

DEMOCRACY AND GENERAL PURPOSES COMMITTEE MEETING

Date: Wednesday 29 March 2023
Time: 6.30 pm
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Cooper (Chairman), Joy (Vice-Chairman), Bartlett, Mrs Blackmore, Cooke, English, Perry, Rose 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.

<u>AGENDA</u>	<u>Page No.</u>
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 21 November 2022	1 – 4
9. Presentation of Petitions (if any)	
10. Question and Answer Session for Members of the Public	
11. Questions from Members to the Chairman (if any)	
12. Committee Work Programme	5
13. Outside Body Appointment - Rochester Bridge Trust	6 – 10
14. Members Allowances Review 2023 - IRP Community Representative Appointment	11 – 15
15. Review of the Constitution	16 – 229

Issued on Tuesday 21 March 2023

Continued Over/:



Alison Broom, Chief Executive

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|---|-----------|
| 16. Community Governance Review (Parishes) - Timetable Amendment | 230 – 235 |
| 17. Members' Access to Information Procedure Rules, Annual review | 236 – 244 |

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 27 March 2023). 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 27 March 2023). 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 MONDAY 21 NOVEMBER 2022

Attendees:

Committee Members:	Councillors Cooper (Chairman), Joy, Mrs Blackmore, Cooke, Rose, Garten and S Webb
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39. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bartlett and Perry.

40. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Garten was present as a Substitute for Councillor Bartlett, and Councillor S Webb was present as a Substitute for Councillor Perry.

41. URGENT ITEMS

There were no urgent items.

42. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

43. DISCLOSURES BY MEMBERS AND OFFICERS

The Director of Strategy, Insight and Governance, and the Democratic and Electoral Services Manager, as named officers in the report on Item 14 – Appointment of Returning Officer and Electoral Registration Officer, declared an interest and intended to leave the room when the item was discussed.

44. DISCLOSURES OF LOBBYING

Councillor Cooper stated that he had been lobbied on Item 15 – Amendments to Part B5 of the Council’s Constitution – Responsibilities of Senior Officers.

45. EXEMPT ITEMS

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

46. MINUTES OF THE MEETING HELD ON 21 SEPTEMBER 2022

RESOLVED: That the Minutes of the meeting held on 21 September 2022 be approved as a correct record and signed.

47. PRESENTATION OF PETITIONS

There were no petitions.

48. QUESTION AND ANSWER SESSION FOR LOCAL RESIDENTS

There were no questions from local residents.

49. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

50. COMMITTEE WORK PROGRAMME

The Democratic and Electoral Services Manager updated the Committee on the Local Government Boundary Review, with the final proposals due to be published by the Local Government Boundary Commission for England on 29 November 2022. The Community Governance Review first stage consultation was underway with fourteen responses received so far, it would run until 29 January 2023.

The Democratic and Electoral Services Manager confirmed that the report on honouring sports people was still under discussion with Councillors and Groups and would come forward at an appropriate point.

RESOLVED: That the Committee Work Programme be noted.

51. REVIEW OF THE CONSTITUTION

The Director of Strategy, Insight and Governance introduced the report on the planned six-month review of the Council's Constitution, in response to the change of Governance model from May 2022. The recommended option in the report was to conduct the review via a working group with representation of all groups that would report back to the Committee before recommendations were made to full Council. The report recommended that the scope of the review would cover Part C of the Constitution as the area with the most issues identified, though there would be consequential amendments to the other parts of the Constitution.

The Committee supported the review, and the use of the working group with political representation across all groups but felt that the working group should determine the scope of the review. This would include issues identified by officers, including the absence of rules and information, for example on how to conduct call-ins, as well as issues identified by Councillors.

It was noted that the Committee would retain overall responsibility for the review as the working group would report back to them. It was clarified that the membership of the working group did not need to come from the Committee and that Group Leaders would be asked to nominate members for the group with three Conservatives, and one from each other group.

RESOLVED:

1. That option 1 in section 3 of the report be approved with a working group appointed to carry out a review of the constitution, reporting to this committee with their findings in March 2023 to ensure any changes can be recommended to council for adoption for the next municipal year; and
2. That the working group determine the scope of the review.

52. APPOINTMENT OF RETURNING OFFICER AND ELECTORAL REGISTRATION OFFICER

The Interim Monitoring Officer introduced the report and outlined the recommended appointment of the Director of Strategy, Insight and Governance as the Council's Returning Officer and Electoral Registration Officer, with the Democratic and Electoral Services Manager as the Council's Deputy Electoral Registration Officer.

The Committee reiterated the considerable experience of both officers in facilitating and supporting elections, with support expressed for the proposed appointments. The breadth of the Director of Strategy, Insight and Governance's responsibility was noted.

In response to questions, the Interim Monitoring Officer confirmed that the relevant officers including the Council's Corporate Leadership Team had been consulted on and supported the proposed appointments.

RESOLVED: That the Council be recommended to

1. Appoint Angela Woodhouse (Director of Strategy, Insight & Governance) as the Council's Returning Officer and Electoral Registration Officer for Maidstone Borough Council with immediate effect;
2. Appoint Ryan O'Connell (Democratic and Electoral Services Manager) as the Council's Deputy Electoral Registration Officer; and
3. Authorise the Monitoring Officer to amend the Constitution to reflect these changes.

53. AMENDMENTS TO PART B5 OF THE COUNCIL'S CONSTITUTION - RESPONSIBILITIES OF SENIOR OFFICERS

The Director of Strategy, Insight and Governance introduced the report and clarified to the Committee that the recommendation should not have been to make a recommendation to Council as the report was for noting. The changes outlined in the report were to be made under the delegations to the Chief Executive and the Monitoring Officer.

The Committee thanked the Director for the clarification.

RESOLVED: That the report be noted.

54. MEMBER SAFETY GUIDANCE

The Democratic Services Officer introduced the report setting out optional Member Safety Guidance to help support Members. The guidance included an incident reporting form to help Members and Democratic Services in dealing with any incidents raised.

The Committee welcomed the guidance and it was confirmed that it would be sent to all Members, be included in the new Member induction and be made available on the Members area in MS Teams that was under development.

The Committee also congratulated the Democratic Services Officer, Oliviya Parfitt, for her Learner of the Year award given at the national Association of Democratic Services Officers Conference 2022.

RESOLVED: That the Member Safety Guidance, attached at Appendix 1 to the report, be approved.

55. DURATION OF MEETING

6.30 p.m. to 7.10 p.m.

2022/23 WORK PROGRAMME

	Committee	Month	Origin	CLT to clear	Lead	Report Author
Outside Body Appointments	D&GP	June 23	Annual		Ryan O'Connell	Ryan O'Connell
Community Governance Review - Draft Proposals	D&GP	June 23	CGR		Ryan O'Connell	Ryan O'Connell
Sports People (and Others) Honours	D&GP	TBC	Councillor Requests		Ryan O'Connell	Ryan O'Connell

Agenda Item 13

DEMOCRACY AND GENERAL PURPOSES COMMITTEE

29 MARCH 2023

Outside Body Appointment – Rochester Bridge Trust

Final Decision-Maker	Democracy and General Purposes Committee
Lead Head of Service	Angela Woodhouse, Director of Strategy, Insight and Governance
Lead Officer and Report Author	Ryan O’Connell, Democratic and Electoral Services Manager
Classification	Public
Wards affected	None directly, though the Rochester Bridge Trust is a Landowner across multiple wards.

Executive Summary

The term of office of the current Council representative, Derek Butler, on the Rochester Bridge Trust is coming to an end in May 2023, and the Council needs to renew or make a new appointment.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

That Derek Butler’s appointment to the Rochester Bridge Trust as the Council’s nominated Trustee be renewed.

Timetable

Meeting	Date
Democracy and General Purposes Committee	29 March 2023

Outside Body Appointment – Rochester Bridge Trust

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>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. Though making the right appointment to the Rochester Bridge Trust will ensure the Council is well represented.</p>	Democratic and Electoral Services Manager
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>We do not expect the recommendations will by themselves materially affect achievement of cross-cutting objectives. Though making the right appointment to the Rochester Bridge Trust will ensure the Council is well represented.</p>	Democratic and Electoral Services Manager
Risk Management	Risks related to this decision are minimal, but by considering the appointment fully the Committee manage the risk of an inappropriate appointment being made.	Democratic and Electoral Services Manager
Financial	None directly.	[Finance]

Staffing	None	Democratic and Electoral Services Manager
Legal	<p>The Rochester Bridge Trust is an outside body that falls under the remit of the Democracy and General Purposes Committee as set out in the Constitution in Part B4 – Appendix 2.</p> <p>The appointee will be a Trustee of the Rochester Bridge Trust including all the duties and liabilities of being a Trustee.</p>	Interim Team Leader (Contentious and Corporate Governance)
Privacy and Data Protection	None	Democratic and Electoral Services Manager
Equalities	None	[Policy & Information Manager]
Public Health	None	[Public Health Officer]
Crime and Disorder	None	Democratic and Electoral Services Manager
Procurement	None	Democratic and Electoral Services Manager
Biodiversity and Climate Change	None	[Biodiversity and Climate Change Officer]

2. INTRODUCTION AND BACKGROUND

2.1 The Rochester Bridge Trust contacted Democratic Services on 21 February 2023 to request a new nomination before their Trustee meeting on 22 May 2023, as the term of the current nominated member from the Council, Derek Butler, expired on 31 May 2023. The term of office would be for four years from 1 June 2023 to 31 May 2027.

2.2 The Rochester Bridge Trust stated the following:

Derek has been a diligent trustee and has made a valuable contribution to the work of the Trust to date, particularly in his role as Junior Warden for the past two years. He informs me that he would very much like to be re-nominated for a further term if that is agreeable to the Council. The Trust has recently introduced a three-term maximum so this would be Derek's final period as a trustee. If he is re-nominated, he is almost certain to be elected as the Senior Warden for the next two years.

- 2.3 Democratic Services contacted Derek Butler who confirmed he would like to be nominated for the position. With that confirmation Democratic Services contacted all Councillors to ask if a Councillor also wished to be put forward. Whilst there was some interest in the role, no Councillor put themselves forward for nomination.
- 2.4 It is therefore recommended that Derek Butler be appointed as the Council's nominated trustee on the Rochester Bridge Trust.
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3. AVAILABLE OPTIONS

- 3.1 Option 1 – Appoint Derek Butler as the Council's nominated trustee.
- 3.2 Option 2 – Consider whether another nominee, though none have been forthcoming to date, would be more appropriate.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1 for the reasons set out above.
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5. RISK

- 5.1 Risks are considered in the issues table above.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 Covered in paragraph 2.3
-

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 The Rochester Bridge Trust will be informed of the Committee's decision.
-

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

None

**DEMOCRACY AND GENERAL
PURPOSES COMMITTEE**

29 MARCH 2023

**Members Allowances Review 2023 – IRP Community
Representative Appointment**

Final Decision-Maker	Council
Lead Head of Service	Angela Woodhouse, Director of Strategy, Insight and Governance
Lead Officer and Report Author	Ryan O’Connell, Democratic and Electoral Services Manager
Classification	Public
Wards affected	All

Executive Summary

In order for the Council to complete its Members Allowances Review 2023 it needs to appoint a community representative to the Independent Remuneration Panel.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

That Council be recommended to appoint Derek Butler as the Community representative on the Independent Remuneration Panel for the Members Allowances Review 2023.

Timetable

Meeting	Date
Democracy and General Purposes Committee	29 March 2023
Council	19 April 2023

Members Allowances Review 2023 – IRP Community Representative Appointment

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>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, it is important that Councillors are fairly remunerated for performing their roles.</p>	Democratic and Electoral Services Manager
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>We do not expect the recommendations will by themselves materially affect achievement of cross cutting objectives. However, it is important that Councillors are fairly remunerated for performing their roles.</p>	Democratic and Electoral Services Manager
Risk Management	<p>As there has not been a wide recruitment process followed to find potential community representatives there is a minor risk that the decision to make an appointment could be challenged. Whilst officers are confident such a challenge would fail, the recommended term of appointment has been limited to just this review to recognise that a wider appointment</p>	Democratic and Electoral Services Manager

	process would be preferable for an appointment on a longer basis.	
Financial	The recommendation in this report has no financial impact. However, the outcome of the Members Allowances Review will impact on the amount of funding required for Members Allowances.	[Section 151 Officer & Finance Team]
Staffing	<p>The appointment would mean that the Community Representative position on the Independent Remuneration Panel would be filled.</p> <p>The other roles, as specified by the constitution, of a South East Employers representative and a Kent Chamber of Commerce Representative, will be filled by other means.</p>	Democratic and Electoral Services Manager
Legal	<p>Under the Local Authorities (Member Allowances) (England) Regulations 2003, before a local authority makes or amends a scheme for Members' Allowances, it must have regard to the recommendations made to it by an independent remuneration panel.</p> <p>The constitution sets out the membership of the Independent Remuneration panel in Part B2, and stipulates that the appointment of the community representative will be by a recommendation of the Democracy and General Purposes Committee to Council.</p>	Interim Team Leader (Contentious and Corporate Governance)
Privacy and Data Protection	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Equalities & Communities Officer
Equalities	None	[Policy & Information Manager]
Public Health	None	[Public Health Officer]
Crime and Disorder	None	Democratic and Electoral Services Manager

Procurement	None	Democratic and Electoral Services Manager
Biodiversity and Climate Change	None	[Biodiversity and Climate Change Officer]

2. INTRODUCTION AND BACKGROUND

- 2.1 The Council introduced new Governance arrangements in May 2022. To support those arrangements the Council agreed a new scheme of Members Allowances on the recommendation of the Independent Remuneration Panel.
- 2.2 As the Members Allowances were supporting a new Governance model it was felt prudent to plan a review of those allowances to ensure they reflected the Governance model once it had been in operation for a suitable period. That review is planned for June 2023.
- 2.3 In order to carry out that review the Council is required to take into account the views of an Independent Remuneration Panel. The constitution sets out the membership of that panel as one representative from South East Employers, one representative from the Kent Chamber of Commerce and one Community representative to be appointed by Council on the recommendation of the Democracy and General Purposes Committee.
- 2.4 It is necessary to make this appointment now so that a recommendation can be made to Council in time for the review to commence in June 2023 as planned.
- 2.5 This report recommends Derek Butler as the Community representative for the purposes of conducting the Members Allowance Review 2023. Derek Butler was on the Independent Remuneration Panel that originally considered the scheme and new Governance arrangements. He is trained and experienced in the issues being reviewed and is therefore recommended. However, Members should be aware that due to time constraints a wide recruitment process for potential candidates was not carried out. Therefore, it is not recommended that Derek Butler's term run beyond this one review, without a full process being followed.

3. AVAILABLE OPTIONS

- 3.1 Option 1 – That Derek Butler be recommended to Council to be appointed as the community representative on the Independent Remuneration Panel for the Members Allowances Review 2023.

- 3.2 Option 2 – That Derek Butler be recommended to Council to be appointed as the community representative on the Independent Remuneration Panel for a set period of up to 2 years. This would have the added benefit of securing a community representative for a period of time, but it is not recommended for the reasons set out in 2.5 above, and as this has not been confirmed as suitable with the candidate.
- 3.3 Option 3 – That an alternative community candidate be appointment though none has been identified.
- 3.4 Option 4 – not to make an appointment, this is not recommended as it would mean the Members Allowance Review 2023 could not be carried out.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1 for the reasons set out.
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5. RISK

- 5.1 The risks associated with this report are considered acceptable and are covered in paragraph 2.6 and the issues table.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Committee previously considered Derek Butler and recommended his appointment to Council for the Independent Remuneration Panel in 2022 that produced the current Members Allowances scheme.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 A recommendation will be made to Council by the Democracy and General Purposes Committee.
- 7.2 If agreed the Independent Remuneration Panel would meet on 13 and 14 June 2023.
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8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

None

Agenda Item 15

DEMOCRACY AND GENERAL PURPOSES COMMITTEE

29 March 2023

Review of the Constitution

Final Decision-Maker	Council
Lead Director	Angela Woodhouse, Director of Strategy, Insight and Governance Robin Harris, Monitoring Officer
Lead Officer and Report Author	Angela Woodhouse, Director of Strategy, Insight and Governance Oliviya Parfitt, Democratic Services Officer
Classification	Public
Wards affected	All

Executive Summary

Democracy and General Purposes tasked a representative working group of Councillors to review the new constitution and identify amendments. This report identifies the amendments made and reasons for change. The notes of the working group meetings are included for reference and show the extensive work undertaken by Members during the review. Changes proposed aim to improve the operation of the constitution and the working practices of the Council, Committees and the Cabinet.

Purpose of Report

Recommendation to Council

This report makes the following recommendations to this Committee:

1. To add to the work programme for 2023/24 a review of the governance arrangements in light of the reduction of Members in 2024
2. To recommend to Council the changes proposed to the Constitution at Appendix B, be approved; and
3. That the Monitoring Officer and Director of Strategy, Insight and Governance be delegated to make changes to the constitution to ensure the amendments are consistent and correct any errors, in consultation with the Chairman of Democracy and General Purposes Committee prior to submission to Council.

Timetable

Meeting	Date
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Democracy and General Purposes Committee	21 November 2022
Democracy and General Purposes Committee	29 March 2023
Council	19 April 2023

Review of the Constitution

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 constitution should enable effective decision making to achieve the strategic priorities.</p>	Director of Strategy, Insight 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 constitution should enable effective decision making to achieve the strategic priorities</p>	Director of Strategy, Insight and Governance
Risk Management	Already covered in the risk section at 5	Director of Strategy, Insight and Governance
Financial	No additional costs are anticipated.	Section 151 Officer & Finance Team
Staffing	The review will be supported by the Monitoring Officer, Director of Strategy, Insight and Governance and the Democratic Services team	Director of Strategy, Insight and Governance
Legal	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	Interim Team Leader (Contentious and Corporate

	Council's Standing Orders, the Code of Conduct, information required by the Secretary of State and other information as the Council considers appropriate – in accordance with Section 9P Local Government Act 2000.	Governance) and Monitoring Officer
Privacy and Data Protection	No impact	Policy and Information Team
Equalities	The recommendations do not propose a change that will require an equalities impact assessment.	Equalities & Communities Officer
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	The legislative requirements for Overview and Scrutiny of Crime and Disorder Reduction have been met in the constitution and will form part of this review	Director of Strategy, Insight and Governance
Procurement	The constitution contains financial and contract procedure rules the finance and the procurement teams have identified changes required to these rules and these will be considered as part of the review with updates as appropriate	Director of Strategy, Insight and Governance
Biodiversity and Climate Change	There are no direct implications on biodiversity and climate change. Pending decision, it is recommended that Part A that sets out the higher-level principles and core provisions be aligned with the Biodiversity and Climate Changed Strategy/Action Plan.	Biodiversity and Climate Change Manager

2. INTRODUCTION AND BACKGROUND

- 2.1 The current constitution came into effect in May 2022 when the Council moved from a Committee System to an Executive and Scrutiny with Policy Advisory Committees model of governance. Council agreed in April 2022 that the Democracy and General Purposes Committee would conduct a review of the operation and effectiveness of the new constitution six months after its introduction. This report sets out the changes proposed following a review by the Constitution Working Group.
- 2.2 The constitution is the key governance document for the Council, setting 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.

2.3 The constitution is structured in parts as explained below:

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

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

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

Parts D & E, sets out respectively the Codes and Protocols followed by the Council.

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

Summary of Changes Made

2.4 The constitution working group have met several times over the last three months and the notes of their meetings are attached at **Appendix A**. Over the course of these meetings they interviewed officers including the Chief Executive and Democratic Services team, reviewed a survey of Members (**Appendix C**), reviewed a "snagging list" of issues identified with the constitution (**Appendix D**) and agreed changes to be proposed to the Committee.

2.5 The changes identified by the group are based on careful consideration of the issues raised with using the constitution for example where things are in the constitution itself, useability and also working practice. The group were keen to maintain transparency and a member led approach. The notes of the working group show the reasoning behind each recommended change. Issues of particular note were:

- Improving consistency throughout the constitution
- Reducing the burden on Democratic Services by making the constitution easier to use through changes from the snagging list and removing Cabinet Member meetings
- Ensuring Overview and Scrutiny have the tools for pre-decision scrutiny for example reviewing the forward plan
- Adding in procedure rules for Overview and Scrutiny for call-in and consideration of reports to the Cabinet
- Returning to the previous petition scheme, following unintended consequences with the new scheme

2.6 The changes proposed are summarised by section in the table below

Part	Summary of Changes
Whole	<p>Executive changed to Cabinet to reflect working practices</p> <p>he/she and him/her changed to they/them/their</p> <p>Chairman and Vice-Chair – any reference to Chair changes to Chairman, Vice-Chair to Vice Chairman and Member chairing the meeting changed to Chairman</p>
A1	Executive to Cabinet, plus correction to numbering
A2: Core Provisions	<p>3.4. Access to Information Procedure Rules unchanged moved to Part C4 to ensure rules in one place and consistent</p> <p>6.2. onwards section amended so the purpose of the committees is in Part B and any rules in Part C and duplications with other sections removed</p> <p>6.7. requirement that sub-committees be mainly drawn from parent committees removed</p> <p>7.5. Removal of the need to take the Administration’s Programme back to full Council until approved.</p> <p>7.6.3. – Lead Members no longer required to hold public meetings to make individual decisions. (reduces burden on Cabinet and Democratic Services)</p> <p>8.3. amendment made to allow officers to take key decisions if delegated and delivering the outcome of a Member Decision)</p> <p>8.6. In Part B5, amendments to reflect job titles and roles</p>
B1 Responsibility for Functions	Executive to Cabinet
B2 Responsibility for Council Functions	<p>1.1.2. -1.1.5 amended to reflect previous wording as text missing</p> <p>2.6. – Amended to include one independent Member on Audit Governance and Standards to reflect CIPFA guidance on audit committees and best practice</p>

Part	Summary of Changes
B3 Responsibility for Executive Functions B3 _ Appendix Executive Roles	Executive to Cabinet
B4 Functions of Other Committees	Information moved from Part A2 for PACs Executive to Cabinet
B5 Responsibilities of Senior Officers	Executive to Cabinet
B6 Proper Officer Provisions	Executive to Cabinet Changes to titles
C1 Council Procedure Rules C1 – Appendix A C1 – Appendix B	Executive to Cabinet Pronouns Amended in accordance with previous petition scheme (2021 Constitution)
C2 Committee Procedure Rules	Executive to Cabinet Pronouns Amendment to reflect that the Lead Cabinet Member sets their PACs agenda 2.5.4. amended to reflect practice with substitutions 5.2.3. inclusion of Forward Plan for Overview and Scrutiny 7.2. – moved so OSC procedure rules are in one place 9.1. Petitions to no longer be presented to PACs 9.3. Amended to return to previous petition scheme 10.5. amended to reflect questions to Chairman only at Committees, with no questions at PACs 11.3.5. amended to allow a right of reply 13 amended to put all the rules relating to OSC together 13.3. procedure created for submission and consideration of OSC reports to the Cabinet 13.4. – call-in rule moved from part C3 and amended to include a procedure for consideration of a call-in

Part	Summary of Changes
	13.5.1. amended to encourage PAC consideration of urgent decisions.
C3 – Executive Procedure Rules	Executive to Cabinet 2.5.2. Additional rule added to ensure Cabinet Members consult PACs and make decisions in a timely way 3.5.1. Removal of requirement to give notice for visiting members 3.11 Removal of requirement to give notice for substitutions on Cabinet Sub-Committee Meetings. 4 Amendment of petition rules to reflect the change to the petition scheme 6 Call-in and Urgency moved to C2 7in C2
C4	Executive to Cabinet Pronouns No change to rules parts from A2 moved to this section for clarity at 16 and process for Proper Officer in considering access to information requests relating to urgent decisions.
Parts D onwards	Executive to Cabinet Pronouns
Guide	Move the guide to the front of the constitution and update

2.7 The working group also identified that a further review of the governance arrangements and constitution will be needed in 2023/24 to prepare for the reduction in Members and in particular the arrangements for Overview and Scrutiny and Policy Advisory Committees. It is recommended that this is added to the work programme for next year.

3. AVAILABLE OPTIONS

3.1 The working group have reviewed the constitution in-line with Democracy and General Purposes resolution and to meet the requirement set by Council. The Committee can:

- i. Choose to not put forward any amendment to full council

- ii. Review and identify further amendments to those put forward by the working group in Appendix A
 - iii. Approve the recommended changes as set out in Appendix A
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The Committee is recommended to take forward option 3.1 (iii) as drafted by the working group.
-

5. RISK

- 5.1 Officers have advised the working group on risk as appropriate during the review.
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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 As part of the review a survey of Members was conducted on the current constitution as per **Appendix C**, all political groups were represented on the working group and officers were also interviewed as part of the review.
-

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Amendments as approved will be presented to full Council in April. The Director of Strategy, Insight and Governance seeks approval to further review the constitution to pick up any further corrections required to ensure consistency and accuracy of the constitution including updating the guide to ensure these are incorporated into the amended constitution submitted to full Council in April.
 - 7.2 Any changes will be included in the constitution reports presented to Democracy and General Purposes Committee by the Monitoring Officer on a quarterly basis.
-

8. REPORT APPENDICES

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

- Appendix A: Notes of the Working Group
- Appendix B: Amendments to the constitution

- Appendix C: Member Survey Results Summary
 - Appendix D: Snagging List
-

9. BACKGROUND PAPERS

Agenda and Meeting Minutes Democracy and General Purposes Committee
Meeting held on 21 November 2022:

[Your Councillors - Maidstone Borough Council](#)

CONSTITUTIONAL REVIEW WORKING GROUP

FRIDAY 13 JANUARY 2023, VIA MS TEAMS

2.00 P.M. – 3.30 P.M.

1. Apologies
2. Consideration Of Timetable (Appendix 1)
3. Future Meeting Dates
4. Any Other Business

Democracy and General Purposes Committee - Constitutional Review Working Group Timetable

Review by Working Group

D&GP agenda papers, Nov 2022: [your-councillors \(maidstone.gov.uk\)](http://your-councillors(maidstone.gov.uk))

- Council agreed for a post (six-month) implementation review of the constitution.
- The following principles were identified as important by the Governance Arrangements Working Group in formulating the new governance model and constitution:
 - Member Inclusivity throughout the decision-making process
 - Increased transparency of decision making
 - A member led decision making process; and
 - Increased pre-decision scrutiny
- This review is to focus on **the Constitution’s operation and effectiveness.**

This could include:

- Has it supported the above principles?
- What changes need to be made generally and/or to support the principles?
- What unforeseen issues have arisen?
- Member Views (survey results & interviews)
- Officer Views

Due to the short timescale, the review will need to be completed at pace. Suggested meeting duration is 2-2.5 hours.

Timetable shown below, based on an assumption that Parts A-C will be reviewed (up to and including C3). The D&GP Committee agreed that the working group would set its own scope.

Key Dates	Review Stage & Details
Week commencing 9 January 2023	First Meeting of Group Agree Scope (assumed above) and comment on timetable. Resources Shared.

<p>Week commencing 16 January 2023</p>	<p>Review Part A.</p> <p>Includes: A1 A2 Relevant Survey Results Dem Services Comments</p>
<p>Week commencing 23 January 2023</p>	<p>Review Part B.</p> <p>Includes: B1 B2 B4 Relevant Survey Results Dem Services Comments Any cross-over between changes to Part A.</p>
<p>Weeks commencing: 6 February 2023 13 February 2023</p>	<p>Interviews with:</p> <p>PAC Chairs and Vice-Chairs Group Leaders OSC Chairman</p> <p>Chief Executive (on behalf of CLT and WLT) Director of Strategy, Insight & Governance Monitoring Officer Democratic & Electoral Services Manager/Principal DSO.</p>
<p>Weeks commencing: 20 February 2023 27 February 2023</p>	<p>Review Part C.</p> <p>Includes: C1 C2 C3 Relevant Survey Results Dem Services Comments Any cross-over between changes to Parts A and B.</p> <p>Dem Services to produce a comprehensive list of the group's recommended changes for circulation ahead of 6 March 2023.</p>

<p>Week commencing 6 March 2023</p>	<p>'Catch-Up' Meeting. Group to consider remaining issues, and review list of recommended actions.</p>
<p>Between 13-20 March 2023</p>	<p>Any final comments from working group, as report has to be drafted during this time. Report published on 21 March 2023. Provides time if needed.</p>
<p>29 March 2023</p>	<p>Findings presented to D&GP Committee, with a recommendation for approval by the Council. Report to be published on 21 March 2023.</p>

If agreed, working group recommendations to be presented to Council on 19 April 2023.

Resources to be provided as standard:

Constitution

List produced by Democratic Services

Member Survey Results

List of Constitutional sections to state whether:

- a) Changed from previous Constitution
- b) Same as previous constitution

The Constitution's Role And Purpose:

The constitution is the key governance document for the Council, setting 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.

(taken from point 2.2 of the above report)

CONSTITUTIONAL REVIEW WORKING GROUP

FRIDAY 20 JANUARY 2023, VIA MS TEAMS

2.30 P.M. – 4.00 P.M.

1. Apologies
2. Substitute Members
3. Review of Constitution List
4. Any Other Business

CONSTITUTIONAL REVIEW WORKING GROUP

FRIDAY 27 JANUARY 2023, VIA MS TEAMS

3.00 P.M. – 4.30 P.M.

1. Apologies
2. Substitute Members
3. Review of Constitution List
4. Next Meeting – 1 February 2023
5. Any Other Business

CONSTITUTIONAL REVIEW WORKING GROUP

WEDNESDAY 1 FEBRUARY 2023, MAIDSTONE HOUSE

4.00 P.M. – 6.00 P.M.

1. Apologies

None.

2. Substitute Members

None.

3. Interviews with Council Officers:

Chairmans intro:

PC – appetite to look at structure, but that that would be done as a separate exercise in the new year.

Working through snagging list.

Chief Executive, Alison Broom

AB – plain version is essential; subject to member agreement. Easy to understand for all.

Sought views of WLT. Gov system structure and how working in practice and behaviours that we see.

Cannot put behaviour into a constitution.

New arrangements short time; members officers relearning exec model – but with PACs. Some little experience before taking on high resp positions.

Irrespective of system – have to follow Nolan Principles and not sure we always do.

Member-led decision making – for inclusivity and transparency, comparison of no. of decisions across last year between May and January and this year; E-55% less than previous years. Higher proportion of decisions made in Part II has gone up.

52 decisions; 16 in part II.

CP – are you suggesting we are making decisions with correct scrutiny or are they unrelated?

AB – no; but in public life, conducting business we have to bear those principles in mind.

DB – have asked for training on this.

AB – constitution has changed, gov. system changed, but those principles have not – so an important foundation for this.

PH – half decisions; research on why? Especially as issues generally the same.

AW – report annually to D&GP on the part II decisions;

WLT Sentiment – overwhelming sentiment is system for decisions is elongated in comparison with what we had before. This impacts on effectiveness and efficiency, (time to decision taking longer) amount of time consumed in getting to that point has increased.

Universal pre-decision scrutiny by PACS; traditional O&S approach it's the choice of O&S about what they do pre-decision scrutiny of.

EVERYTHING goes to PACS – consider this?

A lot more informal engagement than there was before, but when that happened under previous system there were a lot of concerns that things were being decided privately.

CE – under both systems that complaint was raised.

AB – intention to create inclusivity to create inclusivity and transparency has not been met; not architecture, but what we observe happening.

Think we need to reflect on whether the strategic vision/opportunities that the exec system offers, whether that has grown as much as it might do. But still early days.

Need serious convo about training. Partic for respon positions – they are difficult roles. PAC Chairs.

AB – return to exec been a learning curve for everybody; engagement between officers and exec essential – most good. Some doesn't work so well.

Support CEO/D connection to LMs.

Defining boundaries was hard. Here to serve every political group, but good equilibrium.

Sometimes lack of appreciation for who's responsible. Have this with most administrations.

Mixed messages; briefed LM and other discussions taken place – goal posts moved.

Common concern – holding a responsibility, struggle with that vs. ward responsibilities.

Strategic conversations, MTFs, TCS – worked well. Clearer protocol for how this works.

Exec/OSC and Exec/PAC relationships.

Made suggestions on how the municipal year should be started.

Public exec meetings – so little debate, would be hard pushed to say it was transparent and inclusive. Member-led and reluctance to bring officers into meetings.

PACs – to me, key objectives of inclusivity and non-majority parties become involved, majority party backbenchers; they haven't fulfilled their full potential for transparency and involvement. Presence not involvement, but it varies signifcnatly between PACS.

Officers attending gives rise to a lot of concern; it should be a place where we get to interact and the opps to do that have been eroded over the last year. No contributions, no point going, write report and no comments, no debate. Good idea, but doesn't seem to be working.

CE – all four PACS; constructive debates at PI and CS – This is a cultural and a training issue. Members on ERL and CHE not contributing very much. Trying to address this within my group.

Failing because some members don't understand what they're doing.

Opposition don't scrutinise vigorously, majority don't either.

PH – recognise officer feedback. Got new people chairing, but going to take them a while to get themselves adjusted into their role.

CS had good debates. Not structure, but getting engagement of members, training and mentoring.

DB – majority group that meets, to discuss issue, so that when LM presenting – is it completely surprising that there's not many questions?

Inert power – solely to advise on decision on the paper. Not able to open up the discussion on the matter.

ROC – Camden council; upon audit, when OSC was looking at the budget and they saw a massive hole – budget was voted through by majority found it a HUGE failing that the majority group hadn't properly scrutinised the budget.

Had agreed the budget behind closed doors.

AB – becomes sig issue if there is a large majority – challenge, objectivity, openness, honesty in leadership of NP – there is a risk there.

JP – Advisory; set up to advise. A hybrid system that we've put a lot of effort into to achieve. Advisory committee should be helping the cabinet member.

DB – relation to existing review?

AB – useful to have a sounding board; public perspective – if we are agreed that some of the descriptions are true (to be happening a lot) then may be what we've put into our constitution isn't achieving what was originally set out. Consider OS approach through the system;

- Do you need pre-decision scrutiny on everything?
- Wouldn't it put more integrity to the system if the OSC members, made the judgement on what they wanted to do pre-decision scrutiny on?
- If it was part of an OSC system, they can also choose where to go into depth on the topic

Would recognise the things mentioned above – wouldn't take away pre-decision scrutiny on this.

AB – experience of OSC is mixed; has potential to be more effective. May just be timing.

Devoting time and effort to making process work from members, which is supported by DSs. Tendency to get involved in minutia. Disconnect between debate and some of the recommendations that have come out – partic on waste strategy.

OSC issues muddle in with current live issues, gets confusing.

AB – don't want to look at PAC op, or whether PAC become OSC – suggest you do.

Officer views.

PH – AB comments expansive. Looking at current constitution.

Training is what's highlighted here.

Nolan principles; council having the audit trail.

LM may not take all PAC comments on board.

Agreement from the group.

PC – necessary to adapt the language. Why?

AB – general principle, the simpler and more legible the better. Encourages people to read it, have to be persistent to read it. Leads to compromised interpretation.

Less time, less confusion, multiple forms of interpretation.

MC – masking what document could be; easier to use.

Involvement through inclusivity to give rise to transparency.
More people that understand what a PAC is.

A part; fault here.

Culture of organisation important.

DM – been less member workshops.

AW – easily done to merge PAC and OSC responsibilities.

AB – if open to the view that gov structure on its own isn't the only aspect of good governance, but its entirely possible that having heard some of this, it suggests that you might want to change your emphasis.

Want well-informed, transparent, quality decision-making.

ROC

Difficult working in new system, but we would expect issues.

Pre-decision scrutiny, very resource intensive, but choice you have made.

Single large OSC with wide remit, has been intensive to support and a broader focus on issues. Don't think M&O understand the structure.

People try to get round it.

Cross-cutting issues with PACS (no parent pacs) – will work with next leader to re-write portfolio holder responsibilities.

Hasn't improved at the rate that I would've expected.

Distinct lack of engagement at PACs. Decision making structure as a factor – constitution is prosecutive in its approach, but also combined with being inflexible.

Council not able to apply its own discretion. Can think of work arounds, but elongated.

Issues on list – important for me, AtI across document – real dragging effect on how guidance is given.

Dififcult to apply without discretion.

Wider considerations; made some helpful changes, now allow twin publication of PAC and exec agendas. Been VERY useful.

Not had many decisions come through, or exec comparisons. Concerns about efficiency are with LOW volume and still resource intensive.

Too many meetings.

Constitution not for dealing with member behaviour.

Current rules could be more hostile with minorities.

Constitution and structure combination provide strong scrutiny for minority admin, but can be slowed down through the above measures, but particularly vulnerable to a majority admin actively wanting to avoid scrutiny. National issue generally.

BUT does work admin engaging with OSC and PACS. Advising different from scrutiny.

Exec could hide things through this system.

If DSOs missing things, what do members of the public or cllrs have?

PC – plain English; opposed to adopting. Don't want to remove PACs.

DB – don't have that at the moment.

ROC – if scrutiny wants to look at something, and Exec said no..etc.

DB – pre-decision scrutiny; decision in draft go to PAC. Requests for further information, but they had no REMIT to do this.

CE – current model works when people doing nice. Need to consider what happens when not in this situation.

PC – wouldn't be opposed to enhancing PACs.

Roc – earlier engagement with OSC, so they've already seen it, been involved with it. Rule on call-in to change.

No. of decisions that come through and ALL have to be scrutinised.

ROC – administrations programme. Way it works; hook can use that to avoid scrutiny.

Principal Democratic Services Officer, Lara Banks

3 concerns;

Part of my role is cover for business as usual; first concern is resourcing. Every decision goes through the process twice whereas once before. It does produce a big burden resource wise; inefficiencies that may seem quite minor – no. of items on exec agenda.

If it was a financial aspect, rather than a time aspect, looking at where we can make efficiencies.

OSC function taken a huge amount of resources; research that I have to do for those. Double meetings, agenda, minutes, RoDs, scrutiny. Impact on us, working at over capacity, having to do overtime. Not resilient as a team – if anyone goes off sick.

Impact now – valuable to recognise that, AR still finding her feet.

LB – no overtime, but don't think we would work in the way that we want to. Having to choose what we do at the moment, having to choose what to do isn't what we want.

We are missing training for ourselves. Wellbeing aspect that we are producing poor quality or last minute work. In the position of producing acceptable work.

Pride in work going.

Easier when fully staffed, but will have to see how to build resilience in.

DB – general observation, OSC – input of members, hugely dependent on the officer support – team of just OSC support in comparison to now.

PC – LM meetings – are they labour intensive?

LB – is everything straight forward, NO. it's admin, but the system we use is slow.

Admin heavy for a 5 minute meeting.

Reports, agenda, minutes.

CE – chairman of OSC, set an ambitious programme. Seen a lot of reports coming through the DS staff; not thought they were sub-standard. Understand impact to pressure.

Next year have to address OSC programme. Need to reign back next year.

Officers within team have been so enthusiastic about the review.

PH – should be fully resourced. Then not really scrutinising, just a few things.

LB – lack of clarity and consistency; LM meetings, and when there's inconsistencies – questions being submitted by 5 p.m. end up looking at legislation, what other people do, then becomes an officer led process – not what was wanted.

Have to approach things consistently between the team, generally an independent role. Need to be sharing experiences to create consistency – BP, legi.

Members unclear between PACs and Scrutiny have parity – they don't.

Time spent training officers on constitution. Takes up longer for people to learn; AR as new person learning.

Time spent making officer reports suitable for PACs.

Confrontation we get from members, impact on wellbeing, to us trying to do our jobs. Not a lot, but does happen.

Tech slow.

DB – repetition of meetings; LM not formal meetings, it would take a large chunk out, and rely on the call-in procedure.

PC – discuss this at next meeting.

LB – Croydon, Thurrock, had issues due to governance failings. Makes me worry about engagement from PACS – are they offering suitable scrutiny.

PA – no debate at CHE – P&R demonstrated discussion.

Public perception.

Need to have a public record of the discussion. Needing workarounds for the constitution, raised things that haven't been changed. Things like VMs.

Workarounds not effective governance.

This is our experience and what the impact has been.

PH – pick up all the workarounds which lara and the team are having to do.

LB – workaround for exec agenda having so much on it; take the items on block.

Point is that things come up repetitively.

PC – many procedural things have been taken on board.

AW – not just members, officers need it too.

Democratic Services Officer, Oliviya Parfitt

Comments.

Future meeting – discuss number of committee members.

CE – work around, is on water consultation, we will be feeding comments into officers.

Take point that this isn't ideal scenario.

Current constitution – overlapping issues with PACs and OSC and there is no flexibility on this.

Could think about this.

DB – thanks to the officers.

PC – quality of advice.

JP – good points. Member-officer relationship.

Chairman – with regards to wholesale change to PACs;.

DB – angela prepping simplified version; could draft relevant versions for this change.

4. Any Other Business

CONSTITUTIONAL REVIEW WORKING GROUP

FRIDAY 17 FEBRUARY 2023, MS TEAMS

2.30 P.M. – 4.00 P.M.

1. Apologies
2. Substitute Members
3. Review of Survey Results
4. Constitutional List (remaining items)
5. Review of:
 - a. Re-drafted C2 (committee procedure rules – updates to subs, visiting members, they instead of he/she, OSC rules)
 - b. Re-drafted petition scheme
6. Part C – Any Other Issues raised my Members

CONSTITUTIONAL REVIEW WORKING GROUP

FRIDAY 24 FEBRUARY 2023, MS TEAMS

2.30 P.M. – 4.00 P.M.

1. Apologies
2. Substitute Members
3. Constitutional List (remaining items)
4. Review of re-drafted documents:

A2 (versions 1 and 2)	Core Provisions
B4	Functions of Other Committees
C1 Appendix A	Petition Scheme
C2	Committee procedure Rules
C3	Executive Procedure Rules
C4	Access to Information Rules

5. Future meeting date/s
6. Any Other Issues raised by Members

CONSTITUTIONAL REVIEW WORKING GROUP

FRIDAY 10 MARCH 2023, MS TEAMS

2.30 P.M. – 4.00 P.M.

1. Apologies
2. Substitute Members
3. Constitutional List (remaining items)
4. Review of re-drafted documents:

A2	Core Provisions
B2	Responsibility for Full Council Functions
C2	Committee procedure Rules
Alternative OSC Proposal	N/A
C3	Executive Procedure Rules
C4	Access to Information Rules

5. Any Other Issues raised by Members

CONSTITUTIONAL REVIEW WORKING GROUP

FRIDAY 17 MARCH 2023, MS TEAMS

2.30 P.M. – 4.00 P.M.

1. Apologies
2. Substitute Members
3. Review of re-drafted documents:

Some of the below sections have been included for re-presentation following actions agreed and implemented since the last meeting.

A2	Core Provisions
B2	Responsibility for Council Functions
C2	Committee procedure Rules
C3	Executive Procedure Rules
C4	Access to Information Rules

4. For information

D&GP Report to be published Tuesday 21 March 2023

D&GP Meeting Wednesday 29 March 2023

Council Meeting 19 April 2023

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 [CabinetExecutive](#).

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.

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 phrases 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 that make 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 exception to Provision 7.1 is the power of the Monitoring Officer who has delegated authority to make changes to the Constitution which are necessitated by decisions taken by the Council; which remove inconsistency or ambiguity; which are minor; or to effect changes in the law. 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 Cabinet 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. C56	Executive Cabinet	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 Annex.
- 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.

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 the Borough of Maidstone or who use its services or are affected by its decisions or services, 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.

1.1.1. **Voting.** Eligible Local Residents on the electoral roll have the right to vote in elections of the Members, and in local referendums or polls.

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

- (a) Attend meetings of the Council, the Committees and the [ExecutiveCabinet](#);
- (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 [ExecutiveCabinet](#) 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.

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

- (a) At meetings of the Council, the Committees and the [ExecutiveCabinet](#),
 - To ask questions and to receive answers,
 - To address the meeting, and
 - To present petitions in accordance with the Petition Scheme;

For those meetings, participation from Local Residents is outlined in Parts C, Appendices A and B and Part D (where applicable). Any reference to words such as ‘speak’, ‘presented’, ‘ask’, ‘put’, ‘in person’, ‘take part’ shall be

construed to include being carried out remotely without needed to be physically present. This is provided that the Local Resident is able, as a minimum, at that time, to hear and be heard by the other parties in attendance.

- (b) Via consultations, that where possible shall 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

If Local Residents disrupt or participate in the disruption of meetings or engage 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.

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 Cabinet](#) are able to hold the [Executive Cabinet](#) 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/shethey](#) 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 or owning land there will be eligible to hold the office of Member of the Council as long as they are not otherwise disqualified.

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 policymakers 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.—The following principles are subject to further explanation given in the Access to Information Procedure Rules in Part C and to case law and legislation which deals with members rights to access information.~~

~~3.4.2.~~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 where ~~he/she~~they ~~has~~have a need to know the information contained in those documents, and where the Member's interest in having access to a document is not outweighed by any other legal duties which would normally require the document not to be provided to the Member, such as data protection and confidentiality duties. Please refer to the Access to Information Rules in Part C4 for further information.

~~3.4.3.—Members also have statutory rights to access documents held by the Council. The Access to Information Procedure Rules sets out how the need to know operates and how decisions will be made on when a member will be entitled to exempt information.~~

~~3.4.4.—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 that there is likely to be a need to know where:—~~

- ~~(a)—The Member sits on the relevant Member body considering a matter to which the information relates, or the proper officer has been notified that the member will be sitting on that body as a substitute when it is to consider the information in questions;~~
- ~~(b)—The information relates directly and materially to a matter which affects the Member's role in representing their Ward; or~~
- ~~(c)—If a Member has a reasonable based concern for a problem, and it is reasonably necessary for the member to access the information in order that they can properly carry out their duties as a Member, such that they can apply their minds and efforts to shaping decision making.~~

~~(d) — Where the need to know is not outweighed by any other legal duties which would normally require the document not to be provided to the Member, such as data protection and confidentiality issues.~~

~~3.4.5. — Members are not entitled to all information held by the Council and there is no right to roving commission or to seek to obtain information for purposes other than those directly related to the Council's functions and their role as a Member. As stated above the need to know is also subject to other legal considerations such as any duties of confidentiality owed by the Council and the law on data protection.~~

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 Cabinet](#);
- 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 Cabinet](#);
- 3.5.9. The right, together with two (2) others, to call-in a decision of the [Executive Cabinet](#) for scrutiny;
- 3.5.10. The right to issue a Member Call for Action;
- 3.5.11. For the purposes of provision 3.5.8;

“Serious nuisance” shall mean conduct or behaviour that causes a significant nuisance or annoyance to, or has a detrimental effect, of a persistent or continuing nature, on, the quality of life of Local Residents;

“Major service failure” shall mean a failure in a service which it is a function of the Council to provide, or failure to provide such a service where such failure has a significant impact on Local Residents.

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:
 - (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 [ExecutiveCabinet](#). These may similarly be delegated by the [ExecutiveCabinet](#).

4.3.2. **Significance**

- (a) Key decisions will be those which :
 - (i) result in the Council incurring expenditure, or making savings, of more than £250,000; orare significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough.
- (b) Procedural and Minor Decisions are those decisions pertaining to procedural matters and those decisions of little or no policy significance where expenditure or loss is less than £5,000.
- (c) Other Material Decisions are those decisions not otherwise falling into (a) or (b) above.

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, 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 Budget and Policy Framework

- 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

(c) The approval or adoption of a plan or strategy for the control of the Council's borrowing, investments or capital expenditure or for determining the Council's minimum revenue provision including: -

(i) The Capital Programme

(ii) The Capital Investment Strategy

(iii) Medium Term Financial Plan

(i)(iv) Treasury Management Strategy

- 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.~~ Setting the Council's Budget and Council Tax.

5.6. The Budget and Policy Framework will be adopted pursuant to the Budget and Policy Framework Rules at Part C10 of this Constitution. Those rules will govern how any decisions are to be made in accordance with that framework and how any changes may be made to it.

5.6. —

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.~~ 6.2.1. The purpose of the PACs shall be: -

- (a) To involve Members who are not on the Executive Cabinet in the work of the Executive Cabinet and to promote collegiate working between the Executive Cabinet 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 [ExecutiveCabinet](#) 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 nominate a Member on each PAC to coordinate its activities with the Executive. The PAC shall appoint one of its members 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.~~

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.~~6.3.1. The purpose of the Overview & Scrutiny Committee is ~~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 [ExecutiveCabinet](#) 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 [ExecutiveCabinet](#).

~~6.3.3-6.3.2.~~ 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.~~

~~6.4.2-6.4.1.~~ 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.~~

~~6.4.5-6.4.2.~~ The ~~purpose of 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 plus two (2) Parish Councillors.~~

~~6.5.2.~~6.5.1. 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) Adopting 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.~~6.5.2. The purpose of 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
- (c) Determining matters relating to elections and electoral registration;
- (d) Other democratic services responsibilities and functions;

~~6.5.5.~~6.5.3. 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.~~6.6.1. 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 Executive 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 Officer’s 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)~~(a) Be subject to the rules on political balance cited above;

~~(c)~~(b) Hold its meetings in public;

~~(d)~~(c) Report the minutes of its proceedings to its parent Committee; and

- 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 council 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 [ExecutiveCabinet](#) is not to be treated as a Committee of the Council for the purposes of this Provision 6.

7. THE [EXECUTIVECABINET](#)

7.1. Role and Form

- 7.1.1. The [ExecutiveCabinet](#) 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 [ExecutiveCabinet](#) shall consist of the Leader together with at least two (2), but no more than nine (9), Members appointed to the [ExecutiveCabinet](#) by the Leader.
- 7.1.3. Members appointed to the [ExecutiveCabinet](#) shall be referred to as "Members on the [ExecutiveCabinet](#)". Individual Members on the [ExecutiveCabinet](#) assigned portfolios may be referred to as "[Lead MemberCabinet 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) They He/she resigns from office; or
 - (b) They are He/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 Elections
 save 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 ExecutiveCabinet 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 they he/she thinks fit, remove the Deputy Leader from office at any time.

7.4. Other Members on the ExecutiveCabinet

Other Members on the ExecutiveCabinet 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~~their election or the Annual Meeting, the Leader and/or the ExecutiveCabinet 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 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.~~7.5.2. 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 [ExecutiveCabinet](#) 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.~~7.5.3. Where the Administration's Programme is approved by Full Council and contains particular pledges within the scope of [ExecutiveCabinet](#) 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 [ExecutiveCabinet](#) and not require prior consideration by a Policy Advisory Committee. This shall not prevent the Leader or a Member on the [ExecutiveCabinet](#) choosing to place the matter before a Policy Advisory Committee nevertheless.

7.6. Delegations, Decisions and Proceedings of the [ExecutiveCabinet](#)

- 7.6.1. The Leader shall maintain a Scheme in Part B of this Constitution setting out which individual Members on the [ExecutiveCabinet](#), Committees of the [ExecutiveCabinet](#), Officers or Joint Arrangements are responsible for the exercise of particular [ExecutiveCabinet](#) Functions.
- 7.6.2. No Key Decision or Other Material Decision in respect of a matter shall be placed before the [ExecutiveCabinet](#) or any individual Member on the [ExecutiveCabinet](#), no report prepared for them by Officers nor any decision made by the [ExecutiveCabinet](#) or any individual Member on the [ExecutiveCabinet](#) on such a matter unless: -
- (a) A report on the matter has previously been considered by a meeting of a Policy Advisory Committee;

- (b) The matter is a reference to the [ExecutiveCabinet](#) 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 [ExecutiveCabinet](#) 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 [ExecutiveCabinet](#);
 - (f) The matter concerns a serious nuisance or major service failure and at least three (3) Members have submitted a request it be considered by the [ExecutiveCabinet](#);
 - (g) The matter is urgent and the Urgency Arrangements set out in the [ExecutiveCabinet](#) Procedure Rules in Part C of the Constitution have been engaged.
- 7.6.3. Key Decisions and Other Material Decisions [made by the Cabinet will take place at a public meeting. Individual Cabinet Member decisions can be made outside of a public meeting. which are made by Members or Member bodies shall be made in public, either at a meeting of the Executive Cabinet or at another meeting convened for the purpose of making the decision.](#)—This will not prevent all or part of any item 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.
- 7.6.4. Proceedings of the [ExecutiveCabinet](#) shall take place in accordance with the [ExecutiveCabinet](#) 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, Resources & Business Improvement;
 - (c) The Director of Regeneration & Place;
- 8.1.3. The following Statutory Officers must be appointed and/or designated: -
- (a) Head of Paid Service;
 - (b) Chief Finance 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.

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. Officers have the delegated powers as set out in Part B, 5 of the Constitution. [Officers may be delegated to take key decisions \(where it delivers the outcome of an earlier and extant Member decision\).](#)

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 Cabinet](#) and individual Members representing their communities;

- 8.4.3. day to day managerial and operational decisions are the responsibility of the Council's Chief Executive, Directors, Heads of Service, 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 Cabinet](#) 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.

8.6. Scope of Senior Officer Roles

- 8.6.1. The Council employs officers to give advice, implement decisions and manage the day-to-day planning and delivery of the wide range of functions undertaken for the Council on a non-party political basis. Some officers have a specific duty to ensure that the Council acts within the law uses its resources wisely. A protocol in Part E governs the relationships between Officers and Members. [The responsibilities of senior officers are set out in Part B5 of this constitution.](#)
- ~~8.6.2. The Council's most senior officers are set out below with details of their responsibilities:~~
- ~~8.6.3. Chief Executive (Head of Paid Service)~~
 - ~~(a) Being Chief Advisor to the Council;~~
 - ~~(b) Having overall corporate management and operational responsibility;~~
 - ~~(c) Managing the Council's electoral and democratic processes, including record keeping;~~
 - ~~(d) Providing professional advice to all parties in the decision-making process;~~
 - ~~(e) Representing the Council on partnerships and external bodies;~~
 - ~~(f) Communications~~
- ~~8.6.4. Director of Regeneration and Place~~
 - ~~(a) Environment and Public Realm~~
 - ~~(b) Regeneration and Economic Development~~

~~(c) — Housing and Community Services~~

~~(d) — Planning and Development~~

~~8.6.5. — Director of Finance and Business Improvement~~

~~(a) — Business Improvement~~

~~(b) — Finance~~

~~(c) — Policy, Communications and Governance~~

~~8.6.6. — Director of Mid-Kent Services~~

~~The Director of Mid-Kent Services has line management responsibilities for:~~

~~(a) — Head of Audit Partnership~~

~~(b) — Head of Human Resources Shared Service~~

~~(c) — Head of Legal Partnership~~

~~(d) — Head of Revenues and Benefits Shared Service~~

~~8.6.7. — In addition, the Council is required to appoint three statutory officers whose roles are set out below:~~

~~8.6.8-8.6.2. _____~~ Post and Designation Role and Responsibilities

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

~~(a) Responsible for effective corporate management.~~

~~(b) May report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grades of officers required and the organisation of officers.~~

~~8.6.9-8.6.3. _____~~ Monitoring Officer

~~(a) — Head of Legal Partnership~~

~~(b)(a)~~ The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

~~(c)(b)~~ After consulting with the Head of Paid Service, the Monitoring Officer will report to the full Council if ~~he/shethey~~ considers that any proposal, decision or omission would give rise to unlawfulness or maladministration. Such a report will have the

effect of stopping the proposal or decision being implemented until the report has been considered.

~~(d)~~(c) The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of guidance and support to the Audit, Governance and Standards Committee.

~~(e)~~(d) The Monitoring Officer shall receive complaints relating to alleged breaches of the Part D Members' Code of Conduct and shall process complaints in accordance with the adopted procedure for dealing with complaints, as set out in Part D of this Constitution.

~~(f)~~(e) The Monitoring Officer is the Proper Officer for the purposes of receiving declarations of Members' interests, maintaining the Register of Interests and determining applications for Dispensations to allow Members to vote where they have a conflict of interest pursuant to Section 33(1) of the Localism Act 2011.

~~8.6.10~~8.6.4. Chief Finance Officer

- (a) Director of Finance, [Resources](#) and Business Improvement
- (b) The Chief Finance Officer has responsibility for the proper administration of the Council's financial affairs
- (c) After consulting with the Head of Paid Service and Monitoring Officer, the Chief Finance Officer will report to the full Council and the Council's external auditor if ~~he/she/they~~ considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.
- (d) The Chief Finance Officer will provide advice on financial impropriety, financial probity and the budget to all Members and will support and advise Members and officers in their respective roles, as well as provide financial information to the public.

~~8.6.11~~8.6.5. The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out in Part Six of this Constitution.

~~8.6.12~~8.6.6. The Council is required to provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion

sufficient to allow their duties to be performance. The Council approves an annual Pay Policy Statement before the start of the financial year and this includes details of the remuneration of senior officers. It can be viewed on the Council’s website and the Protocol on Member/Officer Relations set out in Part E of this Constitution.

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 [ExecutiveCabinet](#) 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 [ExecutiveCabinets](#) to exercise functions which are not [ExecutiveCabinet](#) Functions in any of the participating authorities or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- 9.2.2. The [ExecutiveCabinet](#) may establish Joint Arrangements with one or more local authorities to exercise functions which are [ExecutiveCabinet](#) Functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

- 9.2.3. Except as set out below, the [ExecutiveCabinet](#) may only appoint Members on the [ExecutiveCabinet](#) to a joint committee and those Members need not reflect the political composition of the Council as a whole.
- 9.2.4. The [ExecutiveCabinet](#) may appoint Members to a joint committee from outside the [ExecutiveCabinet](#) in the following circumstances:
- (a) the joint committee has functions for only part of the area of the Borough. In such cases, the [ExecutiveCabinet](#) 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 [ExecutiveCabinet](#) of the County Council. In such cases, the [ExecutiveCabinet](#) 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.
- 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 [ExecutiveCabinet](#) Functions to another local authority or, in certain circumstances, the [ExecutiveCabinet](#) of another local authority.
- 9.4.2. The Leader or, in the absence of any direction by the leader to the contrary, the [ExecutiveCabinet](#), a Member on the [ExecutiveCabinet](#) or a committee of the [ExecutiveCabinet](#) may delegate [ExecutiveCabinet](#) Functions to another local authority or the [ExecutiveCabinet](#) of another local authority in certain circumstances.
- 9.4.3. The decision whether or not to accept a delegation of a service from another local authority shall be reserved to a Full Council meeting. The agreement to collaborate on one off cross border

investigations and prosecutions may be dealt with through officers delegated powers.

9.5. Contracting out

The Council (for functions which are not [ExecutiveCabinet](#) Functions) and the [ExecutiveCabinet](#) (for [ExecutiveCabinet](#) 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.

10.3. 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.

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/her/them](#), 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/her/them.

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 ExecutiveCabinet. 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 ExecutiveCabinet.

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. CABINETEXECUTIVE FUNCTIONS

CabinetExecutive 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 CABINETEXECUTIVE (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
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	<u>ExecutiveCabinet</u>
The discharge of any function relating to the control of pollution or the management of air quality	<u>ExecutiveCabinet</u>
The service of an abatement notice in respect of a statutory nuisance	<u>ExecutiveCabinet</u>
The inspection of the Borough to detect any statutory nuisance	<u>ExecutiveCabinet</u>
The investigation of any complaint as to the existence of a statutory nuisance	<u>ExecutiveCabinet</u>
The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	<u>ExecutiveCabinet</u>

The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	<u>Executive Cabinet</u>
The making of agreements with other authorities for the placing of staff at the disposal of those other authorities.	<u>Executive Cabinet</u>

B2. Responsibility for Council Functions

1. FUNCTIONS RETAINED BY FULL COUNCIL

The following Council Functions are retained by the Council. This means that decisions in respect of these can only be made at a meeting of the Full Council.

1.1.1. Constitutional and Procedural Matters

- (a) to adopt and change the Core Provisions of this Constitution;
- (b) to change the name of the area;
- (c) to make, amend or revoke any of the Rules of Procedure set out in Part C of this Constitution;
- (d) to make, amend or revoke the Codes of Conduct and Protocols set out in Part D and Part E to this Constitution;
- (e) to confer the Freedom of the Borough or the title of Honorary Alderman.

1.1.2. Setting the Policy Framework and Related Matters

- (a) to approve the Council's Policy Framework and determine each year the Council's revenue and capital budget, and council tax, as outlined in A2, 5.5;

~~(b) to determine each year the Council's revenue and capital budget and Council Tax;~~

~~(e)(b)~~ to make decisions about any matter in the discharge of an ~~Executive Cabinet~~ Function which is covered by the Policy Framework or the Budget where the Cabinet is minded to make it in a manner which would be:-

- (i) contrary to the Policy Framework; or
- (ii) contrary to (or not wholly in accordance with) the Budget.

~~(d)(c)~~ To adopt, amend or revoke the Scheme of Allowances for Members in Part F of this Constitution, having considered the report of an Independent Remuneration Panel;

~~(e)(d)~~ to make, amend, revoke, re-enact or adopt bylaws;

~~(f)(e)~~ to promote or oppose the making of local legislation or personal Bills;

~~(f)~~ to authorise applications to the Secretary of State for housing land transfers of housing stock.

(g) To approve the annual Senior Officer Pay Policy Statement

~~(g)~~(h)

1.1.3. **Appointments and Delegations**

- (a) to appoint (and remove) the Leader;
- (b) To determine the terms of reference & composition of any Committees et cetera that report directly to the Council;
- (c) to adopt and approve amendments to the powers and terms of reference of Joint Committees in respect of Council Functions and to make appointments to them;

1.1.4. **Regulatory and Electoral Matters**

- (a) To deal with findings of maladministration (on receipt of a report from the relevant Scrutiny Committee or the Monitoring Officer following a report by the Local Government and Social Care Ombudsman);
- (b) to determine the action to be taken on reports by the Monitoring Officer or the Chief Finance Officer (including Section 5 and Section 114 reports);

(c) To consider reports concerning the [appointment of the Head of Paid Service, or dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer pursuant to the procedures set out in the Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2015;](#)

~~(c)~~(d) [Confirming the appointment of Independent Person\(s\) in connection with Councillor conduct and Statutory Officer discipline.](#)

~~(d)~~(e) To determine matters within the Council's powers and responsibilities relating to local elections;

(f) To review matters relating to electoral and administrative arrangements and to determine the Council's response to any consultations or proposals by the Local Government Boundary Commission for England relating to the Borough.

~~(e)~~(g) [To make an order giving effect to the recommendations made in a Community Governance Review and other Parish Council functions that are not otherwise delegated.](#)

1.1.5. **Other Matters**

- (a) To determine any matters referred to the Council for decision by a Committee, Board or Panel that reports directly to the Council;
- (b) To deal with all 'local choice functions' set out in Ch.B1 of this Constitution which the Council decides should be undertaken by itself rather than by the Executive or a Committee;
- ~~(b)~~(c) To make compulsory purchase orders (other than under planning grounds).
- ~~(e)~~(d) To deal with any other matter which must, by law, be reserved for determination by the Council.

2. COUNCIL COMMITTEES: FUNCTIONS & DELEGATIONS

2.1. All Committees may hold inquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations, providing budget is available within the budget and policy framework approved by Council to do so.

2.2. All Committees may consider any subject that, in the opinion of the Committee is relevant to the formulation and delivery of its purpose.

2.3. LICENSING COMMITTEE

2.3.1. Membership: 13 Members

2.3.2. Purpose: To exercise the licensing and gambling functions on behalf of the Council including the creation and review of the statutory and non- statutory policies and the setting of fees and charges.

FUNCTION	DELEGATION OF FUNCTIONS
Functions relating to licensing exercisable by a District Council as set out in Schedule 1 of the Functions and Responsibilities Regulations	Director of Regeneration and Place / Head of Housing and Regulatory Services or their delegated officers except for: <ul style="list-style-type: none"> • The determination of policy. • The setting of fees and charges. Licensing Act and Gambling Act matters will be dealt with by the Head of Housing and Community

FUNCTION	DELEGATION OF FUNCTIONS
	<p>Services.</p> <p>Responsible authority functions will be dealt with by the Director of Regeneration and Place except for:</p> <ul style="list-style-type: none"> • Where this is inconsistent with legislation. <p>Where the function is otherwise delegated under this Constitution.</p>
<p>To deal with licensing functions in accordance with the Licensing Act 2003 and the Licensing Policies agreed by the Council.</p>	<p>Director of Regeneration and Place /Head of Housing and Community Services or their delegated officers except for:</p> <ul style="list-style-type: none"> • The determination of policy. • The setting of fees and charges. <p>Which are the responsibilities of the Licensing Committee.</p> <p>And;</p> <ul style="list-style-type: none"> • All matters where a 'relevant representation' has been made. This includes an objection, an objection notice and an application for summary review. • Which is the responsibility of a Licensing Sub-Committee.
<p>To deal with gambling functions in accordance with the Gambling Act 2005 and the Statement of Principles agreed by the Council.</p>	<p>Director of Regeneration and Place / Head of Housing and Community Services or their delegated officers except for:</p> <ul style="list-style-type: none"> • The determination of policy. • The setting of fees and charges. which are the responsibilities of the Licensing Committee. <p>And;</p> <ul style="list-style-type: none"> • All matters where a 'relevant representation' has been made. This includes an objection and

FUNCTION	DELEGATION OF FUNCTIONS
	the cancellation of club and gaming machine permits. <ul style="list-style-type: none"> • Giving a Counter Notice to a Temporary Use Notice. which are the responsibilities of a Licensing Sub-Committee.
Consider and recommend to the Council adopting a new Licensing Policy Statement, any Cumulative Impact Policies for the Borough decisions, Late Night Alcohol Levy and to make, vary or revoke Early Morning Alcohol Restriction Orders.	A Licensing Sub-Committee.
Consideration of appeals against any officer decision on a licence or consent.	A Licensing Sub-Committee.

2.4. LICENSING SUB-COMMITTEE

- 2.4.1. **Membership:** Three (3) Members from the Licensing Committee
- 2.4.2. **Purpose:** To make decisions about individual licensing matters and appeals where not otherwise delegated to the Head of Housing and Community Services.

2.5. PLANNING COMMITTEE

- 2.5.1. **Membership:** Thirteen (13) Members
- 2.5.2. **Purpose:** To determine town and country planning and development control matters and associated issues.

FUNCTIONS
<p>Planning and Conservation - Functions relating to town and country planning and development control as specified in Schedule 1 to the Functions & Responsibilities Regulations as amended from time to time including:</p>

- Development Management and Enforcement
- Rights of way
- The protection of important hedgerows
- The preservation of trees
- Functions relating to High Hedges contained in Part 8 of the Anti-Social Behaviour Act 2003
- Town and village green matters
- Commons registration and enforcement

DELEGATION OF FUNCTIONS

The Director of Regeneration and Place/Head of Planning and Development has delegated power to undertake all the functions relating to planning and conservation, except where the intended delegated decision on a planning or related application:

- is subject to call-in in accordance with Committee Procedure Rule 14;
- would be contrary to the written view of any statutory consultee in the planning process; or
- would be contrary to the provisions of the Development Plan or any emerging development plan policies that have been adopted by the Council for Development Control purposes; or
- is on an application made by: a Member; an Officer; or the Council itself.

The Head of Planning and Development has delegated power to: -

- Undertake all functions relating to planning and enforcement save for where a matter is referred to the Planning Committee in accordance with Committee Procedure Rule 17;
- Determine high hedges complaints and to take appropriate enforcement action, except in the following specific circumstances;
- Where the case relates to a hedge on Council land or complaints relate to Council Officers or Members;
- Where trees within a hedge are protected by a Tree Preservation Order or are located within a Conservation Area and the Officer decision would be contrary to the views of Ward Members or the Parish Council; and
- Exceptional cases where there are wider issues of a public nature or where there is a potential impact on the Council and/or its

policies.

2.6. AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

2.6.1. **Membership:** Nine (9) Members; plus two (2) non-voting Parish Councillors appointed by the Council for a three-year term of office and one (1) co-opted Independent Member. The Chairman of the Audit, Governance and Standards Committee may not be a member on the ExecutiveCabinet.

2.6.2. **Purpose:** The promotion and maintenance of high standards of Councillor and Officer conduct within the Council; adoption and reviewing the Council's Annual Governance Statement; independent assurance of the adequacy of the financial and risk management framework and the associated control environment; independent review of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment; and to oversee the financial reporting process.

(Other than the induction training delivered to all new Members and Substitute Members of the Audit, Governance and Standards Committee, the Committee will identify its training requirements through an annual assessment of skills and knowledge and Members will undertake training as required).

AUDIT ACTIVITY/FINANCE	
FUNCTIONS	DELEGATION OF FUNCTIONS
<p>To consider the Head of Internal Audit Partnership's annual report and opinion, and a summary of Internal Audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements</p>	<p>Report may go to the <u>ExecutiveCabinet</u> with a reference from this Committee to ensure that the Council satisfactorily addresses all of the issues.</p>

AUDIT ACTIVITY/FINANCE	
FUNCTIONS	DELEGATION OF FUNCTIONS
To consider reports dealing with the management and performance of Internal Audit Services, including consideration and endorsement of the Strategic Internal Audit Plan and any report on agreed recommendations not implemented within a reasonable timescale and the Internal Audit Charter	As above
To consider the External Auditor's Annual Audit Letter, relevant reports, and any other report or recommendation to those charged with governance; and ensure that the Council has satisfactorily addressed all issues raised To comment on the scope and depth of external audit work and to ensure it gives value for money	As above
To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the <u>Executive Cabinet</u> or Council	The summary balance sheet will be reported to the relevant Policy Advisory Committee as part of its Budgetary Control/Budget Strategy arrangements

AUDIT ACTIVITY/FINANCE	
FUNCTIONS	DELEGATION OF FUNCTIONS
Consider and review the effectiveness of the Treasury Management Strategy, Investment Strategy, Capital Strategy, Medium Term Financial Strategy, Annual Report and Mid-Year review and make recommendations to the ExecutiveCabinet , relevant Policy Advisory Committee(s) and Council	
Recommend and monitor the effectiveness of the Council's Counter-Fraud and Corruption Strategy	ExecutiveCabinet to approve Head of Audit Partnership to monitor effectiveness

GOVERNANCE	
FUNCTIONS	DELEGATION OF FUNCTIONS
To maintain a financial overview of the operation of the Council's Constitution in respect of Financial & Contract Procedure Rules and codes of conduct	The Monitoring Officer will deal with the detail of any proposed minor changes, but significant recommendations for change will be made to the Democracy and General Purposes Committee (then Council)
In conjunction with the relevant Policy Advisory Committee(s) to monitor the effective development and operation of risk management and corporate governance in the Council to ensure that strategically the risk management and corporate governance arrangements	Head of Audit Partnership/ Director of Finance and Business Improvement

GOVERNANCE	
FUNCTIONS	DELEGATION OF FUNCTIONS
protect the Council	
To monitor Council policies on 'Raising Concerns at Work' (Whistleblowing') and the 'Anti-fraud and Corruption' Strategy	Head of Audit Partnership
To oversee the production of the authority's Annual Governance Statement and to agree its adoption	Head of Policy, Communications and Governance
The Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice and high standards of ethics and probity This Committee will receive the annual review of the Local Code of Corporate Governance and may make recommendations for proposed amendments, as necessary	Head of Policy, Communications and Governance
To consider whether safeguards are in place to secure the Council's compliance with its own and other published standards and controls	Directors and Heads of Service

STANDARDS	
FUNCTIONS	DELEGATION OF FUNCTIONS
The promotion and maintenance of high standards of conduct within the Council	N/A

STANDARDS	
FUNCTIONS	DELEGATION OF FUNCTIONS
To advise the Council on the adoption or revision of its Codes of Conduct	N/A
To monitor and advise the Council about the operation of its Codes of Conduct in the light of best practice, and changes in the law, including in relation to gifts and hospitality and the declaration of interests	N/A
Assistance to Members, Parish Councillors and co-opted members of the Council to observe the Code of Conduct	N/A
To ensure that all Members have access to training in Governance, Audit and the Member Code of Conduct; that this training is actively promoted; and that Members are aware of the standards expected under the Council's Codes and Protocols	Democracy and General Purposes Committee to oversee Member training
To deal with complaints that Members of the Borough Council and the Parish Councillors may have broken the Member Code of Conduct	Monitoring Officer in consultation with an Independent Person through informal resolution where possible
Following a formal investigation and where the Monitoring Officer's investigation concludes that there has been a breach of the Code of Conduct a hearing into the matter will be undertaken See the procedure in Part D of this Constitution for dealing with	Hearings Panel comprising three (3) Members (plus 1 non-voting Parish Member when a Parish Member is the subject of the complaint) Drawn from the Audit, Governance and Standards Committee

STANDARDS	
FUNCTIONS	DELEGATION OF FUNCTIONS
complaints that a Member has breached the Code of Conduct	
Advice on the effectiveness of the above procedures and any proposed changes	Democracy and General Purposes Committee and Monitoring Officer
Grant of dispensations to Members with disclosable pecuniary interests and other significant interests, in accordance with the provisions of the Localism Act 2011	Monitoring Officer

2.7. DEMOCRACY AND GENERAL PURPOSES COMMITTEE

2.7.1. **Membership:** Nine (9) Members

2.7.2. **Purpose:** To be responsible for Councillor training and development; to determine matters relating to elections, electoral registration; and other democratic services responsibilities and functions, including reviewing this Constitution on a regular basis.

FUNCTIONS	DELEGATION OF FUNCTIONS
To recommend to the Council appointment of an Electoral Registration Officer & Returning Officer	N/A
To consider any matters relating to electoral registration, elections or electoral boundaries which have not been delegated to the Electoral Registration Officer or Returning Officer	Electoral Registration Officer or Returning Officer
To consider matters relating to the Mayoralty or Members	N/A

FUNCTIONS	DELEGATION OF FUNCTIONS
generally, where appropriate	
To appoint Council nominees to seminars as appropriate	N/A
To appoint Members to the outside bodies assigned to the Committee and to receive annual reports from the appointed outside body representative	N/A
Consider applications from persons wishing to act as Independent Persons in connection with Member and Statutory Officer conduct; and for the Independent Remuneration Panel and make recommendations to Council to appoint such persons	N/A
In the event of more than one candidate being nominated by Parish Councils to fill a vacancy in the office of non-voting Parish Council representative on the Audit, Governance and Standards Committee, to consider expressions of interest in support of the nominations, and make a recommendation to Council as to the person to be appointed	N/A
To advise Members and the Head of Human Resources Shared Service on Member development priorities where appropriate	Head of Policy, Communications and Governance
To regularly review the Constitution in conjunction with the Monitoring Officer and recommend proposed changes, where significant, to the Council	The Monitoring Officer may make changes to the Constitution which are necessitated by decisions; which remove inconsistency or

FUNCTIONS	DELEGATION OF FUNCTIONS
	ambiguity; which are minor; or to effect changes in the law
The determination of an appeal against any decision made by or on behalf of the Council where there is a statutory appeals procedure, and no other panel or Sub-Committee is appropriate elsewhere under this Part of the Constitution	Panel of three (3) Members, to include the Committee Chairman
The consideration of a Member agenda item request in respect of the application of the Constitution.	N/A

2.8. EMPLOYMENT COMMITTEE

2.8.1. **Membership:** Nine (9) Members

2.8.2. **Purpose:** To deal with employment and staffing matters unless otherwise delegated.

FUNCTIONS	DELEGATION OF FUNCTIONS
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.	Head of Human Resources Shared Service (within approved policies)
Pensions and superannuation matters related to terms and conditions	Head of Human Resources Shared Service
Joint Consultative Committee A consultative forum for views to be expressed between both parties on the Committee	N/A

FUNCTIONS	DELEGATION OF FUNCTIONS
<p>regarding the following issues relating to the employment of staff by the Council but excluding individual cases:</p> <ul style="list-style-type: none"> • Health and Safety Issues at Work • Changes in Staff Structures • Terms of Conditions of Employment <p>Such views are referred to the appropriate Council Decision Making Body</p>	
<p>To appoint the following:</p> <ul style="list-style-type: none"> • Chief Officers Appointment Panel • Chief Officers Investigation and Disciplinary Panel • Chief Officers Disciplinary Appeals Panel 	

2.9. CHIEF OFFICERS APPOINTMENTS PANEL

2.9.1. **Membership:** Five (5) members of the Employment Committee (at least one of whom must be a Member on the [Executive Cabinet](#)). Substitute members of the Employment Committee may be selected to sit on the Panel.

2.9.2. **Purpose:**

- (a) Within relevant legislation, Council policies and agreed appointment procedures to make appointments to posts of Chief Officers and Heads of Service within the Council's agreed officer structure.
- (b) Within relevant legislation, Council policies and agreed appointment procedures to recommend to Council the appointment for the positions of Head of Paid Service (Chief Executive), Monitoring Officer or section 151 officer.

- (c) To review annually the performance of the Chief Executive and Directors, to agree targets for the coming financial year, and agree any corrective action which may be required relating to the previous financial year.

2.10. CHIEF OFFICERS' INVESTIGATION AND DISCIPLINARY PANEL

- 2.10.1. **Membership:** Three (3) members of the Employment Committee (at least one of whom must be a Member on the [Executive Cabinet](#)). Substitute members of the Employment Committee may be selected to sit on the Panel.
- 2.10.2. **Purpose:**
 - (a) In accordance with the Model Disciplinary Procedure contained in the JNC Handbook for Chief Executives, Panel meetings shall be convened by the Monitoring Officer (in consultation with the Chairman of Staffing Committee). The Monitoring Officer will, in consultation with the Chairman of the Staffing Committee, filter out and deal with allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure. If the complaint is about the Monitoring Officer, then this will be done by the [Chief Executive](#).
 - (b) For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the Panel (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.
 - (c) To consider allegations/issues regarding disciplinary matters relating to the designated Statutory Officers of the Council (the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer) (the "DSOs") and other Chief Officers and Heads of Service.
 - (d) To appoint an Independent Investigator ("II") to investigate allegations of misconduct against any DSO and to commission reports from an II. The Chief Executive has delegated authority to appoint an II in respect of any Chief Officer or Head of Service who is not a DSO.
 - (e) To determine appropriate action upon receipt of any preliminary investigation.
 - (f) To decide whether to suspend a DSO and to review decisions taken to suspend a statutory officer. The Chief Executive has

delegated authority to suspend any Chief Officer or Head of Service who is not a DSO.

- (g) To conduct a hearing into any disciplinary matter against a Chief Officer, Head of Service or DSO.
- (h) To determine what action should be taken against a Chief Officer, Head of Service or DSO following an investigation. This could include dismissal or action short of dismissal.
- (i) In the event that the Panel recommends dismissal of a DSO then that recommendation shall be referred to the Independent Persons Panel prior to being referred to Council for a determination in accordance with the Officer Employment Procedure Rules.
- (j) With the exception of a decision to recommend to Council that a DSO be dismissed, there shall be a right of appeal to the Chief Officers Disciplinary Appeals Panel against any decisions made by the Panel to take disciplinary action against a Chief Officer, Head of Service or DSO.

2.10.3. **Decision**

- (a) If the Committee decides that a DSO shall be dismissed the Full Council shall consider the Committee's recommendation of dismissal. Prior to consideration by Full Council the Independent Persons Panel shall consider the matter and the Proper Officer shall give all members of the Cabinet the opportunity to raise any objections prior to the decision. This process is governed by the Staff Employment Procedure Rules set out in this Constitution. The consideration by Full Council shall constitute the DSO's appeal against the decision to dismiss.
- (b) In the case of any disciplinary action other than dismissal in respect of a DSO the officer may appeal to the Chief Officers Disciplinary Appeals Panel against the decision.

2.10.4. **Suspension**

- (a) If a DSO has been suspended for a period of 2 months (or in the case of a decision to suspend taken under urgency provisions) then the Committee shall review that suspension. The Committee shall continue to review any continuing suspension every 2 months. In carrying out such review the

Committee shall consider any representations made by the II and the DSO and/or his or her representative.

2.11. Chief Officers Disciplinary Appeals Panel

2.11.1. **Membership:** Three (3) members of the Employment Committee (at least one of whom must be a Member on the [Executive Cabinet](#)) other than those who sat on the Investigation and Disciplinary Panel which made the decision being appealed. Substitute members of the Employment Committee may be selected to sit on the Panel.

2.11.2. **Purpose:**

- (a) To determine any appeal made by a chief officer or head of service (other than a DSO) against a decision to dismiss them; and
- (b) To determine any appeal by a chief officer, head of service or DSO to take any disciplinary action (short of dismissal) against them.

2.12. Independent Persons Panel

2.12.1. **Membership:** At least two (2) independent persons appointed by the Proper Officer in the following priority order:

- (a) Any Independent Person or Independent Persons who has/have been appointed by the authority and who is/are a local government elector(s) in the Council's area;
- (b) Any other Independent Person(s) who has/have been appointed by the authority; and
- (c) Any Independent Person(s) who has/have been appointed by another authority or authorities.

2.12.2. **Purpose:** To advise the Council on matters relating to the dismissal of a DSO in accordance with the Employment Procedure Rules where the Investigation and Disciplinary Panel recommends the dismissal of one of the post holders.

2.13. INDEPENDENT REMUNERATION PANEL

2.13.1. **Membership:** Three (3) independent people being one representative each of the following:

- (a) Kent Invicta Chamber of Commerce;
- (b) South East Employers; and

- (c) The Community, appointed by Council on the recommendation of the Democracy and General Purposes Committee.
- 2.13.2. **Purpose:** To recommend to Council the level of Members' allowances and expenses that should be paid to Members on Maidstone Borough Council.
- 2.13.3. In accordance with the requirements of the Local Authorities (Members' Allowances) (England) Regulations 2003, the terms of reference of the Independent Remuneration Panel are to:
- (a) Make recommendations to the Borough Council as to the amount of basic allowance which should be payable to its elected Members, co-optees and Independent Persons;
 - (b) Make recommendations to the Borough Council about the role and responsibilities for which a special responsibility allowance should be payable and the amount of each such allowance;
 - (c) Make recommendations as to whether the Council's Scheme of Allowances should include an allowance in respect of the expenses of arranging for the care of children and dependents and if it does make such a recommendation, the amount of this allowance and the means by which it is determined;
 - (d) Make recommendations as to whether the Council's Scheme of Allowances should include a travelling subsistence allowance and whether such allowances should be pensionable; and
 - (e) Undertake a general review of the Members' Scheme of Allowances and make recommendations to the Council.

2.14. SHARED SERVICES

- 2.14.1. The Council may establish joint services arrangements with other local authorities. Such arrangements may involve the appointment of a Joint Committee with those other Local Authorities and delegation of functions to the Joint Committee. Alternatively the Council or Committees may delegate functions to another local authority or to an officer of another Local Authority. The Shared Services Arrangements in which the Council is involved include:
- (a) Mid Kent Services (MKS) which has a Joint Board
 - (b) Audit (Ashford, **Maidstone**, Swale and Tunbridge Wells)
 - (c) Environmental Health (Maidstone, Swale and Tunbridge Wells)
 - (d) Human Resources (**Maidstone** and Swale)

- (e) ICT (**Maidstone**, Swale and Tunbridge Wells)
- (f) Legal (Maidstone, **Swale** and Tunbridge Wells)
- (g) Licensing (**Sevenoaks**, Tunbridge Wells and Maidstone)
- (h) Planning Support (Maidstone, Swale and Tunbridge Wells)
- (i) Revenues and Benefits (Maidstone and Tunbridge Wells)
- (j) Waste (**Maidstone**, Ashford, Swale and Kent County Council)

Marked in bold are the host (employing authorities).

Environment Health and Revenues and Benefits do not have a host authority, they are simply run on a collaborative basis.

B3. Responsibility for ExecutiveCabinet Functions

1. BACKGROUND

- 1.1.** The ExecutiveCabinet is responsible for all functions that are neither Council Functions in law nor those Local Choice Functions assigned to the Council.
- 1.2.** The ExecutiveCabinet 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 ExecutiveCabinet are subject to the ExecutiveCabinet 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 ExecutiveCabinet, as determined by the Leader.
- 2.3.** Chapter B5 also sets out delegations to Officers that include ExecutiveCabinet Functions.
- 2.4.** The Leader shall put in place appropriate arrangements for the making of decisions by the Council in its roles as corporate trustee in respect of Cobtree Manor Estate (Reg Charity Number 283617) and land of the same name.
- 2.5.** The Leader shall put in place appropriate arrangements for the making of decisions by the Council in its role as corporate trustee in respect of the Queen's Own Royal West Kent Regiment Museum Trust (Reg Charity Number 1083570)

APPENDIX: EXECUTIVE CABINET ROLES**1. THE EXECUTIVE CABINET**

- 1.1.** To be responsible for any executivecabinet functions which involve a recommendation to Council including budget and policy framework proposals.
- 1.2.** To be responsible for making key decisions covering more than one ExecutiveCabinet portfolio.
- 1.3.** To receive and respond to:
 - (a) reports to the ExecutiveCabinet from the Overview and Scrutiny Committees, the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer; and
 - (b) recommendations from Council.
- 1.4.** To receive reports from external and internal auditors.
- 1.5.** To receive reports on risk management.
- 1.6.** To consider any matter referred to it by the Leader of the Council, or Lead Member.
- 1.7.** To make appointments to outside bodies that do not fall under the remit of the Democracy and General Purposes Committee.

The ExecutiveCabinet may take a decision relating to any matter under an individual portfolio where the relevant Lead Member or the Leader of the Council has requested that the ExecutiveCabinet consider the matter.

2. LEADER OF THE COUNCIL

2.1. Purpose

- (a) To have overall responsibility for the Vision and Corporate Objectives of the Council and for ensuring their achievement.
- (b) To be the principal political spokesperson for the Council and have overall responsibility for representing its views to the public and all organisations with whom the Council has contact.
- (c) To provide community leadership.

2.2. The Leader has responsibility for:

- (a) Leading the work of the ExecutiveCabinet, its programmes and priorities.
- (b) Working with others in building a vision for the Council and community; promotion of collaborative working relationships with stakeholders and partners as part of the borough's 'Civic Family'.
- (c) Acting as an ambassador for the Council and its activities amongst external advisory and interest groups and representing the Council's policy agenda as appropriate locally, regionally and nationally.
- (d) Development, implementation, monitoring and review of the Council's Vision and Strategic Objectives.
- (e) Ensuring the Council's Strategic Plan and all other policy framework documents interrelate and reflect agreed Council priorities.
- (f) Development and implementation of the Council's Medium-Term Financial Strategy and Capital Strategy.
- (g) Political responsibility for effective corporate governance of the Council.
- (h) Providing strong, clear leadership in the co-ordination of strategies and policies.
- (i) Responsibility for the discharge of any executiveCabinet function not delegated to another individual or body.

2.3. The Leader of the Council may:

- (a) Where a Lead Member is unavailable, or unable to take a decision (for example due to an interest in the matter), take a decision on their behalf, or nominate another Lead Member to take the decision;

- (b) Require a decision under an individual portfolio to be taken by the ExecutiveCabinet as a whole.

2.4. Scope of Specific Responsibilities

- (a) Strategic Plan
- (b) Performance Monitoring
- (c) Economic Development Strategy
- (d) Town Centre Strategy
- (e) Kent Medical Campus Enterprise Zone
- (f) Regeneration Sites (including Development Briefs)
- (g) Biodiversity and Climate Change Strategy

2.5. Service Areas (where budget and service areas are relevant to scope)

- (a) Policy Communications and Governance
- (b) Economic Development
- (c) Capital Projects

2.6. Representative on Bodies

- (a) Kent Leaders
- (b) Kent and Medway Economic Partnership
- (c) Mid Kent Services Board
- (d) Greater North Kent Partnership
- (e) Maidstone Strategic Infrastructure Board
- (f) Mid Kent Services Board

3. MEMBERS ON THE EXECUTIVECABINET

3.1. Purpose

- (a) To provide collective and individual leadership as part of the ExecutiveCabinet;
- (b) To undertake lead responsibility for an allocated portfolio; and
- (c) To contribute effectively towards the strategic direction of the Council

3.2. Duties and Responsibilities

- (a) To participate effectively as a Member of the ExecutiveCabinet; taking joint responsibility with other Lead Members for all decisions.

- (b) To participate in shaping and developing the policy and vision of the Council.
- (c) To act as the Lead Member for a particular portfolio as may be determined by the Leader, and in doing so, have regard to the Council's corporate policy objectives and championing the portfolio concerned within that strategic context, and being aware of key budgetary issues relating to the portfolio.
- (d) To build good working relationships with senior officers and external partners, as appropriate, and to work with them in developing policy, strategy and delivery plans.
- (e) To keep abreast of related developments and policies at national, regional and local level including being aware of the importance to the community and other stakeholders of the portfolio services.
- (f) To work with and involve Policy Advisory Committees in decision making, as appropriate, keeping them informed of issues relevant to the Member portfolio and their terms of reference.
- (g) To represent the ExecutiveCabinet where appropriate at Overview & Scrutiny Committee in connection with any matter that may be called in; and to attend Overview & Scrutiny at their request in connection with any issues associated with the Member portfolio that are being scrutinised.
- (h) To represent the Council on external bodies, as appointed, and feedback to the ExecutiveCabinet any issues of relevance/importance.
- (i) To be available as appropriate for other Members to discuss any queries or matters of concern.
- (j) To promote the services within the portfolio and where appropriate to act as the spokesperson with the media for the portfolio area.
- (k) To encourage the highest standards of probity and corporate governance, and to promote inclusivity and transparency in all that the Council does.

3.3. Lead Member for Corporate Services and Deputy Leader

- 3.3.1. To fulfil the duties of the Lead Member role description and have strategic:
- (a) Planning and policy development
 - (b) Performance Management
 - (c) Partnerships
 - (d) Biodiversity and Climate Change
- 3.3.2. **Scope of Specific Responsibilities**
- (a) Medium Term Financial Strategy
 - (b) Capital Strategy
 - (c) Treasury Management Strategy
 - (d) Commissioning and Procurement Strategy
 - (e) Strategic Risk Management
 - (f) Health and Safety
 - (g) Heathlands Garden Community
 - (h) Commercial and Operational Asset Management Strategy
 - (i) Information Management Strategy
 - (j) Digital Strategy
 - (k) ICT Strategy
 - (l) Workforce Strategy
 - (m) Emergency Planning
 - (n) Maidstone Property Holdings (shareholder role)
 - (o) Land and property purchases, excluding purchases for the purpose of housing
 - (p) Biodiversity and Climate Change
- 3.3.3. **Service Areas (where budget and service areas are relevant to the scope)**
- (a) Policy Communications and Governance (including Democratic and Electoral Services)
 - (b) Finance
 - (c) Audit (for corporate risk)

(d) Digital and Transformation

(e) ICT

(f) HR

(g) Revenue and Benefits

3.3.4. **Representative on Bodies**

(a) Mid Kent Services Board

3.4. Lead Member for Communities and Public Engagement

- 3.4.1. To fulfil the duties of the Lead Member role description and have strategic:
 - (a) Planning and policy development
 - (b) Performance Management
 - (c) Partnerships
 - (d) Biodiversity and Climate Change
- 3.4.2. **Scope of Specific Responsibilities**
 - (a) Communication and Engagement Strategy/MBC Reputation
 - (b) Resident Pride in the borough/Satisfaction
 - (c) Community Safety
 - (d) Safeguarding Policy
 - (e) Community Resilience
 - (f) Access to services
 - (g) Equalities Objectives
 - (h) Financial inclusion
 - (i) Council Tax Reduction Scheme Policy
 - (j) Community Grants Policy
 - (k) Assets of community value
 - (l) Parish Charter
 - (m) Partnership working with Voluntary and Community Sector
 - (n) Armed Forces Community Covenant
 - (o) Biodiversity and Climate Change
- 3.4.3. **Service Areas (where budget and service areas are relevant to the scope)**
 - (a) Policy Communications and Governance (including Customer Services)
 - (b) Housing and Communities
 - (c) Revenue and Benefits
- 3.4.4. **Representative on Bodies**
 - (a) Kent and Medway Military-Civilian Partnership Board

- (b) Parish Liaison

3.5. Lead Member for Environmental Services

- 3.5.1. To fulfil the duties of the Lead Member role description and have strategic:
 - (a) Planning and policy development
 - (b) Performance Management
 - (c) Partnerships
 - (d) Biodiversity and Climate Change
- 3.5.2. **Scope of Specific Responsibilities**
 - (a) Waste Strategy
 - (b) Waste Collection and Cleansing
 - (c) Parks and Open Spaces 10-year plan
 - (d) Parks management Strategy
 - (e) Public Conveniences
 - (f) Air Quality Strategy (including Low Emissions)
 - (g) Flood Risk Alleviation Strategy
 - (h) Place based enforcement
 - (i) Bereavement Services policy issues
 - (j) Environmental Health
 - (k) Biodiversity and Climate Change
- 3.5.3. **Service Areas (where budget and service areas are relevant to the scope)**
 - (a) Environment and Public Realm
 - (b) Housing and Communities
 - (c) Property and Leisure (for flood risk)
- 3.5.4. **Representative on Bodies**
 - (a) Kent Resource Partnership Members Board

3.6. Lead Member for Housing and Health

- 3.6.1. To fulfil the duties of the Lead Member role description and have strategic:
 - (a) Planning and policy development
 - (b) Performance Management
 - (c) Partnerships
 - (d) Biodiversity and Climate Change
- 3.6.2. **Scope of Specific Responsibilities**
 - (a) Housing Strategy
 - (b) Housing Delivery Programme (incl. purchases for the purposes of housing delivery)
 - (c) Housing Management Policy
 - (d) Housing Tenancy Strategy/Policy
 - (e) Private Sector Housing Enforcement Policy
 - (f) Housing Register Policy/Housing Allocation Scheme
 - (g) Reducing rough sleeping and homelessness
 - (h) Gypsy and Traveller Public Sites
 - (i) Housing for refugees
 - (j) Health in all policies oversight
 - (k) Strategic health projects and programmes
 - (l) Biodiversity and Climate Change
- 3.6.3. **Service Areas (where budget and service areas are relevant to the scope)**
 - (a) Housing and Communities
 - (b) Capital Projects
- 3.6.4. **Representative on Bodies**
 - (a) Health and Care Partnership Members' Forum

3.7. Lead Member for Leisure and Arts

- 3.7.1. To fulfil the duties of the Lead Member role description and have strategic:
 - (a) Planning and policy development
 - (b) Performance Management
 - (c) Partnerships
 - (d) Biodiversity and Climate Change
- 3.7.2. **Scope of Specific Responsibilities**
 - (a) Arts and Culture Strategy 2019-24
 - (b) Festivals and Events Policy
 - (c) Hazlitt Arts Centre
 - (d) Museum 20 year Plan
 - (e) Maidstone Leisure Centre
 - (f) Lockmeadow Leisure Centre Complex and Market
 - (g) Public Art Policy
 - (h) Visitor Economy
 - (i) Events
 - (j) Biodiversity and Climate Change
- 3.7.3. **Service Areas (where budget and service areas are relevant to the scope)**
 - (a) Property and Leisure
 - (b) Museum
- 3.7.4. **Representative on Bodies**
 - (a) Maidstone Area Arts Partnership
 - (b) Beauvais Twinning Committee
 - (c) Maidstone Sea Cadets

3.8. Lead Member for Planning and Infrastructure

- 3.8.1. To fulfil the duties of the Lead Member role description and have strategic:
 - (a) Planning and policy development
 - (b) Performance Management
 - (c) Partnerships
 - (d) Biodiversity and Climate Change
- 3.8.2. **Scope of Specific Responsibilities**
 - (a) Local Plan Review
 - (b) Development Plan Documents
 - (c) Integrated Transport Strategy
 - (d) Public Realm Design Guide
 - (e) Parking Management Strategy
 - (f) District Highways Functions
 - (g) Opportunity Sites Policies
 - (h) Infrastructure delivery including CIL
 - (i) Planning Enforcement
 - (j) Declaration of Local Nature Reserves
 - (k) Neighbourhood Plans
 - (l) Conservation Area Designation and Policies
 - (m) Building Safety Policy
 - (n) Biodiversity and Climate Change
- 3.8.3. **Service Areas (where budget and service areas are relevant to the scope)**
 - (a) Spatial Planning
 - (b) Planning and Development
 - (c) Environment and Public Realm
 - (d) Mid Kent Planning Support
- 3.8.4. **Representative on Bodies**
 - (a) Lead Member for Joint Transportation Board

4. THE **EXECUTIVE CABINET** ACTING AS TRUSTEES

4.1. Cobtree Manor Estate Charity Committee

4.1.1. Composition:

Leader of the Council, Lead Member for Communities and Public Engagement, Lead Member for Housing and Health, and Lead Member for Planning and Infrastructure.

4.1.2. Terms of Reference:

To be responsible for all matters relating to the Registered Charity Number 283617 known as the Cobtree Manor Estate, with the exception of daily management of the Charity and the land known as Cobtree Estate, Sandling, Maidstone, Kent which will be undertaken by the Director of Regeneration and Place.

4.2. The Queens Own Royal West Kent Regiment Museum Trust Committee

4.2.1. Composition:

Leader of the Council, Lead Member for Communities and Public Engagement, Lead Member for Housing and Health, and Lead Member for Planning and Infrastructure.

4.2.2. Terms of Reference:

To be responsible for all matters relating to the Registered Charity Number 1083570 known as The Queens Own Royal West Kent Regiment Museum Trust, with the exception of daily management of the Charity which will be undertaken by the Director of Regeneration and Communities and the Museums and Heritage Manager.

Note – *Composition of a Trust should not include a Member on the Executive with a portfolio that includes responsibility for elements that significantly involve **Executive Cabinet** decisions relating to similar matters as the Trust (i.e. the Member responsible for the Museum should not be on the QORWKRT).*

B4. Functions of Other Committees

1. COMMITTEES SUPPORTING GOVERNANCE ARRANGEMENTS

1.1. POLICY ADVISORY COMMITTEES

1.1.1. Membership: There shall be up to four Policy Advisory Committees each consisting of nine Members

1.1.2. Purpose: To involve Members who are not on the Cabinet in the work of the Cabinet and to promote collegiate working between the Cabinet and such Members;

(a) As a forum for: -

(i) Members to raise issues pertaining to the discharge of the Council's functions;

(ii) Officers and/or the Cabinet to inform Members and seek feedback via reports for noting and comment;

(iii) Budget and Performance Monitoring.

1.1.1.1.1.3. 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.

1.1.2.1.1.4. Where portfolios are assigned to individual Members on the ~~Cabinet~~ExecutiveCabinet, the Proper Officer, in consultation with the Leader of the Council, shall assign to each PAC one or more portfolios mirroring these.

1.1.3.1.1.5. Where portfolios are not assigned to individual Members on the ~~ExecutiveCabinet~~, 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.

1.1.4.1.1.6. Where the Leader has assigned portfolios of limited scope to individual Members on the ~~ExecutiveCabinet~~, 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.

1.1.5.1.1.7. PAC's are advisory committees and may only advise the ~~executiveCabinet~~ 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 [ExecutiveCabinet](#) 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 [ExecutiveCabinet](#) 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 [ExecutiveCabinet](#) 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 [executiveCabinet](#) 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 [executiveCabinet](#) 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 Member 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 Members, 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 Members from Maidstone Borough Council; and 9 Councillors from Kent County Council ("KCC") representing divisions in Maidstone Borough area; and two (2) 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 proposalsand 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 relevant Member on the ExecutiveCabinet will be the lead Member on behalf of the Council.

B5. Responsibilities of Senior Officers

1. INTRODUCTION

- 1.1.** Any post referred to in this part shall be deemed to include any successor post or a post which includes within the job description element's relevant to any particular delegate, which were also present in the earlier post and shall include anyone acting up, employed on an interim basis or into such a post.
- 1.2.** The Chief Executive, Directors , Heads of Service and Monitoring Officer will be responsible for the execution of functions and the provision of all the services under their respective headings as set out below, having authority to act on all such matters (including the authorisation of legal proceedings and the issue and service of notices) and deal with staffing matters in their service, subject to:
 - 1.2.1. actions being taken being in accordance with the Council's Budget and Policy Framework; and
 - 1.2.2. the referral of any required decision or action which is controversial in nature to the appropriate Member decision making body.
- 1.3.** The Head of Development Management, Head of Legal Partnership, Head of Finance, Head of Housing and Regulatory Services, Head of Audit Partnership, Head of Human Resources Shared Service, Head of Mid Kent ICT, Head of Revenues and Benefits Shared Service, Head of Environmental Services and Public Realm, Head of New Business and Housing Development, Head of Spatial Planning and Economic Development and Head of Property and Leisure. are all Heads of Service for the purpose of the Constitution.
- 1.4.** The Chief Executive, Directors and Heads of Service may exercise the following functions:-
 - 1.4.1. appointment and dismissal of staff below Chief Executive level;
 - 1.4.2. all exercises of discretion under Council policies relating to staff;
 - 1.4.3. secondment of staff, including under section 113 Local Government Act 1972;
 - 1.4.4. to implement approved schemes and projects and incur expenditure on items approved within the Council's approved Budget. Each Director is responsible for the supervision of the expenditure of their Directorate and for reporting to the appropriate Committee any proposed expenditure not

included, or in excess of, the amount included in their estimate; and

- 1.4.5. deal with everything related to or associated with their designated areas of responsibility, except insofar as such functions are reserved to the Council, Committees or Sub-Committees from time to time.
- 1.5.** The Chief Executive, Directors, Heads of Service and Monitoring Officer may authorise any other Officer of the Council to exercise their delegated functions on their behalf. This must be evidenced in writing in an Officer's job description; in a list of delegations to Officers to be maintained by the Monitoring Officer specifically for a particular function; or generally.
- 1.6.** All Officers who take key delegated decisions shall keep an appropriate record of the date that the decision was taken, the principal considerations involved in reaching the decision and the reasons for the decision. In exercising delegated authority, regard must be had to:
 - 1.6.1. All relevant considerations, disregarding irrelevant considerations, ensuring that the decision is reasonable and proportionate in the circumstances of the case and particularly having regard to the Council's fiduciary duties; duty of best value; equalities duties; human rights impact if any; and other relevant statutory duties (i.e. biodiversity, public health, climate change and crime and disorder reduction).
 - 1.6.2. The lawfulness of the decision in terms of statutory powers and compliance with relevant procedural rules and other legal or procedural requirements.
 - 1.6.3. Acting for a Proper purpose, consistent with the Council's purposes and vision.
 - 1.6.4. Following financial and contract procedure rules, information and advice.
 - 1.6.5. Ensuring high standards of integrity and probity.
- 1.7.** Where an Officer considers it appropriate, the Officer shall be entitled to refer matters for decision to a more Senior Officer or to the appropriate Member body.
- 1.8.** All Directors and Heads of Service shall be responsible for health and safety at work within their area of responsibility.

2. Action in Response to a Major Emergency:

The most senior Officer of the authority present, or the duty Director in their absence, will have the authority to approve any expenditure in expediting the Council's response to a major emergency affecting the Borough where it is not possible to refer the matter for decision to a more senior Officer of the Council, in consultation with the Leader of the Council

3. The Chief Executive

The Chief Executive has direct responsibility for the provision of the following services together with those separately listed which are undertaken in or other Directorates. The Chief Executive may undertake any decision in respect of these services as required.

- 3.1.** The provision of policy advice to the Council, Committees and Sub-Committees, ensuring that they receive such guidance and advice as will enable them to use the Council's resources to the best advantage in the development of its strategies and policies. Specifically to ensure that the Council has advice on the establishment and structure needed to carry out efficiently the work of the Council.
- 3.2.** The exercise of authority over all other Officers of the Council so far as this is necessary for the efficient management of the Council's functions.
- 3.3.** Supervising, co-ordinating and ensuring the implementation of the Council's decisions. Specifically to lead the Council's Corporate Leadership Team in securing a co-ordinated approach to the affairs of the Council generally.
- 3.4.** Ensuring the propriety of the Council's actions (together with the Monitoring Officer).
- 3.5.** The research and development of corporate policy options for consideration by Members.
- 3.6.** The development of beneficial relations between Members and Officers of the Council.
- 3.7.** The promotion and safeguard of the best interests of the Council locally and nationally. Specifically to liaise with national and local associations, authorities, groups, companies, organisations and individuals to further the policies and objectives of the Council.
- 3.8.** Provision of advice and support on the implementation and delivery of Best Value.

- 3.9.** The preparation and submission of the draft Strategic Plan, and any other corporate plans and policies and upon approval by Council, the implementation of the Plans.
 - 3.10.** Responsibility for undertaking negotiations and consultation with staff through their trade unions on all matters relating to employment.
 - 3.11.** To hear and determine appeals under the Grievance, Capability or Disciplinary (Level 4) Procedures for all categories of employees.
 - 3.12.** To take any action necessary in connection with any civil emergency or disaster including response, recovery and business continuity as may be required from time to time.
 - 3.13.** To exercise a power delegated to any other Chief Officer of the Council when that Officer is unable or unwilling to act, or to authorise another person to exercise such functions in the absence of that Officer (for example if neither the Monitoring Officer nor the Deputy Monitoring Officer is available and willing to act).
 - 3.14.** To submit responses to government and other bodies, consulting on changes to legislation and policy, as considered appropriate, following consultation with the appropriate Chairman and/or Member on the [Executive Cabinet](#).
 - 3.15.** To authorise any action necessary to give effect to any decision to the Council, or any board, Committee, Sub-Committee for involvement in partnerships or outside bodies.
 - 3.16.** To be responsible for corporate communications including official publicity, public relations and liaison with the press.
 - 3.17.** To make payments or provide other benefits in case of maladministration etc. up to £10,000.
 - 3.18.** To appoint Officers for particular statutory purposes (appointment of "Proper Officers").
- 4. The Director of Finance, Resources & Business Improvement**
- The Director has responsibility for the provision of the following services and may exercise any function in respect of these services as required:
- 4.1.** The Director of Finance, Resources and Business Improvement is the Council's Chief Finance Officer, responsible for the proper management of the Council's financial affairs.

- 4.2.** The provision of financial advice throughout the authority to Officers and Members.
- 4.3.** The compilation of financial accounts in accordance with statutory requirements.
- 4.4.** Compilation and submission of grant claims.
- 4.5.** The provision of general financial advice on the allocation of resources for concurrent functions.
- 4.6.** To provide through the Property and Leisure Section:-
 - 4.6.1. Policy and strategic advice to Members and Council Officers on all property technical and consultancy matters.
 - 4.6.2. The procurement and supervision of a full range of architectural, building and engineering related professional services to ensure the completion of the various Council construction programmes through all work stages from inception/feasibility to completion and final account.
 - 4.6.3. Collation and holding of professional and trade references.
 - 4.6.4. Conservation and preservation of the Council's stock of civic buildings.
 - 4.6.5. Preparation and holding of archival, historic and statistical information on Council buildings.
 - 4.6.6. Community Projects relating to construction activities. Responsibility for land drainage matters.
 - 4.6.7. Flood plan advice, flood risk management co-operation and liaison with the Environmental Agency on flooding and related matters.
- 4.7.** The provision of procurement advice.
- 4.8.** Acquisition and disposal of land and buildings, including all appropriations between purposes up to a value of £100,000.
- 4.9.** The management and maintenance of all general fund properties and all non-operational properties.
- 4.10.** Responsibility for discharging the functions in Chapter 3 of Part 5 of the Localism Act 2001 (Assets of Community Value) including determining nominations and compensation claims.
- 4.11.** The provision of a valuation service for the Council.
- 4.12.** The provision of a property advisory service.

- 4.13.** Business Transformation and Digital including the intranet and public website, alongside the development and implementation of the Council's Customer Care Strategy.
- 4.14.** The management of the Cobtree Manor Estate Charity and the Estate.
- 4.15.** The management of The Queen's Own Royal West Kent Regiment Museum Trust.
- 4.16.** The management of the Lockmeadow Market.
- 4.17.** Emergency Planning Function and to lead the Council's response.
- 4.18.** Authorise all special categories of sale pursuant to paragraph 6 of the Contract Procedure Rules for Land including right to buy sales; where the Council is mortgagee; non-operational land not exceeding 0.25 hectares etc.
- 4.19.** Health and Safety and Corporate Manslaughter.

5. Head of Finance

The Head of Finance is responsible for: -

- 5.1.** The maintenance of corporate financial systems and ensuring the financial integrity of all other systems.
- 5.2.** The provision of corporate financial services.
- 5.3.** Operation of the receipt of payments service.
- 5.4.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.

6. Head of Property & Leisure

The Head of Property & Leisure is responsible for :-

- 6.1.** The production and review of the Council's Asset Management Strategy, Policy and associated work programme for operational, corporate and leisure and culture assets.
- 6.2.** The Council's contribution to the Kent Estates Partnership.
- 6.3.** The provision of expert advice to support the Council's services and property valuations, including from external sources where required.
- 6.4.** Leading and directing the asset management of the Council's operational buildings and commercial portfolio.

- 6.5.** Managing the relevant systems required to support the management of the Council's properties.
- 6.6.** Managing any other service delivery opportunities identified, including with partnership organisations.
- 6.7.** The Council's leisure and culture services and facilities, including the associated strategies, policies and development for those services. This includes but is not restricted to: Maidstone Leisure Centre, Lockmeadow Complex, Kent Life, Mote and Cobtree Parks and the Hazlitt Theatre.
- 6.8.** Property Management, promotion and marketing of Maidstone Museums in conjunction with the Museum Director.
- 6.9.** Promoting flood resilience within the Council's property and capital strategies.
- 6.10.** To be responsible for the Council's Emergency Response Service.
- 6.11.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.

7. Director of Strategy, Insight & Governance

The Director of Strategy, Insight & Governance has responsibility for the provision of the following services and may undertake any function in response of these services, and those of their managers, as required:-

- 7.1.** The Director of Strategy, Insight & Governance is also the Council's Senior Information Risk Officer
- 7.2.** To be responsible for the development of the Council's Strategic Plan, Corporate Strategy and Policy, engaging with the Council's Officers, Partners, Local community, and other organisations as required.
- 7.3.** To identify, lead and support on the development of funding bids designed to achieve the Council's strategic priorities and ambition.
- 7.4.** The provision of advice to Members and Officers of the authority in relation to points 7.1 and 7.2 as required, alongside any advice required to achieve good governance across and from the authority.
- 7.5.** To exercise all Electoral Registration and Returning Officer Functions, including as to polling stations, annual register, running of elections, electoral boundaries and all parish council matters, or delegate such functions, as required alongside the exercise of all functions related to parishes, parish councils and community governance.

- 7.6.** To be the (Acting) Returning Officer for the election of Members for the Borough, for Parishes within the Borough, Members of Parliament, and any other elections or referendums as required.
- 7.7.** The servicing of the Council's Committees and Sub-Committees and the Executive.
- 7.8.** The provision of facilities for Members.
- 7.9.** Organisation of the Mayoral function, Civic Matters and Town Hall
- 7.10.** The provision of a corporate printing service
- 7.11.** Equalities and inclusion.
- 7.12.** Freedom of Information, complaints handling including dealing with Stage 2 complaints and customer feedback.
- 7.13.** The provision of customer services channels including face to face, telephone and website.
- 7.14.** The Communication and Engagement Strategy
- 7.15.** The implementation and management of the Council's Performance Management System.
- 7.16.** The provision of Public Relations Marketing, and Public Consultation Services.
- 7.17.** The development of policies on social inclusion, community development and community planning.
- 7.18.** The Visitor Economy Unit and Events.
- 7.19.** The implementation of the Destination Management Plan, Festival and Events Policy for Maidstone Borough and Public Arts Policy.
- 7.20.** The relationships and funding with the voluntary and community sector.
- 7.21.** The various halls used for recreational purposes throughout the Borough.
- 7.22.** The provision of advice to the Council and other organisations on all matters relating to grants and lottery applications.
- 7.23.** The provision of advice and taking actions to further the aim of sustainability and tackle climate change both internally within the Council and externally throughout the Borough.
- 7.24.** To ensure that sustainable development policies and good environmental working practices are widely promoted and integrated

into the day to day working practices of the Council and publicised to all sectors of the wider community.

- 7.25.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.

8. Director of Regeneration & Place

- 8.1.** The Director of Regeneration and Place has responsibility for the provision of the following services and may undertake any function in respect of these services as required: -
- 8.2.** The Director of Regeneration and Place is the authorised Officer for Responsible Authority Functions under the Gambling Act 2005 and the Licensing Act 2003.
- 8.3.** Taking action to foster an efficient and attractive public transport network in the Borough.,
- 8.4.** Handling and determination of all applications submitted under the building regulations and enforcement of building regulations.
- 8.5.** The exercise of control over demolitions and dangerous structures under the Public Health Acts and Building Act.
- 8.6.** The exercise of the responsibilities contained within Section 13 of this Part, pending the appointment of the Head of New Business and Housing Development.
- 8.7.** The exercise of the responsibilities contained within Section 14 of this Part, where relevant to Economic Development and not included within Section 22, pending the appointment of the Head of Spatial Planning and Economic Development.

9. Head of Environmental Services & Public Realm

The Head of Environment & Public Realm is responsible for: -

- 9.1.** The development and provision of a cleansing service including street cleansing, refuse collection, public conveniences, and building cleaning, and also including the enforcement of litter and waste control.
- 9.2.** The monitoring of Council contracts in respect of all cleansing services.
- 9.3.** Co-ordination and implementation of environmental improvement schemes in accordance with the Council's strategy.

- 9.4.** Responsibility for the development and provision of a grounds maintenance service including parks and open spaces, horticulture, arboriculture and sports pitches.
 - 9.5.** Decriminalised Parking service and the provision of off-street parking facilities.
 - 9.6.** Undertaking consultation concerning and making traffic regulation orders.
 - 9.7.** The responsibility for the Vinters Park Crematorium and Maidstone Cemetery.
 - 9.8.** The responsibility for the central purchasing of vehicle and transport supplies.
 - 9.9.** The responsibility for running a Direct Services Organisation (DSO).
 - 9.10.** Ensuring that the optimum level of the works and services provided by the Council in the areas of Highways and Sewers, Grounds Maintenance, Emergencies and any other areas as determined by the Council are undertaken.
 - 9.11.** Responsibility for the provision and development of the Borough's parks and open spaces and the monitoring of all contracts in respect of grounds maintenance.
 - 9.12.** Inspection of the authority's area to detect any statutory nuisance relating to litter and the service of any abatement notice in respect of a statutory nuisance if appropriate.
 - 9.13.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.
- 10. Head of Housing & Regulatory Services**
- The Head of Housing & Regulatory Services is responsible for: -
- 10.1.** All aspects of community safety and crime and disorder reduction.
 - 10.2.** Ensure the Council's duties and obligations in relation to homelessness and the operation of the Council's allocation scheme are fulfilled. This includes the contracting out of homelessness review functions under Section 202 of the Housing Act 1996 (as amended)., reviewing the same and ratifying any arrangements entered into prior to the introduction of this version of the Constitution on 21 May 2022.

- 10.3.** Manage all forms of temporary accommodation in connection with the Council's homelessness duties including entering into lease agreements and service of any related notices.
- 10.4.** Manage all forms of residential accommodation in connect with the Councils management duties including entering into lease agreements and service of any related notices.
- 10.5.** Undertaking any special housing initiatives that might arise.
- 10.6.** Ensuring that private sector housing standards are achieved, in particular as they relate to houses in multiple occupation and unfit dwellings.
- 10.7.** Operation of the grants system for renovating private sector properties.
- 10.8.** Perform the Council's duties and obligations in connection with private sector housing including enforcement measures.
- 10.9.** The management of Gypsy and traveller caravan sites.
- 10.10.** The licensing of caravan sites.
- 10.11.** The drafting and implementing of the Council's Housing Strategy, including the preparation of the Housing Investment Programme and its submission to the Secretary of State.
- 10.12.** To liaise and negotiate with government bodies and their appointees, third parties and housing providers in order to promote the priorities identified in the Council's Housing Strategy.
- 10.13.** The various halls used for recreational purposes throughout the Borough.
- 10.14.** All licensing functions (not otherwise delegated or prohibited).
- 10.15.** All gambling functions (not otherwise delegated or prohibited).
- 10.16.** The hygiene and control of food including the provision of safe food, control of standards, meat inspection and education.
- 10.17.** The control of infectious diseases and the general health and wellbeing of the local population.
- 10.18.** The provision of the Council's input to the Integrated Health and Care system and provision of a health promotion service, including home and water safety.
- 10.19.** The enforcement of the Sunday Trading Act 1994.
- 10.20.** Road closure orders.

- 10.21.** The provision of advice and taking actions to further the aim of sustainability and tackle climate change within the Council's residential properties.
- 10.22.** The inspection of the authority's area to detect any statutory nuisance and the investigation of any complaints as to the existence of a statutory nuisance.
- 10.23.** The enforcement of Street Trading Legislation (including the Maidstone Borough Act 2006 and any other functions arising under the Act).
- 10.24.** The Enforcement of Smoke Free Legislation.
- 10.25.** Pest control service, enforcement against pest concerns and the cleansing of filthy or verminous property.
- 10.26.** Development and provision of animal welfare and dog control including enforcement.
- 10.27.** Inspection of the authority's area to detect any statutory nuisance (including relating to noise in the street) and the service of any abatement notice in respect of a statutory nuisance.
- 10.28.** Taking action to remove gypsies and travellers from Council land.
- 10.29.** Promoting Maidstone Borough Council's (MBC) commitment and intent towards its statutory and moral duties to safeguard children and adults who come into contact with its services and activities and ensure that they are protected from harm, exploitation and abuse.
- 10.30.** Enforcement of Health and Safety at work legislation, including the appointment of Inspectors.
- 10.31.** Dealing with issues arising from contaminated land.
- 10.32.** The discharge of any function relating to pollution control (including noise, air, land, water and private drainage) and the management of air quality.
- 10.33.** Pollution control including noise, air, land, water and private drainage and the service of any abatement notice in respect of a statutory nuisance.
- 10.34.** Making Community Protection Notices under the Antisocial Behaviour, Crime and Policing Act 2014.
- 10.35.** To make Public Space Protection Orders and Orders under the Antisocial Behaviour Act 2003.
- 10.36.** The enforcement of Section 2 of the sunbeds (Regulation) Act 2010, including the appointment of authorised officers.

- 10.37.** Development of the Council's housing enabling role, including liaison with the Homes & Communities Agency and Housing Providers and Housebuilders as appropriate.
- 10.38.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.

11. Head of Development Management

The Head of Development Management is responsible for: -

- 11.1.** Handling and determination of all applications submitted under the Town and Country Planning Acts in accordance with criteria as set out in the Constitution, including the adoption of screening and scoping opinions in relation to Environmental Statements.
- 11.2.** The enforcement of all aspects of planning control, where relevant to the exercise of these delegations and overall achievement of the responsibilities contained within this section.
- 11.3.** Exercising all other functions relating to development management, conservation areas, listed buildings and trees.
- 11.4.** Responsibility for the Council's local land charges service.
- 11.5.** Providing heritage asset conservation and landscape advice in the determination of planning applications and policy.
- 11.6.** Responsibility for all aspects of heritage asset conservation and Tree Preservation and advice, including: proposing buildings for listing, amendments and Orders within Conservation Areas, making Tree Preservation Orders and determining applications for works to Preserved Trees and section 211 notices on trees in Conservation Areas.
- 11.7.** Responsibility for functions relating to High Hedges legislation.
- 11.8.** Procuring and securing of relevant technical and consultancy advice on the matters to the above.
- 11.9.** Authority to liaise with the highways authorities, and neighbouring authorities and other bodies on matters relevant to development management
- 11.10.** Obtaining information under Section 330 of the Town and Country Planning Act 1990.

- 11.11.** Policy and strategic advice to Members and Council Officers on all the above.
- 11.12.** Managing Community Infrastructure Levy and Section106 resources, collaborating with other Officers of the Council to support project delivery where required.
- 11.13.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.

12. Head of New Business and Housing Development

This section has been included for information, as the below delegations associated with this position will come into force once the position has been filled; expected 2023.

The responsibilities listed below are currently being exercised by the Director of Regeneration and Place and/or their duly authorised officers. (Section 8)

The Head of New Business and Housing Development is responsible for :-

- 12.1.** Leading, directing and the delivery of the Housing Development and Regeneration Investment Strategy, working collaboratively with the Council's Officers as required.
- 12.2.** Leading and delivering the Council's Housing Investment Programme and major regeneration projects, working collaboratively with the Council's Officers as required.
- 12.3.** Ensuring that clear scheme development, assessment and implementation arrangements are in place for the delivery of the Council's capital schemes.
- 12.4.** Entering into arrangements with third parties to enable the delivery of new affordable housing including authorising payments either directly or via government appointed bodies.
- 12.5.** The maintenance of the Council's positive working relationships with partnership and external organisations, to achieve the Council's housing and regeneration objectives.
- 12.6.** The undertaking of procurement exercises relating to the contractual and commercial content of development projects, having consulted the Council's Officers and external advisors were necessary.

- 12.7.** Ensuring effective contract management and monitoring.
- 12.8.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.

13. Head of Spatial Planning and Economic Development

This section has been included for information, as the below delegations associated with this position will come into force once the position has been filled; expected 2023.

The responsibilities listed below are currently being exercised by either the Director of Regeneration and Place (Section 8) or the Interim Director for the Local Plan and/or their duly authorised officers (Section 22).

The Head of Spatial Planning and Economic Development is responsible for :-

- 13.1.** Leading and directing the production of the Local Plan, Local Plan Reviews and related plan documents, providing advice to Members and Officers on such matters.
- 13.2.** Leading the master planning of major allocated sites within the Council's Local Plan where this has been identified as a requirement.
- 13.3.** The commissioning of master-planning work for opportunity areas, including the production of Supplementary Planning Documents.
- 13.4.** Ensuring the development of spatial planning policy, including the delivery of Neighbourhood and Other Plans as required.
- 13.5.** The overall responsibility for ensuring that the Council's Infrastructure Delivery Strategy and associated Plan is fit for purpose.
- 13.6.** Ensuring that the Council meets its Duty to Co-operate requirements with other Local Planning Authorities.
- 13.7.** The provision of advice throughout the authority to Officers and Members on the technical services associated with Spatial Planning and Economic Development.
- 13.8.** Leading and directing the Economic Development Strategy and Maidstone Town Centre Strategy including the latter's implementation.
- 13.9.** The implementation of the Council's Public Realm Design Guide.

- 13.10.** The delivery of initiatives across the Borough to further the Council's corporate priority for Maidstone to have a growing economy.
- 13.11.** Managing the Business Terrace and Innovation Centre.
- 13.12.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.
- 13.13.** Undertaking commissioning and procurement exercises to support the delivery of the above responsibilities.

14. Director of Mid Kent Services

The Director of Mid Kent Services has line management of the following:

- 14.1.** Head of Audit Partnership
- 14.2.** Head of Human Resources Shared Service
- 14.3.** Head of ICT Shared Service
- 14.4.** Head of Legal Partnership
- 14.5.** Head of Revenues and Benefits Shared Service
- 14.6.** Mid-Kent Planning Support, including the Council's Local Land Charges service.

15. Head of Audit Partnership

The Head of Audit Partnership is responsible for: -

- 15.1.** The provision of an adequate and effective system of internal audit of the Council's accounting records and its system of internal control in accordance with the proper practices in relation to internal control as prescribed by the Accounts and Audit Regulations 2015.
- 15.2.** The maintenance the Council's Strategic Risk Register and the provision of advice and guidance on the principles and practices of Risk Management and counter-fraud.
- 15.3.** To be the principal point of contact on Public Interest Disclosure Act referrals (Whistleblowing); to arrange for investigation and action as appropriate.
- 15.4.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the

exercise of the above delegations and overall achievement of these responsibilities.

16. Head of Human Resources Shared Service

The Head of Human Resources Shared Service is responsible for: -

- 16.1.** The provision of advice to Members and Officers of the Council on all aspects of personnel policy and issues including employment issues, conditions of service, pay and grading, pensions and superannuation discretion.
- 16.2.** The administration of the Council's scheme of job evaluation for the grading of posts.
- 16.3.** Ensuring that the Council's personnel policies and procedures comply with employment legislation and relevant Directives.
- 16.4.** The approval of all staff qualification training and planning and design of in-house training services.
- 16.5.** Ensuring the payment of salaries, wages and associated employer expenses to employees and Members, and advising on pension matters.
- 16.6.** Ensuring the appropriate development of Members and Officers.
- 16.7.** Ensuring that the Council's Health and Safety at Work policies and procedures comply with legislation and relevant Directives including Fire Regulations and training.
- 16.8.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.

17. Head of Mid Kent ICT

The Head of ICT Shared Service is responsible for: -

- 17.1.** The provision of advice on the formulation of the Council's IT Strategy and the facilitation of Corporate IT activities so that they may remain within the corporate IT Strategy.
- 17.2.** The provision of a central purchasing service for all IT related functions including hardware, software and consumables.
- 17.3.** The provision of a strategic input to decisions on matters concerning new technology.

- 17.4.** Maintaining all appropriate Data Protection and other registrations with the Information Commissioner’s Office.
- 17.5.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.

18. Head of Legal Partnership

The Head of Legal Partnership is responsible for: -

- 18.1.** The provision of advice to Members and Officers of the Council on all legal issues.
- 18.2.** The provision of a legal service relating to the Council’s functions.
- 18.3.** Provision of advice to Members, the Council and Committees on the operation of the Constitution.
- 18.4.** Dealing with the Local Government Ombudsman.
- 18.5.** The authorisation of Council Officers to appear on behalf of the Council in legal proceedings.
- 18.6.** Obtaining information under Section 330 of the Town and Country Planning Act 1990.
- 18.7.** The Head of Legal Partnership is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal Partnership considers that such action is necessary or appropriate to protect the Council’s interests.
- 18.8.** Where any document is necessary to any legal procedure or proceedings on behalf of the Council it will be signed by the Head of Legal Partnership or other person authorised by him/her unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- 18.9.** Contracts exceeding the value specified within the Financial Procedure Rules must be made under the common seal of the Council or the mobile seal for remote use attested by the Head of Legal Partnership or other authorised signatory, unless the Head of Legal Partnership considers that certain contracts may be signed rather than sealed.
- 18.10.** The Common Seal of the Council and the mobile seal for remote use will be kept in a safe place in the custody of the Head of Legal Partnership. A decision of the Council or a Committee or Sub-Committee or Officer will be sufficient authority for sealing any

document necessary to give effect to the decision. The Common Seal or mobile seal for remote use will be affixed to those documents which in the opinion of the Head of Legal Partnership, should be sealed. The affixing of the Common Seal or the mobile seal for remote use will be attested by the Head of Legal Partnership or any other authorised signatory by him/her.

- 18.11.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.

19. Monitoring Officer

- 19.1.** The Monitoring Officer has delegated authority to make changes to the Constitution which are necessitated by decisions taken by the Council; which remove inconsistency or ambiguity; which are minor; or to effect changes in the law.
- 19.2.** All Monitoring Officer duties, including maintaining the registers of Members and Officers interests and gifts and hospitality; granting dispensations to speak and vote at meetings as appropriate; authority to investigate (or arrange for the investigation of) Member misconduct; and to resolve matters informally where ~~he/she~~ they considers appropriate after consulting the Independent Person.

20. Head of Revenues & Benefits Shared Service

The Head of Revenue & Benefits Shared Service is responsible for: -

- 20.1.** The administration, collection and recovery of non-domestic rates and Council Tax, including determining any discretionary items in connection with local taxation or national non-domestic rates.
- 20.2.** The determination, administration and making payments including arranging abatements and rebates for Council Tax Benefit and Housing Benefit including determining any discretionary items in connection with Council Tax Benefit and Housing Benefit.
- 20.3.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.

21. Interim Director for the Local Plan

The responsibilities associated with this position will be transferred to the Head of Spatial Planning and Economic Development once the role has been appointed to; expected 2023.

- 21.1.** To lead and direct the production of the Local Plan, Local Plan Reviews and related plan documents, providing advice to Members and Officers on such matters.
- 21.2.** The commissioning of master-planning work for opportunity areas, including the production of Supplementary Planning Documents.
- 21.3.** To ensure the development of spatial planning policy, including the delivery of Neighbourhood and Other Plans as required.
- 21.4.** To maintain overall responsibility for ensuring that the Council's Infrastructure Delivery Strategy and associated Plan is fit for purpose.
- 21.5.** To ensure the Council meets its Duty to Co-operate requirements with other Local Planning Authorities.
- 21.6.** To lead and direct the Maidstone Town Centre Strategy.
- 21.7.** The provision of advice throughout the authority to Officers and Members on the technical services associated with Spatial Planning. This includes the management of Community Infrastructure and Section 106 resources where applicable, collaborating with other Senior Officers of the Council as appropriate.
- 21.8.** Liaising with and making representations to the relevant Local Authorities, bodies and organisations as appropriate in relation to the exercise of the above delegations and overall achievement of these responsibilities.

B6. Proper Officer Provisions

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
Any reference in any enactment passed before or during the 1971/72 Session of Parliament, other than the Local Government Act 1972, or in any instrument made before 26 October 1972 to the Clerk of a Council or the Town Clerk of a Borough.	Chief Executive	Monitoring Officer
Any reference in any enactment passed before or during the 1971/72 Session of Parliament, other than the Local Government Act 1972, or in any instrument made before 26 October 1972 to the Treasurer of a local authority.	Chief Finance Officer	Head of Finance
Any reference in any enactment passed before or during the 1971/72 Session of Parliament, other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the Public Health Inspector.	Director of Regeneration and Place	Head of Housing and Community Services
The following provisions of the Local Government Act 1972 :		
Section 115(2) – the Officer who shall receive all money due from any other Officer of the Council.	Chief Finance Officer	Head of Finance

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
Section 146(1) – the Officer who (upon a transfer of securities the alteration of the name of the District) shall make a statutory declaration specifying the securities and verifying the change of name and identity of the Council or shall give such a certificate as is prescribed.	Chief Finance Officer	Head of Finance
Section 151 – the Officer having responsibility for the proper administration of the financial affairs of the Council.	Chief Finance Officer	Head of Finance
The following provisions of the Representation of the People Act 1983:		
Section 8 and Section 52 – the Registration Officer for any constituency of part of a constituency coterminous with or situated in the Borough.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
Section 35 (1) the Returning Officer for the election of Councillors of the District and for elections of Councillors of Parishes within the District and 52 Deputy Electoral Registration Officer.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
Section 82 – To receive declarations of Election expenses.	Chief Executive	Head of Policy, Communications and Governance <u>Director of</u>

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
		<u>Strategy, Insight and Governance</u>
The following provisions of the Local Government Act 1972:		
Section 83(1) – the Officer to whom a person elected shall deliver a declaration of acceptance of office in a form prescribed by rules made under Section 42 of the Act.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
Section 84 – the Officer to whom a Member may give written notice of resignation.	Chief Executive	Head of Policy Communications and Governance
Section 86 – declare any vacancy in office.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
Section 88(2) - the Officer who may convene a meeting for the election of Chairman of the Council following a casual vacancy in that office.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
Section 89(1) – the Officer to whom notice shall be given of any casual vacancy occurring in the office of Councillor.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
Section 191(2) – the Officer who shall receive an application under Section 1 of the Ordnance Survey Act 1841.	Director of Finance and Business Improvement	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
Section 210(6) – the Officer who shall exercise the powers relating to charities conferred by these subsections.	Director of Finance and Business Improvement	Head of Finance
Section 223 - authorise Officers to appear in legal proceedings (and Section 60 County Courts Act 1984).	Monitoring Officer	Deputy Monitoring Officer
Section 225(1) – the Officer who shall receive and retain documents deposited with the Council pursuant to the Standing Orders of either Houses of Parliament or to any enactment or instrument, and shall take such action relating to these documents as may be directed.	Director of Finance and Business Improvement	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
Section 229(5) – the Officer who shall certify a photographic copy of a document in the custody of the Council, or of a document which has been destroyed while in the custody of the Council, or of any part of any such document.	Monitoring Officer	Deputy Monitoring Officer
Schedule 12, Part I, para 4(3) – the Officer to whom a Member of the Council shall give notice in writing desiring summonses to attend meetings of the Council to be sent to an address specified in the notice other than his or her place of residence.	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>	Democratic Services Officer
Schedule 14, Part II, para 25(7) – the Officer who shall certify a resolution of the Council applying or disapplying provisions under the Public Health Acts 1875-1925.	Director of Regeneration and Place	Chief Executive
Section 234(1) – the Officer whose signature shall authenticate any notice, order or other document which the Council is required or authorised to issue by or under any enactment.	Monitoring Officer	Deputy Monitoring Officer

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
Section 236(9) – the Officer who shall send a copy of every byelaw made by the Council and confirmed to the Proper Officer of every parish to which they apply.	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>	Monitoring Officer
Section 236(10) – the Officer who shall send a copy of every byelaw made by the Council and confirmed to the Council of the County.	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>	Monitoring Officer
Section 238 – the Officer who shall certify a printed copy of a byelaw of the Council.	Monitoring Officer	Deputy Monitoring Officer
Section 248 – to keep the roll of Freemen.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
Section 13(3) of the Local Government Act 1972 – the Officer who together with the Chairman of the Parish Member shall be a body corporate by the name “The Parish Trustees”.	Chief Executive	Director of Finance and Business Improvement
The Officer responsible for the convening of newly created Parish Councils.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
Local Government and Housing Act 1989:		
3A – To determine applications for exemption from the list of politically restricted posts.	Chief Executive	Monitoring Officer
2 - Maintain a list of politically restricted posts.	Chief Executive	Monitoring Officer
4 - Head of Paid Service	Chief Executive	Any Director
5 - Monitoring Officer	Interim Deputy Head of Legal Partnership	Team Leader Corporate Governance
Local Government and Housing Act 1989 Sections 15-17 and Local Government (Committees and Political Groups) Regulations 1990:		
9 - Regulation 9 – Receipt of Notice re Political Groups.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
10 - Receipt of Notice of Cessation of Membership of Political Groups.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
13 - To accept wishes of Political Groups in respect of proportionality.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
14 - To notify Political Groups of allocations.	Chief Executive	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
All other cases in respect of which the Strategic Director has from time to time been appointed as the Proper Officer of the Council.	Director of Finance and Business Improvement	Chief Executive
Local Government (Miscellaneous Provisions) Act 1976:		
Section 16 – Service of notices requiring details of any interests in land.	Directors and Heads of Service	Chief Executive
Section 41 – the Officer for certifying documents as provided for under this section.	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>	Chief Executive
PART I PUBLIC HEALTH ENACTMENTS		
Public Health Act 1936 & Public Health (Control of Disease) Act 1984		
Section 11 - Duty of local authority to supply forms to doctors for purposes of Section 48.	Head of Housing and Community Services	Director of Regeneration and Place
Section 48 – Removal of dead body to mortuary for burial.	Head of Housing and Community Services	Director of Regeneration and Place

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
Section 58 – Authentication of documents.	Head of Housing and Community Services	Director of Regeneration and Place
Section 60 – Service of notices and other documents.	Head of Housing and Community Services	Director of Regeneration and Place
PART II STATUTORY INSTRUMENT		
Health Protection (Notification) Regulations 2010/659 Including cases of infectious disease to be notified to proper Officer and disclosure of information/notices.	Head of Housing and Community Services	Director of Regeneration and Place
Public Health (Fees for Notification of Infectious Disease) Order 1968 (SI 1968 No. 1365).	Head of Housing and Community Services	Director of Regeneration and Place
Public Health (Prevention of Tuberculosis) Regulations 1925 (SI 1925 No. 757).	Head of Housing and Community Services	Director of Regeneration and Place
Food Hygiene (Docks, Carriers etc.) Regulations 1960 (SI 1960 No. 1602) Article 11.	Head of Housing and Community Services	Director of Regeneration and Place
Public Health (Aircraft) Regulations 1979 No. 1434).	Head of Housing and Community Services	Director of Regeneration and Place
Public Health (Ships) Regulations 1979 (SI 1979 No. 1435).	Head of Housing and Community Services	Director of Regeneration and Place

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
Local Government Act 1974		
Part 3 – Local Government Ombudsman functions, including giving public notice of reports.	Chief Executive	Monitoring Officer
Local Government Miscellaneous Provisions Act 1982		
Part XI - Public Health	Head of Housing and Community Services	Director of Regeneration and Place
Building Act 1984		
78 - Authorise action in relation to dangerous structures.	Head of Planning and Development	Building Control Officers
The local registrar within the meaning of the Land Registration Act 2002 and Local Land Charges Act 1975 who shall register any matters specified by these Acts affecting land and situate within the district.	Head of Planning and Development	Chief Executive
Food Safety Act 1990		
Food Safety and authentication of documents	Head of Housing and Community Services	Director of Regeneration and Place
Sunbeds (Regulation) Act 2010		

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
Appointment of authorised Officer(s) for the purposes of section 7	Mid Kent Environmental Health Manager	Head of Housing and Community Services
Freedom of Information Act 2000		
36 – Non-disclosure where potential to prejudice the effective conduct of public affairs.	Chief Executive	Monitoring Officer
Local Authorities (Referendum) (Petitions and Directions) Regulations 2000 as amended		
Whole – Proper Officer function	Monitoring Officer	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
Licensing Act 2003		
Whole – Proper Officer function	Director of Regeneration and Place	Head of Housing and Community Services
Localism Act 2011		
29 – Establish and maintain a register of members' and co-opted members' interests.	Monitoring Officer	Deputy Monitoring Officer
30 – 31 – Receipt of Members and co-opted members' declarations of interests and changes to those interests within 28	Monitoring Officer	Deputy Monitoring Officer

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
days.		
32 – Sensitive Interests	Monitoring Officer	Deputy Monitoring Officer
33 – Dispensations from restrictions under Section 31(4).	Monitoring Officer	Deputy Monitoring Officer
Local Authorities (Conduct of Referendums) (England) Regulations 2012		
Whole – Proper Officer function	Monitoring Officer	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>
Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014		
Whole-Proper Officer function	Head of Housing and Community Services	Director of Regeneration and Place
Any other Provisions/Legislation		
Any other provisions for which arrangements are not specifically made under the Scheme of Delegation.	Chief Executive to authorise	Monitoring Officer

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
Any other legislation whether made before or after this list was approved and requiring a proper Officer or authorised Officer where not otherwise stated in this list or the Council's approved scheme of delegation from time to time.	Chief Executive to authorise	Monitoring Officer
RULES OF PROCEDURE		
Council Procedure Rules, Committee Procedure Rules, Cabinet Procedure Rules,	Chief Executive or <u>Director of Strategy, Insight and Governance</u> Head of Policy, Communications & Governance	
Access to Information Procedure Rules	Head of Policy, Communication & Governance <u>Director of Strategy, Insight and Governance</u>	Democratic and Electoral Services Manager
Part VA, Local Government Act 1972		
100B (2),(7) and 100H - Excluding from the Public reports which are not likely to be considered in open session; and provision to the press/public of other documents provided to Members where the Proper Officer thinks fit.	Head of Policy, Communications and Governance <u>Director of Strategy, Insight and Governance</u>	Chief Executive

Function	Proper Officer	Person to act in the event of the Proper Officer being absent or otherwise unable to act
100C (2) - Where part or the whole of the report has been exempt the Proper Officer shall make a written summary of the proceedings or part to provide a record without disclosing the exempt information.	Directors and Heads of Service	Democratic Services Officer
100D - Compilation of list of background documents, relied upon to a material extent in producing the report or disclosing important facts.	Directors and Heads of Service	Democratic Services Officer
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 <u>Director of Strategy, Insight and Governance</u>	Democratic Services Officer

Appendix B: Questions on Notice

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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 their-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.

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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.

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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 to the Council, Executive ~~Executive or~~ or a reported to the Committee or Sub-Committee 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 200 Local Residents, the petition shall go to the Executive.~~
 - 2.2. ~~For Executive Functions where the number of signatories is fewer than 200 Local Residents, the petition shall go to the relevant Committee.~~
 - 2.3. ~~For non-Executive Functions where the number of signatories is at least 100 Local Residents, the petition shall go to Full Council.~~
 - 2.4. ~~For non-Executive Functions where the number of signatories is fewer than 100 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.~~
23. If so required by a signatory to a petition, it may be presented in person at meetings of the Council, Executive ~~or a Committee or Sub-Committee relevant Member body~~, subject to compliance with the following procedure:-
 - 32.1. 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;
 - 32.2. Only petitions containing signatures of 100 Local Residents will be eligible for submission to the Council, Executive or Committee or Sub-Committee;

2.3 If a petitioner has submitted a petition of at least 100 signatures requesting a Senior Officer of the Council to

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Appendix A: Petitions

attend, give evidence and provide information on activities for which they are responsible, then that Senior Officer will attend; (a Senior Officer is the Chief Executive, Director, or Head of Service). A factual briefing note on the petition's subject matter may be provided to the Council by the relevant Officers.

- 32.3. 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 Council, Executive or Committee or Sub-Committee; the relevant Member body;
- 32.4. No more than three (3) petitions may be presented per meeting;
- 32.5. 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;

2.6 Only one person may speak to a petition for a maximum of five (5) minutes. They should have signed the petition and be an active supporter of the body submitting the petition. This may include sometimes acting for that petitioner in a professional capacity;

2.7 (a) At a Council meeting, at the conclusion of the speech of the presenter, subject to paragraph (b) below, either:

(a)(i) 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 for 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 **decision-making body** (being either the Executive or one of the Council's other Committees or Sub-Committees); or

(a)(ii) the petition will be considered at the meeting in conjunction with any report that has been placed on the agenda concerning the matter raised in the petition; or

(a)(iii) the petition will be considered at the meeting if it is felt that a factual briefing note is not necessary.

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

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Appendix A: Petitions

speak for a further period of three minutes responding to the issues raised in the debate.

(b) If the Mayor determines that it is inappropriate to debate the petition or if no factual briefing note has been prepared by Officers, then the petition will be referred without further discussion to the next ordinary meeting of the appropriate Executive, Committee or Sub-Committee when it will be included in the appropriate officer's report;

2.7 (c) **For the Executive, Committees or Sub-Committees** at the conclusion of the speech, the presenter of the petition will be:

(c)(i) referred without further discussion to the next ordinary meeting of the appropriate Committee or Sub-Committee or to the Executive, when it will be included in the appropriate officer's report;

(c)(ii) considered at the meeting in conjunction with any report that has been placed on the agenda concerning the matter raised in the petition; or

(c)(iii) considered at the meeting if Members feel that a report is not necessary.

2.8 Rules 2.7(c)(i-iii) apply only to the Committees or Sub-Committees with decision-making powers. Petitions cannot be presented to Policy Advisory Committees.

2.9 The item relating to a petition will be placed on the agenda immediately following the minutes of the previous meeting of the Council, Executive or Committee or Sub-Committee.

2.10 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)

2.11 If more than one petition is notified to the proper officer to the same Council, Executive, Committee or Sub-Committee meeting, they shall rank in order of priority according to the time of notice given under 2.1 above.

32.126. No petition may be presented relating to an application for a licence;

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Appendix A: Petitions

- ~~32.137.~~ No petition may be presented to the Annual Meeting of the Council or to any meeting of the Audit, Governance and Standards Committee.
- ~~34.~~ Petitions which are not to be presented in person at meetings of the Council or appropriate Committee will be reported to that body.
- ~~45.~~ 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.~~

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 [ExecutiveCabinet](#) 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 Council, in accordance with the legislation and rules on political balance.
- 2.2.** Any Member on a Committee may give notice to the Proper Officer of [theirhis or her](#) resignation from a particular Committee of which [they arehe/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 [their his or her](#) Political Group, subject to the Group Leader also requesting that an alternative Member belonging to [theirhis 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 co-optees.
- 2.5. Members as Substitutes on Committees**

- 2.5.1. For each Committee, any Member who is not a Member of that Committee may act as a Substitute on that Committee for a seat allocated to their political group.
- 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;~~

~~2.5.5. if the substitution is notified to the proper officer or the Chairman before the meeting begins;~~

if the Full Member arrives after the substitution has been made, and opts to take their seat~~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.

3. CHAIRING OF COMMITTEES

3.1. Committee Chairmen and Vice ~~Chair~~Vice Chairman to be Committee Members

No Member may serve as the Chairman or ~~vice-Chair~~Vice Chairman of any Committee unless they~~he/she~~ are~~is~~ on that Committee. Where a Member serves as Chairman or ~~vice-Chair~~Vice Chairman of a Committee, and then ceases to be on that Committee, they~~he/she~~ shall cease to be the Chairman or the ~~vice-Chair~~Vice Chairman (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 appointed by the Committee. The Committee may revise this appointment during the course of the Municipal Year.
- 3.2.2. The ~~vice-Chair~~Vice Chairman 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 belonging 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~~Vice Chairman 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~~Vice Chairman.
- (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~~Vice Chairman 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~~Vice Chairman 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~~Vice Chairman 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~~Vice Chairman 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 ~~their~~ ~~his~~ ~~or~~ ~~her~~ absence, the ~~vice-Chair~~Vice Chairman shall chair the meeting unless the ~~vice-Chair~~Vice Chairman 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~~Vice Chairman 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~~Vice Chairman subsequently arrive, ~~they~~he/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~~Vice Chairman has been chairing a meeting but had to leave resulting in both being absent or in the Chairman being absent and the ~~vice-Chair~~Vice Chairman 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~~Vice Chairman of a Committee, cancel or postpone any meeting of that Committee.

- 4.3.** The Proper Officer may, after consulting the Chairman and ~~vice-Chair~~Vice Chairman 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 the expiry of the call-in period.

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-Chairman or in the case of Policy Advisory Committees the Lead Cabinet Member (s), and Officers.
- 5.2.** The agenda shall accommodate: -
 - 5.2.1. For any Policy Advisory Committee, the Forward Plan set by the Executive Cabinet;
 - 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) Member Call-In,

(b) Any Member "call for action".

(b)(c) The Forward Plan set by the Cabinet

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 them 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-Chairman and relevant Lead Cabinet Member, the Member is able to demonstrate that the matter: -
 - (a) Only came to their 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-Chairman and Cabinet Member(s) in the case of Policy Advisory Committees, 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 Cabinet](#) 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 performance~~and 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.~~

7.3.7.2. Visiting Members

~~7.3.1.7.2.1.~~ At each meeting of each Committee, it shall be an early agenda item for the ~~Chairman Member chairing the meeting~~ to ask any Visiting Members to introduce themselves and state the agenda item(s) to which ~~they/he/she~~ intend to speak on speaking.

~~7.3.2.7.2.2.~~ Subject to Rules 7.3.3 & 7.3.4 below, any Member may attend any meeting of a Committee or Sub-Committee in order to speak on particular items provided ~~they/he/she~~ specifies those items at the point in the meeting when Visiting Members are asked to introduce themselves.

~~7.3.3.7.2.3.~~ 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~~ Chairman 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.

~~7.3.4.7.2.4.~~ To speak on an item at the Planning Committee, notice must be given to the Proper Officer by 4pm on the preceding working day.

~~7.3.5.7.2.5.~~ Visiting Members speak after the Officer introduction on an item, but before the general debate.

~~7.3.6.7.2.6.~~ Having spoken, the Visiting Member will not participate further unless:

- (a) the ~~Member chairing~~ Chairman 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.

- 7.3.7 Where the committee resolves to exclude the press and public any visiting member shall be entitled to remain at the discretion of the chairman if they are he/she is satisfied, on the advice of the Monitoring Officer or their representative at the meeting, that the Visiting Member has a need to know in respect of the item being considered by the committee in private.

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. Although, some panels and sub-committees may have a quorum of three (3).

8.2. Standing Items

Before any substantive items are considered, where appropriate, 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~~Vice Chairman.

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.

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 Cabinet](#) 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 interrupt's proceedings, the [Member chairing Chairman](#) ~~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~~[Chairman the meeting](#) may call for that part to be cleared and may adjourn the meeting and/or re-convene elsewhere.

8.8. Minutes

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. [In accordance with Appendix A, petitions cannot be presented to Policy Advisory Committees.](#)

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.~~9.3.3. 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.~~9.3.4. 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)~~(b) 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~~Vice Chairman, 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.

[This rule does not apply to meetings of the Policy Advisory Committees, Planning Committee and Licensing Act 2003 Sub-Committee.](#)

10.2. The questions may be asked of the Chairman ~~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 Chairman ~~Member chairing the meeting~~ may group together similar questions.

10.5. Posing a Question at the Meeting

The Chairman ~~Member chairing the meeting~~ will invite the questioner to ask ~~put their~~ 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 Chairman ~~Member chairing the meeting~~ to put the question on their behalf, in which event the answer given by the Chairman ~~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 Chairman. ~~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 Chairman ~~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 Chairman, ~~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. They/He/she may decline to give a full or any reply if in their/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 one clear 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.

11.3.4. In addition to the twelve (12) minutes, a Parish or Town Council representative may be allocated a maximum of three (3) minutes each; where there are several speakers, they will be asked to appoint a spokesperson to represent all views.

~~11.3.4.~~11.3.5. Where public speaking takes place at a Policy Advisory Committee, the relevant Cabinet Member for the issue may exercise a right of reply, to respond to the speaker directly.

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~~Chairman~~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~~Chairman 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~~Chairman ~~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 ~~they~~ he/she consider it has been broken. The ruling of the ~~Member chairing~~Chairman ~~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~~Chairman ~~the meeting at the time~~ will have a second or casting vote, regardless of whether ~~they~~ he/she ~~have~~ has used ~~their~~ 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~~Chairman ~~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. PROVISIONS RELATING TO THE OVERVIEW AND SCRUTINY COMMITTEE REPORTS BY THE OVERVIEW & SCRUTINY COMMITTEE

13.1. Member and Officer Attendance

13.1.1. 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 performance

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

13.1.2. The appropriate "Senior Officer" shall be identified following consultation with the Chief Executive.

13.1.3. 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 them 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 that 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 document.

13.1.4. 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.

13.2. Reports of the Overview and Scrutiny Committee

~~13.1.0.~~13.2.1. 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: -

- ~~(a)~~ the executiveCabinet if the proposals are consistent with the existing budgetary and policy framework, and/or
- ~~(b)~~ the Council as appropriate e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework.

13.2.2. The report of the Overview and Scrutiny Committee shall be considered by the Council or by the ExecutiveCabinet at its next appropriate meeting following submission to the Proper Officer Chief Executive, or such longer time scale as the chairman of the Overview and Scrutiny Committee may agree.

13.2.3. If the Proper Officer refers an Overview and Scrutiny Committee report to the Council, they shall also serve a copy to the Leader with notice that the matter is to be referred to Council. When the Council meets to consider any referral from the Overview and Scrutiny Committee on a matter which would have an impact on the budget & policy framework, it shall also consider the response of the Cabinet on the Overview and Scrutiny proposals.

13.3. Protocol for dealing with Overview and Scrutiny Review Reports once submitted to the Cabinet

13.3.1. Where a report's recommendations cover the portfolio of more than one Cabinet Member portfolio, the Cabinet Member principally responsible, will assume responsibility for soliciting a response to those recommendations from any other relevant Cabinet Members on the Cabinet and including it in the response. When a report is submitted to the Cabinet, the Leader of the Council will assume responsibility for co-ordinating a response. The report will usually be presented by the Chairman of the Overview and Scrutiny Committee.

13.3.2. If the Cabinet or the appropriate Cabinet Member substantively accepts the recommendations of the Overview and Scrutiny Committee they will respond in writing within four weeks of receiving the report. If the response period falls within or shortly after a significant holiday period or an election then the period may (with the consent of the Overview and Scrutiny Chairman)

be extended in order to give the Cabinet (or the appropriate Cabinet Member) sufficient time to consider the report.

13.3.3. If the Cabinet or the appropriate Cabinet Member does not substantively accept the recommendations the matter will be referred to the next meeting of the Cabinet for debate. The Cabinet will then debate the issue and the relevant Cabinet Member will subsequently respond immediately in writing to the Overview and Scrutiny Committee.

13.3.4. The Overview and Scrutiny Committee will then consider the response at its next meeting and may request the Cabinet Member to attend the meeting. It will then forward any comments it may have on the response to the Cabinet or Cabinet Member for consideration. Having considered the comments of the Committee, the Cabinet or Cabinet Member will then formally adopt their response at their next meeting.

13.3.5. If the recommendations of the report have a significant impact on the policy framework or budget, it will be necessary for the report of the Overview and Scrutiny Committee to be submitted to full Council together with the response of the Cabinet or Cabinet Member. The council will then determine the issue.

13.4. Call-In

13.4.1. When a decision (other than a Minor decision) is taken by the Cabinet, an individual Member on the Executive, a Committee of the Cabinet, or made by an Officer with delegated authority from the Cabinet, 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.

13.4.2. 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.

13.4.3. During that period the Proper Officer shall call in a decision for scrutiny by the Committee if so requested by:

- (a) The Chairman of the Overview and Scrutiny Committee; or
- (b) 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, and the desired outcome of the decision's review.

- 13.4.4. 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 expiry of the call-in period, call a meeting of the Overview and Scrutiny Committee. Pending that meeting, the decision shall stand deferred and shall not be implemented. At that meeting, the Members calling in the decision should make themselves available for questioning and will be able to take part in the debate as non-voting Members of the Committee if they are not a Member of the Committee.
- 13.4.5. If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred to the decision maker they shall then reconsider it, amending the decision or not, before adopting a final decision.
- 13.4.6. If following a call-in of the decision, the Overview and Scrutiny Committee does not refer the matter either to Council or back to the decision-making person or body, the decision shall take effect on the date of the Overview and Scrutiny Meeting.
- 13.4.7. 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 13.3.8 below. However, if the Council does object, it has no locus to make decisions in respect of an Cabinet decision unless it is contrary to the policy framework, or contract 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.
- 13.4.8. 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.
- 13.4.9. A decision-making person or body can be required to reconsider any particular decision only once.

13.5. Call In and Urgency

13.5.1. The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely caused by the call-in process would seriously prejudice the Council's or the public's interest. The record of 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 Lead Cabinet Member should ensure that such matters are considered at pre-decision stage by a Policy Advisory Committee where it is reasonable to do so. The decision shall be regarded as reasonable in all the circumstances and be treated as a matter of subject to the agreement of the Mayor and by the majority of the political group leaders on the Overview and Scrutiny Committee Chairman. Decisions taken as a matter of urgency must be reported to the next appropriate meeting of the Council by the Proper Officer, together with the reasons for urgency.

~~13.1.3.~~13.5.2. The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

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) A neighbourhood forum with an adopted or post examination Neighbourhood Plan.

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~~Vice Chairman 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~~Vice Chairman 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, they/he/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 <u>their his/her</u> representative	The applicant or <u>their his or her</u> representative (incl. a supporter), or a petitioner, or a representative of a Residents' Association or Amenity Group.

(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 <u>their his or her</u> representative	The applicant or <u>their his or her</u> representative (including a supporter), or a petitioner, or a representative of a second or third Residents' Association or Amenity

	Group.
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* The applicant or ~~their 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. ~~They He/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. ExecutiveCabinet Procedure Rules

1. INTRODUCTION & PURPOSE

- 1.1.** The Rules in this Chapter regulate the business of the ExecutiveCabinet and its decision-making. They may be cited as the ExecutiveCabinet Procedure Rules.
- 1.2.** The purpose of these Rules is to ensure that the ExecutiveCabinet: -
 - 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 ExecutiveCabinet and to Local Residents;
 - 1.2.4. Makes most its decisions only after consideration by another Member body.

2. OPERATION OF THE EXECUTIVECABINET

2.1. Background to ExecutiveCabinet Decisions

The arrangements for the discharge of ExecutiveCabinet Functions may be set out in the ExecutiveCabinet 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 ExecutiveCabinet Functions to be discharged by:

- 2.1.1. The ExecutiveCabinet as a whole;
- 2.1.2. A committee of the ExecutiveCabinet;
- 2.1.3. An individual Member-on-theCabinet Member 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 ExecutiveCabinet 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 ExecutiveCabinet Functions in relation to the coming year:

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

- 2.3.1. Where the ExecutiveCabinet, a Committee of the ExecutiveCabinet or an individual ~~Member on the Cabinet~~ Member ExecutiveCabinet is responsible for ExecutiveCabinet Functions, they may delegate further to Joint Arrangements or an Officer
- 2.3.2. Even where ExecutiveCabinet 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 Cabinet~~ Member 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 ExecutiveCabinet Function has been delegated to a Committee of the ExecutiveCabinet, an individual Cabinet 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 may only be made by the ExecutiveCabinet or individual executiveCabinet members (where authorised by the Leader). Where Key Decisions or Other Material Decisions are made by the ExecutiveCabinet ~~or by an individual Member on the ExecutiveCabinet~~ they shall only be made:

(a) At a public meeting of the ExecutiveCabinet or other public meeting arranged for the purposes of an individual ~~Member on the Cabinet Member~~ ExecutiveCabinet making one or more such decisions.

(b) Save for urgent matters, where the matter has been considered and/or referred to the ExecutiveCabinet by another Member body.

~~2.5.1.~~ 2.5.2. ~~Where Key or Other Material Decisions are made by a Cabinet Member, the decision must be made within 28 days of the matter's consideration by the relevant Policy Advisory Committee, save for urgent matters. If the decision is not made within that time, the matter will be re-presented to the relevant Policy Advisory Committee for re-consideration.~~

~~2.5.2.~~ 2.5.3. Where ExecutiveCabinet decisions are delegated to a committee of the ExecutiveCabinet, the rules applying to ExecutiveCabinet decisions taken by them shall be the same as those applying to those taken by the ExecutiveCabinet as a whole

~~2.5.3.~~ 2.5.4. Key Decisions and Other Material Decisions may only be made where the Access to Information Procedure Rules have been complied with.

~~2.5.4.~~ 2.5.5. The powers of an individual Cabinet Member ~~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 Cabinet Member~~ ExecutiveCabinet 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.~~ 2.5.6. A Key Decision or Other Material Decision does not take effect until it has been signed by the Leader or a ~~Member on~~

~~the Cabinet Member Executive~~, this may be in the form of a digital signature.

3. CONDUCT OF MEETINGS OF THE EXECUTIVE CABINET

3.1. Time and Place of Meetings of the Executive Cabinet

The Executive Cabinet 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 Cabinet 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 Cabinet

All meetings of the Executive Cabinet 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 the Cabinet Members ~~those Members on the Executive~~ present shall chair the meeting.

3.4. Quorum

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

3.5. Attendance

3.5.1. Any Member of the Council may attend any Executive Cabinet meeting as a Visiting Member. Members of the Council who are not members of the Executive Cabinet may attend meetings of the Executive Cabinet and any committee of the Executive Cabinet including any part of any meeting closed to the public in accordance with the Access to Information Rules at the discretion of the chair where in his or her opinion, having considered the advice of the Monitoring Officer or their representative at the meeting, the member has a need to know in relation to the item being considered in private. ~~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 Cabinet 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 one (1) clear working 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 ExecutiveCabinet or a committee of the ExecutiveCabinet.

3.6. Business of Meetings

At each meeting of the ExecutiveCabinet 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 ExecutiveCabinet (whether by the Overview & Scrutiny committee or by the Council) for reconsideration by the ExecutiveCabinet 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 ExecutiveCabinet from any Cabinet Members ~~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 Cabinet~~ Member Executive may require the Proper Officer to ensure that an item relating to an Executive Cabinet function is placed on the agenda of the next available meeting of the Executive Cabinet for consideration whether or not authority has been delegated by the Leader to the Executive Cabinet, a committee of the Executive Cabinet, any individual ~~Member on the Cabinet~~ Member 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 Cabinet where the Overview & Scrutiny Committee or the Full Council have resolved that an item be considered by the Executive Cabinet.
- 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 Cabinet Meetings

The Executive Cabinet 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 Cabinet~~ Member 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 interrupt's 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 ExecutiveCabinet. Any ~~Member on the Cabinet Member 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 Cabinet Member Executive~~ at a meeting of a sub-committee of the ExecutiveCabinet.

4. PETITIONS AT EXECUTIVECABINET 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 ExecutiveCabinet.
- 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.~~ 4.3.3. 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.~~ 4.3.4. Where the petition is not dealt with by another item on the agenda, the ExecutiveCabinet 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 ExecutiveCabinet Function and has resolved to send the matter to the ExecutiveCabinet, that item shall be dealt with like any other agenda item.~~

5. QUESTIONS ON NOTICE AT MEETINGS OF THE EXECUTIVECABINET

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

5.2. At any meeting of the ExecutiveCabinet, 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 MemberCabinet Member and must concern the business of the Council in so far as it relates to ExecutiveCabinet 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/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 and Call-In and Urgency

The Call-in process and Call-in and Urgency shall be applied as per part C2 rules 13.4 and 13.5

~~6. CALL-IN~~

~~6.1. When a decision (other than a Minor decision) is taken by the Executive Cabinet, an individual Member on the Executive Cabinet, a committee of the Executive Cabinet, or made by an Officer with delegated authority from the Executive Cabinet, 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 expiry of the call in period, 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 Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.~~

~~**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 urgent a matter of urgency unless subject to the approval of urgency by the Chairman of Overview & Scrutiny and the political group leaders by simple majority, disagree. Decisions taken as a matter of urgency must be reported to the next appropriate meeting of the Council by the Proper Officer, together with the reasons for urgency.~~

~~**7.2.**—The operation of the provisions relating to call in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.~~

8-7. CONSIDERATION OF REPORTS BY THE EXECUTIVE CABINET

~~8.1. If the Proper Officer refers an Overview & Scrutiny Committee report to Council, he/she shall also serve a copy on the Leader with notice that the matter is to be referred to Council. When the Council meets to consider any referral from the Overview & Scrutiny Committee on a matter which would have an impact on the budget and policy framework, it shall also consider the response of the Executive Cabinet on the Overview & Scrutiny Committee proposals.~~

~~8.2.7.1. The consideration of Overview and Scrutiny Committee reports by the Executive shall be applied as per part C2 rule 13.2. Overview & Scrutiny Committee will have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview & Scrutiny Committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision.~~

9-8. APPOINTMENT TO OUTSIDE BODIES

~~9.1.8.1. The Executive Cabinet is responsible for the appointment of representatives to all Outside Bodies, except those within the remit of the Democracy & General Purposes Committee. The list of Outside Bodies can be found in Appendix C to the Council Procedure Rules.~~

C4. Access to Information Procedure Rules

1. SCOPE

- 1.1. These rules apply to all meetings of the Council, Committees, Panels and Sub-Committees including meetings of the Executive Cabinet and its sub-committees (together called meetings).
- 1.2. Whilst these rules set out the rights of members of the Council and members of the public to (1) attend member meetings and (2) to see Council documents, the statutory schemes are complex and take precedence in the event of any conflict with the rules.

2. ADDITIONAL RIGHTS TO INFORMATION

- 2.1. These Rules do not affect any more specific rights to information given elsewhere in this Constitution or by the law.

3. RIGHTS OF MEMBERS OF THE PUBLIC TO ATTEND AND RECORD MEETINGS

- 3.1. Members of the public may attend all meetings subject only to the exceptions in these Rules and subject to the lawful power to exclude members of the public in order to maintain orderly conduct or to prevent misbehaviour at a meeting, or in the interests of health and safety.
- 3.2. Members of the public attending meetings of the Council and Committees in open session may record the meeting using whatever non-disruptive methods that they consider appropriate, including filming, photographing, audio recording and use of social media.
- 3.3. Anyone filming a meeting is asked to only focus on those actively participating.
- 3.4. Recording of any part of a meeting held in closed session is not permitted.
- 3.5. All attendees should be made aware that they may be filmed or recorded whilst attending a meeting and that attendance at the meeting amounts to consent to this.
- 3.6. The Chairman of the meeting has the discretion to halt any recording for a number of reasons including disruption caused by the filming, recording or its transmission or the nature of the business being conducted.
- 3.7. Questions should be addressed to the Democratic Services Team at committeeservices@maidstone.gov.uk (members of the press should contact the Press Office).

4. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

4.1. Confidential information – requirement to exclude public.

The public must be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that Confidential Information, or information subject to any other duty of confidentiality which should not be disclosed to the public, would be disclosed.

4.2. Exempt information – discretion to exclude public.

4.2.1. The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information (see below) would be disclosed.

4.2.2. Where a meeting will determine any person’s civil rights or obligations, or adversely affect their possessions Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6, or the person who is the subject of the hearing requests that the matter is determined in private and no other consideration outweighs that request.

4.3. Meaning of Confidential Information.

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

4.4. Meaning of Exempt Information.

Exempt Information means information falling within the following categories and not subject to any of the conditions:

Category
1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).*

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and any employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:- a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention investigation or prosecution of crime.

4.5. **Conditions**

- 4.5.1. C (1) Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—
- (a) the Companies Acts (as defined in section 2 of the Companies Act 2006);
 - (b) the Friendly Societies Act 1974;
 - (c) the Friendly Societies Act 1992;
 - (d) the Co-operative and Community Benefit Societies Act 2014;
 - (e) the Building Societies Act 1986; or
 - (f) the Charities Act 2011.
- 4.5.2. C (2) Information is not exempt if it relates to proposed development for which the Local Planning Authority may grant

itself planning permission pursuant to Regulation 3 of the Town and Country Planning (General) Regulations 1992.

4.5.3. C (3) Information which—

- (a) (a) falls within any of paragraphs 1 to 7; and
- (b) (b) is not prevented from being exempt by virtue of conditions (1) or (2)
- (c) is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

5. NOTICES OF MEETINGS

- 5.1. The Council will give at least five (5) Clear Days' notice of any meeting by posting details of the meeting at the offices of the Council unless the meeting is called at shorter notice, when details of the meeting will be posted as soon as it is called. This is subject to additional rules in the case of Key Decisions by the ~~Executive Cabinet~~ Cabinet which are referred to at 11 below.

6. RIGHTS OF THE PUBLIC TO ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 6.1. The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five (5) Clear Days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Proper Officer shall make each such report available to the public as soon as the report is completed and sent to Members. Agendas and papers may be viewed on the Council's website.

7. RIGHTS OF THE PUBLIC TO SUPPLY OF COPIES

The Council will supply copies of:

- 7.1. Any agenda and reports which are open to public inspection;
- 7.2. Any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 7.3. If the Proper Officer thinks fit, copies of any other documents supplied to Members in connection with an item
- 7.4. To any person on payment of a charge for postage and any other costs, or electronically without charge.

8. RIGHTS OF THE PUBLIC TO ACCESS TO MINUTES ETC. AFTER THE MEETING

- 8.1. The Council will make available for public inspection copies of the following for six (6) years after a meeting:
 - 8.1.1. the minutes of the meeting or records of decisions taken, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose Exempt Information or Confidential Information or information subject to any other duty of confidentiality;
 - 8.1.2. a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- 8.2. the agenda for the meeting; and
- 8.3. reports relating to items when the meeting was open to the public.

9. BACKGROUND PAPERS

- 9.1. The author of a report will set out in every report which is not Confidential Information or Exempt Information or subject to any other duty of confidentiality a list of those documents ("Background Papers") relating to the subject matter of the report and where they can be inspected which in his or her opinion:
 - 9.1.1. Disclose any facts or matters on which the report or an important part of the report is based; and
 - 9.1.2. Which have been relied on to a material extent in preparing the report;
 - 9.1.3. But this does not include published works or those which disclose Exempt or Confidential information or information subject to any other duty of confidentiality.
- 9.2. **Public inspection of Background Papers.**

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

10. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- 10.1. Where reports are likely to contain Exempt or Confidential Information or information subject to any other duty of confidentiality requiring it not to be disclosed, those Officers preparing them shall attempt to structure them in such a manner as to separate such information in sections, appendices or annexes away from key information concerning the matter and any decision to be made.

- 10.2. If the Proper Officer thinks fit, the Council may exclude access by the public to reports, or to parts of reports, which in his or her opinion contain information which, in accordance with Rule 4, the meeting would be likely to enter a closed session in order to discuss. Such reports or appendices will be marked "Not for publication" together with the category of information likely to be disclosed.

11. DECISIONS BY THE EXECUTIVE CABINET

- 11.1. Rules 1–10 apply to the Executive Cabinet and its committees.
- 11.2. Subject to Rule 11.5 (general exception) and Rule 11.6 (special urgency), a Key Decision may not be taken unless: -
- 11.2.1. A Notice of Forthcoming Key Decisions has been published in connection with the matter in question at least 28 clear days before the key decision is made;
- 11.2.2. Where the decision is to be taken at a meeting of the executive Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).
- 11.3. Contents of Notice of Forthcoming Key Decisions
- 11.3.1. The Notice of Forthcoming Key Decisions will contain matters which will be subject of a key decision to be taken by the Executive Cabinet, a committee or area committee of the executive Cabinet, individual members of the executive Cabinet, officers, or under joint arrangements in the course of the discharge of an executive Cabinet function.
- 11.3.2. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
- (a) The matter in respect of which a key decision is to be made;
 - (b) Where the decision maker is an individual, their name and title, if any and where the decision maker is a body, its name and details of membership;
 - (c) The date on which, or the period within which, the decision will be taken;
 - (d) A list of the documents submitted to the decision maker for consideration in relation to the matter;
 - (e) The address from which, subject to any prohibition or restriction on their disclosure, copies of or extracts from any document listed is available;

- (f) That other documents relevant to those matters may be submitted to the decision maker; and
- (g) The procedure for requesting details of those documents (if any) as they become available. It will also state that a Key Decision is about to be made on behalf of the Council.

11.4. **Publication of Notice of Forthcoming Key Decisions**

At least 28 clear days before a key decision is made, the Notice of Forthcoming Key Decisions referring to that decision must be made available for inspection by the public at the offices of the Council and on the website, this will take the form of a Forward Plan and will include other material decisions in the exercise of [Executive Cabinet](#) functions.

11.5. **Urgency**

Where the publication of the intention to make a Key Decision is impracticable, the decision may only be made if:

- 11.5.1. The Proper Officer has given notice to the Chairman of the Overview and Scrutiny Committee, or if there is no such person, each Member on that committee in writing, by notice, of the matter about which the decision is to be made and why compliance with Rule 11.4 is impracticable;
- 11.5.2. The Proper Officer has made a copy of that notice available to the public at the offices of the Council and published it on the website; and
- 11.5.3. At least five (5) clear days have elapsed since the Proper Officer complied with Rules 11.5.1.
- 11.5.4. As soon as reasonably practicable after the Proper Officer has carried out the steps in 11.5.1 and 11.5.2 ~~they~~~~he or she~~ must:
 - (a) Make Available at the Council offices a notice setting out the reasons why compliance with 11.2.1 and 11.3.1 is impracticable
 - (b) Publish that notice on the Council's website.

11.6. **Special Urgency**

- 11.6.1. If by virtue of the date by which a key decision must be taken, Rule 11.5 cannot be followed then the decision can only be taken if the decision maker obtains the agreement of the Chairman of the Overview and Scrutiny Committee or, if they are unable to act, of the Mayor or Deputy Mayor that the making of the decision is urgent and cannot reasonably be deferred.

- 11.6.2. As soon as reasonably practicable after obtaining the above agreement, a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred shall be made available to the public at the offices of the Council and published on the website.

12. JOINT ARRANGEMENTS

- 12.1. If all the members of a joint committee are Members on the ExecutiveCabinet in each of the participating authorities then its access to information regime is the same as that applied to the ExecutiveCabinet of the lead authority.
- 12.2. If the joint committee contains members who are not on the ExecutiveCabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

13. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

- 13.1. Subject to Rule 13.2 below, Overview and Scrutiny Committee (and its sub-committees) will be entitled to copies of any document which is in the possession or control of the ExecutiveCabinet (or its committees) and which contains material relating to:
- 13.1.1. Any business transacted at a public or private meeting of the ExecutiveCabinet or its committees; or
- 13.1.2. Any decision taken by an individual Cabinet Member~~Member on the Executive~~; or
- 13.1.3. Any decision taken by an officer of the authority exercising an ExecutiveCabinet function.
- 13.2. Limit on rights
- An overview and scrutiny committee will not be entitled to:
- 13.2.1. Any document that is in draft form;
- 13.2.2. Any part of a document that contains Exempt Information or Confidential Information, unless that information is relevant to an action or decision they are reviewing or scrutinising or to any review contained in any programme of work of the committee; or
- 13.2.3. The advice of a political adviser.
- 13.3. Copies of documents requested under this rule must be supplied within 10 clear days of receipt of the request. Where the ExecutiveCabinet determines that a member of an overview and scrutiny committee is not

entitled to a copy of a document or part of any such document it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

14. MEMBERS' RIGHTS TO INSPECT DOCUMENTS AND TAKE COPIES

- 14.1. An elected Member is entitled by virtue of his or her office to have access to all documents in the Council's possession where it contains information which ~~they~~ he/she ~~have~~ has a need to know, and where the need to know is not outweighed by any other legal duties which would normally require the document not to be provided to the Member, such as Data Protection law and confidentiality duties. All members will have any additional rights to access information provided by section 100F of the Local Government Act 1972 and the Local Authorities (~~Executive Cabinet~~ Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- 14.2. All information obtained from an inspection and any copy document received shall be treated as confidential to the Member and shall be for his or her use as a Member of the Council only.

15. Determination

15.1. Any question on the right of a member to access documents shall in the first instance be determined by the Proper Officer. The member shall complete a written declaration setting out why they believe that they have a need to know the information. Where the information is to be provided to a Member meeting, this declaration shall be provided to the Proper Officer at least three clear working days before the meeting at which the material is to be considered.

~~15.1.~~ 15.2. Where the information being provided to a Member meeting is issued urgently (without 5 clear working days notice), and the Member cannot submit the request in accordance with the timeline required in 15.1, the Proper Officer is able to determine the request once received.

~~15.2.~~ 15.3. If the Proper Officer is satisfied that the member has the need to know the information the member will be provided with that information unless the need to know is outweighed by any other legal duties which would normally require the document not to be provided to the Member. If the Proper Officer determines that the member does not have the need to know and is not otherwise entitled to the information, and the information is to be provided to a Member meeting, then the member may raise a request with the member body which is considering the information to which the request relates. That member body will consider the member's request and declaration and the Proper Officer's reasons for declining the request and shall determine whether the Member has a need to know in accessing any part of that meeting held

in closed session or any papers for that meeting. In reaching its decision the member body shall take legal advice from the Monitoring Officer or his/her representative at the meeting. The member body decision will be made at the meeting in private session at the meeting where the information is being considered by it or at the first available meeting after the member's request has been determined by the Proper Officer.

16. Considerations

~~16.1. Provision 3.4 of Chapter A2 provides the circumstances in which Members would be likely to have the need to know information.~~

16.1. 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 that there is likely to be a need to know where: -

(a) The Member sits on the relevant Member body considering a matter to which the information relates, or the proper officer has been notified that the member will be sitting on that body as a substitute when it is to consider the information in questions;

(b) The information relates directly and materially to a matter which affects the Member's role in representing their Ward; or

(c) If a Member has a reasonable based concern for a problem, and it is reasonably necessary for the member to access the information in order that they can properly carry out their duties as a Member, such that they can apply their minds and efforts to shaping decision-making.

16.2. Where the need to know is not outweighed by any other legal duties which would normally require the document not to be provided to the Member, such as data protection and confidentiality issues.

16.3. Members are not entitled to all information held by the Council and there is no right to roving commission or to seek to obtain information for purposes other than those directly related to the Council's functions and their role as a Member. As stated above the need to know is also subject to other legal considerations such as any duties of confidentiality owed by the Council and the law on data protection.

~~16.2, 16.4.~~ Other considerations which must be taken into account in reaching a decision on whether to provide the information to the Member making the request include:

~~16.2.1~~~~16.4.1.~~ Where the Council has been given information by a Government Department on terms which preclude disclosure to individual Members or information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court;

~~16.2.2~~~~16.4.2.~~ Where the information or document sought is about an individual or contains personal data and the proposed disclosure would not accord with the principles relating to lawful processing of personal data in Article 5. UK GDPR;

~~16.2.3~~~~16.4.3.~~ Where the information concerns a matter in which the Member has a Disclosable Pecuniary or other Interest;

~~16.2.4~~~~16.4.4.~~ Where disclosure is sought for a purpose other than a material purpose connected with the Council's exercise of its functions;

~~16.2.5~~~~16.4.5.~~ Where disclosure could give rise to a breach of a duty of confidence owed by the Council to a third party; or

~~16.2.6~~~~16.4.6.~~ Where disclosure could prejudice any tender being carried out by the Council or negotiations between the Council and another party on the terms of a proposed contract.

~~16.3~~~~16.5.~~ Consideration should be given to other methods of safeguarding information before elected Members are refused access to information and documents. These other methods include: -

~~16.3.1~~~~16.5.1.~~ Redacting personal and/or commercial data from any document;

~~16.3.2~~~~16.5.2.~~ Allowing Members to inspect documents at the Council's offices, with or without the ability to make notes, but without taking copies; and

~~16.3.3~~~~16.5.3.~~ Requiring personal undertakings from Members as to confidentiality before providing information or documents on an individual basis.

17. 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.



CONSTITUTION SURVEY

Winter 2023

ABSTRACT

Result of a survey on the Constitution with Members

consultation@maidstone.gov.uk

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Introduction

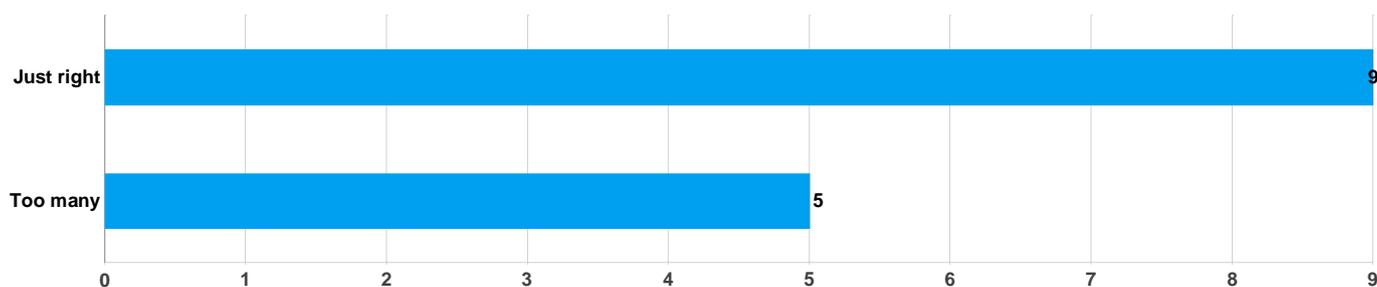
This reports contains the results of a survey undertaken with Elected Members between 20 December 2022 and 16 January 2023.

A total of 16 responses were received (including two partial responses), this represents a response rate of 29%.

Policy Advisory Committees

Policy Advisory Committees were added to the Executive and Scrutiny Model to undertake pre-decision scrutiny through advising the Executive on all decisions they make unless they are procedural or minor in nature.

There are currently 4 Policy Advisory Committees (PACs), please indicate how you feel about the number of PACs.



There were 14 responses to this question. There were no respondents that felt that 4 PACs was too few. The most common response was that the four PACs was just right.

Those that responded too many were subsequently asked what they thought the right number of PACs should be; these comments are shown in full below.

Comments - Too many PACs

3 (taking into account an impending reduction in councillors' numbers) is too many and the work could be spread better across 3.

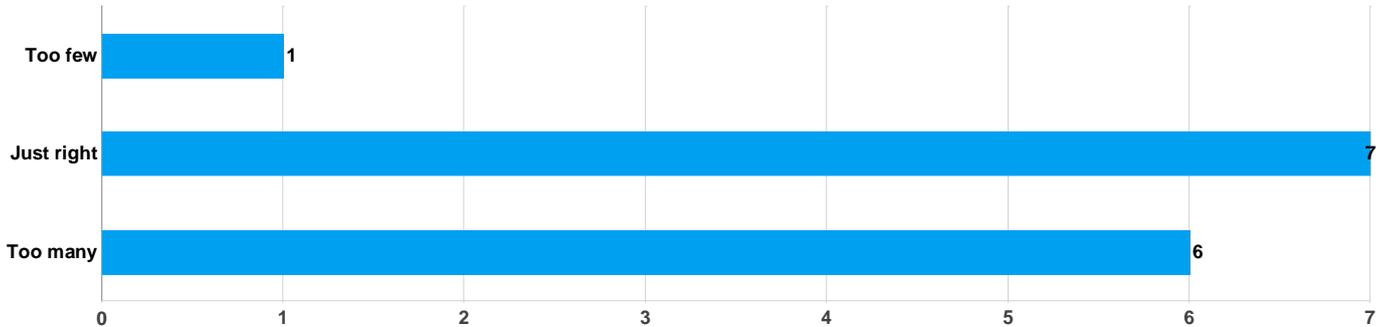
I think that they could be condensed to 3 PACs because some elements could be combined. The ERL PAC does not seem to have many items on the agenda.

Although I think there is the drive to try and make these work - I feel that there is still a sense of being listened to but not taking into account the views being put forward when making decisions. so indeed, why not remove them and just have the overview and scrutiny groups back.

Some could be merged. Currently, the business takes place in less than an hour, so combining would be better.

I think that three PAC committees would allow some consolidation meaning that members would get exposure to a wider area of council services through their membership. This would also assist with the difficulty in filling PAC positions.

Nine Members sit on each of the PACs, please indicate how you feel about the number of committee members.



There were 14 responses to this question. The most common response was that the nine member of each PAC was just right.

Those that responded too many or too few were subsequently asked what they thought the right number of Members on PACs should be; these comments are shown in full below.

Comments - Too many Members on PACs

7 members would be the right number - this would reduce the amount of committees that each member has to sit on and as the executive can't sit on the PACs in the main it would reduce the burden for other members. There always seem to be gaps on all sides at the moment.

7 whether it helps or not I don't know, but all groups seem to struggle getting full attendance, it may get worse with fewer Members

Because of the lack of business

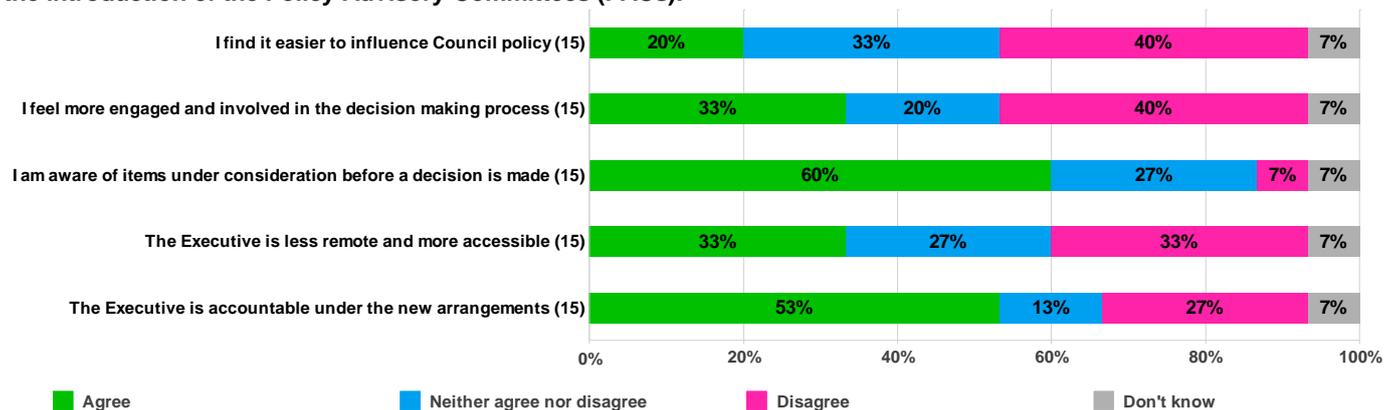
I feel this could be reduced to seven, however my feeling in this regard is not strong.

It is clear now, let alone when we reduce Members, that absence is common and Subs can be difficult to find, as only certain people DO attend.

Comments - Too few Members on PACs

Restricts input from opposition

To extent do you agree or disagree with the following statements in relation to the introduction of the Policy Advisory Committees (PACs).



There were 15 responses to these questions. Respondents were most positive in relation to being aware of item under consideration before a decision is made with 60% responding positively to this statement and 7% responding negatively. Respondents were the most negative about it being easier to influence Council policy with 40% providing a negative response and 20% responding positively.

Overall, how would you rate the effectiveness of the working arrangements in relation to PACs



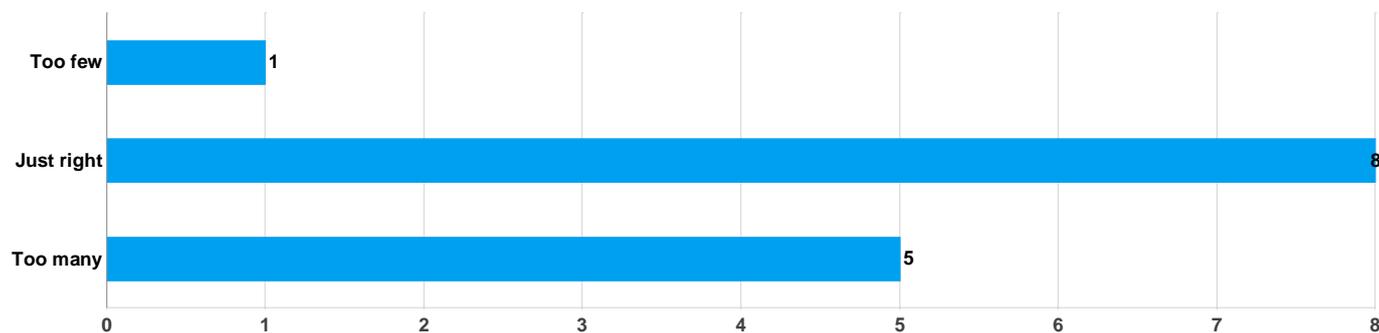
There were 15 responses to this question. Overall, 47% of respondents were positive about the effectiveness of the working arrangements in relation to the PACs and 26% were negative.

Respondents were given the opportunity to provide any additional comments about PACs; these are shown in full below.

PACs Additional Comments
They should become O&S PACs
Much though I disliked the committee system, I feel less involved with the PAC system
The executive system is fundamentally less democratic than the committee system
Completely undemocratic decision making by a extremely small proportion of elected Councillors
I find my PAC very useful as a sounding board and it does help to influence my decisions and make them better. I do think that there isn't enough business on the ERL PAC to justify it being an entity in its own right.
I say again, it does not make for good representation from non-cabinet portfolio members, it seems much harder to influence a decision. But this is what one gets with this system.
PACs seem less efficient in driving policy than initially expected. A system of four hybrid (pre-) Scrutiny / PACs may be more effective instead of PAC + Scrutiny and would allow to spread the workload of the current Scrutiny Committee
Officers have really made it work well

Overview & Scrutiny Committee

13 Members sit on the Overview & Scrutiny Committee (O&S), please indicate how you feel about the number of committee members.



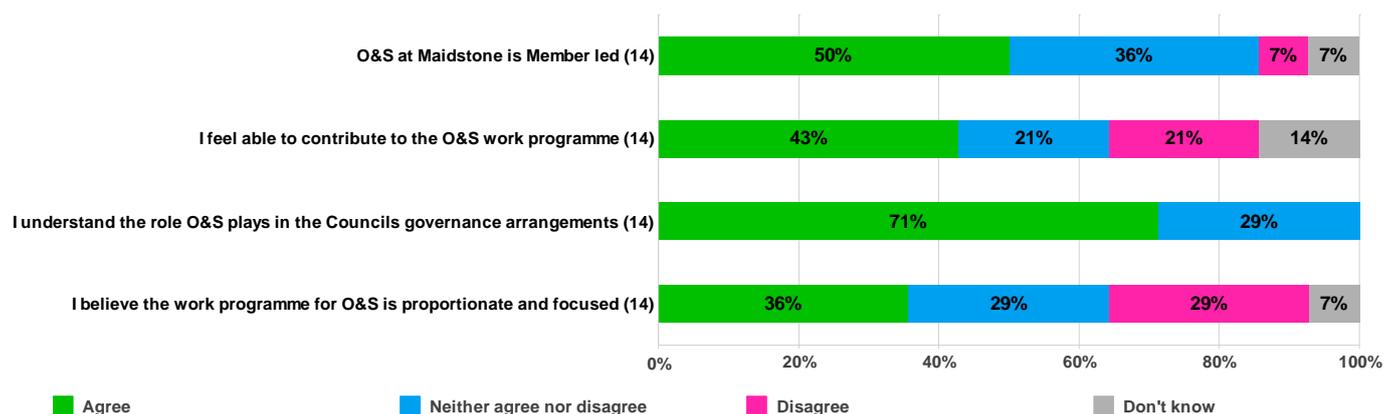
There were 14 responses to this question. The most common response was that the number of members on O&S was just right.

Those that responded too many or too few were subsequently asked what they thought the right number of Members on O&S should be; these comments are shown in full below.

Comments - Too many O&S Members
9
13 members in total but not all to sit and to have the others to rotate and maybe have a wider pool for working groups.
This large number makes the committee unwieldy.
Again, same answer as before. Attendance is difficult to ensure.

Comments - Too few O&S Members
As before, not enough space for opposition

To extent do you agree or disagree with the following statements in relation to O&S?



There were 14 responses to these questions. Respondents were most positive in relation to understanding the role O&S plays in the Council's governance arrangements with 71% responding positively to this statement. Respondents were the most negative about the work programme being proportionate and focused with 29% providing a negative response and 36% responding positively.

Overall, how would you rate the effectiveness of the working arrangements in relation to O&S?



There were 14 responses to this question. Overall, 43% of respondents responded neutrally when asked to rate the effectiveness of the O&S working arrangements.

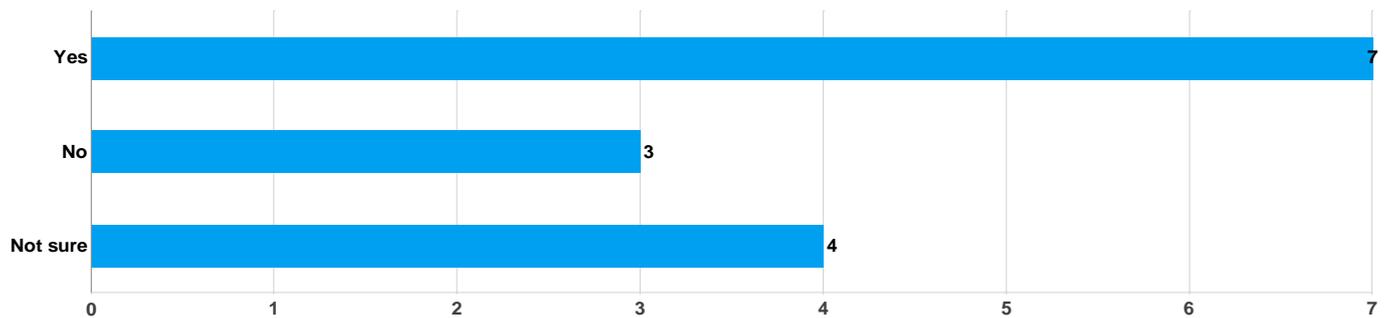
Respondents were given the opportunity to provide any additional comments about O&S; these are shown in full below.

O&S Additional Comments
Do away with separate O&S and give O&S responsibility to PACs
They have too much on at the moment. I don't sit on the committee, but I have heard reports of 4 meetings a week and have seen the massive reports in the print room - I don't see how anyone can be expected to take on board that much information and I dread to think what burden it is placing on the Dem services team to produce that.
This will become much better once the system is worked on more and we get used to it.
All down to the Chair of the day. I fear that the O&S could easily become an unstructured talking shop.
Again, Officer support has been super

Constitution Part A

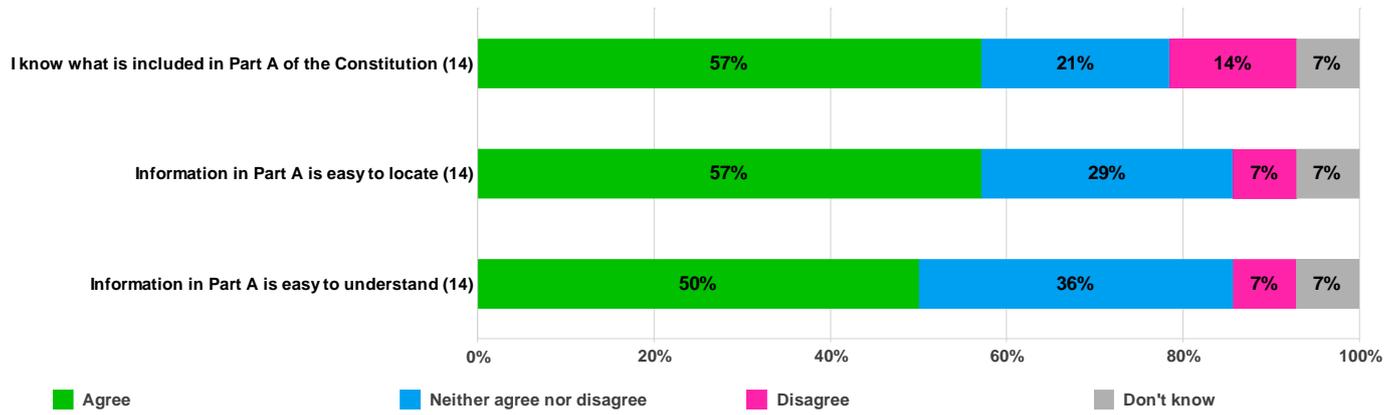
The Constitution Part A sets out the higher-level principles and core provisions of the constitution. The constitution is a hierarchical document, where there is conflict between Part A and another part of the constitution, Part A shall prevail.

Have used used Part A of the Constitution since May 2022?



There were 14 responses to this question. The most common response from members was that they had used Part A of the Constitution since May 2022.

To what extent do you agree or disagree with the following statements about Part A of the Council's Constitution?



There were 14 responses to these questions. Respondents were most positive in relation to in finding it easy to locate Part A information.

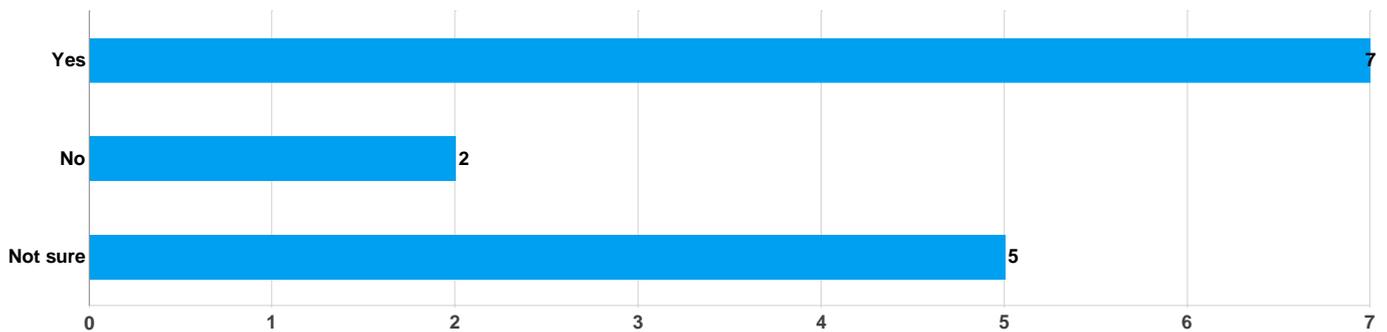
Respondents were given the opportunity to provide any additional comments about Part A of the Council’s constitution; these are shown in full below.

Constitution Part A Additional Comments	
Like all documents of this type there is a lot of "noise" that detracts from the meaningful and useful sections and makes them hard to find.	
as for Q15 above, all councillors have used Part A since May 22 due to the nature of their office	

Constitution Part B

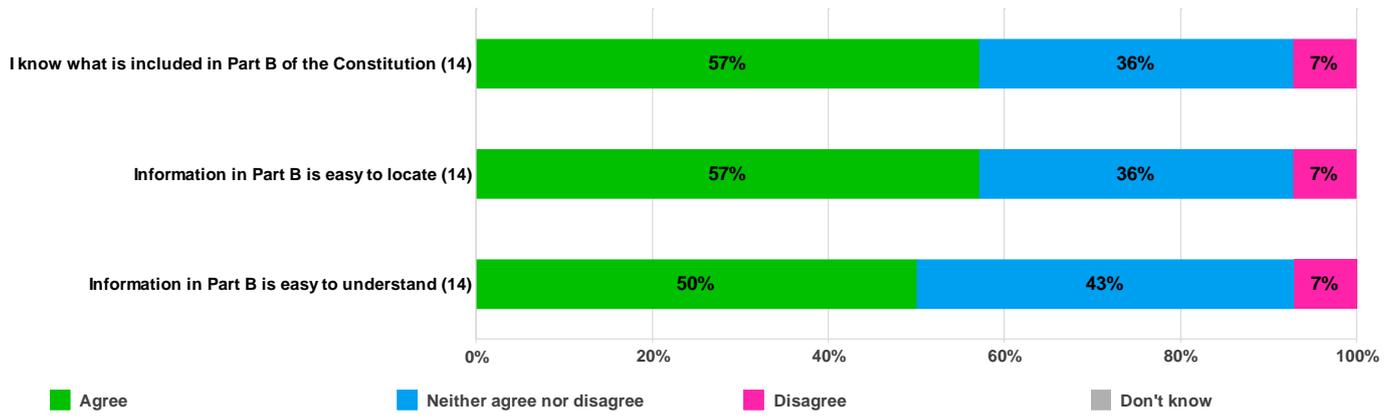
Part B of the Constitution contains provisions on responsibilities for carrying out the functions of the Council and for making decisions.

Have used Part B of the Constitution since May 2022?



There were 14 responses to this question. The most common response from members was that they had used Part B of the Constitution since May 2022.

To what extent do you agree or disagree with the following statements about Part B of the Council's Constitution?



There were 14 responses to these questions. Respondents were equally positive in relation knowing what is included in Part B of the Constitution and that information in Part B is easy to locate.

Respondents were given the opportunity to provide any additional comments about Part B of the Council’s constitution; these are shown in full below.

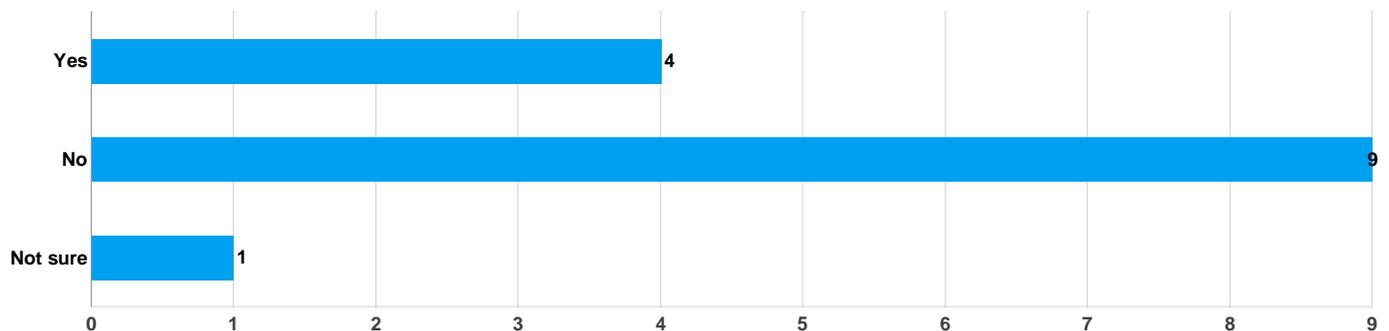
Constitution Part B Additional Comments	
as for Q18 above, all councillors have used Part A since May 22 due to the nature of their office and their participation at council and committees	

Constitution Part C

Part C of the constitution contains the procedure rules applicable to council, committee and executive meetings. So how the meetings will be conducted, what is included on agendas, motions and questions.

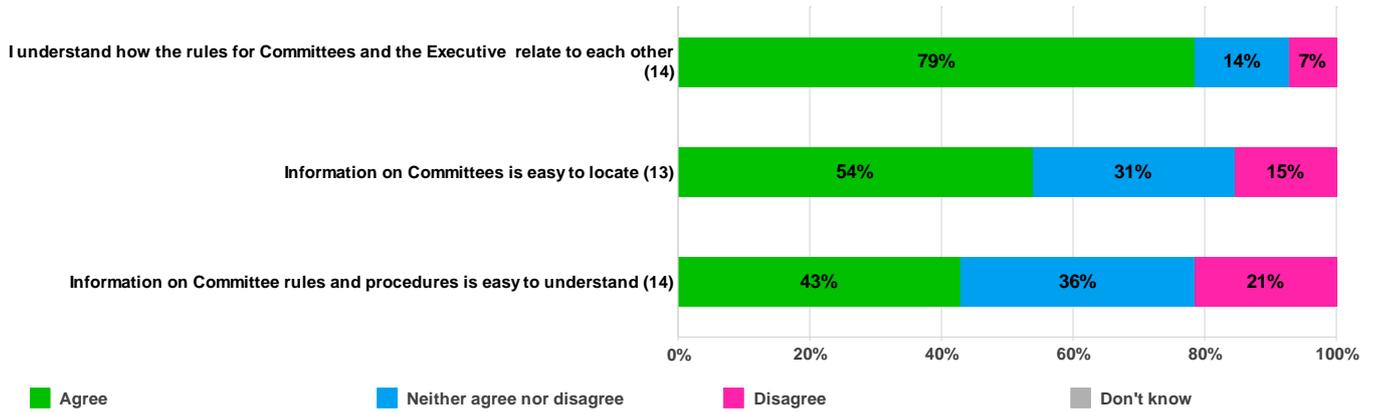
Committees

Have you used used the rules, e.g motions on notice/questions, in relation to a Committee since May 2022?



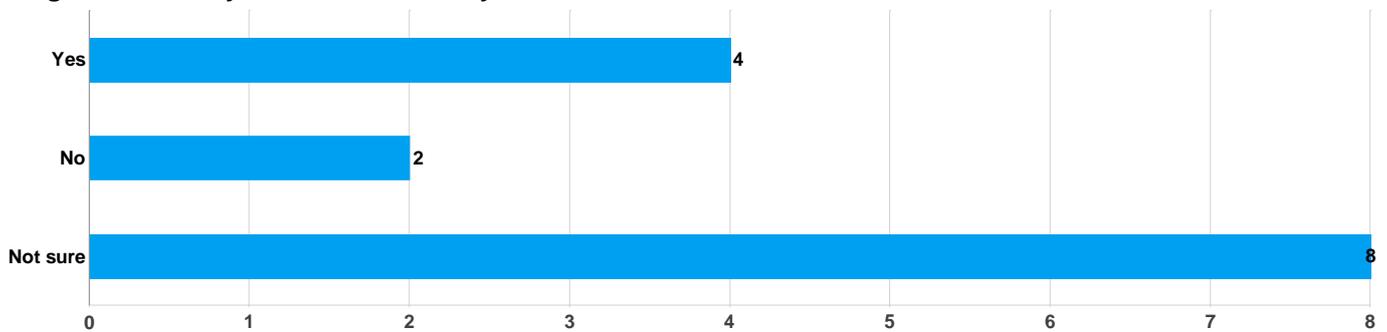
There were 14 responses to this question. The most common response from members was that they had not used the rules in relation to a committee since May 2022.

To what extent do you agree or disagree with the following statements about information the Constitution relating to Committees?



There were 14 responses to these questions. Respondents were most positive about understanding how the rules for Committees and the Executive relate to each other.

Do you think there should be specific rules for how decisions that have been called-in should be facilitated when being considered by Overview & Scrutiny?



There were 14 responses to this question. The most common response from members they were not sure if there should be specific rules for how decisions that have been called-in should be facilitated when being considered by O&S.

Those that responded that there should be specific rules for how decisions that have been called-in should be facilities when being considered by O&S were asked what rules they felt should be included, these comments are shown in full below.

Specific Rules for O&S Comments
I think they should timetable how they will work through the call-in and work with the exec to achieve this attendance.
I think it should be made clear when the decision is made / published. That it can be called in and a date should be shown in the minutes when they have to comply with the call-in rules.
At present there is no need for additional rules as many chapters in Part C already deal with call-in rules to O&S (Chapter 6), so I am not quite sure where this question aims at

Overall, how would you rate your experience of using the rules relating to Committees?



There were 14 responses to this question. Overall, 57% of respondents responded neutrally when asked to rate their experience of using the rules relating to Committees.

Respondents were given the opportunity to provide any additional comments about procedures and rules for Committees; these are shown in full below.

Procedures & Rules for Committees Additional Comments
Whilst I recognise that it takes time to learn a new constitution in practise our current version requires interactive familiarity of the interplay of too many sections on single points of order.
C5 1.1.5 mentions clinical commissioning groups however these were abolished before the constitution was agreed. This needs to be replaced with ICB, ICB or HCP.
The petitions rules are absolutely ludicrous. A petition for a planning application that ends up at full council with over 100 signatures. These need looking at. Also, overall it is too complicated and needs simplifying - I am not confident using it.

Executive

To what extent do you agree or disagree with the following statements about information in the Constitution relating to the Executive?



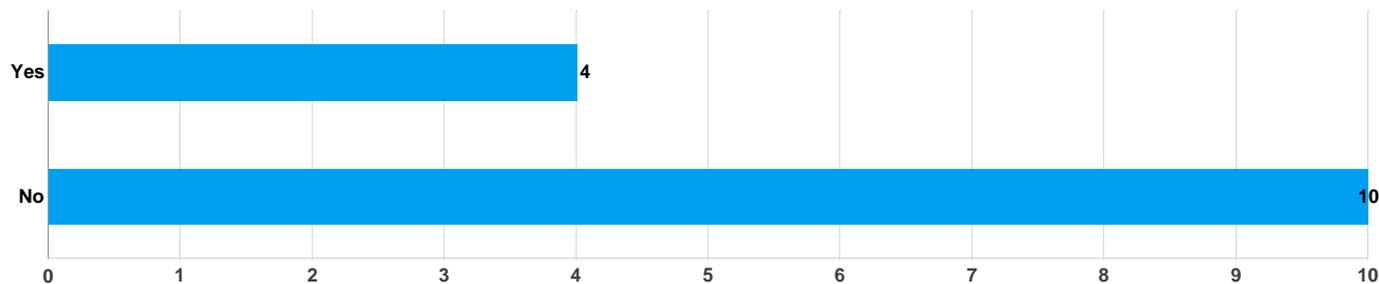
There were 14 responses to these questions. Respondents were most positive being able to locate information on rules and procedures relating to the Executive. They were least positive about the rules for engagement.

Respondents were given the opportunity to provide any additional comments about procedures and rules for the Executive; these are shown in full below.

Procedures & Rules for the Executive Additional Comments
New councillors should be given an executive summary of the committee procedures, rules and operations rather than having to find out for themselves via the website or by watching others.
I think they should be able to do this even during the meeting itself as the visiting member thinks of a reason for the need to engage.
it would be for the opposition parties to elaborate on this
It would be useful for the meeting chairman to have discretion regarding the registration rule.

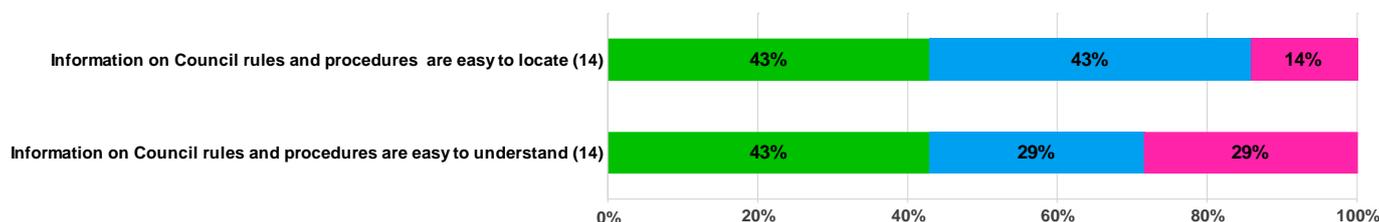
Council

Have you used the rules e.g. motions on notice/questions for Council, since May 2022?



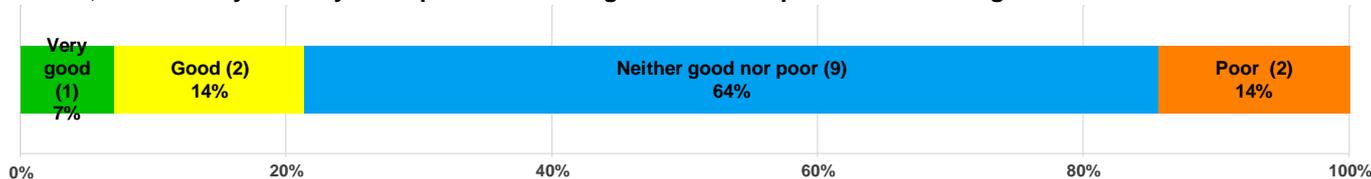
There were 14 responses to this question. The most common response from members they had not used the rules for Council since May 2022.

To what extent do you agree or disagree with the following statements about information in the Constitution relating?



There were 14 responses to these questions. Respondents were most positive being able to locate information on rules and procedures relating to the Council.

Overall, how would you rate your experience of using the rules and procedures relating to Council?



There were 14 responses to this question. Overall, 64% of respondents responded neutrally when asked to rate their experience of using the rules relating to Council.

General Constitution

The Constitution is clearly structured and well laid out



There were 14 responses to this question. Overall, 50% of respondents felt that the Constitution was clearly structured and well laid out.

Respondents that's disagreed where provided with the opportunity to provide further comment; these are shown in full below.

The Constitution is clearly structured and well laid out that - Disagree Comments
Rewrite
Plain English and everything to do with an item should be in the same section or referenced through clearly
It is too long and is confusing and cumbersome - its a struggle to follow and use effectively.

Information is easy to find in the Constitution

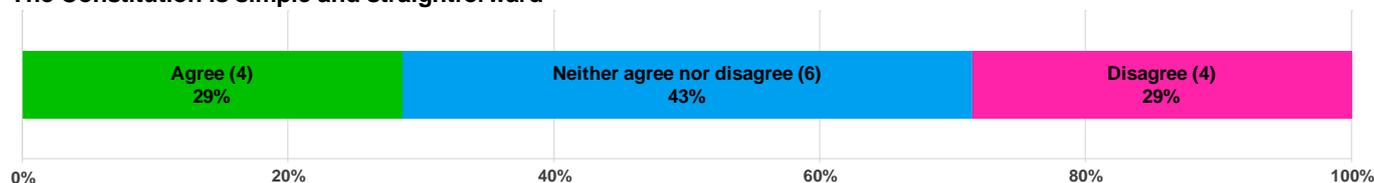


There were 14 responses to this question. Overall, 57% of respondents felt that it was easy to find information in the Constitution.

Respondents that's disagreed where provided with the opportunity to provide further comment; these are shown in full below.

Information is easy to find in the Constitution - Disagree Comments
because of interplay of multiple sections on a single point of order
Colour coding maybe?
Set it out better - working flow - system and training of its use to all members needed. Streamline it.

The Constitution is simple and straightforward

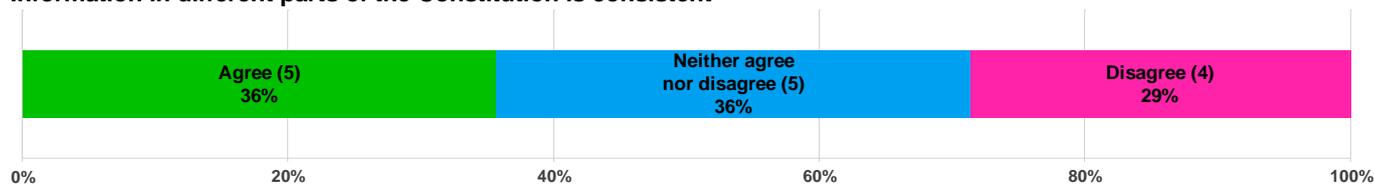


There were 14 responses to this question. An equal proportion agreed and disagreed that the Constitution is simple and straightforward.

Respondents that's disagreed where provided with the opportunity to provide further comment; these are shown in full below.

The Constitution is simple and straightforward - Disagree Comments
rewrite
Cutting down on the word count

Information in different parts of the Constitution is consistent

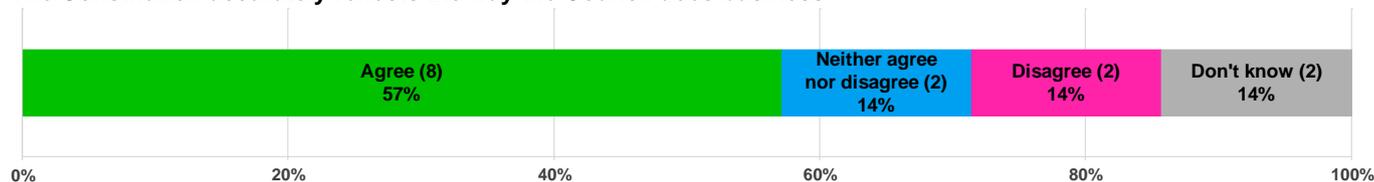


There were 14 responses to this question. There was no general agreement in how Members responded to this question.

Respondents that's disagreed where provided with the opportunity to provide further comment; these are shown in full below.

Information in different parts of the Constitution is consistent - Disagree Comments
Rewrite
It should all link together and be referenced through. Some longer sections should be shortened.
Better cross ref and checking before publishing.

The Constitution accurately reflects the way the Council does business

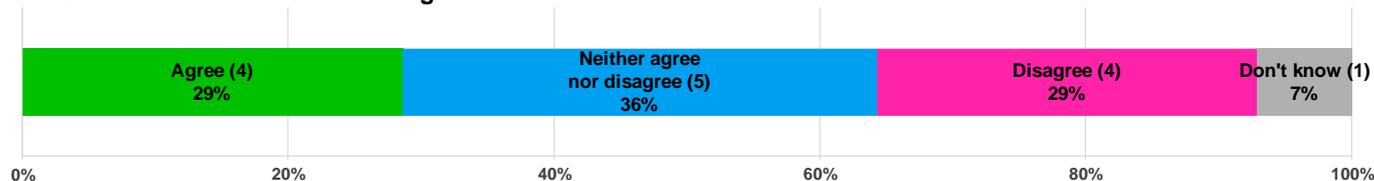


There were 14 responses to this question. Overall, 57% of respondents felt that the Constitution accurately reflects the way the Council does business.

Respondents that's disagreed where provided with the opportunity to provide further comment; these are shown in full below.

The Constitution accurately reflects the way the Council does business
We try to be transparent and logical in how we understand and find was to get things done.

The Constitution meets our current governance needs



There were 14 responses to this question. Overall, 36% of respondents answered neutrally when asked if the Constitution meets our current governance needs.

Respondents that's disagreed where provided with the opportunity to provide further comment; these are shown in full below.

The Constitution meets our current governance needs
maybe just about meets current need but needs revision for reduced council size
A return to the committee system
Maybe the governance needs tweaking.

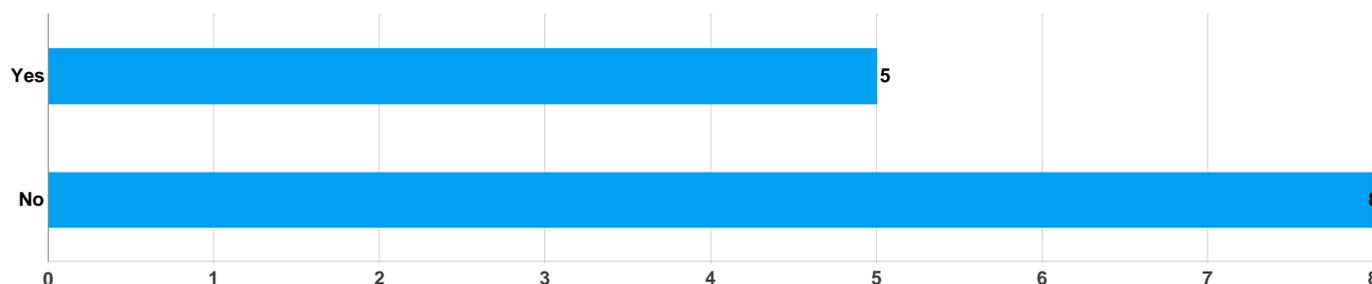
The rules and procedures in the Constitution are adhered to



There were 14 responses to this question. Overall, 50% of respondents felt that the rules and procedures in the Constitution are adhered to.

Respondents that's disagreed where provided with the opportunity to provide further comment; no additional comment was provided.

Where you aware that there is a guide to the Council's Constitution?



There were 13 responses to this question. The most common response from members was that they did not know there is a guide to the Council's Constitution.

Additional Comments

Additional Comments
We need this sorted out so it works properly from 2024.
As for Q41 I am not aware of any guide post ratification, obviously there were plenty of briefings and flow charts passed around before ratification. This survey asked some strange questions, as I noted above. A better approach would be to collate issues which members experienced with the constitution and have those issues presented for comment by all members.
There needs to be an "emergency" or special needs provision to cancel a meeting WITHOUT substantial notice subject to Chairs/Leader/Cabinet agreement. Its foolhardy to have a meeting in THICK SNOW AND ICE only to note absence and then cancel.

Constitutional Log, Democratic Services

Note: This list is not exhaustive, as there have been times where the Democratic Services Team have had to infer a suitable course of action at short notice and there may be unintended consequences that have not been experienced at this stage. If further points are identified, they will be added to this list. Examples for each issue can be sent across on request - the intention was for this sheet to be a summary log, rather than a detailed list.

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PART	Rule/s	PAGE	DETAILS	COMMENTS	CATEGORY	Action Agreed
A1	3.3	7	Rule providing part A with an overarching hierarchy over all other Parts	This requires multiple sections of the constitution to be reviewed in providing advice and is complex. This adds additional time to the provision of advice, which is particularly difficult during Committee Meetings where this should be provided promptly and with confidence.	Major	Retain Hierarchy and identify examples.
A&B	Various	Various	Details on the Committees in two sections, which means two sections have to be reviewed to identify the remits/purpose of these	It would be easier if it was in one section, or if a basic overview was given in Part A, with the majority of the detail in Part B.	Minor	Agreed - Review and re-presented to Group (A - purpose B - detail)
A-C	Various	Various	Language used not plain English	Use of latin and lengthy rules that can be difficult to understand.		Bring forward examples
A & Guide	Core Provision 5, 5.5	19-20	Meaning of Budget & Policy Framework, includes list of B&P framework items	List is not as comprehensive as in previous constitution, and it would be helpful to have these carried across. Raises questions and additional work (see example right).	Minor	Agreed - comprehensive list to be re-presented to group.
A2	6.7.1 (a)	25	Sub-Committee Membership 'drawn mainly from the parent committee'	Sub-Committee membership must be drawn from the Committee's membership.	Minor	Agreed to remove.

PART	Rule/s	PAGE	DETAILS	COMMENTS	CATEGORY	Action Agreed
A2 & C3	7.6.2 (g), 2.5.1 and 7	29, 165 and 171	Urgency Provisions	The current rules lead to an 'all or nothing' approach to urgency in that an issue being presented urgently has to have call-in waived to avoid presentation to the PAC. There is a lack of agreement being sought from Group Leaders. This is against standard practice and open to abuse/confusion.	Fundamental	Agreed - Alternative wording to be drafted and re-presented to the group.
C1-3	Various	Various	Inconsistent approach to naming positions; Chairman and Vice-Chair.	The same approach would be preferred.	Minor	Agreed - Chairman and Vice-Chairman and they in place of he/she
C1-3	Various	Various	Lack of Chairman's discretion. Examples can be given, ranging from simple to complicated matters.	Discretion is required given that it is not possible to account for all situations that could arise. This will still be needed once the rules within the constitution have been reviewed and improved where required.	Fundamental	Agreed - Chairman to have discretion on Visiting Members and managing meeting; examine wording for agenda setting and re-present to the group. Lead Members to be responsible for PAC agenda items.
C1	12.9/10 and 11	127	Notice on Motion for Executive Items	Motion has to go to the PAC before Executive unless a specific vote takes place for it to go to the Exec, and there is no discretion for the Council to deal with the motion. This is particularly difficult where an issue cuts across council and executive functions.	Fundamental	Agreed to review and present examples.

PART	Rule/s	PAGE	DETAILS	COMMENTS	CATEGORY	Action Agreed
C1 Appendix A	N/A	138-139	Outlines rules on receipt of petitions, including routes and no. of signatories required.	The limits are difficult to adhere to - especially for non-executive functions - a petition for a planning committee reaching over 100 signatures has to go to the Council, instead of the relevant decision-maker (planning). A simplified petition scheme would be preferred, particularly as it is a method of public engagement.	Fundamental	Agreed - Review from previous petitions scheme and re-present to the group.
C2	10	154	Questions on Notice	Lead Members do not currently sit as a PAC Committee Member, so cannot have questions directed to them. Query on if a Lead Member is substituting, are they then classed as 'sitting' on the Committee and therefore able to answer questions? If so, this would be at short notice. The Chairman decides whether the supplementary question is suitable (so even if the Lead Member could answer the question, they don't have the discretion to decide on the supplementary's relation to the original question). The Chairman can be asked questions, although they are not the decision-maker and cannot be asked questions at full council meetings. Intended principle for decision-makers to be asked questions isn't carried through consistently if C2 is applied to all committees.	Minor	Agreed - No questions to PAC Chairman with questions to the Executive only. Right of reply to be given to Lead Members following public statements at PAC meetings.
C2	3.2 & 3.3	143-144	Approach to appointing Chairman of PACS and OSC different. No preferences for any other Committees.	No preference from an Officer perspective, noted for working group to review approach post implementation. PAC Chairman - Any Party PAC Vice-Chairman - Preference to non-administration party OSC Chairman - Preference to largest non-administration Party OSC Vice-Chairman - Any Party	Minor	Agreed - No change, consider for major review.

PART	Rule/s	PAGE	DETAILS	COMMENTS	CATEGORY	Action Agreed
C2	11.5	156	Motions	Any motion has to be moved AND seconded; previously Chairmen used to assess the situation and if dissent had been expressed, a formal vote was taken, otherwise the issue was agreed if no dissent expressed.	Minor	Agreed to retain.
C2 & C3	7.2, 13 & 6	148-149, 157 & 170-171.	Rules on OSC attendance (officer and lead member) , OSC reports for the executive and call-in.	The rules concerning OSC are across both sections and it would be helpful to have them in one section (committee section) . The rules as currently drafted do not account for a call-in procedure, or set requirements on a call-in request, or the involvement from Councillors that submitted the call-in request at the meeting. This leads to patching together other constitutional rules.	Major	Agreed - To draft wording and re-present to the group based off of previous (2014) constitution.
N/A	N/A	N/A	No Rules on how the Executive receive and respond to OSC reports/recommendations	It would be better to have a process on how and by when the Executive have to respond to any OSC reports. This ensures that both the Executive and OSC are informed of how the two engage with one another.	Major?	As above, with previous constitution.
C2 & C3	11.3 and 3.5	153 and 166	Deadline of 4 p.m. one clear working day for public speaking (close of office for questions)	Inconsistent approach, easier to facilitate public engagement to the same deadlines (excluding planning)	Minor	Agreed - move to 4 p.m.
C2 & C3	2.5.4 and 3.1	142-143 and 168	Substitutes at Committee can only sit where they have notified proper officer or chairman before meeting begins, subs at Executive sub-committees have to let the proper office know after having sought approval from the Leader.	Committees - difficult to enforce, as it's not uncommon for visiting members to become substitutes due to the absence of their group member and at short notice generally. Approval required for Executive Sub-Committees would require proof of Leader's approval. Both add barriers for Substitute members to sit.	Major	Agreed to remove.

PART	Rule/s	PAGE	DETAILS	COMMENTS	CATEGORY	Action Agreed
C3	3.6	166-167	All agenda items have to be listed on Executive agenda	Means that even when there are no items to present; e.g. report from O&S Committee, the item still needs to be on the agenda. Change needed would be 'where applicable'.	Minor	Agreed to retain.
C3	3.5.1	166	Visiting Member registration by 4 p.m.	Doesn't allow discretion for the Chairman, and there may be instances where the Member was not able to register by 4 p.m. and/or the Executive wish to hear from the Visiting Member, e.g. if they are the relevant Ward Member.	Minor	See Row13 on Chairman's discretion & remove 4 p.m. deadline.
C4	14 and 15	181-182	Access to Information Procedure Rules don't take account of urgent items/decisions	Should be updated to reflect current practice of Proper Officer, where a report is published with less than 3 days notice before the decision.	Minor	Agreed - To be re-drafted and re-rpesetedn to the group, to reflect immediate request for urgent items.
C10	2.4	234	Refers to 'authority' rather than Council, and rules difficult to understand.	Taken from previous constituion and had not been reviewed in detail; content fine but may consider simpler wording.	Minor	Agreed to review.
N/A	N/A	N/A	No rules for Lead Member Meetings	Difficult to know how to facilitate Lead Member meetings, as there are no rules on how this would take place, particularly in relation to public/member engagement.	Fundamental	Agreed - Remove Lead Member Meetings, but include that decisions not taken within 28 days will be represented to the PAC.
A&C	Part A2, 3.4 Part C2, 7.3 Part C3, 3.5 Part C4, all	14 145 162 169-179	Access to information split across multiple sections.	Part A, 3.4 Rights of Members to Access Information & Meetings Part C Committee Procedure Rules, 7.3 Visiting Members Part C Executive Procedure Rules, 3.5 Attendance Part C - Access to Information Rules	Major	Agreed - include AtI rules within C4.

PART	Rule/s	PAGE	DETAILS	COMMENTS	CATEGORY	Action Agreed
All	All	various	Preference to refer to decision-makers as the Executive rather than the Cabinet	In communication via email, meetings and in Committee, the Executive are consistently referred to as the Cabinet. It would be preferable for there to be a consistency of language in order to avoid confusion for the public and for officers new to the council.	Minor	Agreed - To replace Executive and Lead Member with Cabinet and Cabinet Member
A2 and B2	A2, 6.5 & B2, 2.6	24 & 48	AGS Membership	CIPFA guidance has been updated to include x2 independent members for Audit Committee. Request made is for the working group to consider amending the committee's membership to reflect this.	Minor	Agreed to defer until further advice on guidance. Following advice, agreed to include 1 co-opted independent member.
A2	7.5		Administration Programme	This was unused at the May 2022 Annual Meeting, it undermines PACs, could be resource intensive.		Agreed to defer - following review, agreed to retain with 7.5.2 removed.
C3	2.5	165	Manner of Decision-Making	Key decisions may only be made by the Executive or individual executive members (where authorised by the Leader). This doesn't permit Officers to make key decisions (including where delegated)		Agreed - Draft wording and re-present to the group, to allow Officers to make key decisions where the result of an extant member decision.
C1/C2	N/A	various	Inconsistent approach to positions; Chairman and Member chairing the meeting.	Same approach would be preferred.	Minor	Agreed - Chairman to replace 'Member Chairing the Meeting'.
A2	6.2.4		The Executive shall nominate a Member on each PAC to coordinate its activities with the Executive	Suggested that this be removed as this does not happen in practice.	Minor	Agreed to remove.

Agenda Item 16

Democracy and General Purposes Committee

29 March 2023

Community Governance Review (Parishes) – Timetable Amendment

Final Decision-Maker	Democracy and General Purposes Committee
Lead Head of Service	Angela Woodhouse, Director of Strategy, Governance and Insight
Lead Officer and Report Author	Ryan O’Connell, Democratic and Electoral Services Manager
Classification	Public
Wards affected	All

Executive Summary

The Community Governance Review Stage 2 Consultation is delayed from April 2023 to start in June 2023. The timetable should be formally amended and publicised so that the community know when actions will be taken and when they can participate in consultation.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

That the amendment to the timetable set out at 2.1 below be agreed

Timetable

Meeting	Date
Democracy and General Purposes Committee	29 March 2023

Community Governance Review (Parishes) – Timetable Amendment

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 Community Governance Review will materially impact on the Council’s priorities through confirming or changing Community Governance arrangements in different areas. However, the decision to delay the 2nd stage consultation will not materially impact the Community Governance Review as it uses up planned contingency.</p>	Democratic and Electoral Services Manager
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 Community Governance Review will materially impact on the Council’s objectives through confirming or changing Community Governance arrangements in different areas. However, the decision to delay the 2nd stage consultation will not materially impact the Community Governance Review as it uses up planned contingency.</p>	Democratic and Electoral Services Manager
Risk Management	Contingency time has been used to delay the Stage 2 Consultation which increases risks	Democratic and Electoral

	due to any further delays, but is within acceptable limits.	Services Manager
Financial	None	Section 151 Officer & Finance Team
Staffing	The delay to the Stage 2 consultation enables the Democratic and Electoral Services team to focus on the May 2023 elections and supporting the Governance structures of the Council.	Democratic and Electoral Services Manager
Legal	<p>The review is being conducted by the Council in accordance with Part 4, Chapter 3 of the Local Government and Public Involvement in Health Act 2007 (the 2007 Act).</p> <p>The Council is required to have regard to the Guidance on Community Governance Reviews issued by the Secretary of State for Levelling Up, Housing and Communities and the Local Government Boundary Commission for England. It is good practice to formally agree amendments to the timetable.</p>	Interim Team Leader (Contentious and Corporate Governance)
Privacy and Data Protection	None	Policy and Information Team
Equalities	None	Policy & Information Manager
Public Health	None	Public Health Officer
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
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2. INTRODUCTION AND BACKGROUND

2.1 In October 2022 the Council approved the Terms of Reference for the Community Governance Review. The Terms of Reference set out an indicative timetable as follows (the proposed amendment to that timetable is underlined below):

Event	Date
Consideration of Terms of Reference by Democracy and General Purposes Committee	19 September 2022
Approval of Terms of Reference by Council	28 September 2022
Terms of Reference Published	3 October 2022
First Consultation Stage	November 2022 – January 2023
Approval of draft recommendations by Democracy and General Purposes Committee	29 March 2023
Second Consultation Stage – Draft Recommendations	April 2023 – June 2023 <u>June 2023 – August 2023</u>
Final Recommendations considered by Democracy and General Purposes Committee	September 2023
Final recommendations approved by Council	September 2023
Community Governance Order(s) made	October 2023

2.2 The first consultation stage began on time and the responses to that consultation have been received and considered by officers. Officers have also met and considered practical changes and proposals based on the objectives set out in the terms of reference.

2.3 However, given the extent of work required to fully assess those proposals and work up the details of them to bring to a workshop with Councillors to create proposals for the Stage 2 consultation (Draft Recommendations) this consultation cannot commence by the time indicated.

2.4 Through consultation with the Chairman and Vice Chairman of the Committee the decision was taken to revise the timetable with Stage 2 consultation beginning post the May 2023 elections once due time and resource could be put into bringing forward assessed proposals to Councillors.

2.5 This delay has two benefits:

1. That the currently reduced Democratic and Electoral Services team can focus its limited resources on supporting the Governance arrangements of the Council and on delivering the May 2023 election; and
2. That more time can be spent on fully assessing the proposals to the quality that Councillors would expect before the Committee determines which ones to take forward to Stage 2.

2.6 This delay has the following impacts:

1. The initial expectations of the community will be based on the original timetable – these will not be met, The new timetable will be publicised if agreed.
2. The planned contingency time built into the timetable is being used to accommodate this delay. This increases the overall risk that the review will not deliver on time. This risk has been assessed and mitigated by the detailed draft timetable for action as follows:

Date	Event
15 May – 28 May 2023	Officer work on proposals and officer group sessions
31 May 2023	Information provided to Councillors
7 June 2023	Councillor event – D&GP Members with contributions from relevant Ward Councillors
13 June 2023	D&GP agenda publication
21 June 2023	D&GP Meeting
23 June 2023	6 week consultation start with targeted consultation with significantly impacted parishes
14 August 2023	Results
30/31 August 2023	D&GP workshop on final outcomes
5 September 2023	D&GP publication
13 September 2023	D&GP
27 September 2023	Council

This table is indicative only as the calendar of meetings 2023/24 has not yet been approved by Council.

- 2.7 As a result of this assessment the risk is considered acceptable and the amendment recommended.
-

3. AVAILABLE OPTIONS

- 3.1 Option 1 – Amend the timetable as described in 2.1 – this has been assessed as acceptable to the review and allows the change to be communicated.
- 3.2 Option 2 – Propose an alternative timetable – this will not have been assessed.
- 3.3 Option 3 – make no amendment to the timetable as currently published which would mean the delays would likely occur but would not be communicated and deadlines will be missed.
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1 for the reasons set out above.
-

5. RISK

- 5.1 Risk has been assessed in 2.6 and 2.7 above.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Chairman and Vice-Chair have been consulted on this change and have indicated they support it.
-

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 The new timetable would be published on the website.

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

None

Agenda Item 17

DEMOCRACY AND GENERAL PURPOSES COMMITTEE

29 March 2023

Members' Access to Information – Annual Review

Final Decision-Maker	Democracy and General Purposes Committee
Lead Director	Angela Woodhouse, Director of Strategy, Insight and Governance
Lead Officer and Report Author	Angela Woodhouse, Director of Strategy, Insight and Governance
Classification	Public
Wards affected	All

Executive Summary

This report provides the annual review required by the Proper Officer on the functioning of the access to information procedure rules in respect of Members' Access to information, including the number of instances where requests were declined and the rationale for such decisions.

Purpose of Report

Noting

This report makes the following recommendations to this Committee:

To note the annual review of Members' Access to Information.

Timetable

Meeting	Date
Democracy and General Purposes Committee	29 March 2023

Members' Access to Information – Annual Review

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>Appropriate application of the access to information to procedure rules should support the Council's priorities through effective and transparent decision making.</p>	Director of Strategy, Insight 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>Appropriate application of the access to information to procedure rules should support the Council's priorities through effective and transparent decision making.</p>	Director of Strategy, Insight and Governance
Risk Management	Failure to apply the access to information procedure rules appropriately could open the council to risk in terms of decision making both reputationally and financially	Director of Strategy, Insight and Governance
Financial	Failure to apply the access to information procedure rules in the Constitution appropriately could open the council to risk in terms of decision making both reputationally and financially	Section 151 Officer & Finance Team
Staffing	Report for noting no implications	Director of Strategy, Insight and Governance

Legal	Part VA of the Local Government Act 1972 provides the legislative basis for Members access to information. For Council's operating Executive arrangements equivalent provisions are set down in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. This report demonstrates how the Council meets the legislative requirements.	Interim Team Leader (Contentious and Corporate Governance)
Privacy and Data Protection		Policy and Information Team
Equalities	The report is for noting and contains no recommendations that would propose a change in service, therefore no equalities impact assessment will be required.	Equalities & Communities Officer
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	[Public Health Officer]
Crime and Disorder	No implications	Director of Strategy, Insight and Governance
Procurement	No implications	Director of Strategy, Insight and Governance
Biodiversity and Climate Change	No implications	[Biodiversity and Climate Change Officer]

2. INTRODUCTION AND BACKGROUND

2.1 The new constitution introduced in May 2022 saw revision and refinement to the access to information procedure rules. A new requirement for an annual report by the Proper Officer on the functioning of the access to information procedure rules in respect of Members' Access to information, including the number of instances where requests were declined and the rationale for such decisions

Executive Part II Papers

2.2 Attached at Appendix A is a summary of the decisions made by the Executive and how many of those decisions were either reports that were

entirely Part II and exempt and how many had an exempt Appendix Part IIA:

- There were no reports that were entirely in Part II.
- Out of 66 decisions, 16 had Part II appendices
- All decisions were made in public.

By comparison and recognising this will not be “like with like” between the models the Policy and Resources Committee in 2021/22 considered 8 reports in Part II and 6 with the part II information as an appendix, the new requirement to wherever possible structure reports so at least part of the report is public with exempt information as an appendix has been achieved this year.

Number of Requests by Members

- 2.3 As Proper Officer I have only received two requests by Members for access to information this year. Both requests were made by ward members in respect of projects in their ward and a report going to the Communities Housing and Environment Policy Advisory Committee and the Executive. I was satisfied that both Members had a need to know and this was not outweighed by any other legal duties as such the requests were approved and access to the information granted.

Other Committees

- 2.4 In respect of other meetings of the Council and its Committees no requests to access information in Part II have been made by Members.

Application of Access to Information Procedure Rules

- 2.5 The Access to Information Procedure rules have been complied with from the evidence I have seen and reports from the Democratic Services Team. Decisions have been given proper notice in the forward plan and those executive decisions where exempt information is likely to be included have been publicised with 28 days notice unless urgency has been applied. Agendas and notices have all been published at least five clear days before a meeting is held.

3. AVAILABLE OPTIONS

- 3.1 The Committee note the report of the Proper Officer in accordance with the constitution. As proper officer I am not recommending any change to the procedure rules other than those identified in the review of the Constitution which do not represent a material change from their current application.
- 3.2 The Committee could decide to review the application of the rules and recommend changes, any changes to the constitution would have to be within the parameters of what is legally possible and would need to be approved by Council.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 To note the report

5. RISK

5.2. No risk has been identified in terms of the application of the procedure rules so far this year. Failure to apply the access to information procedure rules appropriately could open the council to risk in terms of decision making both reputationally and financially

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 No feedback has been requested or received regarding this process.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 No further steps are required.

8. REPORT APPENDICES

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

- Appendix A: Summary of Executive Part II and Part IIA decisions made
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9. BACKGROUND PAPERS

None

Executive Decisions – May 2022 to March 2023.

II – Part II Issue & IIA – Part II Appendix/ces

TOTAL EXECUTIVE DECISIONS: 66

Total Part IIA :16

Decision Maker	Month	Decisions relating to references	Decisions referred to Council	Decisions (public papers only)	Decisions (Part IIA)	Decisions (Part II)
Executive (Collectively)	June 2022	0	0	0	1	0
	July 2022	0	2	4	1	0
	September 2022	CANCELLED.				
	October 2022	2	0	4	1	0
	November 2022	0	1	2	0	0
	December 2022	0	0	2	2	0
	January 2023	0	1	6	2	0
	February 2023	0	2	2	0	0
	March 2023 (Expected)	1	0	5	0	0
TOTAL PER CATEGORY		3	6	25	7	0
TOTAL (collective Decisions)		41				

Decision Maker	Month	Decisions relating to references	Decisions referred to Council	Decisions (public papers only)	Decisions (Part IIA)	Decisions (Part II)
Leader of the Council	July 2022	0	0	1	0	0
	November 2022	0	0	1	0	0
	December 2022	0	0	0	1	0
TOTAL PER CATEGORY		0	0	2	1	0
TOTAL		3				

Lead Member for Planning and Infrastructure	June 2022	0	0	2	0	0
	August 2022	0	0	0	1	0
	September 2022	0	0	0	1	0
	October 2022	0	0	2	1	0
	November 2022	0	0	1	3	0
	January 2023	1	0	1	0	0
	February 2023	0	0	3	0	0
TOTAL PER CATEGORY		1	0	9	6	0

TOTAL	16
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Decision Maker	Month	Decisions relating to references	Decisions referred to Council	Decisions (public papers only)	Decisions (Part IIA)	Decisions (Part II)
Lead Member for Environmental Services	August 2022	0	0	0	1	0
TOTAL		1				

Decision Maker	Month	Decisions relating to references	Decisions referred to Council	Decisions (public papers only)	Decisions (Part IIA)	Decisions (Part II)
Lead Member for Housing and Health	July 2022	0	0	0	1	0
TOTAL		1				

Decision Maker	Month	Decisions relating to references	Decisions referred to Council	Decisions (public papers only)	Decisions (Part IIA)	Decisions (Part II)
Lead Member for Communities	February 2023	0	0	1	0	0

and Public Engagement						
TOTAL	1					

Decision Maker	Month	Decisions relating to references	Decisions referred to Council	Decisions (public papers only)	Decisions (Part IIA)	Decisions (Part II)
Lead Member for Leisure and Arts	July 2022	0	0	1	0	0
	November 2022	0	0	1	0	0
	December 2022	0	0	1	0	0
TOTAL	3					