.
- 5.2. The agenda shall accommodate: -
 - 5.2.1. For any Policy Advisory Committee, the Forward Plan set by the Executive;
 - 5.2.2. For all Committees, any: -
 - (a) Member Agenda Item Requests,
 - (b) Motions referred to that Committee following Full Council,
 - (c) Previous resolutions of that Committee in respect of its Work Programme;
 - 5.2.3. In respect of the Overview & Scrutiny Committee, any: -

- (a) Call-in by a Member,
- (b) Any Member "call for action".

5.3. **Summons & Notice**

- 5.3.1. The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five (5) Clear Days before a meeting (or if a meeting of a Committee or Sub-Committee is called at shorter notice, as soon as the meeting is called), the Proper Officer will publish on the Council's website and send a summons signed by him/her electronically to every Member of the Council (or on request by post or by leaving it at their usual place of residence/other address).
- 5.3.2. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available. Where not all of the reports are available with the summons they will be posted on the Council's website as soon as they become available and e-mailed or posted to Members.

6. **MEMBER AGENDA ITEM REQUESTS**

- 6.1. Any Member may ask that a particular matter is added as an item to the agenda of a Committee, subject to: -
 - 6.1.1. The matter being relevant to the Committee's terms of reference;
 - 6.1.2. Written notice of the request is provided to the Proper Officer by the ordinary deadline of 4pm, six (6) clear days before the meeting is to be held;
 - 6.1.3. Notice may be accepted after closure of the ordinary deadline where, in the opinion of the Committee Chairman and vice-Chair, the Member is able to demonstrate that the matter: -
 - (a) Only came to his or her attention around or after the ordinary deadline; and
 - (b) It is of an apparent immediacy or is likely to command sufficient public concern, that it cannot wait until the meeting of the Committee after the next one.
 - 6.1.4. The matter should not be such that it is judged by the Committee Chairman and vice-Chair, in agreement, as being

defamatory or offensive or otherwise unlawful, having consulted the Proper Officer and the Monitoring Officer.

- 6.2. A Member Agenda Item Request may also be contained within a requisition signed by three (3) Members on a Committee requesting a special meeting.
- 6.3. Where an item is added to the agenda of a Committee as a result of a Member Agenda Item Request:
 - 6.3.1. The Committee shall be able to debate the principles of the matter, with or without Officer input.
 - 6.3.2. The Member raising the Member Agenda Item Request shall have the right to both introduce the item and the right to reply to the debate at its conclusion as the last speaker on the item. This shall apply even where that Member is attending as a Visiting Member.
- 6.4. There is no expectation for Officers to provide a report concerning a Member Agenda Item Request ahead of the meeting at which the item is first discussed. Where one is provided however, the Committee has the freedom to deal with the matter like any other agenda item supported by an Officer's report.
- 6.5. Where a Member Agenda Item Request leads to consideration of the item by a Committee without an Officer's report, the Committee may only: -
 - 6.5.1. For any type of Committee, resolve to request that an Officer's report be provided to a future meeting of the Committee, on which occasion it may then be debated and dealt with by the Committee as any other agenda item supported by an Officer's report.
 - 6.5.2. For a Policy Advisory Committee, request that an Officer's report be prepared and submitted with the item directly to the Executive for consideration.
 - 6.5.3. Conclude the debate with no further action agreed for the time being.

7. ATTENDANCE AT MEETINGS

7.1. Committees Generally

- 7.1.1. A Committee shall be clerked by a Democratic Services Officer.
- 7.1.2. A Committee may invite such further Officers as are necessary for the presentation of Officer Reports or to inform discussion in respect of agenda items.

- 7.1.3. A Committee may invite a third party to attend a meeting to speak and answer questions on a particular item on the agenda.
- 7.1.4. An item on the agenda may be deferred if the Committee agrees that a third-party contribution to the discussion is necessary.

7.2. **At Overview & Scrutiny Committee**

- 7.2.1. The Overview and Scrutiny Committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member on the Executive, the Chief Executive and/or any senior Officer to attend before it to explain in relation to matters within their remit:
 - (a) any particular decision or series of decisions;
 - (b) the extent to which the actions taken implement Council policy; and/or
 - (c) their performanceand it is the duty of those persons to attend if so required.
- 7.2.2. The appropriate "senior Officer" shall be identified following consultation with the Chief Executive.
- 7.2.3. Where any member or Officer is required to attend the Overview and Scrutiny Committee under this provision, the chairman of that committee will inform the Chief Executive. The Chief Executive shall inform the member or Officer in writing giving at least 10 working days' notice of the meeting at which they are required to attend. (A shorter period of notice may be given with the agreement of the member or Officer in question.) The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 7.2.4. Where, in exceptional circumstances, the member or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or Officer arrange an alternative date for attendance.

7.3. **Visiting Members**

- 7.3.1. At each meeting of each Committee, it shall be an early agenda item for the Member chairing the meeting to ask any Visiting Members to introduce themselves and state the agenda item(s) to which he or she intends speaking.
- 7.3.2. Subject to Rules 7.3.3 & 7.3.4 below, any Member may attend any meeting of a Committee or Sub- Committee on which he or she does not sit on in order to speak on particular items provided he or she specifies those items at the point in the meeting when Visiting Members are asked to introduce themselves.
- 7.3.3. No other Member except for those on the Committee may attend and/or speak on: -
 - (a) Panels or sub-committees of any Member body relating to employment functions;
 - (b) hearings in respect of individual applications before the Licensing Committee or Sub-Committee, other than to observe proceedings only for training purposes with leave of the Member chairing the meeting having consulted the legal officer attending;
 - (c) the Hearings Sub-Committee of the Audit, Governance and Standards Committee when it is considering allegations of misconduct; or any other panel hearing or appeal.
- 7.3.4. To speak on an item at the Planning Committee, notice must be given to the Proper Officer by 4pm on the preceding working day.
- 7.3.5. Visiting Members speak after the Officer introduction on an item, but before the general debate.
- 7.3.6. Having spoken, the Visiting Member will not participate further unless:
 - (a) the Member chairing the meeting agrees, or
 - (b) the item arises from a motion that the Visiting Member moved at Full Council, or the item arises from a Member Agenda Item Request raised by that Visiting Member, in which event the Visiting Member shall have a right to reply at the end of the debate and immediately before any motion is put to the vote.

8. CONDUCT OF COMMITTEE MEETINGS

8.1. Quorum

The quorum of a meeting will be at least one quarter of the whole number of Members provided that: -

- 8.1.1. the quorum of the Trustee Committee is not less than three (3) Members;
- 8.1.2. the quorum of the Overview & Scrutiny Committee is not less than five (5) Members;
- 8.1.3. the quorum of any other Committee is not less than four (4) Members; and
- 8.1.4. The quorum of a Sub-Committee is not less than two (2) Members.

8.2. **Standing Items**

Before any substantive items are considered, the following items shall be considered at each meeting of any Committee: -

- 8.2.1. Apologies for absence;
- 8.2.2. Notification of substitute Members sitting;
- 8.2.3. Disclosures of interest;
- 8.2.4. Declarations of lobbying from interested parties or objectors in respect of any particular agenda item;
- 8.2.5. Minutes of the previous meeting(s);
- 8.2.6. Any petitions, in accordance with Rule 9;
- 8.2.7. Any Questions on Notice from Local Residents;
- 8.2.8. Any Questions on Notice from Members.

Save that petitions and questions maybe omitted at the first meeting of the Municipal Year if convened only for the purpose of electing the Chairman and/or vice-Chair.

8.3. **Recording of Meetings**

- 8.3.1. Any member of the public or press attending meetings of the Council may record such meetings in open session using whatever non-disruptive methods that they consider appropriate, including filming, photographing, audio recording and use of social media. Anyone filming a meeting is asked to focus only on those actively participating

- 8.3.2. Recording of any part of a meeting held in closed session is not permitted.
- 8.3.3. All attendees should be made aware that they may be filmed or recorded whilst attending a meeting and that attendance at the meeting signifies consent to this.

8.4. **Exclusion of the Public & Press**

In accordance with the Access to Information Procedure Rules, a Committee meeting: -

- 8.4.1. Shall go into closed session where Confidential Information is to be discussed
- 8.4.2. May go into closed session where Exempt Information is to be discussed

in relation to an item.

This means that the press and members of the public shall be excluded from the meeting. No such exclusion however shall apply to any elected Member, including any Visiting Member.

Commented [SG33]: See comments above re member access to information.

8.5. **Duration of Meetings**

- 8.5.1. Each unfinished meeting will adjourn at 10.30 pm unless a majority of Members present vote to extend the meeting to 11.00 pm at which time the meeting will stand adjourned;
- 8.5.2. The time and date of the continuation of the adjourned meeting will be decided by a majority of those Members present, or if no decision is reached, by the Executive in the case of a Policy Advisory Committee or the Proper Officer in the case of any other Committee, and it should normally take place within ten (10) working days of the meeting.

8.6. **Removal of member of the public**

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

8.7. **Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Member chairing the meeting may call for that part to be cleared and may adjourn the meeting and/or re-convene elsewhere.

8.8. **Minutes**

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- 8.8.1. The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
- 8.8.2. Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.
- 8.8.3. Minutes will contain all motions and amendments in the exact form and order the Mayor put them and shall record all questions and answers in accordance with Rule 9.

9. PETITIONS AT COMMITTEES

- 9.1. Appendix A of the Council Procedure Rules on the Council's Petitions Scheme sets out the nature of those petitions received by the Council that are to be considered by a particular Committee.
- 9.2. No more than three (3) petitions may be presented per meeting.
- 9.3. Where a petition is presented: -
 - 9.3.1. Only one person may speak to a petition for a maximum of five (5) minutes. They should have signed the petition, be a Local Resident and be a supporter of the body submitting the petition. This may include someone acting for that petitioner in a professional capacity.
 - 9.3.2. A debate will take place on the petition.
 - 9.3.3. The petitioner will have an opportunity to speak for a further period of three (3) minutes responding to the issues raised in the debate.
 - 9.3.4. Where the petition relates to another item on the agenda, the matter should then be dealt with alongside that other agenda item.
 - 9.3.5. Where the petition is not dealt with by another item on the agenda, the Committee may resolve: -
 - (a) To request an Officer's Report be provided to a future meeting of the Committee;

- (b) Where the petition pertains to an Executive Function, to request that an Officer's report be prepared and submitted with the item directly to the Executive for consideration;
- (c) To conclude the debate with no further action agreed for the time being.

9.4. Petitions which are not to be presented in person at a meeting of the pertinent Committee will be reported to it. Debate and determination shall take place as per Rule 9.3 above, save that there will be no speeches by a presenter.

10. QUESTIONS ON NOTICE

10.1. At Ordinary meetings of any Committee, save for a meeting called at the start of the Municipal Year to elect a Committee Chairman and/or vice-Chair, there shall be: -

10.1.1. A 30 minute session for Local Residents; followed by

10.1.2. A 15 minute session for Members

to pose Questions on Notice concerning the business of the Council.

10.2. The questions may be asked of the Member chairing the meeting and any Lead Member who sits on the Committee.

10.3. Appendix B of the Council Procedure Rules on Questions on Notice shall apply to meetings of the Committees. It sets out the process for giving notice of such questions prior to the Committee meeting and record keeping subsequent to the meeting.

10.4. Order of Questions

Questions will be asked of the relevant Members in the order that notice of them was received, except that the Member chairing the meeting may group together similar questions.

10.5. Posing a Question at the Meeting

The Member chairing the meeting will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Member chairing the meeting to put the question on their behalf, in which event the answer given by the relevant Member shall also be written and sent to the questioner.

10.6. Supplementary Questions

A questioner who has put a question in person may also put one

supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Member chairing the meeting may reject a supplementary question if it would not have been allowed as a Question on Notice or because it does not arise directly out of the question or reply.

10.7. **Nature of Reply**

The form and content of reply to an original or a supplementary question will be at the discretion of the Member giving the reply, unless in respect of an original question a written request has been received specifying a specific form of reply or replies. He or she may decline to give a full or any reply if in his or her opinion to do so would involve an unreasonable amount of labour or cost.

11. **COMMITTEE DEBATE**

11.1. This Rule 11 applies to Committees generally save that Rule 14 takes precedence in respect of the proceedings of the Planning Committee.

11.2. **Order**

For any item on the agenda of a Committee meeting, the order of speaking shall be: -

11.2.1. Public speaking by Local Residents;

11.2.2. Any introduction to the item, typically by an Officer but by the relevant Member in the case of a Member Agenda Item Request;

11.2.3. Statements by Visiting Members;

11.2.4. Questions, statements and/or motions by Members on the Committee.

11.3. **Public Speaking by Local Residents**

Local Residents may speak to an agenda item at a Committee meeting subject to: -

11.3.1. Notice of wishing to speak on a particular item must be given to the Proper Officer by no later than 4pm the working day before the meeting.

11.3.2. Public speaking under this Rule shall take the form of making a statement only. Any questions from Local Residents should be made using the procedure in Rule 10.

11.3.3. The total time for Local Residents speaking on an item on the agenda is twelve (12) minutes; within that twelve (12) minute period, each speaker has a maximum of three (3) minutes.

11.4. Statements & Questions by Members on the Committee

Contributions by Members on the Committee may include statements, questions to the Officers present for the item, motions, amendments, procedural motions, and points of order.

Where questions are posed to the Officers present, the Member chairing the meeting shall invite those Officers to provide answers. Where matters are raised in statements that are not covered by the Officer's report, the Member chairing the meeting shall invite the Officers to comment.

11.5. Motions

Any motion must be proposed and seconded, including where recommendations are made within any Officer's report. Once a motion has been proposed and seconded, no other motion may be moved until that earlier motion has been dealt with.

11.6. Amendments

Any motion maybe subject to reasonable amendment with the agreement of the Committee and/or the Members proposing & seconding the motion.

11.7. Procedural Motions

A Member on the Committee may move any reasonable procedural motion, with a seconder. A procedural motion shall be dealt with immediately once it is moved and seconded.

11.8. Points of Order

A Member may raise a point of order at any time. The Member chairing the meeting will hear them immediately. A point of order may only relate to an alleged breach of the Constitution or the law. The Member must indicate the Provision, Rule or law and the way in which he or she consider it has been broken. The ruling of the Member chairing the meeting on the matter will be final.

11.9. Right of Reply

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.

12. VOTING AT COMMITTEES

- 12.1. Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.
- 12.2. If there are equal numbers of votes for and against, the Member chairing the meeting at the time will have a second or casting vote, regardless of whether he or she has used his or her first vote. There will be no restriction on how this casting vote is used.
- 12.3. Unless a recorded vote is demanded under Rule 12.4, the Member chairing the meeting will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.
- 12.4. If three (3) Members present at the meeting so request, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.
- 12.5. 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.
- 12.6. When voting on any 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.

13. REPORTS BY THE OVERVIEW & SCRUTINY COMMITTEE

- 13.1. In exercising its policy development remit, the Overview and Scrutiny Committee will prepare a formal report containing its recommendations. This will be submitted to the Proper Officer for consideration by: -
 - 13.1.1. the executive if the proposals are consistent with the existing budgetary and policy framework, and/or
 - 13.1.2. the Council as appropriate e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework.
- 13.2. The report of the Overview and Scrutiny Committee shall be considered by the Council or by the Executive at its next appropriate meeting following submission to the Chief Executive, or such longer time scale as the chairman of the Overview and Scrutiny Committee may agree.

14. PROVISIONS RELATING TO THE PLANNING COMMITTEE**14.1. Call-in to Planning Committee**

14.1.1. The following may call-in the determination of a Planning Application: -

- (a) A Ward Member of a Ward that the proposed development would have an impact upon;
- (b) The Parish Council of a Parish that the proposed development would have an impact upon;
- (c) For unparished areas, any three (3) Members of the Council.

14.1.2. The request for the application to be heard by the Planning Committee must be made in writing to the Proper Officer or the Case Officer to whom the application is assigned prior to the expiry of the Call-in Window.

14.1.3. For Rule 14.1.1 (a), the Call-in Window shall be the period of twenty-one (21) days from the date of the weekly list advising them of the application.

14.1.4. For Rule 14.1.1 (b), the Call-in Window shall be for a minimum period of twenty-one (21) days of the date of the letter of consultation advising them of the application.

14.1.5. For Rule 14.1.1 (c), the Call-in Window shall be for a minimum period of twenty-one (21) days of the date of the weekly list advising them of the application.

14.1.6. For Rules 14.1.1 (b) and (c), the Call-in Window shall extend to the period of six (6) weeks unless such a delay in exercising the call-in is likely, in all the circumstances known at the time of receipt, to cause a failure to determine the application in time, where that failure would not have occurred had the call-in been exercised within twenty-one (21) days.

14.2. Referral of Enforcement Matters to the Planning Committee

14.2.1. A Member may use a Member Agenda Item Request to refer to the Planning Committee an act or omission of the Council in respect of enforcement following an alleged breach of planning control.

14.2.2. Such a request may be rejected by the Proper Officer, in consultation with the Committee Chairman and vice-Chair where: -

- (a) Enforcement issues in respect of the matter complained of has already been addressed at the Committee, the Committee took no action and requested no further update, and there have been no clear material developments that might reasonably lead to a different conclusion by the Committee;
- (b) The matter complained of is the subject of an extant planning application, an appeal before the Planning Inspector, or proceedings have been issued in the Courts, unless the Chairman and vice-Chair judge that the matter nevertheless warrants discussion.

14.2.3. The procedure further differs from other Member Agenda Item Requests: -

- (a) Where reasonable notice is given of the Member Agenda Item Request, Planning Officers should endeavour to provide a short report.
- (b) The Member raising the matter, unless themselves a Member on the Planning Committee, is limited to addressing the meeting with a single three (3) minute statement.

14.3. **Public speaking at Planning Committee meetings**

14.3.1. If a planning application is to be determined by the Planning Committee and a speaker wishes to address the Committee in respect of that application he or she must give notice of that request to the proper Officer by 4 p.m. on the working day before the relevant meeting.

14.3.2. The following speakers will be allowed to address the Committee for each planning application or enforcement matter (except exempt reports) in the following order: -

(a) **Parished Areas**

An Objector	A petitioner, or a representative of a Residents' Association or Amenity Group, or an individual objector.
A representative of the appropriate Parish Councils	Where a representative of the Parish Council does not register to speak, a concerned resident may speak with the Chairman's discretion.

*The applicant or his/her representative	The applicant or his or her representative (incl. a supporter), or a petitioner, or a representative of a Residents' Association or Amenity Group.
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(b) **Non-Parished Areas**

A representative of a Residents' Association/Amenity Group	Where a representative of a Residents' Association or Amenity Group does not register to speak, a concerned resident may speak with the Chairman's discretion.
An Objector	A petitioner, or a representative of a second Residents' Association or Amenity Group, or an individual objector.
*The applicant or his or her representative	The applicant or his or her representative (including a supporter), or a petitioner, or a representative of a second or third Residents' Association or Amenity Group.

* The applicant or his or her representative would have priority.

- 14.3.3. In order to avoid repetition, a petitioner may present a petition but the appropriate speaker slot will be forfeited. A petitioner may speak for three minutes.
- 14.3.4. Each category of speaker will be limited to three (3) minutes to address the Committee. He or she will not be allowed to ask a supplementary question, make a supplementary statement and will not be cross examined. Also, no written material or photographs may be handed out at the meeting.
- 14.3.5. When more than one person wants to speak for or against a planning application or more than one amenity group or organisation or residents' association wishes to speak for or against a planning application, the first person or group to register their wish to speak will be afforded that right. However, the Proper Officer shall keep a reserve list of speakers for each application. If, at the meeting the original speaker is not in

attendance, a speaker from the reserve list, depending on if the original speaker was a supporter or objector, i.e. an objector replaces an objector, taken in the order which they registered their right to speak shall be invited to address the Committee.

14.3.6. In addition to the public speakers above, Visiting Members may address the Planning Committee for three (3) minutes on individual matters but should give the same notice of their intention to speak to the Head of Policy, Communications and Governance as members of the public. If they do not do so, the application will not be brought forward on the agenda.

14.3.7. Visiting Members should sit away from the body of the Committee.

14.3.8. An objector or applicant may be represented by an agent at the Committee.

14.4. **Visiting Members –Planning Committee**

In respect of the Planning Committee, if a visiting Member gives the requisite notification to the Proper Officer by 4.00 p.m. on the day preceding the meeting, the Chairman shall seek to give the relevant application some priority in the meeting, otherwise the application will be dealt with in the normal course of the meeting.

14.5. **Deferral of planning decisions**

It is likely that from time to time the Planning Committee will defer a decision to a future meeting of the Committee, in order to enable the Officers to report back on any areas of concern raised by the Committee. Minor applications should only be deferred if there is a need for additional information or if there are disputed facts within the report, otherwise they should be determined as reported with the proviso that there may be occasions when the Planning Officers may seek deferral/withdrawal of an application or to implement the agreed procedures for dealing with cases where they believe that the proposed reasons for refusal are unsustainable. On the second occasion that the matter is discussed at Committee, a decision must be made.

14.6. **Planning Decisions which have significant cost implications**

14.6.1. If during consideration of an application, after a motion has been proposed and seconded, the Head of Planning and Development or their representative, in consultation with the Legal Officer present at the meeting, believes that the Planning Committee's reasons to justify refusal/the imposition of conditions would not be sustainable at appeal and would more likely than not cause

significant costs to be incurred by the Council because of unreasonable behaviour, then they will inform the Committee that if the motion is agreed it will stand deferred to the next meeting of the Committee. Following the vote, if the motion is agreed the decision will be deferred to the next meeting of the committee. The Committee itself may also agree to defer consideration of an application for the same reasons.

- 14.6.2. For the purposes of this rule significant cost is defined as the Chief Finance Officer's virement limit set out in the Financial Procedure Rules within this Constitution and relates to any punitive award of costs granted against the Council by the Planning Inspectorate or Secretary of State for unreasonable behaviour.
- 14.6.3. For the purposes of this Rule 14.6, unreasonable behaviour is defined as set out in the National Planning Guidance and/or any Guidance issued by the Planning Inspectorate or Secretary of State.

C3. Executive Procedure Rules

1. INTRODUCTION & PURPOSE

- 1.1. The Rules in this Chapter regulate the business of the Executive and its decision-making. They may be cited as the Executive Procedure Rules.
- 1.2. The purpose of these Rules is to ensure that the Executive: -
 - 1.2.1. Functions smoothly and efficiently;
 - 1.2.2. Is transparent in its proceedings and its decision-making;
 - 1.2.3. Remains accessible to Members who are not on the Executive and to Local Residents;
 - 1.2.4. Makes most its decisions only after consideration by another Member body.

2. OPERATION OF THE EXECUTIVE

2.1. Background to Executive Decisions

The arrangements for the discharge of Executive Functions may be set out in the Executive arrangements adopted by the Council. If they are not set out there, then the Leader may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for Executive Functions to be discharged by:

- 2.1.1. The Executive as a whole;
- 2.1.2. A committee of the Executive;
- 2.1.3. An individual Member on the Executive;
- 2.1.4. An Officer;
- 2.1.5. Joint Arrangements; or
- 2.1.6. Another local authority.

2.2. Delegation of Functions

2.2.1. At the Annual Meeting of the Council, the Leader will present to the Council for adoption a written statement of delegations in respect of Executive Functions. This shall be included in the Council's scheme of delegation in Part B of this Constitution. The document presented by the Leader shall specify the following in respect of Executive Functions in relation to the coming year:

- (a) the extent of any authority to be delegated to Executive Members individually, including details of the limitation on their authority;
- (b) the terms of reference and constitution of such Executive committees as the Leader recommends be appointed and the names of Members on the Executive to be appointed to them;
- (c) the nature and extent of any intended delegation of Executive Functions to any other authority or any Joint Arrangements and the names of those Executive Members to be appointed to any joint committee for the coming year; and
- (d) any changes in the delegation of Executive Functions to Officers and to any limitations on that delegation.

2.2.2. The Leader may amend the delegations at any time but must notify the Proper Officer who will report any changes to the Council and the Constitution will be amended accordingly.

2.3. **Sub-delegation of Executive Functions**

- 2.3.1. Where the Executive, a Committee of the Executive or an individual Member on the Executive is responsible for Executive Functions, they may delegate further to Joint Arrangements or an Officer
- 2.3.2. Even where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated the functions.

2.4. **Conflicts of Interest**

Unless a dispensation to vote has been given:

- 2.4.1. Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Chapter D1 of this Constitution.
- 2.4.2. If every Member on the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Chapter D1 of this Constitution.
- 2.4.3. If the exercise of an Executive Function has been delegated to a Committee of the Executive, an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the

Council's Code of Conduct for Members in Chapter D1 of this Constitution.

2.5. **Manner of Decision Making**

- 2.5.1. Key Decisions and Other Material Decisions shall only be made by the Executive or by an individual Member of the Executive:
 - (a) At a public meeting of the Executive or other public meeting arranged for the purposes of an individual Member on the Executive making one or more such decisions.
 - (b) Save for urgent matters, where the matter has been considered and/or referred to the Executive by another Member body.
- 2.5.2. Where Executive decisions are delegated to a committee of the Executive, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole
- 2.5.3. Key Decisions and Other Material Decisions may only be made where the Access to Information Procedure Rules have been complied with.
- 2.5.4. The powers of an individual Member on the Executive shall be exercised by them personally save where they are unable to act owing to absence or illness, when they may be exercised on their behalf by another Member on the Executive who has been nominated for the purpose by the Leader and the Proper Officer has been given written notice of such nomination.
- 2.5.5. A Key Decision or Other Material Decision does not take effect until it has been signed by the Leader or a Member on the Executive and has been counter-signed by the Proper Officer

3. **CONDUCT OF MEETINGS OF THE EXECUTIVE**

3.1. **Time and Place of Meetings of the Executive**

The Executive will be scheduled to meet at least eight (8) times per year in the Calendar of Meetings to be agreed by resolution of the Council. The Executive shall meet at the Town Hall or any other location within the Borough to be determined by the Leader.

3.2. **Public Access to meetings of the Executive**

All meetings of the Executive will be open to the public, unless the item under discussion is likely to lead to the disclosure of Confidential or Exempt Information per the Access to Information Procedure Rules.

3.3. **Chairing of Meetings**

If the Leader is present they will chair the meeting. In his or her absence, then a person appointed to do so by those Members on the Executive present shall chair the meeting.

3.4. **Quorum**

The quorum of a meeting of the Executive, or a committee of it, shall be three Members of the Executive.

3.5. **Attendance**

- 3.5.1. Any Member of the Council may attend any Executive meeting. Members of the Council who are not members of the Executive may attend meetings of the Executive and any committee of the Executive including any part of any meeting closed to the public in accordance with the Access to Information Rules. Members may speak as Visiting Members to an item where they have given written notice of their intention to do so to the Proper Officer by 4pm on the day one (1) Clear Day before the meeting.
- 3.5.2. Members of the public may attend any Executive meeting, except when Confidential or Exempt Information is being discussed and, save for the Rules below in respect of Questions by Local Residents and Petitions, may address the meeting for up to three (3) minutes where they have given written notice of their intention to do so to the Proper Officer by 4pm on the day one (1) Clear Day before the meeting.
- 3.5.3. The Proper Officer, the Chief Finance Officer and the Monitoring Officer and their nominees are entitled to attend any meeting of the Executive or a committee of the Executive.

3.6. **Business of Meetings**

At each meeting of the Executive the following business will be conducted:

- 3.6.1. Consideration of the minutes of the last meeting;
- 3.6.2. Declarations of interest, if any;
- 3.6.3. Petitions;
- 3.6.4. Questions on Notice from Local Residents;
- 3.6.5. Questions on Notice from Members;

- 3.6.6. Matters referred to the Executive (whether by the Overview & Scrutiny committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview & Scrutiny Procedure Rules;
- 3.6.7. Issues arising from Overview & Scrutiny;
- 3.6.8. Matters referred by any other Committee;
- 3.6.9. Any matter relating to a serious service failure or Nuisance referred by at least three (3) Members of the Council, where written notice has other been given in accordance with Committee Procedure Rule 6.1 ("Member Agenda Item Requests");
- 3.6.10. Receipt of written representations from Members of the Council; and
- 3.6.11. Matters for decision set out in the agenda for the meeting, and which shall indicate which Key Decisions are and which are not in accordance with the Access to Information Procedure rules set out in Part C of this Constitution.

3.7. Consultation

All reports to the Executive from any Members of the Executive or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation carried out with stakeholders, the Overview & Scrutiny Committee and the relevant Policy Advisory Committee(s), and the outcome of that consultation.

3.8. Meeting Agenda

- 3.8.1. Any Member on the Executive may require the Proper Officer to ensure that an item is placed on the agenda of the next available meeting of the Executive for consideration whether or not authority has been delegated to the Executive, a committee of the Executive, any individual Member on the Executive, or Officer in respect of that matter.
- 3.8.2. The Proper Officer will ensure that an item is placed on the agenda of the next appropriate meeting of the Executive where the Overview & Scrutiny Committee or the Full Council have resolved that an item be considered by the Executive.
- 3.8.3. If the volume of business for any one meeting appears excessive, the Leader, in consultation with the Proper Officer, may defer consideration to the next appropriate meeting except that items placed on the agenda by the Council may not be

deferred if the Council requires them to be considered at that meeting.

3.9. **Voting at Executive Meetings**

The Executive will decide all matters before it by simple majority. The Leader or, in his or her absence, other Member chairing the meeting, will have a second or casting vote in the event of a tie. There will be no restriction on how this casting vote is used. If any Member on the Executive present at the meeting demands it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

3.10. **Disturbance**

3.10.1. If a member of the public interrupts proceedings, the Leader (or other Member chairing the meeting) will warn the person concerned. If they continue to interrupt, the Leader (or other Member chairing the meeting) will order their removal from the meeting room.

3.10.2. If there is a general disturbance in any part of the meeting room open to the public, the Leader (or other Member chairing the meeting) may call for that part to be cleared.

3.11. **Substitution**

There shall be no substitution at any meeting of the Executive. Any Member on the Executive may, with the prior approval of the Leader which shall be notified to the Proper Officer, act as a substitute for another Member on the Executive at a meeting of a sub-committee of the Executive.

4. **PETITIONS AT EXECUTIVE MEETINGS**

4.1. Appendix A of the Council Procedure Rules on the Council's Petitions Scheme sets out the nature of those petitions received by the Council that are to be considered by the Executive.

4.2. No more than three (3) petitions may be presented per meeting.

4.3. Where a petition is presented: -

4.3.1. Only one person may speak to a petition for a maximum of five (5) minutes. They should have signed the petition, be a Local Resident and be a supporter of the body submitting the petition. This may include someone acting for that petitioner in a professional capacity.

4.3.2. A debate will take place on the petition.

4.3.3. The petitioner will have an opportunity to speak for a further period of three (3) minutes responding to the issues raised in the debate.

4.3.4. Where the petition relates to another item on the agenda, the matter should then be dealt with alongside that other agenda item.

4.3.5. Where the petition is not dealt with by another item on the agenda, the Executive may resolve: -

(a) To request an Officer's Report be provided to a future meeting, at which point it will be treated as any other agenda item with an Officer's Report;

(b) To conclude the debate with no further action agreed for the time being.

4.4. Petitions which are not to be presented in person at a meeting of the pertinent Committee will be reported to it. Debate and determination shall take place as per Rule 4.3 above, save that there will be no speeches by a presenter.

4.5. Where a Policy Advisory Committee has debated a Petition concerning an Executive Function and has resolved to send the matter to the Executive, that item shall be dealt with like any other agenda item.

5. QUESTIONS ON NOTICE AT MEETINGS OF THE EXECUTIVE

5.1. Appendix B of the Council Procedure Rules ("Questions on Notice") shall apply to meetings of the Executive. It sets out the process for giving notice of such questions prior to the Executive meeting and record-keeping subsequent to the meeting.

5.2. At any meeting of the Executive, the session for Questions on Notice from Local Residents shall be limited to 30 minutes and the session for such questions from Member shall be limited to 15 minutes.

5.3. The questions may be asked of the Leader or of any individual Lead Member and must concern the business of the Council in so far as it relates to Executive Functions.

5.4. Order of Questions

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

5.5. Posing a Question at the Meeting

The Leader will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Leader to put the question on their behalf, in which event the answer given by the relevant Member shall also be written and sent to the questioner.

5.6. **Supplementary Questions**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Leader may reject a supplementary question if it would not have been allowed as a Question on Notice or because it does not arise directly out of the question or reply.

5.7. **Nature of Reply**

The form and content of reply to an original or a supplementary question will be at the discretion of the Member giving the reply, unless in respect of an original question a written request has been received specifying a specific form of reply or replies. He or she may decline to give a full or any reply if in his or her opinion to do so would involve an unreasonable amount of labour or cost.

6. **CALL-IN**

- 6.1. When a decision (other than a De Minimis decision) is taken by the Executive, an individual Member on the Executive, a committee of the Executive, or made by an Officer with delegated authority from the Executive, or an Area Committee or under Joint Arrangements, that decision shall be notified to all members of the Council as soon as possible after it is taken (normally within two working days) and shall be made available at the main offices of the Council.
- 6.2. That notice will bear the date on which it is published and will specify that the decision will come into force and may then be implemented on the expiry of five (5) working days after publication of the decision unless it is called in.
- 6.3. During that period the Proper Officer shall call in a decision for scrutiny by the committee if so requested by:
 - 6.3.1. the Chairman of the Overview & Scrutiny Committee; or
 - 6.3.2. any three (3) Members of the Council.

Such a request must be made in writing and must state the reason the call-in is believed to be necessary. On receipt of such a request within five (5) working days of publication of the decision, the Proper Officer

shall notify the decision-taker of the call-in and shall within five (5) working days of the decision to call-in, call a meeting of the Overview & Scrutiny Committee. Pending that meeting, the decision shall stand deferred and shall not be implemented.

- 6.4. If, having considered the decision, the Overview & Scrutiny Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred to the decision maker they shall then reconsider it, amending the decision or not, before adopting a final decision.
- 6.5. If following a call-in of the decision, the Overview & Scrutiny Committee does not refer the matter either to Council or back to the decision-making person or body, the decision shall take effect on the date of the Overview & Scrutiny meeting.
- 6.6. If the matter was referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the Rule 6.7 below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- 6.7. If the Council does not decide to refer the decision back to the decision-making body or person, the decision shall take effect on the date of the Council meeting.
- 6.8. A decision-making person or body can be required to reconsider any particular decision only once.

7. Call-in and Urgency

- 7.1. The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest. The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The decision proposed shall be regarded as reasonable in all the circumstances and be treated as a matter of urgency unless the Chairman of Overview & Scrutiny and the political

- (b) Allowing Members to inspect documents at the Council's offices, with or without the ability to make notes, but without taking copies;
- (c) Requiring personal undertakings from Members as to confidentiality before providing information or documents on an individual basis.

13.4. **Monitoring**

The Proper Officer shall report annually to the Democracy & General Purposes Committee on the functioning of these Rules in respect of Members' Access to Information, including the number of instances where requests were declined and the rationale for such decisions.

C5. Maidstone Crime & Disorder Reduction Rules

1. Introduction

- 1.1. The Crime and Disorder Act 1998 requires various 'Responsible Authorities' to work together to develop and implement a Crime and Disorder Reduction Strategy for the area as well as a strategy for combatting the misuse of drugs, alcohol and other substances and a strategy for reducing re-offending. The Responsible Authorities are the Council, along with:
 - 1.1.1. Kent County Council;
 - 1.1.2. Kent Police and Crime Commissioner;
 - 1.1.3. Kent Chief Constable;
 - 1.1.4. Kent Fire and Rescue Authority;
 - 1.1.5. Clinical Commissioning Groups; and
 - 1.1.6. Probation providers
- 1.2. In exercising their functions the Responsible Authorities must also co-operate with various other bodies, known as 'Co-operating Authorities' including:
 - 1.2.1. Parish Councils
 - 1.2.2. NHS Trusts/NHS Foundation Trusts
 - 1.2.3. Governing bodies of schools
 - 1.2.4. Proprietors of independent schools
 - 1.2.5. Governing bodies of an institution
 - 1.2.6. Social landlords
- 1.3. The Safer Maidstone Crime and Disorder Reduction Partnership fulfils this function.
- 1.4. Every local authority must also establish a committee with responsibility for Crime and Disorder matters that has the power to:
 - 1.4.1. Review decisions made or action taken by the Responsible Authorities in connection with their crime and disorder functions; and
 - 1.4.2. Make reports or recommendations to the authority with regard to the discharge of these functions.

- 1.5. The Council has adopted the following rules and protocols for when the Overview & Scrutiny Committee exercises the crime and disorder functions.

2. Working Assumptions

This document assumes:

- 2.1. The continued operation of the Police and Justice Act 2006;
- 2.2. The continued existence of a Crime and Disorder Committee function within the Maidstone Borough Council Overview & Scrutiny Committee;
- 2.3. The existence of a Crime and Disorder Reduction Partnership for the Borough of Maidstone (currently the Safer Maidstone Partnership);
- 2.4. A partnership approach, working with responsible authorities within the Borough (and, where appropriate, beyond) as a "critical friend".

3. Purpose

The purpose of this document is to ensure effective interaction between the Safer Maidstone Partnership and the Crime and Disorder Committee to:

- 3.1. Enhance the public accountability of the Safer Maidstone Partnership;
- 3.2. Establish acceptable and appropriate ways of working between the two bodies; and
- 3.3. Develop and maintain a positive working relationship for the benefit of the residents of the Borough of Maidstone.

4. Principles

The protocols are based on the following principles:

- 4.1. The Safer Maidstone Partnership should focus on supporting the reduction of crime and anti-social behaviour and reducing fear of crime and anti-social behaviour in the Borough of Maidstone.
- 4.2. Safer Maidstone Partnership should seek to minimise any unnecessary additional administrative burdens on responsible authorities.
- 4.3. Crime and Disorder Committee agendas need to be developed in conjunction with the Safer Maidstone Partnership.
- 4.4. It is the intention of the Crime and Disorder Committee to require the Safer Maidstone Partnership to demonstrate added value in the work it does.

5. Statutory Role

The Crime and Disorder Committee has the statutory power to:

- 5.1. Consider Member Calls for Action made in relation to community safety matters (that is the ability for any Member to refer a matter to the Crime and Disorder Committee for consideration and for the Committee to place the matter on the agenda and consider the matter);
- 5.2. Review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions; and
- 5.3. Make reports or recommendations to the local authority with respect to the discharge of those functions.

6. Responsibility for Joint Working

Maidstone Borough Council has a responsibility to work with Kent County Council and other district councils on community safety issues where this is possible, for example through joint development of work programmes.

7. Communication

- 7.1. The Crime and Disorder Committee and the Safer Maidstone Partnership will each nominate a named Officer to be the main point of contact. That Officer will direct all correspondence to the appropriate person.
- 7.2. The Democratic Services Team will inform the Safer Maidstone Partnership of all Committee work programmes on a six monthly basis to give Partners the opportunity to comment on any items that they feel appropriate to their own work. The Safer Maidstone Partnership will also be invited to propose future work items for the Crime and Disorder Committee where it wishes to do so, though the Committee is under no obligation to take these on.
- 7.3. The Safer Maidstone Partnership will inform the Crime and Disorder Committee of its forthcoming work on a six monthly basis and consult the Committee on its work where appropriate. In particular, the Safer Maidstone Partnership should consult the Crime and Disorder Committee on its Partnership Plan.
- 7.4. Both parties will inform the other of structure changes and significant changes to priorities or future plans to ensure accuracy of information.

8. Information Sharing

- 8.1. The Safer Maidstone Partnership will distribute public minutes of full Partnership, Policy group and Strategy group meetings to members of

the Crime and Disorder Committee as soon as these are agreed.

- 8.2. The Crime and Disorder Committee may also request informal notes of delivery group meetings where this is relevant to work being carried out by the Committee.
- 8.3. The Safer Maidstone Partnership is required to respond to requests for information by the Crime and Disorder Committee "as soon as reasonably possible". These requests from Members should be well focussed and thought through.
- 8.4. Information provided to the Crime and Disorder Committee by responsible authorities should be depersonalised and should not include any information that would be reasonably likely to prejudice legal proceedings or current or future operations of the responsible authority. These requirements cannot be bypassed by Schedule 12A of the Local Government Act 1972 i.e. by putting an item onto Part II of a committee agenda.

9. Meeting Procedures and Protocols

- 9.1. The Committee has a duty to meet at least once a year and is recommended to meet at 6 monthly intervals to ensure the ongoing building and maintenance of knowledge.
- 9.2. Review task and finish groups may meet outside of these formal meetings with the requirement to report findings in full at a Crime and Disorder designated meeting of the Overview & Scrutiny Committee.
- 9.3. Officers or employees of responsible authorities and co-operating persons or bodies are required to attend meetings of the Crime and Disorder Committee to answer questions or provide information. The Committee will endeavour to give at least one month's notice to persons requested to attend. The person required must attend on the specified date unless they have a reasonable excuse not to.
- 9.4. Prior to meetings between the Crime and Disorder Committee and the Safer Maidstone Partnership, the Democratic Services Team will:
 - 9.4.1. Agree meeting dates as far in advance as possible;
 - 9.4.2. Provide meeting paperwork at least 5 working days prior to the meeting;
 - 9.4.3. Provide the Safer Maidstone Partnership with a list of proposed questions or key areas of inquiry.

- 9.5. When representatives of the Safer Maidstone Partnership are invited to attend meetings of the Crime and Disorder Committee, the following protocols will apply:
- 9.5.1. Committee Members should endeavour not to request detailed information from representatives of the Safer Maidstone Partnership at meetings of the Committee, unless they have given prior notice through the appropriate Officer. If, in the course of question and answer at a meeting of the Committee, it becomes apparent that further information would be useful, the representative being questioned may be required to submit it in writing to members of the Committee through the appropriate Officer.
 - 9.5.2. In the course of questioning at meetings, representatives of the Safer Maidstone Partnership may decline to give information or respond to questions on the ground that it is more appropriate that the question be directed to a more senior representative.
 - 9.5.3. Representatives of the Safer Maidstone Partnership may decline to answer questions in an open session of the Committee on the grounds that the answer might disclose information which would be exempt or confidential as defined in the Local Government (Access to Information) Act 1985. In that event, the Committee may resolve to exclude the media and public in order that the question may be answered in private sessions.
- 9.6. Committee members may not criticise or adversely comment on any individual representative of the Safer Maidstone Partnership by name.
- 9.7. A record will be made of the main statements of witnesses appearing before the Committee and will be agreed with the witness prior to publication or use by the Committee. Committee meetings may be electronically recorded and web-cast.

10. Reporting and Recommendations

- 10.1. Section 19(2) of the Police and Justice Act 2006 states that where the Crime and Disorder Committee makes a report or recommendations, a copy shall be provided to each of the Responsible Authorities.
- 10.2. In accordance with Section 19(8) of the Police and Justice Act, the authority, person or body to which a copy of the report or recommendations is passed shall:
- 10.2.1. Consider the report or recommendations;
 - 10.2.2. Respond to the Crime and Disorder Committee indicating what (if any) action it proposes to take; and

Significant Changes List

The information shown is in the below format:

- Draft constitutional rule as proposed
- A) Officer Comments (if any)
- B) External Legal Comments (if any)

Please note that this is a working document and will be updated as meetings of the working group and Democracy and General Purposes Committee continue.

Specific Issues that are due to be resolved in the near future are:

- Nuisance and/or Serious Service Failing
- Overview & Scrutiny Committee – Call-In Rights
- Definition of Key (Other Material or De Minimis) Decisions
- Members’ Access to Information

<u>PART A – CORE PROVISIONS</u>	
<u>A1, 2 (Purpose of this constitution)</u>	
External Legal Comment	My view remains that the wording in the current constitution more accurately reflects the purpose of a constitution than the proposed wording
<u>A1, 2.5. (Purpose of this constitution)</u>	
"Enabling Local Residents opportunities to be heard and to participate directly in the proceedings of the Council, the Committees and the Executive	
External Legal Comment	The issue regarding the definition of "local residents" and the fact that people do not have to reside locally to be able to have a say in how the Council runs if they are affected by its decisions and services still needs to be resolved
<u>A1, 3.3: (Structure of this constitution)</u>	
<i>"The Parts and provisions of this Constitution should not conflict. Where provisions in this Part A conflict with any provision in any other Part of this Constitution, the provisions in this Part A shall prevail".</i>	
Officer Comment	Conflict between rules should be avoided and in the event that there is a conflict, consideration should be given to best practice, legislation and case law in determining the appropriate action.
External Legal Comment	I still think this is unnecessary, will cause significant practical problems and is not the way documents would normally be interpreted.

A2, 1 (The Residents)

1.1 Rights of Local Residents

"Residents of the Borough of Maidstone and users of its services ("Local Residents") shall have the following rights in respect of the Council. These are subject to the Rules of Procedure in Part C of this Constitution where they pertain to the proceedings of the Council".

Officer Comment	Local Residents rather than Members of the public; how would this be interpreted?
External Legal Comment	See comments on A1. 2.5 above

A2, 3.4 (Rights of Members to Access Information & Meetings)

For information purposes only; to be decided in February 2022.

"3.4.1. An elected Member is entitled by virtue of his or her office to have access to all documents in the Council's possession, including those containing Exempt or Confidential Information, and to attend all meetings of a member body even where the public have been excluded, where he or she has a need to know.

3.4.2. Any officer or body with delegated authority to make a decision under this Constitution determining whether a Member has a need to know shall consider the prima facie existence of that need to know where: -

- (a) The Member sits on the relevant Member body considering the matter or is likely to sit on that body as a substitute.*
- (b) The Member is considering exercising or is exercising any Rights in Respect to Proceedings summarised in Provision 3.5 below in connection with such a matter; or*
- (c) The information relates directly to matter the Member's role in representing their Ward.*

This is subject to there being exceptional circumstances where it would be manifestly unreasonable for the council to acknowledge a need-to-know certain information and/or where disclosure of that information to the Member would be contrary to some other enactment.

3.4.3. The Access to Information Procedure Rules in Part C seek inter alia to apply this principle, subject to the proviso that where there is any conflict in the application of those Rules and the principles in this Provision 3, the principles in this Provision 3 shall prevail".

Officer Comment	<p><u>In relation to 3.4.1;</u> Elected Members are not entitled to all Information by virtue of their position. Evidenced by case law, Counsel’s advice to D&GP (2019) and the need to know arising from Schedule 12A LGA 1972.</p> <p><u>In relation to 3.4.2 a);</u> Likely to sit as a Substitute does not constitute a need to know, as by actively sitting as a Substitute that Member would be given any Part II papers.</p> <p><u>In relation to 3.4.2 c);</u> This depends on the assessment of a ‘need to know’ by the Proper Officer/MO.</p> <p><u>In relation to 3.4.3;</u> There should not be conflict within the constitution. The need to know arises from statutory principles.</p>
External Legal Comment	In my view it still does not accurately reflect the law and the committee will need to be given full and detailed legal advice on this point (as will full Council when it ultimately considers the constitution).
<p><u>A2, 6.3.1 (The OSC)</u></p> <p><i>“There shall be an OSC of the council consisting of 13 Members who are not Members on the Executive plus up to 2 non-Members co-opted in accordance with the Rules of Procedure”.</i></p>	
Officer Comment	This could lead to an unwieldy committee.
External Legal Comment	None.
<p><u>A2, 6.5.4 (Disputes Panel, D&GP ToR)</u></p> <p>“The Functions of the Democracy & General Purposes Committee shall include:</p> <p>-</p> <p><i>(c) Via its Disputes Panel, determining individual Member complaints and grievances as to the application of this Constitution and the rights of Members</i></p>	

under it, albeit without prejudice to the role of those Members presiding at meetings”.

<p>Officer Comment</p>	<p>Undermines the role of the Proper Officer/MO in determining application of the constitution and AtI and the role of Democratic Services in providing procedural advice. This could lead to worsening relationship between Officers and Members, particularly with the Chairman and could lead to a lack of trust. There is a further risk of inappropriate or illegal decisions being made.</p> <p>At the Dec. 2021 meeting of the Working Group, the Disputes Panel was agreed however it was noted that further consideration on the operation of the panel was required, e.g. whether it would prevent a decision’s implementation.</p> <p>Members on the panel would need appropriate advice and expertise in terms of data protection on AtI. This could be used to halt a decision from being implemented.</p>
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<p>External Legal Comment</p>	<p>None.</p>
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A2, 7.5 (The Administration’s Programme)

“7.5.1. By the latter of sixty (60) days from his or her election or at the Annual Meeting, the Leader and/or the Executive shall submit to Full Council for consideration & approval the Administration’s Programme for the remainder of the Municipal Year.

7.5.2. Where Full Council does not approve the Administration’s Programme within the timescales set out in Provision 7.5.1 above, with or without amendments agreed by Full Council, the Executive and the Officers shall use their best endeavours to secure that such a programme, acceptable to the majority of Members, is approved. In this event, a proposal for the Administration’s Programme shall be put to each meeting of Full Council until one is approved.

7.5.4. Where the Administration’s Programme is approved by Full Council and contains particular pledges within the scope of Executive Functions that are not in conflict with the existing Budget & Policy Framework, each of those particular pledges shall then form priority items for consideration by the Executive and not require prior consideration by a Policy Advisory Committee. This shall not prevent the Leader or a competent member of the Executive choosing to place the matter before a PAC nevertheless”.

Officer Comment	<p><u>In relation to 7.5.1;</u></p> <p>Another Council meeting may be needed to align with the 60-day period, otherwise work and decision making to implement the actions within the programme could be delayed.</p> <p><u>In relation to 7.5.2;</u></p> <p>Practical implications of re-presenting the administration programme until approved:</p> <ul style="list-style-type: none"> - The Executive could not independently make decisions on the items until approved, so this could delay the decision-making process; - If progress was to be made, the issue could be presented to PACs initially, but once approved then dealt with solely by the executive. This could cause conflict. (see 7.5.4) <p><u>In relation to 7.5.4;</u></p> <p>This could lead a lack of pre-decision scrutiny on particularly important issues; Key Decision rules will apply. The PACs may want to see items on the programme, although 7.6.2 outlines that items agreed within the programme do not have to be considered by PACs. This rule could be misused and become a method to avoid scrutiny, through the use of expansive issue titles and extensive programme topics.</p>
External Legal Comment	None.
<u>PART B – RESPONSIBILITY FOR FUNCTIONS</u>	
<p><u>B1, 4 (Responsibility for Local Choice functions)</u></p> <p>Table outlining responsibility for local choice functions; does not include a column for Officers.</p>	
Officer Comment	This table is from the TWBC Constitution, but the column showing the Officer Delegations has been removed, which implies that the functions can only be exercised by Council. This could conflict with the Officer delegations shown later in Part B.
External Legal Comment	None – Local Choice Functions checked and they sit with district authorities.

B4, 1.1.1 (Functions of Other Committees; Policy Advisory Committees)

"b) Where the Leader has assigned portfolios of limited scope to individual Members on the Executive, such that material matters in the Default Scheme are not so assigned to any Member, the Proper Officer in consultation with the Leader of the Council shall assign such matters to one or more PACs".

Officer Comment	Further clarification required; what does this mean? Suggests that PACs receive material matters not assigned to an Executive Member which would mean PACs were making decisions?
External Legal Comment	None.

PART C – RULES OF PROCEDURE

C1, 8 (Presentation of Petitions)

"8.2. No more than three (3) petitions may be presented per meeting.

8.3. Where a petition is presented: -

8.3.1. Only one person may speak to a petition for a maximum of five (5) minutes. They should have signed the petition, be a Local Resident and be a supporter of the body submitting the petition. This may include someone acting for that petitioner in a professional capacity.

8.3.2. At a Council meeting, at the conclusion of the speech of the presenter, a debate will take place on the petition for up to a period of twenty minutes or if the petition has at least 1,500 signatures, with no time limit on the debate. The debate should take place with the intention that the petition and the views of the Council will then be referred to the appropriate Committee. The debate will be subject to normal council debating rules with the exception that at the end of the debate no vote will be taken, but the petitioner will have an opportunity to speak for a further period of three (3) minutes responding to the issues raised in the debate.

8.3.3. If the Mayor determines that it is inappropriate to debate the petition as a separate item at Full Council, then the petition will be considered later at the same Council meeting in conjunction with any report that has been placed on the agenda concerning the matter raised in the petition.

8.3.4. Any report relating to the subject matter of the petition will be placed on the agenda immediately following the presentation of petitions or in the order petitions are presented if more than one petition is presented at the meeting".

Appendix A – Petition Scheme

1. *The Council welcomes petitions from Local Residents. Subject to para.2 below, all petitions received by the Council that are signed by at least 100 Local Residents will be presented or reported to the relevant Member Body.*

2. *The Member body to which a petition is presented or reported shall depend on whether or not it pertains to an Executive Function and the number of signatories.*
 - 2.1 *For Executive Functions where the number of signatories is at least 1,000 Local Residents, the petition shall go to the Executive;*

 - 2.2 *For Executive Functions where the number of signatories is fewer than 1,000 Local Residents, the petition shall go to the relevant Committee;*

 - 2.3 *For non-Executive Functions where the number of signatories is at least 1,000 Local Residents, the petitions shall go to Full Council.*

 - 2.4 *For non-Executive Functions where the number of signatories is fewer than 1,000 Local Residents, the petition shall go to the relevant Committee. Where the petition concerns a matter not otherwise within the competence of a Committee, the petition shall go to the Democracy & General Purposes Committee.*

Officer
Comment

In relation to 8.2:

This removes the Mayor’s (current) discretion.

The rule and appendix combined have removed the following:

- Mayor’s discretion to accept a petition that falls short of the two-week notice and 100 signature requirements.
- Mayor’s discretion for a debate to take place and the provision of a factual briefing note from officers; this is helpful for Councillors and is then included within the relevant Committees agenda once referred.

Also allows debate on a petition that has not been formally presented.

In relation to Appendix A:

The number of signatures required for a petition to be presented to full council has risen to 1,000.

	<p>In the current constitution:</p> <ul style="list-style-type: none"> - petitions with 100 signatures can be presented to a meeting of Full Council; - following the debate at full council, the petition would be referred to the appropriate decision-making body.
External Legal Comment	None.
<p><u>C1, 12.14 (Motions on Notice)</u></p> <p>Outlines requirements on Motions on Notice.</p> <p><i>"This Rule 12 is subject to the over-riding requirement that any motion before the Full Council concerning a Member's rights to access information or documents must be determined by the Full Council".</i></p>	
Officer Comment	Needs further consideration as this would involve disclosing confidential/exempt information.
External Legal Comment	This clause creates significant practical problems and is inconsistent with other parts of the constitution. If a member is not entitled to a document as a matter of law but the issue can be referred to full council then in order to determine whether the information should be provided the Council will need to see the information which means the member will see it even if they are not entitled to it! This should not be included.
<p><u>C1, 17 (Previous Decisions and Motions)</u></p> <p>Same as existing, except the following has been removed:</p> <p><i>'Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months'.</i></p>	
Officer Comment	This could lead to an issue being consistently re-presented to Council; this is impractical.
External Legal Comment	None.

Chapter 2 – Committee Procedure Rules

C2, 2 (Appointments to Committee)

2.1 "The Proper Officer shall appoint Members to Committees in accordance with the wishes of the Group Leaders and the Scheme of Seat Allocations agreed by Full Council".

Officer
Comment

None

External
Legal
Comment

Strictly Council appoints committees and members though it must give effect to the proportionality rules in the 1989 Act and regulations. The wording in the current constitution, "Appointments to Committees are made at the Annual Council Meeting or, when a vacancy occurs, at the next available meeting of the Council." Is a more accurate representation of the law.

C2, 2.5 (Members as Substitutes on Committees)

Specifically;

"2.5.1 For each Committee, the Proper Officer shall appoint a minimum of the three (3) Members belonging to each Political Group, up to the number of Committee seats allocated to that Political Group, who may act as Substitutes on that Committee.

2.5.2 A Member who acts as a Substitute on a Committee may sit at meetings of that Committee in place of a Member on that Committee belonging to the same Political Group, where that Full Member is either absent from that meeting or opts to attend that meeting as a Visiting Member instead.

2.5.4 Members may attend meetings as Substitutes only:

c) if the Full Member leaves before the conclusion of the meeting a substitute can be made if it has been notified when the item is called on the Committee agenda".

Officer
Comment

In relation to 2.5.1;

Currently have up to six substitutes per group.

In relation to 2.5.4;

This is currently allowed (see comment below)

External Legal Comment	<p><u>In relation to 2.5.1;</u></p> <p>What if a group does not have 3 Members who can act as Substitutes? In the current constitution it is up to 6. Also in my view it would be better if these were appointed by full council, though the law on substitutes generally is a little vague.</p> <p><u>In relation to 2.5.4;</u></p> <p>Whilst the law is not clear on this point it is in my view doubtful whether substitution for a single item or part of an agenda as opposed to the meeting as a whole would be lawful. It is not a practice I am aware of other authorities adopting.</p>
<p><u>C2, 3.6 (Chairing Meetings)</u></p> <p><i>"The Committee Chairman shall chair each meeting of that Committee. In his or her absence, the vice-Chair shall chair the meeting unless the vice-Chair opts to remain at the meeting but not take the chair".</i></p>	
Officer Comment	The purpose of the Vice-Chairman to act in the event that the Chairman is unavailable. The option to refuse this, at any time with no reason, reduces accountability.
External Legal Comment	None
<p><u>C2, 7 (Call-In and Urgency)</u></p> <p><i>"7.1 The call-in procedure set out above shall not apply where the decision being taken by the executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest...The decision proposed shall be regarded as reasonable in all the circumstances and be treated as a matter of urgency unless the Chairman of Overview and Scrutiny and the political group leaders by simple majority, disagree..."</i></p>	
Officer Comment	Requiring group leaders' agreement is restrictive; this could be misused and small groups would wield a disproportionate amount of power. (not standard practice)
External Legal Comment	None.

C2, 8.4 (Exclusion of the Public & Press)

"In accordance with the Access to Information Procedure Rules, a Committee meeting: -

8.4.1. Shall go into closed session where Confidential Information is to be discussed

8.4.2. May go into closed session where Exempt Information is to be discussed in relation to an item.

This means that the press and members of the public shall be excluded from the meeting. No such exclusion however shall apply to any elected Member, including any Visiting Member".

Officer Comment

None

External Legal Comments

See comments on Member Access to Information.

C2, 11.8 (Points of Order)

In explaining the point of order;

"The Member must indicate the Provision, Rule or Law and the way in which he or she consider it has been broken. The ruling of the Member Chairing the meeting on the matter will be final".

Officer Comment

Conflicts with the disputes panel; would the Chairman be subject to the Dispute Panel?

External Legal Comment

None.

C2, 14.2 (Referral of Enforcement Matters to the Planning Committee)

Outlines the process for Member Agenda Item Requests in relation to enforcement.

Officer Comment

Planning Committee received updates and the Head of Planning and Development often discharges their delegation for this purpose; Given the Planning Committee's workload and that it is regulatory in nature, it may be impractical to add to the agenda

	<p>for the Committee and Officers; as the latter is then required to provide a report when reasonable notice is given. What is reasonable notice?</p> <p>The SPI Committee’s KPIS include the no. of enforcement cases;</p> <p>Specific enforcement matters would be confidential in nature and require Part II Papers.</p>
External Legal Comment	None.
<p><u>Chapter 3 – Executive Rules of Procedure</u></p> <p><u>C3, 2.3 Sub-delegation of Executive Functions</u></p> <p><i>"2.2.1-Where the Executive, a Committee of the Executive or an individual Member on the Executive is responsible for Executive Functions, they may delegate further to Joint Arrangements or an Officer</i></p> <p><i>2.2.2-Even where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated".</i></p>	
Officer Comment	<p>This is the same as in the 2014 Constitution, however the Leader’s discretions have been removed; contained the below points:</p> <p><i>b) Unless the Leader directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a committee of the Executive or an officer.</i></p> <p><i>c) Unless the leader directs otherwise, a Committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.</i></p>
External Legal Comment	None.
<p><u>Part C3, 2.3: (Conflicts of Interest)</u></p> <p><i>"Unless a dispensation to vote has been given:</i></p>	

Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Chapter D2 of this Constitution.

If every Member on the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Chapter D2 of this Constitution.

If the exercise of an Executive Function has been delegated to a Committee of the Executive, an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Chapter D2 of this Constitution".

Officer Comment	Assumption of a dispensation being given. Slightly different to 2014 Constitution which is clearer:
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	<p><i>Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution. If the Leader has a disclosable prejudicial interest or an Other Significant Interest, the matter under consideration shall be dealt with by the Cabinet excluding the Leader.</i></p> <p><i>If every Member of the Executive has a disclosable prejudicial interest or an Other Significant Interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.</i></p> <p><i>If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Member or an officer, and should a (DPI)prejudicial interest or Other Significant Interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.</i></p>
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External Legal Comment	None.
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C3, 2.5 (Manner of Decision Making)

"2.5.4 The powers of an individual Member on the Executive shall be exercised by them personally save where they are unable to act owing to absence or illness, when they may be exercised on their behalf by another Member on the Executive who has been nominated for the purpose by the Leader and the Proper Officer has been given written notice of such nomination.

2.5.5 A Key Decision or Other Material Decision does not take effect until it has been signed by the Leader or a Member on the Executive and has been counter-signed by the Proper Officer”.

Officer Comment	<p><u>In relation to 2.5.4:</u></p> <p>Should this include OSI/DPIs?</p> <p><u>In relation to 2.5.5:</u></p> <p>This would prevent a decision from being implemented until signed.</p>
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External Legal Comment	None.
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C3, 3.8 (Meeting Agenda)

"3.8.1 - Any Member on the Executive may require the Proper Officer to ensure that an item is placed on the agenda of the next available meeting of the Executive for consideration whether or not authority has been delegated to the Executive, a committee of the Executive, any individual Member on the Executive, or Officer in respect of that matter.

Officer Comment	Should the Leader be responsible for the agenda items as Chairman?
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External Legal Comment	<p>Previous comments:</p> <p>Matters should be limited to Executive functions.</p>
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Governance Arrangements Working Group

Thursday 11 November 2021 – Held via MS Teams

2.00 p.m. to 2.35 p.m.

NOTES

<p>Present:</p> <table><tr><td><u>Members</u> Councillor Purle (Chairman) Councillor Perry Councillor English Councillor M Rose</td><td><u>Officers</u> Jayne Bolas Angela Woodhouse Oliviya Parfitt</td></tr></table> <p>Councillor Cox (present as substitute for Councillor Hastie) Councillor Munford</p>		<u>Members</u> Councillor Purle (Chairman) Councillor Perry Councillor English Councillor M Rose	<u>Officers</u> Jayne Bolas Angela Woodhouse Oliviya Parfitt
<u>Members</u> Councillor Purle (Chairman) Councillor Perry Councillor English Councillor M Rose	<u>Officers</u> Jayne Bolas Angela Woodhouse Oliviya Parfitt		
Item	Minute		
1. Apologies	Apologies were received from Councillors Blackmore and Munford.		
2. Group and Process moving forward.	<p>The Head of Policy, Communications and Governance would be presenting an update report to the Democracy & General Purposes (D&GP) Committee on 27 November, outlining the timetable of the Constitution's review.</p> <p>A recommendation to include Councillor Hastie, with Councillor Cox as a substitute, to the group's membership would be included. This would ensure that all political groups of the Council were represented in the group's membership.</p> <p>The group were informed that Mid-Kent Legal had instructed Simon Goacher as the external legal representative.</p>		
3. For Discussion:	<p>As Part A – Core Provisions and Part C – Rules of Procedure had been provided shortly before the meeting, it was decided that an additional meeting of the group would be scheduled to allow the attendees to read the documentation.</p> <p>The Chairman gave the following direction as to which specific sections should be looked at:</p> <ul style="list-style-type: none">• Part A – Core Provisions (Articles) particularly; provision 4 in light of the meeting's agenda topics, provision 6 relating to PACs and O&S Committee, provision 7 relating to the Executive, including the 'Administration's Programme' at 7.5• Part C – Rules of Procedure. The rules included were based on the Rules of Procedure in the Council's current constitution, shown at Part 3.1. <p>It was noted that Parts D and E had been completed and would be distributed to attendees. The allowance scheme would be discussed at a later date.</p>		

4. Summary of Agreed Actions	<p>Actions: That</p> <ol style="list-style-type: none"> 1. The Democratic Services Officer schedule an additional meeting of the working group, to occur in the week commencing 22 November 2021. 2. The group's attendees read the relevant sections as advised by the Chairman. 3. Parts D and E of the revised Constitution be sent round to the group's attendees.
5. Duration of Meeting	2.00 p.m. to 2.35 p.m.

Governance Arrangements Working Group

Thursday 25 November 2021 – Held via MS Teams

2.00 p.m. to 4.15 p.m.

NOTES

<p>Present:</p> <p><u>Members</u> Councillor Purle (Chairman) Councillor Perry Councillor English Councillor M Rose Councillor Hastie</p> <p><u>Officers</u> Jayne Bolas Angela Woodhouse Oliviya Parfitt</p> <p><u>External</u> Simon Goacher – Partner, Weightmans LLP</p>	
Item	Minute
1. Apologies	Apologies were received from Councillors Blackmore and Munford.
2. Feedback from Parts A and C for discussion; Any other points for discussion (Item 2 of previous agenda)	<p><u>Part A – Core Provisions Feedback</u></p> <p><u>Leader and Cabinet</u> (Provision 7)</p> <p>The Group expressed general support for the provision concerning the Leader and Cabinet.</p> <p>In response to questions on the Administration’s Programme (provision 7.5) it was confirmed that the intention was to maintain a direct link between election pledges and the actions of the Executive. These actions would be prioritised.</p> <p>Provision 7.5.2 intended to provide flexibility to the agreement and implementation of the Administration’s Programme.</p> <p>The External Legal Representative queried provision 7.5.2 as it could lead to the Administration Programme having been approved but then re-presented to another Council meeting if the Budget and Policy Framework required amendment. This could be resolved if the necessary information was provided at the programme’s initial consideration by Council. It was noted that such information may not be readily available at the first Ordinary Meeting of the Municipal Year, however greater flexibility in the wording would be preferable.</p> <p><u>Policy Advisory Committees</u> (PACs) (Provision 6)</p> <p>There was general support for the provision concerning the PACs, although there was some suggestion that the wording should be made clearer in line with the proposed Council procedural rules in Part C, chapter 1.</p>

The Chairman highlighted the procedural rules for the election of Vice-Chairman in Part C of the Constitution (Chapter 2, Rule 3.2) due to the inbuilt preference for a non-administration Member. This would promote a fair representation of non-administration political parties.

It was noted that the Terms of Reference (ToR) for the PACs had not yet been set, which was to allow for flexibility given that the Leader would be responsible for assigning the portfolio's ToR. Whilst these should align to the PACs, these should not be so restrictive that it would cause delay if an item for consideration cut across multiple portfolios in practice. Following discussion, the Leader would appoint the PAC Chairman if there was a cross-over in portfolios.

The definition of a Key Decision was to be confirmed.

Overview and Scrutiny Committee (OSC) (Provision 6)

It was highlighted that the separate OSC Procedural Rules (Part C, Chapter 3) had been based on the Tonbridge and Malling Borough Council Constitution.

The Chairman explained that the increased Membership of the OSC from 9, to 13 (with the option to include an additional 2 co-opted Members) was due to the increased number of political groups now represented on the Council. In line with proportional representation, all political groups would be more likely to have at least a seat on the OSC. It was mentioned that an increase in membership size was also suitable as there was only going to be one OSC, as opposed to the four in place under the Council's previous Executive Arrangements.

Whilst not relating directly to Provision 6, the Planning Referrals Procedure was highlighted due to the proposed arrangements from May 2022; If necessary, the OSC would be convened by the Proper Officer to act as the Planning Referrals Committee.

The Monitoring Officer and Head of Policy, Communications and Governance highlighted that this would have a training impact, as planning referral committee members still had to undertake the minimum required planning training.

The External Legal Representative clarified that the proposed planning referral procedure was appropriate, provided that there was a clear and evident separation of the duty being the responsibility of the OSC Committee.

The OSC would also be responsible for acting as the Council's Crime and Disorder Scrutiny Committee, which was a statutory obligation.

Part A Provision 3.3 required amendment, as there should not be conflict within the Constitution.

Council Procedure Rules (Part C)

The Council Procedural Rules were generally supported as they were well developed and based on the current Constitution's procedural rules (Part 3.1).

It was noted that there could be further clarification and simplification of the rules shown, to make them easier to read and implement. A suggestion was made to include an explanation as to why some rules had/had not been included (from the current constitution, for the benefit of the attendees).

In response to a query, the Chairman explained his interpretation of the explanation provided at the beginning of the procedural rules section. The Monitoring Officer and External Legal Representative stated that its inclusion in the procedural rules was unusual and that they were unsure of the impact, if any in practice, that it would have.

Specific Attention was drawn to the below considerations:

- The Leaders Report on Current Issues – Rule 11, Part C. The Head of Policy, Communications and Governance and the Monitoring Officer expressed concern at the addition of rules 11.2 and 11.3. The rules could be misused and place undue constraints on the Leader.

Further ambiguities including how much additional time would be provided for the Leader to speak on the requested issues and the risk of Council business not being conducted due to the time taken on the issue, were highlighted.

The Group expressed general support for the provisions, including the perceived increase in accountability, but it was suggested that further measures be included to ensure its suitable use. This included an increase in the minimum number of Members required to submit a requested issue and a time limit.

- Rule 13, Motions on Notice was highlighted. It was felt that the rule should be simplified to avoid confusion, particularly in reference to rule 13.9; referral of petitions that fall within an Executive Function.

In discussing the rules on 'Motions' within Part C, it was highlighted that some of the provisions included within the Council's Current Constitution (Part 3.1, Rule 18) had not been included. This was not intentional, and the External Legal Representative would undertake a cross-referencing exercise between the current and proposed draft Constitutions to identify the missing provisions.

- Appendix A – Petition Scheme. The current procedure for petitions was clearly outlined, but that this would become more complex in the Executive System due to the different bodies that a petition could be presented to; PACs, the Executive and/or Council.

The Monitoring Officer questioned the removal of some of the Mayor's 2013 secretions in waiving some of the rules,

	<p>including those relating to petitions. The Chairman confirmed that this removal had been intentional, to ensure that the same procedure was followed in each instance.</p> <ul style="list-style-type: none"> • Appendix B – Questions by Members of the Public. Point 4.6 was intended to prevent repeated questions on the same topic. <p>The procedural rules relating to questions had remained the same, except where Members would be permitted to submit a question over the weekend for a Tuesday meeting. This contrasted to the current 10 a.m. one clear working day requirement.</p> <p><u>Other points of discussion</u> (based on the draft Constitution provided)</p> <p><u>Trust Committees</u></p> <p>The governance arrangements for Trust Committee’s were discussed, as the following points were highlighted:</p> <ul style="list-style-type: none"> - The difference between Councillors acting as a Corporate Trustee vs. a Borough Councillor; - Ensuring appropriate delegations to Officers to allow the exercise of the Trust Committee’s decisions; - Membership of the Committee as a separate Committee or as a Cabinet Sub-Committee, with the possibility of Non-Executive Members acting in an advisory capacity. <p>The External Legal Representative would conduct research into an appropriate arrangement for the Council’s Trust Committee’s under the Executive System.</p> <p><u>Training</u></p> <p>It was confirmed that training would be provided to both Councillors and Officers on the Executive Arrangements and Constitution once implemented. Reference was made to the proposed ‘Guide to the Constitution’ for that purpose.</p>
3. Local Choice Functions	<p>In response to questions, the External Legal Representative confirmed that there were certain functions (outside of statutory requirements) that could be deemed the responsibility of the Executive and/or Council.</p> <p>A list of Local Choice Functions would be compiled and sent to the group for review.</p>
4. Direction for next meeting	<p>The External Legal Representative would complete the below actions, read through Parts A to C of the draft Constitution with the outcome to be provided to the Chairman for discussion in the week commencing 29 November 2021.</p> <p>Any amendments would be presented to the Democracy & General Purposes Committee, before the working group undertook the next phase of the Constitution’s review.</p>
5. Summary of Agreed Actions	<p>Actions: That the External Legal Representative:</p> <ol style="list-style-type: none"> 1. Re-Draft Provision 7.5.2 (Part A) to provide for greater flexibility on the approval of an Administration Programme;

	<ol style="list-style-type: none"> 2. Examine the Planning Referrals Procedure and re-Draft as appropriate to ensure a clear and evident separation of the duty being the responsibility of the OSC Committee; 3. Conduct research into the appropriate governance arrangements for the Council’s Trust Committees under the Executive Arrangements; 4. Compile a list of possible Local Choice Functions; 5. Undertake a cross-referencing exercise concerning ‘Motions on Notice’, between the Council’s current constitution and the Draft constitution to identify any gaps.
6. Duration of Meeting	2.00 p.m. to 4.15 p.m.

Governance Arrangements Working Group

Thursday 9 December 2021 – Held via MS Teams

2.00 p.m. to 3.45 p.m.

NOTES

Present: <u>Members</u> Councillor Purle (Chairman) Councillor Perry Councillor English Councillor Harper <u>External</u> Simon Goacher – Partner, Weightmans LLP		<u>Officers</u> Jayne Bolas Angela Woodhouse Ryan O’Connell Oliviya Parfitt
Item	Minute	
1. Apologies	Apologies were received from Councillors Blackmore, Hastie and Munford.	
2. Consideration of the Draft Constitution (in sections)	<p>The Chairman invited comments on the draft Constitution. The group felt that the ‘Purpose’ of the Constitution in Part A1 was well explained.</p> <p>There were views expressed by the Democratic and Electoral Services Manager, Head of Policy, Communications and Governance and External Legal Representative in attendance, with the following points made:</p> <ul style="list-style-type: none">• Part A1, Rule 3.3 (concerning conflict of rules) <p>This would likely be restrictive and difficult to implement. The importance of easily and quickly accessible rules was highlighted, to avoid the need to look in multiple places to ascertain the right course of action.</p> <ul style="list-style-type: none">• Part A’s precedence over other Parts. <p>The External Legal Representative clarified that the Articles of a Constitution (Core Provisions in the draft) were, to an extent, superfluous in comparison to the rules. The rules should be self-contained, without the need to refer to the earlier parts of the Constitution, as the advice given should originate from the wording of the rules alone.</p> <p>The Chairman stated that further amendment and consideration was expected, in light of the Constitution’s draft status.</p> <p>The Democratic and Electoral Services Manager stated that from a practical perspective advice given by the Democratic</p>	

	<p>Services Team did not generally concern the earlier parts of the Constitution, but rather the procedural rules. Instances where these were examined included to find a specific delegation, at which point an interpretation would be made. There was concern that a Democratic Services Officer could be accused of providing deliberately mis-leading advice, through the increased importance of Part A over the other Parts.</p> <p>The Chairman stated that the draft Constitution would require 'stress-testing' and that Parts C2-C4 contained cross-references to be resolved.</p> <p>The Monitoring Officer explained that incorrect and/or misleading advice had further practical impacts, such as the grounds for Judicial Review of the decision.</p> <ul style="list-style-type: none"> • Part C2, Application of Rule 16.6 from C1 (Amendments to Motions). The application of this rule would have significant implications for Planning Committee, as replacing a motion for refusal with approval (and visa versa) allowed the Committee to function efficiently. The disapplication of Council rules to Committee in the current constitution allowed the Chairman to have discretion in managing the meeting. <p>The unintended implications of re-writing the whole Constitution rather than the parts relevant to the introduction of Executive Arrangements was discussed.</p>
<p>3. Comments from the Democratic and Electoral Services Manager</p>	<p>The Chairman and the Working Group invited the Democratic and Electoral Services Manager to outline his comments on the draft Constitution.</p> <p>The following points were raised:</p> <ul style="list-style-type: none"> • The draft Constitution seemed to curtail the benefits of an Executive System; the ability to be responsive, decisive and have ownership of decision-making; • The Executive System provides for a 'Strong Leader' by law but there was a sense from the draft document that it was attempting to constrain the role of the Leader. • The blurred role between the Executive and the exercise of scrutiny functions on the Policy Advisory Committees (PACs); these would be Council rather than Executive Committees but be Chaired by a Cabinet Member. There was concern that the speed of the decision-making process would be affected; • The increased membership size of the Overview and Scrutiny Committee (OSC), to a minimum of 13 Councillors, would likely be too large and difficult to manage;

- The limitation placed on call-ins – Only the OSC Chairman and/or any 3 Members of the Committee could call-in a decision. This reduces the overall effectiveness of call-in whilst concentrating it in the hands of fewer Councillors.
- The sign-off process required for Individual Member decisions was impractical and would prevent individual decision making, by being dependent on co-signatories. This could cause conflict in the event that the Leader refused to co-sign a decision (and therefore prevent its implementation);
- There could be misuse of the Administration Programme, as the contents would be exempt from consideration by the PACs. There would be less scrutiny on these items and broad topic titles could be used when presented to Council, which would also prevent related items being considered by the PACs;
- There had been significant changes to the enforcement delegations within the Planning Committees Terms of Reference (ToR) which would lead to significantly more Part II reports. Further consideration of the effects of the change was needed and the condition on the delegation would be better placed in the ToR rather than the procedure rules;
- The proposed planning referrals system included that a when an application was approved through the Chairman’s casting vote or by 1 or 2 votes, it could be called in. This was impractical as the Committee’s decisions were implemented immediately which could affect fee’s income and open up risks of Judicial Review.

If preferred, there could be no planning referrals process within the new Constitution.

- That the contents and rules within the draft Constitution should allow for flexible rules with boundaries. Having rules that were too restrictive could make them harder to operate in practice or conversely make it easier to find loopholes. For example, the Leader could use the Report on Current Issues as a tool to filibuster a Council meeting. Alternatively, a small group could submit numerous requested issues for consideration on a frequent basis.

The disputes panel could be used as a way of preventing an urgent decision.

In response to concerns about the proposed arrangements, the working group clarified that a Hybrid Model had been proposed as the previous Executive System had not been suitable for many Councillors.

The key principles and the model itself had been agreed by full Council.

	<p>It was recognised that the Constitution provided was in draft form and would require further amendment as the working group continued to review the document.</p> <p>Further comments provided by the Democratic and Electoral Services Managed on the draft Constitution’s usability were as follows:</p> <ul style="list-style-type: none"> • The cross-over between the Constitution’s parts would make it difficult to use in high-pressure instances; • Having one rule applicable to all the relevant meetings makes it much easier for a person to familiarise themselves with the rules; • There were too many types of decision; • There were conflicts between the ToR between Council and the Committees. For example, Council and the Democracy and General Purposes Committee were responsible for Electoral Matters; • There were significant questions on how a disputes panel would be facilitated in practical terms; • The discretions of the Mayor are used to ensure the smooth running of full Council; <p>The importance of Member-led decision making was reiterated however this would not be achieved through the Constitution itself, but through strong leadership from Councillors.</p> <p>In response, the group highlighted the importance of inclusivity within the new governance arrangements, alongside a model that would be retained and supported in the long-term. The inclusion of PACs was to involve as many Councillors as possible in the decision-making process.</p> <p>The Monitoring Officer advised that being Member-led referred to the Council’s strategies and policies, rather than operational delegations which were cumbersome. The External Legal Representative stated that they agreed with the comments made by the Democratic and Electoral Services Manager on the importance of easily applied and practical rules.</p> <p>In relation to individual decision making, the previously used method whereby Individual Executive Members publicised when they would be making a decision, was highlighted as a useful mechanism for the new arrangements.</p> <p>The group thanked the Democratic and Electoral Services Manager for his comments, and it was requested that the Democratic Services Team provide a list of comments on the draft Constitution. This would enable the group to further consider the suitability and applicability of some of the actions and rules proposed.</p>
<p>4. Direction for next meeting</p>	<p>That the comments on the draft constitution drafted by Democratic Services be distributed to the working group, so that these could be considered ahead of the next meeting.</p>

5. Summary of Agreed Actions	Actions: That the Democratic Services Officer distribute the list of comments on the draft Constitution to the meeting's attendees on Monday 13 December 2021, for discussion at the next meeting.
6. Duration of Meeting	2.00 p.m. to 3.45 p.m.

Governance Arrangements Working Group

Thursday 16 December 2021 – Held via MS Teams

2.00 p.m. to 4.40 p.m.

NOTES

<p>Present:</p> <p><u>Members</u> Councillor Purle (Chairman) Councillor Perry Councillor English Councillor Harper</p> <p><u>Officers</u> Jayne Bolas Angela Woodhouse Oliviya Parfitt</p> <p>Councillor Burton (present as substitute for Councillor Blackmore)</p> <p><u>External</u> Simon Goacher – Partner, Weightmans LLP</p>	
Item	Minute
1. Apologies	Apologies were received from Councillors Blackmore and Munford. Councillor Hastie was in attendance for part of the meeting.
2. Recap	The Chairman summarised that progress on the draft Constitution had been made and continued. An updated version of the draft had been circulated to the meeting's attendees with the agenda.
3. Consideration of Draft Text (v.3.8)	<p>3.1 Members' rights to Information (A2, Provision 3 & C4) (access to Information (AtI) Section sent separately)</p> <p>The Chairman referenced the AtI Document previously provided, which contained the originally drafted section, Simon's suggested version and an updated draft section in response.</p> <p>The working group expressed support for the rules as drafted by the Chairman, as it was felt that this promoted greater transparency and increased involvement for all Councillors.</p> <p>The External Legal Representative, Mr Goacher stated that the section did not accurately reflect the legal position regarding the 'need to know' requirement. There were instances as demonstrated through case law whereby Councillors/decision makers were not given access to a particular piece of information, which was upheld upon legal challenge. This contradicted the 'prima facie' assumption.</p> <p>There was further concern at the ability for a motion to be moved at a full council meeting, regarding a Councillor's right of access. This would mean that the information requested would have to be disclosed to all Councillors before a decision was made, which was not standard or best practice. The Council itself and the Monitoring Officer would face increased risk of challenge from individuals and/or organisations as a result.</p>

The disputes panel suggested required further consideration, as the panel members would need a significant legal and data protection expertise to reach a decision, however the principle aim of the body had been understood. The Chairman clarified that the intention was for the Proper Officer the Head of Policy, Communications and Governance would advise Councillors on their initial request to access confidential and/or exempt information, with the Monitoring Officer acting as Proper Officer to advise the Disputes Panel if required.

The working group highlighted the previous ease in accessing agenda papers and wished for this to be promoted where possible. It was felt that Councillors had been previously refused access unnecessarily, however the process of submitting a request to the Monitoring Officer was noted as standard practice.

In response to questions, Mr Goacher clarified that there had not been any legal challenges made against Council's that had disclosed confidential and/or exempt information to Councillors. However, it was likely that local authorities had been managing access to information correctly in the first instance. It was noted that the number of individual data protection claims were generally increasing, but that the Information Commissioner's Office were more likely to issue sanctions where there had been significant and/or consistent failings.

It was agreed that the wording should be in favour of disclosure where possible and that the disputes panel would remain a feature of the new arrangements. In response, the Chairman would amend the AtI section and provide a copy to the external legal representative for comments.

3.2 Individual Members' ability to raise issues formally

a) Agenda Item Requests (Chapter C2, Rule 6)

The working group was supportive of the rules proposed concerning Councillor agenda item requests.

It was felt that a maximum number of agenda item requests was unnecessary given that there was not currently a limit in place. Further, any request would be managed with the Chairman and relevant officers as part of the agenda setting process.

In response to comments from the Democratic Services Officer, it was agreed that the Chairman would have the discretion to accept agenda item requests that had been submitted after the deadline, with the draft document to be amended in response.

c) Questions on Notice (Chapters 1&2, Rules 9&10, Appendix B)

Consideration was given to whether additional wording was required to qualify whether a Councillor's answer reflected their personal views or the Council's position. However, it was felt that this was unnecessary. For example, if the question submitted was asked of the Cabinet Member, it would be a personal opinion.

It was agreed that Group Leader's would not be given a right of reply.

	<p>d) Petitions</p> <p>The Chairman outlined the petition scheme within Appendix A of the Constitution.</p> <p>Each set of procedure rules within the draft Constitution outlining how a petition would be dealt with procedurally.</p> <p>It was confirmed that the threshold for an unlimited debate length was 1500 signatures.</p> <p>The working group supported the petition scheme.</p> <p>e) Referrals to Planning Committee (Chapter 2, Rule 14)</p> <p>The process of referring an application to the planning Committee was briefly discussed, with specific attention drawn to the increased scope of the draft rules which allowed a greater number of Councillors to refer an application to the planning committee. The 'three members' referral option increase the workload of the Committee with an example being that the Ward Members from a different Ward calling in an application occurring outside of their Ward.</p> <p>In considering alternatives, the previous role of 'political spokesperson' was highlighted. It was felt that whilst the role had been beneficial, it could not be politically balanced and would not be taken further.</p> <p>It was agreed that Councillor English would approach the Development Manager (James Bailey) for their advice on the proposed referral's process.</p> <p>Due to time constraints, it was decided that the agenda be re-ordered to allow for the items within agenda item 4 to be considered.</p> <p>Leader's Report (Chapter 1, Rule 10)</p> <p>The Chairman highlighted the amended rule which had been simplified and included the addition of 'any subject relevant to the role of the Leader'.</p> <p>The working group supported the amended rule.</p> <p>Issues still to be considered:</p> <p>3.2;</p> <p>f) Nuisance of serious service failing</p> <p>3.3 Local Choice Functions</p>
<p>4. Issues for Resolution</p>	<p><u>Planning Referrals</u></p> <p>It was agreed that there would not be a planning referrals process in the new governance arrangements. The External Legal Representative confirmed that the mechanism was not commonly operational in other local authorities.</p>

	<p><u>Trustee Committees</u></p> <p>It was agreed that the Trustee Committees would be assigned to the relevant portfolio holder, with the Policy Advisory Committees to oversee the actions taken as required.</p> <p><u>Appointment etc. of Senior Officers</u></p> <p>The External Legal Representative explained that the employment and salary of Senior Officers could not be an executive function and the general process concerning the statutory officers including the Head of Paid Service and Monitoring Officer.</p> <p>Issues such as appointments and disciplinaries, were normally considered by a specifically created standing committee. During the Council's previous executive arrangements, an employment committee had been in place.</p> <p>There was no limit on the involvement of the Executive in the process and it was usual for at least one Executive Member to be involved. An example was given of the Leader and relevant portfolio holder being involved in the recruitment process for a Director. Provisions to allow for executive involvement could be included within the constitution.</p> <p>The working group was in support of an employment committee, with a membership of nine, a quorum of three and a panel size of five. The panels would be convened when necessary and apply to the positions of Chief Executive, Directors and Deputy Directors should such positions be reinstated.</p> <p>As some of the attendees had to leave the meeting due to other commitments, the following items could not be considered:</p> <p>4.1 Overview & Scrutiny – call-in rights: (see draft Chapter 3, Rule 4)</p> <p>4.5 Key Decision definition</p> <p>5. Residual points from Dem Services Paper</p>
<p>5. Direction for next meeting</p>	<p>The agreed actions and amendments (as outlined below) would be implemented into the draft Constitution and sent to the External Legal Representative for consideration.</p> <p>A further section would be drafted by the External Legal Representative, to be shared in early January 2022, on the composition and form of an Employment Committee and its sub-committees.</p> <p>As the next report to the Democracy and General Purposes Committee would be published on 18 January 2022, the agreed amendments and the items that could not be considered during the group's meeting would be discussed during the next meeting on the 13 January 2022.</p>

<p>6. Summary of Agreed Actions</p>	<p><u>Actions:</u> That</p> <ol style="list-style-type: none"> 1. The Chairman would amend the Access to Information section and provide a copy to the External Legal Representative for review; 2. The Disputes Panel be agreed as a feature of the new arrangements, with further consideration to be given to its operation in practice; 3. The rules concerning agenda item requests be amended to reflect the Chairman’s discretion in accepting an item submitted after the deadline; 4. The Planning Referrals Committee/Procedure be removed; 5. An Employment Committee be created, with the External Legal Representative to draft the relevant sections in accordance with the direction provided by the working group; and 6. The Development Manager be approached for their advice on the processes outlined in Chapter 1, Rule 14 (Provisions relating to the Planning Committee) <p>The amendments would be made by the Chairman and then circulated.</p>
<p>7. Duration of Meeting</p>	<p>2.00 p.m. to 4.40 p.m.</p>

Summary of Actions agreed by working group on 13 January 2022

Action	Location in Constitution
Drafted (technical) amendments agreed.	N/A
Employment Committee text agreed .	A2, 6.6
Additional wording to be drafted to explain that meeting attendance is without prejudice to any other statutory right.	A1, 2.5 (p. 7)
'Structure of the Constitution' to remain as drafted.	A1, 3.3 (p. 8)
'Guide to the Constitution' to remain as drafted.	A1, 9 (p. 10)
'Voting' to remain as drafted.	A2, 1.1.1 (p. 11)
Use of Forward Plan agreed.	A2, 1.1.2 (p. 11)
'Responsibilities' provision to be re-drafted; to highlight that the subject is the exercise of public rights, rather than the removal of public rights.	A2, 1.2 (p. 12)
'Policy Advisory Committees' section to be slightly re-drafted; the Leader will nominate an Executive Member as Chairman with the PAC to elect to the position.	A2, 6.2.4 (p. 22)
'Delegations, Decisions and Proceedings of the Executive' to be re-drafted; to allow Officer decision making to take place without requiring a public meeting.	A2, 7.6.3 (p. 29)
'Joint Arrangements' to be redrafted to remove two-fifths requirement	A2, 9.2.4 (a) (p. 33)
Agreed that the Head of Mid Kent Legal Partnership is an officer of the Authority.	A2 10.3
SG and JB to research the operational arrangements for the Mid-Kent Services Board/other Joint arrangements	Relates to A2, 9.2 (p. 33)
Reference to Rule 14 rather than 17 agreed.	B2, 2.5 (p. 43)

Removal of 'Appointments' agreed.	B4, (p. 71)
Agreed that Proper Officer Functions do not require review	Part B
'Introduction' to Council Procedure Rules to be re-drafted to avoid confusion on Council v. Scrutiny	C1, 1.2 (p. 100)

Agenda Item 18

Democracy and General Purposes Committee

26 January 2022

Local Government Boundary Review Update

Final Decision-Maker	Democracy and General Purposes Committee
Lead Head of Service	Angela Woodhouse, Head of Policy, Communications and Governance
Lead Officer and Report Author	Ryan O'Connell, Democratic and Electoral Services Manager
Classification	Public
Wards affected	All

Executive Summary

This report sets out the status, timetable and next steps for the Local Government Boundary Review. It updates Members and informs them of the work required to be done and in particular that the consultation on boundaries will be live by the time of the meeting and that they as individuals or as groups can contribute to it.

Purpose of Report

Decision.

This report makes the following recommendations to this Committee:

1. That the proposed timetable (2.6) and approach set out in the report be agreed; and
2. That the tight and intense period of work required with Members between the February and March meetings of the Committee be noted.

Timetable

Meeting	Date
D&GP Committee	26 January 2022
D&GP Committee	16 February 2022
D&GP Committee	9 March 2022
Council	13 April 2022

Local Government Boundary Review - Update

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The Local Government Boundary Review will result in a new warding scheme and number of councillors for Maidstone that ensures equality for the electorate. This will not impact Corporate Priorities directly but will impact on all of them indirectly.	Democratic and Electoral Services Manager
Cross Cutting Objectives	The Local Government Boundary Review will result in a new warding scheme and number of councillors for Maidstone that ensures equality for the electorate. This will not impact Cross Cutting Objectives directly but will impact on all of them indirectly.	Democratic and Electoral Services Manager
Risk Management	Refer to section 5 of the report.	Democratic and Electoral Services Manager
Financial	There are no direct financial considerations from the matters considered in this report.	Democratic and Electoral Services Manager
Staffing	There will be an intense period of work required between the February and March D&GP meetings but this will not require additional staffing.	Democratic and Electoral Services Manager
Legal	The review is being conducted by the LGBCE under its powers in The Local democracy, Economic Development and Construction Act 2009.	Interim Deputy Head of Legal Partnership
Privacy and Data Protection	None	Policy and Information Team
Equalities	The review aims to achieve electoral equality for the residents of Maidstone. There is no impact on Equalities as a result of the recommendations in this report. An EqIA	Equalities & Communities Officer

	would be carried out as part of a policy or service change should one be identified.	
Public Health	None	Democratic and Electoral Services Manager
Crime and Disorder	None	Democratic and Electoral Services Manager
Procurement	None	Democratic and Electoral Services Manager
Biodiversity and Climate Change	None	Democratic and Electoral Services Manager

2. INTRODUCTION AND BACKGROUND

- 2.1 The Council agreed its size submission to the Local Government Boundary Commission for England (LGBCE) in December 2021. The LGBCE will consider that submission at its meeting on 18 January 2022 the outcome of which will be known after the publication of this report and an update provided at the meeting.
- 2.2 Council also agreed, in December, to adopt Whole Council Elections from 2024 and this has been reported to the LGBCE as required by legislation and published by way of a notice and explanatory document. This will have an impact on the current stage of our boundary review in two ways:
1. The Commission may now decide to adopt a council size that is not a multiple of three (or to tweak the size slightly later after the boundaries are determined); and
 2. The approved warding pattern will not have to consist only of three Member wards (with exceptions), but can be a mixture of one, two and three Member wards.
- 2.3 The possibility of a single Member warding pattern (where all wards have one Member) was discussed with the LGBCE to understand its implications. No indication has been given by Members at any point that this is something they wish to pursue, and the general advice from the LGBCE is that this is better suited to wholly urban areas. However, as part of proposals single Member wards could be considered for certain areas due to the flexibility afforded by adopting whole council elections.

- 2.4 All the information requested by the LGBCE has been supplied to them to enable them to start their boundary consultation on 25 January 2022 (this will have started by the time of the Committee meeting). The information supplied included relevant boundaries (wards, parishes, polling districts), key stakeholders, local orders and electorate forecasts for 2027 broken down across the Council’s 90 polling districts. Those are the figures that the consultation will be based on. The electorate forecasts were derived from ONS data, the LGBCE’s methodology, and amendments for planned housing growth.
- 2.5 At the time of writing a public community presentation is being arranged for parishes, community groups and the public. This will be conducted by the LGBCE and should have been held by the time of the meeting.
- 2.6 The timetable for next steps is as follows:

3 February 2022	Officer Boundary Review workshop with LGBCE
<i>TBC February 2022</i>	Kick-Off Workshop for Members
16 February 2022	Democracy and General Purposes – Consultation Response Principles and Outline
<i>TBC February 2022</i>	<i>Member and Officer Workshops if required</i>
9 March 2022	Democracy and General Purposes – Proposed Consultation Response
13 April 2022	Full Council – Consultation Response Submission

- 2.7 The work with Members cannot begin until officers have had their workshop with the LGBCE. The date of 13 April 2022 for the submission going to Council is technically outside of the LGBCE’s consultation close date (4 April 2022) but they have agreed that this is acceptable and avoids the need for another extraordinary Council.
- 2.8 The boundary review consultation is open to all to respond to and will be hosted and carried out by the LGBCE (<https://consultation.lgbce.org.uk/>). Any individual, community group, parish or other body can submit proposed warding arrangements to the LGBCE and those can be for all or part of the Borough. All proposals will be considered by the LGBCE against their three key considerations:
1. *Delivering electoral equality for local voters. This means ensuring that each councillor represents roughly the same number of voters so that the value of your vote is the same regardless of where you live in the local authority area.*
 2. *Interests and identities of local communities. This means establishing electoral arrangements which, as far as possible, avoid splitting local ties and where boundaries are easily identifiable.*

3. *Effective and convenient local government. This means ensuring that the wards can be represented effectively by their elected representative(s) and that the new electoral arrangements, including both the council size decision and warding arrangements, allow the local authority to conduct its business effectively.*

2.9 It will take a considerable effort to achieve consensus across the piece for the Council's warding proposals. It is therefore important to note that alongside the intense work required by this timetable, individuals and groups can also make submissions where there are individual differences of opinion (either widely or on certain areas). These can be submitted independently to the LGBCE. The commission will consider all submissions it receives and will be carrying out its own site visits to the Borough before determining its proposed warding pattern.

2.10 Following this first consultation, the LGBCE will determine their draft recommendations for warding patterns for Maidstone Borough. A second consultation on their proposed wards will be undertaken starting on 5 July 2022 and running until September 2022 with a final set of proposals agreed by the end of the year.

2.11 The new warding arrangements may well have implications for polling district and parish boundaries. A Council run Community Governance Review is scheduled for 2023 to resolve both existing and new issues with current boundaries.

3. AVAILABLE OPTIONS

3.1 The committee can agree the timetable and proposed work including the intense period of work between the February and March 2022 meetings.

3.2 The committee can propose alternative dates or approaches, or request amendments.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The proposed timetable and approach is recommended as the timescales are tight and the work needs to be carried out in a practical way to achieve consensus. It should be noted that as individuals and groups can also make submissions where there are individual differences of opinion (either widely or on certain areas) these can be submitted independently to the LGBCE.

5. RISK

5.1 The primary risk is that the Council fails to respond to the Boundary Consultation and loses the influence it would have had on it. This report

and the proposed timetable addresses that risk by setting out a practical path to achieving a decision at Council on 13 April 2022.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 This report covers the consultation that the LGBCE will be carrying out from 25 January 2022 and the later consultation in July 2022.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Officers will undertake a workshop with the LGBCE and dates for events and workshops will be booked into diaries.

8. REPORT APPENDICES

None.

9. BACKGROUND PAPERS

None.

Agenda Item 19

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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