

You are hereby summoned to attend a meeting of the

MAIDSTONE BOROUGH COUNCIL



Date: Wednesday 24 June 2009

Time: 6.30 p.m.

Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Parvin (The Mayor), Ash, Batt,
Beerling, Mrs Blackmore, Bradshaw,
Butler, Chittenden, Daley, English,
Field, FitzGerald, Garland, Mrs Gibson,
Mrs Gooch, Greer, Harwood, Hinder,
Mrs Hinder, Horne, Hotson, Mrs Joy,
Lusty, Marchant, Marshall,
Mrs Marshall, Moriarty, Mortimer,
Moss, Naghi, Nelson-Gracie, Paine,
Parr, Mrs Parvin, Paterson, Pollington,
Mrs Ring, Mrs Robertson, Robertson,
Ross, Sams, Schnell, Sellar,
Sherreard, Mrs Stockell, Thick, Verrall,
Vizzard, Warner, Ms Williams,
Mrs Wilson, J.A. Wilson, J Wilson,
Wooding and Yates

Continued Over/:

Issued on 16 June 2009

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEBBIE SNOOK on 01622 602030**. To find out more about the work of the Council, please visit www.digitalmaidstone.co.uk

**David Petford, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

AGENDA

Page No.

1. Apologies for Absence
2. Disclosures by Members and Officers
3. Disclosures of Lobbying
4. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
5. Minutes of the Annual Meeting of the Borough Council held on 20 May 2009 1 - 8
6. Mayor's Announcements
7. Petitions
8. Question and Answer Session for Members of the Public
9. Questions from Members of the Council to the
 - (a) Leader of the Council
 - (b) Cabinet Members
 - (c) Chairmen of Overview and Scrutiny Committees
 - (d) Chairmen of other Committees
10. Current Issues - Report of the Leader of the Council and Response of the Group Leaders
11. Report of the Head of Finance - Delegation of Officer Function 9 - 10
12. Report of the Planning Committee held on 21 May 2009 - Amendment to Planning Scheme of Delegation 11 - 12
13. Report of the Standards Committee held on 22 May 2009 13 - 38
Minute 1 – Annual Report to Council 2008/09

Minute 2 – Review of Complaints 2008/09

Minute 3 – Indemnities for Members and Officers

Minute 4 – Amendment to Planning Scheme of Delegation
14. Report of the Audit Committee held on 1 June 2009 – Annual Report to Council 2008/09 39 - 46
15. Report of the Audit Committee held on 15 June 2009 - Statement of Accounts 2008/09 47 - 106
16. Report of the Corporate Services Overview and Scrutiny Committee - Whole and Partial Council Elections Review 107 - 146

17. Notice of Motion

Notice of the following motion has been give by Councillor Horne:-

The Members of the Council:

RECALLING the historic importance of Maidstone as the County Town of Kent

RECALLING that the first recorded trial in English law took place at Penenden Heath

NOTING that today the Crown Court in Maidstone is the pre-eminent trial centre for Kent

INSPIRED by the appointment of the Recorder of Maidstone as a recognition of that special importance

DESIRING to continue the advancement of the common interest of the Town and the Judiciary by engagement with the High Sheriff in welcoming HM Justices of the High Court in an appropriate manner to Maidstone

REQUESTS the Chief Executive to report to them with comment for advancing these proposals.

18. Report of the Democratic Services Manager - Urgent Decisions taken by the Executive

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MAIDSTONE BOROUGH COUNCIL

MINUTES OF THE ANNUAL MEETING OF MAIDSTONE BOROUGH COUNCIL HELD AT THE TOWN HALL, MAIDSTONE ON 20 MAY 2009

PRESENT: Councillor Mrs Joy (The Mayor) and Councillors Ash, Batt, Beerling, Mrs Blackmore, Bradshaw, Butler, Chittenden, Daley, English, Field, FitzGerald, Garland, Mrs Gibson, Mrs Gooch, Greer, Harwood, Hinder, Mrs Hinder, Horne, Hotson, Lusty, Marchant, Marshall, Mrs Marshall, Moriarty, Mortimer, Moss, Naghi, Nelson-Gracie, Paine, Mrs Parvin, Parvin, Paterson, Pollington, Mrs Ring, Mrs Robertson, Robertson, Ross, Sams, Sellar, Sherreard, Mrs Stockell, Thick, Verrall, Vizzard, Ms Williams, Mrs Wilson, J A Wilson, J Wilson, Wooding and Yates

APOLOGIES: Councillors Parr and Warner

1. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

2. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

3. **ELECTION OF MAYOR**

It was moved by Councillor Mrs Gibson, seconded by Councillor Sellar, supported by Councillor FitzGerald and

RESOLVED: That Peter Parvin, a Councillor of the Borough, be duly elected Mayor of the Borough of Maidstone until the Annual Meeting of the Council in 2010.

Councillor Parvin then made the Statutory Declaration of Acceptance of Office which was duly witnessed in accordance with Section 83(3)(a) of the Local Government Act 1972.

****THE MAYOR (COUNCILLOR PARVIN) IN THE CHAIR****

4. CONGRATULATIONS TO THE MAYOR

The Mayor received congratulations on his election from scholars representing schools as follows:-

Max Knight and Larissa Whatt	- Kingswood Primary School
Rebecca Jensen	- Maidstone Grammar School for Girls
Tom Stapley-Bunten	- Maidstone Grammar School

5. THE RETIRING MAYOR

It was moved by Councillor Sellar, seconded by the Mayor (Councillor Parvin), supported by Councillor FitzGerald and

RESOLVED: That the hearty thanks of this Council be given to Councillor Mrs Denise Joy and Mr Kenny Joy for the admirable discharge of their duties as Mayor and Mayor's Escort during the past year, and for their courteous approach to all sections of the community.

6. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed.

7. MINUTES

RESOLVED: That the Minutes of the meeting of the Borough Council held on 22 April 2009 be approved as a correct record and signed.

8. APPOINTMENT OF DEPUTY MAYOR

It was moved by Councillor Garland, seconded by Councillor Mrs Wilson, supported by Councillor Mrs Marshall and

RESOLVED: That Councillor Eric Hotson be duly appointed Deputy Mayor of the Borough of Maidstone until the Annual Meeting of the Council in 2010.

Councillor Hotson then made the Statutory Declaration of Acceptance of Office which was duly witnessed in accordance with Section 83(3)(a) of the Local Government Act 1972.

9. MAYOR'S ANNOUNCEMENTS

There were no announcements.

10. APPOINTMENTS TO THE CABINET

The Leader of the Council reported that his appointments to the Cabinet were as follows:-

Community Services	-	Councillor Mrs Ring
Corporate Services	-	Councillor Ash
Environment	-	Councillor Wooding
Leisure and Culture	-	Councillor Moss
Regeneration	-	Councillor Greer

11. DELEGATION OF EXECUTIVE FUNCTIONS

The Leader of the Council reported that the Scheme of Delegation of Executive Functions had been circulated for the Council's information. There were no changes to the existing arrangements.

12. ALLOCATION OF SEATS ON COMMITTEES

In accordance with Sections 15 and 16 of the Local Government and Housing Act 1989, the Council considered the allocation of seats to each Political Group in relation to its various Committees. The Democratic Services Manager circulated a revised Appendix A to his report. He explained that notification had been received of a change in the size of the Conservative Group from 29 to 28 Members.

It was moved by Councillor Garland, seconded by Councillor Moss, that the allocation of seats on Committees be as set out in revised Appendix A to the report of the Democratic Services Manager with the following adjustments:-

- Appeals Committee - 1 seat from Independents to Liberal Democrats
1 seat from Conservatives to Councillor Ms Williams
- Strategic Housing Advisory Committee - 1 seat from Independents to Liberal Democrats
- Joint Consultative Committee - 1 seat from Independents to Liberal Democrats
1 seat from Conservatives to Councillor Ms Williams

- Planning Referrals Committee - 1 seat from Conservatives to Liberal Democrats
- Investigating Committee - 1 seat from Conservatives to Councillor Ms Williams

RESOLVED: That the allocation of seats on Committees be as set out in revised Appendix A to the report of the Democratic Services Manager with the following adjustments:-

- Appeals Committee - 1 seat from Independents to Liberal Democrats
1 seat from Conservatives to Councillor Ms Williams
- Strategic Housing Advisory Committee - 1 seat from Independents to Liberal Democrats
- Joint Consultative Committee - 1 seat from Independents to Liberal Democrats
1 seat from Conservatives to Councillor Ms Williams
- Planning Referrals Committee - 1 seat from Conservatives to Liberal Democrats
- Investigating Committee - 1 seat from Conservatives to Councillor Ms Williams

(A copy of the amended allocation of seats on Committees is attached as Appendix A to these Minutes).

13. APPOINTMENT OF COMMITTEES

In accordance with Section 16 of the Local Government and Housing Act 1989, the Council considered the appointments to its Committees and Substitutes.

The Leader of the Council indicated that he wished to make the following adjustment to the lists circulated:-

- Planning Committee
Delete Councillor Hinder as a Substitute Member of the Committee and insert Councillor Ross.

It was moved by Councillor Garland, seconded by Councillor Moss, that the wishes of the Group Leaders with regard to the appointments to Committees and Substitutes be accepted.

RESOLVED: That the wishes of the Group Leaders with regard to the appointments to Committees and Substitutes be accepted.

14. STANDARDS COMMITTEE – PARISH COUNCIL REPRESENTATIVES

It was moved by Councillor Garland, seconded by Councillor Moss, that Councillor Mrs Ann Rollinson and Councillor Ian Younger be re-appointed as Parish representatives on the Standards Committee until the Annual Meeting of the Council in 2012.

RESOLVED: That Councillor Mrs Ann Rollinson and Councillor Ian Younger be re-appointed as Parish representatives on the Standards Committee until the Annual Meeting of the Council in 2012.

15. APPOINTMENT OF THE CHAIRMAN OF THE JOINT TRANSPORTATION BOARD

It was moved by Councillor Garland, seconded by Councillor Mrs Stockell, that Councillor J A Wilson be appointed as the Borough Council's Chairman of the Joint Transportation Board for the Municipal Year 2009/10.

RESOLVED: That Councillor J A Wilson be appointed as the Borough Council's Chairman of the Joint Transportation Board for the Municipal Year 2009/10.

16. SCHEME OF DELEGATION FOR NON-EXECUTIVE FUNCTIONS

It was moved by Councillor Garland, seconded by Councillor Moss, that the Scheme of Delegation for Non-Executive Functions be agreed.

RESOLVED: That the Scheme of Delegation for Non-Executive Functions be agreed.

17. DURATION OF MEETING

11.15 a.m. to 12.30 p.m.

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APPENDIX A

ALLOCATION OF SEATS ON COMMITTEES

Overview & Scrutiny Committees		Corporate Services	External	Regeneration and Sustainable Communities	Environment and Leisure	Planning Committee	Licensing Committee	Licensing Act 2003 Committee	Standards Committee	Employment and Development Panel	Appeals Committee	Local Development Document Advisory Group	Strategic Housing Advisory Committee	Joint Consultative Committee	Investigating Committee	Joint Transportation Board	General Purposes Group	Planning Referrals Committee	Audit Committee	Overall entitlement
Con		5	5	5	5	7	6	6	3	4	3	6	3	3	3	5	5	4	3	81
Lib Dem		3	3	3	3	5	4	4	2	3	4	5	3	4	3	3	3	4	2	61
Ind		1	1	1	1	1	1	1	1	1	0	1	0	0	1	1	1	1	0	14
Cllr MsWilliams		0	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	0	0	3
		9	9	9	9	13	11	11	6	8	8	12	6	8	8	9	9	9	5	159

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MAIDSTONE BOROUGH COUNCIL
COUNCIL
24th JUNE 2009

Report Prepared by: Paul Riley, Head of Finance

1. DELEGATION OF OFFICER FUNCTION

1.1 Issue for Decision

1.1.1 Delegation of responsibility under the Accounts and Audit Regulations to sign the Annual Governance Statement for 2008/09.

1.2 Recommendation of Head of Finance

1.2.1 That Council delegates the authority of the Chief Executive to sign the Annual Governance Statement to the Director of Change and Environmental Services.

1.3 Reasons for Recommendation

1.3.1 The Accounts and Audit Regulations require the Council to produce an Annual Governance Statement. Circular 03/2006 from the Department of Communities and Local Government recognise the production and publication of the Annual Governance Statement as proper practice, recognising the CIPFA/SOLACE publication "Delivering Good Governance in Local Government" as an appropriate guide to comply with statute. The guide states that the Annual Governance Statement should be signed, prior to publication, by the Leader of the Council and the Chief Executive and published as part of the Statement of Accounts.

1.3.2 The Accounts and Audit regulations require the Council to approve the Statement of Accounts 2008/09 before the end of June 2009. This approval cannot be sought unless the Annual Governance Statement is signed.

1.3.3 In the Chief Executive's absence, the Constitution delegates authority to other officers to perform certain functions through the proper officer provisions. The proper officer provisions make no reference to the Accounts and Audit Regulations and it is therefore necessary to request Council to make the delegation.

1.3.4 It is proposed to delegate the authority to the Director of Change and Environmental Services rather than the Director of Resources and Partnerships who, as the Responsible Finance Officer has already certified the Statement of Accounts.

Background Documents:

None.

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MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON **21 MAY 2009**

PRESENT: Councillors English, Garland, Greer, Harwood, Lusty, Mrs Marshall, Moriarty, Nelson-Gracie, Paine, Paterson, Mrs Ring, Mrs Robertson, Thick and J A Wilson.

ALSO PRESENT: Councillor Sams

APOLOGIES: Councillor Ash

REFERRED MATTER

1. **AMENDMENT TO PLANNING SCHEME OF DELEGATION**

The Committee considered the report of the Development Control Manager concerning the proposed amendment of the Constitution to give Parish Councils the option of having a differing view from the Case Officer on a planning application without necessitating the referral of the application to Committee for determination. It was noted that:-

- At present, the Director of Prosperity and Regeneration/ Development Control Manager had delegated powers to undertake all the functions relating to planning and conservation, except where the intended delegated decision on a planning or related application would be contrary, inter alia, to the written view of any Parish Council.
- Parish Councils had expressed an interest in the option of being able to have a different view from the Case Officer on an application without it having to be reported to the Planning Committee for determination as a result.
- In addition to giving greater flexibility to Parish Councils, this option was likely to lead to a reduction in the number of applications having to be reported to Committee and a reduction in costs as the average cost of processing an application to Committee for determination was greater than dealing with it under delegated powers.
- To enable the new option to be implemented, it would be necessary to recommend to the Council that Section 2 headed "Responsibility for Council Functions" of Part 3 of the Constitution be amended by the addition of the words "and the Parish Council has requested that the application is determined by the Planning Committee" to paragraph (b) of the delegation to the Director of Prosperity and Regeneration/Development Control Manager to undertake all the

functions relating to planning and conservation, except in certain circumstances.

- The Parish consultation letter would be amended to reflect the introduction of the new option.
- The Maidstone Area Committee of the Kent Association of Local Councils had discussed the proposed new arrangements and believed that they would give Parish Councils greater flexibility and encourage dialogue with the Planning Department.

During the discussion, Councillors English and J A Wilson stated that since they were serving Parish Councillors and the Secretary and Chairman of the Maidstone Area Committee of the Kent Association of Local Councils respectively, they would speak but not vote on the proposed new arrangements.

Councillors Harwood and Mrs Marshall also stated that they were serving Parish Councillors.

RECOMMENDED: That Section 2 headed "Responsibility for Council Functions" of Part 3 of the Constitution be amended by the addition of the words "and the Parish Council has requested that the application is determined by the Planning Committee" to paragraph (b) of the delegation to the Director of Prosperity and Regeneration/Development Control Manager to undertake all the functions relating to planning and conservation, except in certain circumstances, as follows: -

The Director of Prosperity and Regeneration/Development Control Manager have delegated power to undertake all the functions relating to planning and conservation, except where the intended delegated decision on a planning or related application:

- (b) would be contrary to the written view of any Parish Council and the Parish Council has requested that the application is determined by the Planning Committee.

FURTHER RESOLVED: That the Standards Committee be requested to evaluate the proposed amendment of the Constitution.

Voting: 10 – For 0 – Against 2 – Abstentions

MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON 22 MAY 2009

PRESENT: Councillors J Batt, Mrs D Joy, Mrs W Hinder, D Marchant, Mrs P Stockell and J Verrall

Independent Members: Mrs D Phillips, Mr M Powis and Mr D Wright

Parish Council Representatives: Councillors Mrs A Rollinson and I Younger

Apologies: Councillors B Stead (Parish Representative) and B Vizzard

REFERRED MATTERS

1. ANNUAL REPORT TO COUNCIL 2008/09

The Committee gave further consideration to its draft Annual Report to the Council. The Committee agreed the Report for submission to the Council subject to amendments to paragraphs 3, 6, 7, 8 and 11.

A copy of the amended version of the Annual Report is attached as an Appendix to these Minutes.

The Committee thanked Mr Powis (the former Chairman of the Committee) and the Head of Legal Services for their work in connection with the drafting of the Annual Report.

RECOMMENDED: That the Standards Committee's Annual Report to Council 2008/09, a copy of which is attached as an Appendix to these Minutes, be noted.

2. REVIEW OF COMPLAINTS 2008/09

The Committee considered the joint report of the Head of Legal Services and the Assistant Director of Customer Services and Partnerships reviewing the Council's performance in dealing with complaints during the period 1 April 2008 to 31 March 2009. A copy of this report is attached to the Committee's Annual Report to the Council (see Minute 1 above).

In response to questions, the Officers explained that:-

- Failure to respond to complaints within ten working days could be due to the complexity of the subject matter and the need for detailed investigations.
- Regular reports were submitted to the Council's Management Team and response performance was monitored. Instructions had been given to the Heads of those services where response times were slower to bring about improvements in performance.

The Committee asked that Management Team's comments on the complaints reports be included in the quarterly reports to Committee together with a comparison of performance quarter on quarter.

RECOMMENDED: That the issues outlined in the Annual Review of Complaints 2008/09 be noted and endorsed.

3. INDEMNITIES FOR MEMBERS AND OFFICERS

The Committee considered the joint report of the Head of Legal Services and the Chief Finance Officer setting out the range of powers available to the Authority to grant indemnities and/or to take out insurance to cover the potential liability of Members and Officers in a wide range of circumstances and recommending the terms of such indemnities and insurance. A copy of this report is attached as an Appendix to these Minutes.

It was noted that the decision to provide such indemnities and to take out such insurance had not been delegated to the Standards Committee, but rested with the Cabinet (in respect of the executive functions of the Authority) and with the Council (in respect of Officers and the non-executive functions of the Authority). The Standards Committee was being asked to consider the report and to recommend it to the Cabinet and to the Council for approval.

In response to questions, the Head of Legal Services explained that when Members were asked to serve on outside bodies, they were advised to ascertain from the body if they were covered by insurance. He would ask the Democratic Services Manager to ensure that Members were advised of this before taking up appointments.

The Committee welcomed the report and considered that it would help to clarify the position for Members, including Co-opted Independent Members and Parish representatives of the Standards Committee, and Officers. However, it was suggested that the recommendation should be amended to make it absolutely clear that the indemnities would be given to Co-opted Independent Members and Parish representatives of the Standards Committee.

RECOMMENDED: That the Authority grant an indemnity to Members, including Co-opted Independent Members and Parish representatives of the Standards Committee, and to Officers of the Authority in the terms set out in the Appendix to the joint report of the Head of Legal Services and the Chief Finance Officer and instruct the Chief Finance Officer to secure insurance to

cover the Authority's liability under this indemnity in so far as he/she is of the opinion that such insurance would be financially prudent.

See Minute 16 below

4. AMENDMENT TO PLANNING SCHEME OF DELEGATION

The Committee was asked to evaluate a proposal by the Planning Committee that the Constitution be amended to give Parish Councils the option of having a differing view from the Case Officer on a planning application without necessitating the referral of the application to the Planning Committee for determination. It was noted that:-

- At present, the Director of Prosperity and Regeneration/Development Control Manager had delegated powers to undertake all the functions relating to planning and conservation, except where the intended delegated decision on a planning or related application would be contrary, *inter alia*, to the written view of any Parish Council.
- Parish Councils had expressed an interest in the option of being able to have a different view from the Case Officer on an application without it having to be reported to the Planning Committee for determination as a result.
- The Planning Committee considered that, in addition to giving greater flexibility to Parish Councils, this option was likely to lead to a reduction in the number of applications having to be reported to Committee and a reduction in costs.
- To enable the new option to be implemented, the Planning Committee had agreed to recommend to the Council that Section 2 headed "Responsibility for Council Functions" of Part 3 of the Constitution be amended by the addition of the words "and the Parish Council has requested that the application is determined by the Planning Committee" to paragraph (b) of the delegation to the Director of Prosperity and Regeneration/Development Control Manager to undertake all the functions relating to planning and conservation, except in certain circumstances, as follows:-

The Director of Prosperity and Regeneration/Development Control Manager have delegated power to undertake all the functions relating to planning and conservation, except where the intended delegated decision on a planning or related application:

- (b) would be contrary to the written view of any Parish Council and the Parish Council has requested that the application is determined by the Planning Committee.

The Standards Committee supported the proposed amendment of the Constitution believing that it would give greater flexibility to Parish Councils and help streamline the consultation and decision making processes in respect of planning applications.

RECOMMENDED: That it be noted that, in accordance with Article 15.02 (a) of the Constitution, the Standards Committee has evaluated the proposed amendment of the Constitution to give Parish Councils the option of having a differing view from the Case Officer on a planning application without necessitating the referral of the application to the Planning Committee for determination and believes that its implementation will help to ensure that the aims and principles of the Constitution are given full effect by helping to streamline the consultation and decision making processes in respect of planning applications.

MAIDSTONE BOROUGH COUNCIL STANDARDS COMMITTEE

ANNUAL REPORT TO COUNCIL 2008-9 (1/4/08 - 31/3/09)

1. This is the Committee's second annual report to the Council.

New complaints handling system

2. May 2008 saw the responsibility for initial consideration of all complaints and nearly all investigations move from the Standards Board for England to the Standards Committee of each local authority. Apart from being a very desirable re-assertion of local responsibility, this has also permitted the Committee to have a much better view of the number and type of complaints submitted.
3. We have received 6 complaints. Of these, there have been no complaints needing investigation against Borough Councillors and only one against a Parish Councillor. Given the large number of people who serve as Borough and Parish Councillors and the range of actions and decisions they are involved in, this is a very satisfactory picture. 4 complaints were assessed as needing no further action, 1 complaint led to a direction to the Monitoring Officer to give training to a Parish Council and 1 complaint was referred for investigation. Reviews were requested of 2 decisions to take no further action and these confirmed the agreed decision.
4. The Government is proposing further changes to the Code of Conduct, primarily to clarify the applicability of the Code to Councillors' private lives. We have submitted comments on this latest set of changes which are supposed to be brought into effect during 2009 and will require the Council to adopt a revised local Code.

Dispensations

5. We granted applications on 5 occasions (from 3 Parish Councils) for dispensations from Parish Councillors, all but two were for the whole membership of the Parish Council; in one case where the whole Council had applied, we granted most of the dispensations sought but we refused one application because of the proximity of the Councillor's residence to the land under question. On the other occasion only four of the seven Councillors applied.

Complaints generally

6. We have continued to monitor the operation of the Council's complaints system generally. The quarterly reports and the Ombudsman's annual letter demonstrated that Maidstone Borough Council has very comprehensive procedures in place for dealing with complaints and that it follows them. The annual report on complaints for 2008-9 is attached.

Constitutional changes

7. We reviewed the financial rules within the Constitution and commented on the call-in procedure, and the latest report on Members' remuneration. During the next three months, we will review the contract procedure rules. The Constitution has also been amended by the Monitoring Officer to take account of the latest officer restructure.

Training

8. Last year we commented that we needed to find a much cheaper method of training that can be given to small groups of Borough Councillors after each election and Parish Councillors. Following a discussion with the Training Manager a pilot programme of seminars is being set up aimed primarily at Parish Councillors and Clerks but which can also be used for new Borough Councillors when necessary. It is intended that this training programme will begin once the revised Code has been published and it is the delay in its publication by Government which has delayed the training. All Members of the Standards Committee have received training in the local assessment and determination procedures. Two Members of Standards Committee and the Monitoring Officer attended the Annual Assembly of Standards Committees in October.

Committee structure and terms of reference

9. Experience of the new system led the Committee to review the structure and process for considering complaints established in 2007. At the same time we reviewed other aspects of our working and reporting to Council in the light of the guidance from the Standards Board. After some positive discussion, appropriate changes to the Constitution have now been agreed by the Council which give a flexible and economic but fair way of looking at complaints. The Council has agreed that the number of Independent Co-opted Members will be increased from 3 to 4, and that in the meantime Independent Members of other Standards Committees may be co-opted on an ad-hoc basis should the need arise.

Publicity

10. We have noted that the method of complaining about Councillors could be better publicised. At present, for example, it can be hard to find the reference to this on the Council's web-site. The Committee proposes to look at ways of dealing with this and promoting good ethical governance with the Head of Communications in the coming months.

Promotion of ethical standards with Council

11. There have been regular 6 monthly meetings between the Leader, Chief Executive, Chairman of Standards Committee and Monitoring Officer to discuss any issues relating to ethical standards. There are good working relationships between these four people. There is a Corporate Governance group of officers comprising the Chief Executive, Monitoring

APPENDIX

Officer, S.151 Officer and Head of Internal Audit which meets quarterly to discuss issues related to ethical standards and good governance. Also there is a Member/Officer Protocol in place which amongst other things deals with Member/Officer disputes.

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MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

22ND MAY 2009

**REPORT OF THE ASSISTANT DIRECTOR OF CUSTOMER SERVICES
AND PARTNERSHIPS AND THE HEAD OF CORPORATE LAW AND
LEGAL SERVICES**

Report prepared by IT Manager

1. ANNUAL REVIEW OF COMPLAINTS 2008 – 2009

1.1 Issue for Decision

1.1.1 To consider the Council's performance in dealing with complaints for the period 1st April 2008 to 31st March 2009.

1.2 Recommendation of the Assistant Director of Customer Services and Partnerships and the Head of Corporate Law and Legal Services

1.2.1 That the issues outlined in the report be noted and endorsed.

1.3 Reasons for recommendation

1.3.1 On June 1 2005, the Council's Management Team introduced a new corporate complaints system. Standards Committee have since received quarterly reports detailing the Council's performance in relation to the agreed Complaints Policy, and this report sets out the Council's performance in handling complaints for the year 1st April 2008 to 31st March 2009.

1.3.2 Since the introduction of a set of Corporate Complaints policies and management system the Council has been able to monitor its response to complaints in order to achieve significant improvements in both response times to complaints and quality of response. Prior to introducing the new system the Council responded to approximately 60% of all complaints within 10 working days. Performance now is regularly over 90%, and as well as monitoring the performance of complaints the Council carries out quarterly satisfaction surveys.

1.3.3 During the year the Council received 245 complaints. Performance of Stage 1 complaints overall during the year was excellent with 93% answered within 10 working days. A further more detailed analysis identified the following headline issues:

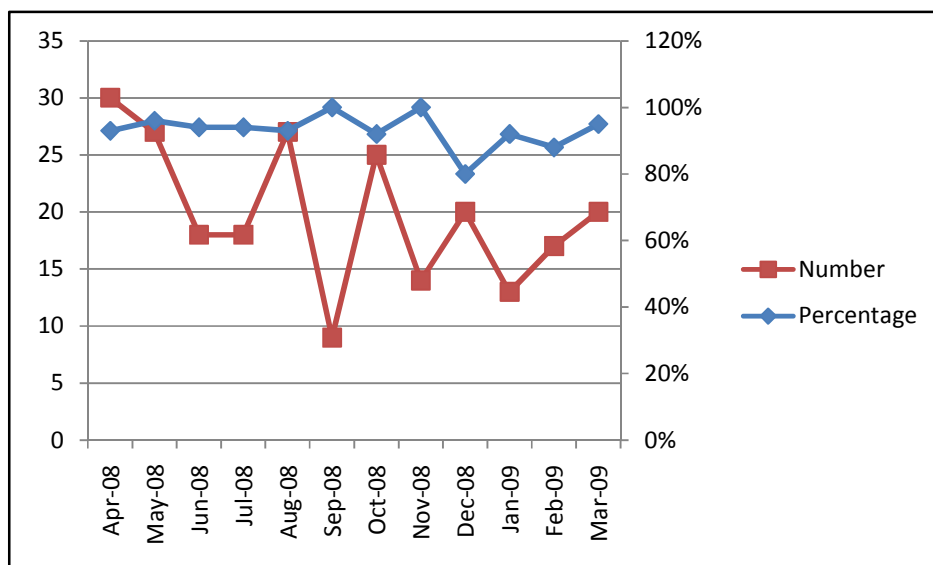


Fig 1: Monthly breakdown of number of complaints and % answered within 10 days

- The number of complaints per month remained reasonably consistent between 10 and 30.
- Performance in responding to complaints within this period was consistently high, only falling below 90% in December.
- The four services with the highest numbers of complaints received were:

Service	Number of complaints	% answered on time
Revenues/NNDR	32	93%
Development control	32	96%
Parking Enforcement	32	96%
Waste Collection	30	96%

- The four services with the worst response rate within 10 working days were:

Service	Number of complaints	% answered on time
Building Surveying	4	50%
Conservation & Landscape	5	60%
Sports and Play	4	75%
Housing	16	75%

1.3.4 In October 2008 The Council (along with all Local Authorities) carried out the 'Place Survey'. 5,000 questionnaires were sent out, of which 2,300 were returned and 46% stated that they were happy with the way the Council runs its affairs.

1.3.6 In terms of comparison with complaints data for the previous years:

- In 2008/09 the number of complaints decreased by 25% compared to 2007/08.
- The following sections received no complaints during the year 2008/09 – Audit, Change & Improvement, Secretariats, Communications, Hazlitt Theatre, IT Section, Legal Services, Overview & Scrutiny, and Registration Services.
- During 2006/07, 34 Stage 2 complaints were raised; 10 (29.4%) were dealt with within SLA and 24 outside of the service agreement.
- During 2007/08, 48 Stage 2 complaints were raised, 42 (87.5%) were dealt with within the service agreement and only 6 outside.
- During 2008/9, 38 stage 2 complaints were raised, 36 (95%) were dealt with within the service agreement and only 2 outside.
- Complaints to the Ombudsman rose slightly from 31 in 2006/7 to 36 in 2007/8 . However, once again the LGO did not find maladministration in any of the cases- the LGO will be issuing his annual report for 2008/9 in the summer.

1.3.5 A more detailed breakdown of complaints received is attached at Appendix 1.

1.4 Alternative Action and why not Recommended

1.4.1 The Council’s complaints policies and management systems underpin its commitment to excellent customer care and therefore a robust system needs to be in place.

1.5 Impact on Corporate Objectives

1.5.1 Customer Services is a key priority, and the nature of complaints from our Customers and the manner in which the Council responds to those complaints touches upon every priority theme in the Council’s strategic plan.

1.6 Risk Management

1.6.1 Failure to manage complaints represents both a financial risk to the Council and a risk to its reputation. Regular reports are produced for Management and individual Heads of Service are reminded of their responsibilities. The process corporately is overseen by the Head of Customer Services and is supported by the work of the Reputation Project.

1.7 Other Implications

1. Financial
2. Staffing

X

- 3. Legal
- 4. Social Inclusion
- 5. Environmental/Sustainable Development
- 6. Community Safety
- 7. Human Rights Act
- 8. Procurement

1.8 Financial

1.8.1 During the year 2008/9 the Ombudsman recommended that the council make a local settlement in 4 cases, involving the payment of £900, relating to a homelessness application, an anti-social behavior issue, and two relating to planning consultations.

1.8.2 In addition to these local settlements the Council made payments of £125 in relation to 3 other complaints without Ombudsman intervention as set out below:

- £25 in respect of council tax mistaken identity;
- £50 (x2) in relation to planning consultations

1.9 Background Documents

1.9.1 None.

NO REPORT WILL BE ACCEPTED WITHOUT THIS BOX BEING COMPLETED

Is this a Key Decision? Yes No

If yes, when did it appear in the Forward Plan? _____

Is this an Urgent Key Decision? Yes No

Reason for Urgency

Appendix 1: Breakdown of complaints by Service 2008 - 9

Date From: Date To:

01/04/2008 31/03/2009

Service Breakdown (Stage 1)

Service	Total	On Time	Late	Success
Council Tax or Business Rates	32	30	2	93%
Development Control	32	31	1	96%
Parking Enforcement	32	31	1	96%
Waste Collection	30	29	1	96%
Housing and Council Tax Benefits	16	14	2	87%
Housing Options, Private Sector Housing or Housing Policy	16	12	4	75%
Contact Centre	14	14	0	100%
Planning Enforcement	14	13	1	92%
Concessionary Fares	9	9	0	100%
Pollution	8	8	0	100%
Leisure	7	7	0	100%
Conservation and Landscape	5	3	2	60%
Other	5	5	0	100%
Bereavement Services	4	4	0	100%
Building Surveying	4	2	2	50%
Sports and Play	4	3	1	75%
Grounds Maintenance	3	3	0	100%
Street Sweeping	3	3	0	100%
Public Toilets	2	2	0	100%
Community Safety	1	1	0	100%
Food and Safety	1	1	0	100%
Licensing	1	1	0	100%
Social Inclusion	1	1	0	100%

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MAIDSTONE BOROUGH COUNCIL

**REPORT OF HEAD OF LEGAL SERVICES AND
CHIEF FINANCE OFFICER**

INDEMNITIES FOR MEMBERS AND OFFICERS

STANDARDS COMMITTEE

22 MAY 2009

1 Introduction

Members and officers of local authorities can incur personal civil and criminal liability as a result of their actions, both within the authority and as a result of their actions carried out on behalf of a wide range of outside bodies. Members and officers enjoy statutory immunity from civil liability where they act within the powers of the authority in good faith and without negligence. But this immunity does not apply where they go beyond the powers of the authority or act in bad faith or negligently, or where they are acting on outside bodies to which they may have been appointed by the authority, and it does not protect them from criminal liability, for example for fraud or for corporate killing where they exercise managerial responsibilities.

Local authorities have had a broad power to give officers an indemnity against such liability as part of their terms and conditions of employment. This enables the authority to take out insurance centrally to cover this risk, rather than paying for each officer to take out his/her own insurance. However, members have no such contract of employment, and the ability of the authority to grant such an indemnity to members has so far rested on a single court judgment which only covers the instance of an authority agreeing to underwrite the member's legal costs in being represented before the District Auditor. It has been recognised that the extent of local authorities' existing powers to grant such indemnities needed clarification and that the potential liability of members and officers, particularly when acting on outside bodies at the request of the authority, can act as a serious deterrent to such participation.

The Government has introduced regulations which give a specific power for authorities to grant indemnities, and/or to take out insurance, to cover the potential liability of members and officers in a wide range of circumstances. It is up to each authority to decide whether to grant such indemnities, or take out such insurance, and to decide the extent of such indemnities and insurance. This report sets out the range of powers available to the authority and recommends the terms of such indemnities and insurance.

2 Indemnities for Members

2.1 Working within the authority

As set out above, members enjoy statutory immunity from civil liability where they act within the powers of the authority, in good faith and without negligence. This immunity may also cover the case where a member acts within the overall powers of the authority, but in a situation where the particular power rests with some other part of the authority (for example where an Executive Member

purports to take a decision which can only be taken by full Council), provided that he/she does so in the honest belief that he/she had the power to take that decision.

The problem areas where a member could incur personal liability are therefore:

2.1.1 Where a member purports to take a decision which is actually outside the powers of the authority, or outside the powers of the particular member

The regulations allow the authority to provide such an indemnity in so far as the member believed that the action was within the powers of the authority, or reasonably believed that the action was within the powers of the particular member.

Local Government Law is very complex, and whilst all members must exercise caution to ensure that they are acting within the authority's powers, or within the individual member's powers, no member can be expected to understand exactly where those limits exist. I would suggest that there is a public interest in encouraging members to be proactive and to take prompt decisions when required. Accordingly, I would recommend that the authority provide an indemnity for any liability which a member may incur by inadvertently acting outside powers of the authority or outside the powers of the individual member, and in respect of any legal and other costs in defending a claim that he/she has exceeded the powers of the authority, provided that he/she has acted in good faith, i.e. in the honest belief that the action was within the authority's powers or the individual member's powers and having made due enquiry where he/she was in any doubt.

2.1.2 Where a member acts in bad faith, fraudulently, out of malice, for an ulterior purpose, or as a deliberate or reckless act of wrongdoing

It is hard to see that there is a public interest in providing an indemnity to a member who has actually acted in bad faith, fraudulently, out of malice, for an ulterior purpose, or as a deliberate or reckless act of wrongdoing. However, the fact that the District Auditor, a statutory regulator or a third party alleges that, or questions whether a member has, or may have, acted in such a manner does not necessarily mean that the member concerned has actually acted in such a manner. There is a public interest in ensuring that members are not put off taking necessary decisions by the fear that they may be put to considerable legal expense in justifying the decisions which they have taken in good faith. Accordingly the authority would appear to be justified in providing an indemnity for such costs of representation, provided that the member is ultimately cleared of the allegation (i.e. with a requirement for repayment if the allegation is eventually substantiated).

2.1.3 Where a member acts in a manner which constitutes a criminal offence

Again, it is hard to see that there is a public interest in providing an indemnity to a member who has acted in a manner which constitutes a criminal offence. However, there may well be a public interest in ensuring that the member's case in respect of any such allegation is properly presented, to ensure that members are not deterred from acting by the potential legal cost of justifying their actions taken in good faith. Accordingly the authority would appear to be justified in providing an indemnity for such costs of legal representation in defending any prosecution, provided that the member is ultimately cleared of the allegation of criminal conduct (i.e. with a requirement for repayment if the member is convicted of a criminal offence and that conviction is not overturned on appeal).

As an allied issue, a single action or decision may not only constitute a criminal action but may also give rise to civil liability. Despite the limitation of the indemnity to the costs of legal representation in respect of criminal activity, the indemnity in respect of any civil liability arising from the same action or decision would cover both legal representation and civil liability.

2.1.4 Where the member is sued for defamation

The power to grant a member an indemnity under the Indemnities Regulations specifically includes a power to grant an indemnity in respect of the legal costs of defending a defamation action (but not in respect of any damages which may be awarded against the member), where it is alleged that the member has defamed another person.

Where a member is acting in his/her capacity as a member of a local authority and makes a statement which he/she honestly believes to be true, he/she will be able to rely on the defence of "qualified privilege", provided that he/she has not acted out of malice. As a result, successful defamation actions against members of local authorities are very rare, but it is possible that a third party may allege that a comment was made out of malice and therefore came outside the protection of qualified privilege. There is a public interest in ensuring full and open debate of matters of current interest to the authority, and such open debate could be inhibited if members were to feel constrained from honest debate by fear of the legal costs of defending a defamation action. Accordingly, the authority would be justified in providing an indemnity against the costs of defending defamation actions.

The power in the regulations specifically excludes an indemnity in respect of the costs incurred by a member in pursuing a defamation action against a third party (i.e. where the member believes that he/she has been defamed by another person). Whilst there is case law to the effect that an authority has a pre-existing power to grant such an indemnity, at least to an officer, the authority may consider

that an indemnity for the costs of pursuing a defamation action would be too open-ended.

2.2 Working outside the authority

Members do not just work within the authority, but are frequently appointed to a wide range of other organisations (“outside bodies”), many of which support and advance the broad objectives of the authority. When they do work on such outside bodies, they are not working within the authority and therefore would not enjoy the statutory immunity from personal liability which they enjoy when they are acting as members of the authority.

2.2.1 Manner of appointment

The manner of appointment of members to such outside bodies varies. In some cases the authority itself makes the appointment (as where the Memorandum of Incorporation and Articles of Association of a Local Housing Company reserve the power of appointment of a director to the authority). In other cases, the outside body asks the authority to make a suggestion or nomination, but the actual power to appoint, or not to appoint, rests with the outside body itself. Then there are instances where the outside body seeks to appoint someone who has connections with the local community and makes a direct invitation to the local Councillor to join the organisation. And finally there are local organisations which the member joins of his/her own volition.

There is no public interest in the authority providing an indemnity in respect of this latter category. The way that the Regulations deal with this issue is to provide that the authority may grant a member such an indemnity against liabilities which they incur as members of such outside bodies only where the appointment of the member to the outside body is

“at the request of, or with the approval of, the authority or for the purposes of the authority.”

Unfortunately, this definition lacks practical clarity as, where the appointment was at the member’s own volition, the authority could not know whether a member has chosen to join the outside body out of personal interest in its activities or in order to advance the interests of the authority. Accordingly, I suggest that any indemnity should extend only to appointments made by the authority, or in consequence of a nomination by the authority, or where the authority has specifically approved the appointment as advancing the interests of the authority.

This formulation has the advantage that the particular action from which such personal liability arises does not have to be conducted at the request or with the approval of the authority. So that, once appointed to the outside body, the member may participate fully in the activities of the outside body and an indemnity will cover them even where the particular action was not connected to the authority’s reasons for appointing him/her to that outside body. To illustrate, the Council might nominate a member to be a director of a local Housing Company, but the member would still be able to rely on the authority’s

indemnity where actual liability arose from a decision take by the Board of Directors, including the member, in respect of a development in another District.

2.2.2 The scope for personal liability

The risk of personal liability depends upon the nature of the outside body:

2.2.2.1 Corporate / unincorporated organisation

Thus, where the member is appointed to an outside body which has a separate legal identity, such as a company or statutory authority, the member would act on behalf of the outside body, so that where he/she entered a contract on behalf of the outside body, it would be the outside body rather than the member who actually enters the contract and incurs the liability. In contrast, where the outside body is unincorporated, such as a members' club, it has no separate legal entity. If the member enters a contract on behalf of the club, he/she actually enters the contract in a personal capacity and relies upon the membership agreement to secure re-imbursement from the resources of the club or from other members.

2.2.2.2 Solvent / insolvent organisation

When a company director acts on behalf of the company, he/she is required to apply him/herself diligently to the job with the skills and experience which he/she happens to possess. However, where the company becomes insolvent and is unable to pay its debts, he/she has personal liability to any creditors of the company for any additional loss which they suffer if, once he/she knew or ought to have known that the company was insolvent, he/she failed to take every step to minimise those losses, and is expected to bring to the job the minimum level of competence and experience which might be expected of a director in such circumstances. Accordingly, any director is expected to take reasonable care to ensure that the company is accurately recording its financial affairs he/she is kept fully informed of any impending financial problems.

In an unincorporated organisation such as a members' club, the membership agreement will normally limit the ability of any member to call for re-imbursement to any assets held by the club and to the subscription of any individual member. However, if the club is insolvent, it will have no assets from which to reimburse the individual member, so such a reimbursement provision is of little use in an insolvency.

2.2.2.3 Statutory indemnity

In some cases, statute provides protection to members. Thus, in the case of school governors, if the governing body acts in good faith and within the approved procedures and budget, the individual governors will not be liable for any losses arising from fraud or any discrepancy in the school's accounts.

2.2.2.4 Insurance

In particular cases, the outside body can take out insurance to protect its members from any liability which they might incur in their activities on behalf of the organisation. This is particularly so for School governing bodies and charities (if their constitutions so provide), but as a general rule NHS and central government bodies do not have such a power.

It will be apparent from the above that this is a complex area, where members should take advice as to their potential personal liability before agreeing to participate, but where the scope for such personal liability can be significantly reduced by taking simple precautions. In particular, members who are asked to become members of outside bodies should check whether the body is properly incorporated and whether it carries insurance for its members.

2.2.3 Scope for local authority indemnity

The Indemnities Regulations apply the same restrictions on the power of the authority to provide indemnities for members acting on outside bodies as they do for members acting within the authority, namely that the indemnity –

- cannot cover any criminal liability;
- cannot cover liability arising from fraud or deliberate wrongdoing or recklessness on the part of the member; and
- cannot cover the costs of pursuing a defamation action.

However, unlike actions which are outside the authority's own powers, the authority's indemnity cannot cover liability for any action which is outside the powers of the outside body, even if the action was taken in the honest belief that it was within the outside body's powers.

2.3 Breach of the Code of Conduct for Members

The Indemnities Regulations enable a local authority to grant an indemnity to its members in respect of the cost of legal representation in "Part 3 Proceedings", which means in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the Code of Conduct for Members. However, the Regulations provide that any such indemnity must be subject to a requirement for the member to reimburse the authority in the event that –

- There is a finding that the member has failed to comply with the Code of Conduct and that finding is not overturned on appeal, or
- The member admits that he/she has failed to comply with the Code of Conduct.

In respect of an investigation by an Ethical Standards Officer and a hearing before a Case Tribunal, a member could be suspended for up to one year or disqualified for up to 5 years, there would seem to be a real public interest in ensuring that the member's case is properly presented, and therefore in providing such an indemnity. In respect of an investigation by the authority's Monitoring Officer and a hearing before the authority's Standards Committee, the maximum sanction is 6 months' suspension. I still believe that there is a public interest in providing an indemnity, especially as under the new rules the majority of cases will be dealt with locally..

Note that the power to grant an indemnity applies only to members of this authority, so that members of Town and Parish Councils who might be subject to investigation by an ESO or by this authority's Monitoring Officer and the Standards Committee should seek an indemnity from their own authorities. However it should be made clear that the indemnities apply to Independent Co-opted Members and parish representatives on the Standards Committee.

3 Indemnities for Officers

3.1 Acting within the authority

As set out above, officers enjoy statutory immunity from civil liability where they act within the powers of the authority, in good faith and without negligence. So a third party who has suffered loss as a result of the actions or inaction of a local authority officer cannot normally sue the officer directly.

However, where a third party does suffer such loss as a result of the officer's actions or inactions in the course of his/her employment, his/her employer is vicariously liable for that loss, so that a person who has suffered loss as a result of the actions of an officer can sue the officer and/or can sue the authority, rather than the individual. This is normally to the advantage of the claimant because of the authority's greater resources and insurance cover. However, a local authority which has incurred such vicarious liability as a result of the actions or inactions of its employees could then sue its employee in order to recover that loss. In practice, local authorities have traditionally provided an undertaking that they will not sue their officers for recovery of such losses. The reason for this is that it is more cost effective for authorities to insure such risk centrally than for it to meet the insurance premiums of each employee taking out his/her own professional indemnity insurance.

Such an indemnity has only covered actions which were within the officer's employment, and therefore have not covered actions which proved to be outside the powers of the authority. The Indemnities Regulations provide that the authority may now grant such an indemnity in respect of actions which prove to be outside the powers of the authority, but only where the officer reasonably believed that the action was within the powers of the authority at the time when he/she took it. As for members, I would recommend that the authority extend its current indemnity to cover any liability which an officer may incur by inadvertently acting outside powers of the authority, and in respect of any legal and other costs in defending a claim that he/she has exceeded the powers of the authority,

provided that he/she has acted in good faith, i.e. in the honest belief that the action was within the authority's powers and having made due enquiry where he/she was in any doubt.

The Indemnities Regulations apply the same restrictions on the power of the authority to provide indemnities for officers as they do for members acting within the authority, namely that the indemnity –

- cannot cover any criminal liability;
- cannot cover liability arising from fraud or deliberate wrongdoing; and
- cannot cover the costs of pursuing a defamation action.

Whilst case law has established that the authority does actually have the power to provide an indemnity to an officer against any liability for legal costs arising out of pursuing a defamation action, I suggest that the authority would only wish to consider granting such an indemnity where it was satisfied that there was a clear public interest in doing so, and therefore that it would wish to judge any such proposal on its individual merits rather than providing an open-ended indemnity.

3.2 Acting outside the authority

Officers also act outside the authority in a wide range of organisations, from the LGA and professional associations through to partnership and community organisations. Such participation in outside bodies can assist in the discharge of the authority's functions and objectives. Officers are required to declare to the authority any conflict of interest, and should seek the approval of the authority before taking up any outside interests which potentially conflict with the performance of their obligations to the authority. That requirement for the authority's approval can provide a simple mechanism for defining those outside appointments to which an indemnity should apply. Accordingly I suggest that the authority provide an indemnity which extends to all outside appointments of officers where the authority, normally through the Chief Executive, has approved the appointment as likely to advance the interests of the authority, either at the time of the original appointment or otherwise.

4 Insurance

Where the authority has a power to grant such an indemnity, it may also provide insurance, either in place of or in addition to the indemnity. The one exception to this is that the new Indemnities Regulations do not permit it to provide insurance in respect of any action which is beyond the powers of the authority, or beyond the powers of the individual member or officer.

I suggest that the Chief Finance Officer be instructed to secure such insurance to cover the authority's liability under this indemnity in so far as he/she is of the opinion that such insurance would be financially prudent.

5 Repayment of Sums Paid Out

As set out above, where an indemnity is provided in respect of defending allegations of a failure to comply with the Code of Conduct or of a crime, the Regulations require that the indemnity must be subject to a requirement for repayment in the event that the member is subsequently found to have failed to comply with the Code of Conduct or to have committed a criminal offence. In order to enable the authority to recover such sums, it will

be necessary to ensure that no such indemnity is given unless and until the member concerned has entered an indemnity agreement in which he/she gives the authority a contractual right to recover the sums in such circumstances.

6 The Operative Decision

The decision to provide such indemnity and to take out such insurance has not been delegated to the Standards Committee, but rests with the Cabinet (in respect of the executive functions of the authority) and with the Council (in respect of officers and the non-executive functions of the authority). Accordingly, I suggest that the Standards Committee recommend this report to the Cabinet and to the Council for approval.

7 Recommendation

I recommend –

- 7.1 that the Standards Committee recommend to the Cabinet and the Council that the authority grant an indemnity to members and to officers of the authority in the terms set out in the Appendix to this report and instruct the Chief Finance Officer to secure insurance to cover the authority's liability under this indemnity, in so far as he/she is of the opinion that such insurance would be financially prudent;**

Appendix One

Terms of Indemnity

- 1** The Authority will, subject to the exceptions set out below, indemnify each of its members (including co-opted Independent Members and Parish representatives of the Standards Committee) and employees against any loss or damage suffered by the member or officer arising from his/her action or failure to act in his/her capacity as a member or officer of the authority.

This indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

- 1.1** any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the member or officer;
- 1.2** any act or failure to act by the member or employee otherwise than in his/her capacity as a member or officer of the authority, or
- 1.3** failure by the member to comply with the authority's Code of Conduct for Members.

- 2** The authority will, subject to the exceptions set out below, indemnify each of its members and officer against the reasonable costs which he/she may incur in securing appropriate legal advice and representation in respect of any civil or criminal proceedings or Part 3 proceedings to which he/she is subject.

2.1 "Criminal proceedings" includes any interview or investigation by the Police, and any proceedings before a criminal court, in the United Kingdom.

2.2 "Part 3 proceedings" means any investigation or hearing in respect of an alleged failure to comply with the authority's Code of Conduct for Members under Part 3 of the Local Government Act 2000.

2.3 This indemnity shall not extend to any advice or representation in respect of any claim or threatened claim in defamation by the member or officer.

2.4 Where any member or officer avails him/herself of this indemnity in respect of defending him/herself against any criminal proceedings or Part 3 proceedings, the indemnity is subject to a condition that if, in respect of the matter in relation to which the member or officer has made use of this indemnity –

2.4.1 the member or officer is convicted of a criminal offence in consequence of such proceedings, or

2.4.2 a Case Tribunal or Standards Committee determine that the member has failed to comply with the Code of Conduct for Members

and the conviction or determination is not overturned on appeal, the member shall reimburse the authority for any sums expended by the authority pursuant to the indemnity.

- 2.5** Where the authority arrange insurance to cover its liability under this indemnity, the requirement to reimburse in Paragraph 2.4 shall apply as if references to the authority were references to the insurer.
- 3** For the purpose of these indemnities, a loss or damage shall be deemed to have arisen to the member or officer “in his/her capacity as a member or officer of the authority” where:
- 3.1** The act or failure to act was outside the powers of the authority, or outside the powers of the member or officer, but the member or officer reasonably believed that the act or failure to act was within the powers of the authority or within the powers of the member or officer (as appropriate) at the time that he/she acted or failed to act, as the case may be;
- 3.2** The act or failure to act occurred not in the discharge of the functions of the member or officer as a member or officer of the authority but in their capacity as a member or employee of another organisation, where the member or officer is, at the time of the action or failure to act, a member or employee of that organisation either –
- 3.2.1** in consequence of his/her appointment as such member or officer of that organisation by the authority; or
- 3.2.2** in consequence of his/her nomination for appointment as such member or officer of that organisation by the authority; or
- 3.2.3** where the authority has specifically approved such appointment as such a member or employee of that organisation for the purpose of these indemnities.
- 4** The authority undertake not to sue (or join in action as co-defendant) an officer of the authority in respect of any negligent act or failure to act by the officer in his/her capacity as an officer of the authority, subject to the following exceptions:
- 4.1** Any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the officer; or
- 4.2** Any act or failure to act by the officer otherwise than in his/her capacity as a member or officer of the authority.
- 5** These indemnities and undertaking will not apply if a member or officer, without the express permission of the Authority or of the appropriate officer of the authority, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of the resolution.
- 6** These indemnities and undertaking are without prejudice to the rights of the authority to take disciplinary action against an officer in respect of any act or failure to act.
- 7** These indemnities and undertaking shall apply retrospectively to any act or failure to act which may have occurred before this date and shall continue to apply after the member or officer has ceased to be a member or officer of the authority as well as during his/her membership of or employment by the authority.

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MAIDSTONE BOROUGH COUNCIL

AUDIT COMMITTEE

MINUTES OF THE MEETING HELD ON **1 JUNE 2009**

PRESENT: Councillors Butler, Daley, Horne, Moss and Warner

Also Present: Emily Hill and Steve Golding – Audit Commission

Apologies: Councillor Nelson-Gracie

REFERRED MATTER

1. **ANNUAL REPORT TO COUNCIL 2008/09**

The Committee considered its first Annual Report to Council covering the period May 2008 to June 2009. The Committee agreed the Report for submission to the Council. A copy of the Report is attached as an Appendix to these Minutes.

RECOMMENDED: That the Audit Committee's Annual Report to Council 2008/09, a copy of which is attached as an Appendix to these Minutes, be noted.

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MAIDSTONE BOROUGH COUNCIL

AUDIT COMMITTEE

ANNUAL REPORT TO COUNCIL 2008/09

1. Introduction

- 1.1 This is the first Annual Report of the Audit Committee to Council and covers the period May 2008 to June 2009. It is intended that this report to Council will detail the areas of work covered by the Audit Committee to demonstrate its effectiveness in meeting its' Terms of Reference and, in particular, will give background to the process behind the Audit Committee's recommendation of the Statement of Accounts for 2008/09 which is dealt with on the agenda for the meeting on 15 June 2009.
- 1.2 In May 2008 the Audit Committee appointed Councillor Horne as chairman, Councillor Warner as vice-chairman, other Members of the Audit Committee, who were appointed at the Annual Meeting held on the 14th May 2008 were, Councillors Butler, Parr and Nelson-Gracie.
- 1.3 The purpose of the Audit Committee, as agreed by Council, is to provide independent assurance of the adequacy of the Risk Management Framework and the associated control environment, independent scrutiny of the Authorities 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.
- 1.4 The Audit Committee's Terms of Reference is as follows:-
- a) Consider the effectiveness of the Authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements;
 - b) Seek assurances that action is being taken on risk related issues identified by Auditors and Inspectors;
 - c) Be satisfied that the Authority's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it;
 - d) Approve (but not direct) Internal Audit's strategy, plan and monitor performance;

- e) Review summary Internal Audit reports and the main issues arising, and seek assurance action has been taken where necessary;
 - f) Receive the Annual Report of the Head of Internal Audit;
 - g) Consider the reports of External Audit and inspection agencies;
 - h) Ensure that there are effective relationships between External and Internal Audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted;
 - i) Review the financial statements, External Auditor's opinion and reports to Members, and monitor management action in response to the issues raised by External Audit.
- 1.5 The work of the Audit Committee during the above period has involved ten meetings and the work programme can be summarised as follows:-
2. Audit Commission
- 2.1 During the above period, the Audit Committee has received and considered the following reports from the Audit Commission:-
- a) Audit and Inspection Plan 2007/08;
 - b) Annual Audit and Inspection letter 2006/07;
 - c) Annual Governance Statement 2007/08;
 - d) Report on Use of Resources;
 - e) Review of Internal Audit Partnership;
 - f) Report on Data Quality;
 - g) Annual Audit and Inspection letter 2007/08;
- 2.2 All of the above reports have been exceedingly positive in the Audit Commission's view of this Authority. For Use of Resources the score achieved was four out of four, for data quality a similar score was received and the review of the Internal Audit Partnership was very positive in that the Audit Commission accepted that the Internal Audit Partnership met and exceeded the expected targets.
- 3 Reports from Internal Audit

- 3.1 The Audit Committee has received a number of reports on the work of Internal Audit as follows:-
- a) Internal Audit Annual Report for 2007/08;
 - b) An annual review of the effectiveness of Internal Audit for 2007/08;
 - c) A six monthly interim report on the work of Internal Audit for 2008/09;
 - d) Internal Audit Annual Report on work for 2008/09;
 - e) The annual review of the effectiveness of Internal Audit for 2008/09.
- 3.2 All of these reports have demonstrated the wide-ranging work of Internal Audit and has given the Audit Committee assurance that there is a high level of internal control working within the Authority and that, in the main, level of assurance from audit work is Substantial. In most cases where the level of assurance is Limited the Audit Committee has and will continue to monitor these to ensure that improvements are made.
- 3.3 In addition to the work of the Internal Audit team, the Audit Committee has agreed to a report extending the partnership arrangements with Ashford and has, subject to concerns over the future of Risk Management being addressed, supported the proposed extension of partnership working to the four Authorities in the Mid Kent Improvement Partnership.

4 Corporate Governance

- 4.1 The Audit Committee has considered reports on Corporate Governance as follows:-
- a) Local Code of Corporate Governance in May 2008;
 - b) The Annual Governance Statement for 2007/08, which was incorporated into the Statement of Accounts;
 - c) The Local Code of Corporate Governance dated May 2009;
 - d) The Annual Governance Statement to be incorporated into the Statement of Accounts for 2008/09.
- 4.2 These Statements and other work undertaken by the Audit Committee has given the assurance that this Authority has extensive

arrangements for good Corporate Governance and that any areas of work identified to improve the arrangements are actioned by the Authority.

- 4.3 Consideration of Corporate Governance is undertaken with a view to advising both Cabinet and Council of their findings and any comments on Corporate Governance would initially be passed to Cabinet for consideration and action. There are no issues that the Audit Committee needs to draw to the attention of Council.

5 Statement of Accounts

- 5.1 During the period in question, the Audit Committee has recommended the Statement of Accounts to Council for 2007/08 and, on the 15 June 2009 will recommend the Accounts for 2008/09.
- 5.2 The Audit Commission, in its Annual Governance Statement to the Audit Committee in September 2008 noted that their audit opinion on the accounts was unqualified and that no material errors had been identified.

6 Risk Management

- 6.1 The Audit Committee have reviewed strategic and operational risk management arrangements in November 2008 and December 2008 and have also reviewed business continuity arrangements in December 2008.
- 6.2 In addition, the Committee gave detailed consideration to the strategic risks relating to workforce planning and project management.

7 Review of Effectiveness

- 7.1 During the above period, the Audit Committee, in May 2008, reviewed its progress against a check list provided by CIPFA.
- 7.2 During the course of 2008/09, the chairman has had a number of informal discussions with chairman of other Audit Committees to identify best practice and possible future joint discussions.
- 7.3 In December 2008 the Committee considered a programme of future meetings and agreed, with Cabinet, that some reports, which previously went to Cabinet first, would in future come to Audit Committee first. The intention is that the Cabinet would have the benefit of Audit Committee comments which would enhance overall arrangements.

7.4 In March 2009, the Audit Committee agreed a programme of further development for 2009/10, including the production of this annual report, which is intended to further enhance the effectiveness of the Audit Committee.

8 Other Areas of Work

8.1 The Audit Committee have considered a number of other issues during the year including the review of contracts, standing orders and purchasing guide, pension funding and Comprehensive Area Assessment. The Committee considered the Self Assessment for the Use of Resources, an element of the Comprehensive Area Assessment, and, in addition, organised a Seminar, to which all Members were invited, from the Audit Commission on this important issue.

9 Conclusions

9.1 The Audit Committee has had a very busy and effective year in addressing the issues identified in its Terms of Reference.

9.2 In broad terms the Council has effective arrangements for Corporate Governance, Risk Management and arrangements for the production of the Statement of Accounts.

9.3 The Audit Committee's effectiveness during the year has increased as it becomes more mature and the work programme agreed will further enhance these arrangements.

9.4 On the basis of the work done during year, and the specific assurances received by the Audit Committee by the Finance Team, it is appropriate that the Audit Committee should recommend the Statement of Accounts for 2008/09 to Council at its meeting on the 15 June 2009.

Signed
Councillor John Horne
Chairman of Audit Committee

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MAIDSTONE BOROUGH COUNCIL

AUDIT COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY 15 JUNE 2009

Present: Councillor Horne (Chairman), and
Councillors Butler, Parr and Nelson-Gracie

REFERRED MATTER

8. **STATEMENT OF ACCOUNTS 2008/09**

The Committee considered the Report of the Head of Finance presenting the Statement of Accounts for 2008/09 which fulfils the requirements of the Accounts and Audit Regulations 2003.

The Head of Finance highlighted a number of changes that had been made to the Statement of Accounts since the Agenda had been circulated. These included an amendment to the Cobtree Trust figure following the finalisation of their accounts, the inclusion of Area Based Grant and Performance Reward Grant under General Government Grants, a reduction in recruitment advertising and other minor amendments.

The Committee asked a number of questions of the Officers relating to the pension fund, housing benefits subsidy and section 106 figures and were satisfied with the responses received.

RECOMMENDED: That the Council agrees the Statement of Accounts, as amended, for the financial year ended 31 March 2009 (attached at Appendix A).

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EXPLANATORY FOREWORD

Introduction

The Council's accounts for the year 2008/09 are set out on the following pages. They consist of:

1. The Income & Expenditure Account – this reports the net cost for the year for all Council functions, and demonstrates how that cost has been financed from general government grants and from local taxpayers.
2. The Statement of Movement on General Fund Balance – this is a reconciliation statement that summarises the differences between the Income & Expenditure Account and the General Fund balance. These are sums that are required by statute and non-statutory proper practices to be charged or credited to the General Fund, in order to ensure that the level of Council Tax is calculated on the correct basis.
3. The Statement of Total Recognised Gains and Losses – this brings together the surplus or deficit on the Income & Expenditure Account along with any gains or losses not recognised within that account to summarise the movement in the net worth of the Council during the financial year.
4. The Balance Sheet – this summarises the Council's financial position at the end of the financial year. It shows its balances and reserves and its long-term indebtedness, and the fixed assets and net current assets employed in its operations, together with summarised information on the fixed assets held.
5. The Cash Flow Statement - which summarises the total movement of the Council's funds and gives a brief subjective analysis of the Council's expenditure.
6. Notes to the Core Statements – these provide more detailed analysis and information on significant balances and movements within the statements listed above.
7. The Collection Fund - shows the transactions of the Authority in relation to Non Domestic Rates, Council Tax and residual Community Charge (or Poll Tax). It illustrates the way in which these have been distributed to Preceptors and the General Fund.

The Code of Practice on Local Authority Accounting for 2008/09 did not introduce any significant changes to the way the Council's Accounts are to be presented. There were only a number of minor amendments relating mainly to presentational issues.

These accounts are preceded by the Annual Governance Statement, the Statement of Responsibilities and the Statement of Accounting Policies.

The Council's financial year runs from 1st April to 31st March. A summary of the Balance Sheet as at 31st March 2009 is shown below:

2007/08 £000	2008/09 £000
60,256 Fixed Assets owned by the Council	64,351
26,253 Investments	18,930
12,467 Money owed to the Council	13,362
(47,259) Money owed by the Council	(57,393)
51,717	39,250
Financed by:	
22,298 Distributable Reserves	15,487
29,419 Non-Distributable Reserves	23,763
51,717	39,250
Distributable Reserves made up of:	
13,970 Capital Receipts	8,216
8,328 Revenue Balances	7,271
22,298	15,487

The major movements in the Balance Sheet can be summarised as follows:

- Within Non-Distributable Reserves, a net increase in the Pensions Liability of £9.020m
- An decrease in Sundry Creditors of £2.859m
- A net increase in the value of Fixed Assets held of £3.775m
- A reduction in Investments held of £7.323m
- A reduction in Capital Receipts of £5.754m

Income & Expenditure Account

Expenditure - The Income & Expenditure Account summarises the cost of all General Fund services provided by the Council. The total budget requirement was £21.633m, which was funded as follows:

	£000
Revenue Support Grant from Central Govt.	1,151
Non-Domestic Rate Income	8,266
Council Tax Prior Year Adjustment	63
Council Tax Income	12,153
Total	21,633

The initial net spend of £22.638m was calculated as follows:

	£000
Total Budget Requirement	21,633
Planned Contributions from Balances	1,041
Asset Replacement	(50)
Invest to Save	(55)
Local Development Framework Earmarked Reserves	69
Net Spend on General Fund Services	22,638

The actual spend for revenue purposes was £22.847m, and there was a net reduction to balances of £1.058m. The General Fund Balances at 31st March 2009 were £7.271m. A summary of the revenue spend for 2008/09 is shown below. (The Corporate Services line includes all the appropriation entries shown below Net Cost of Services in the Income & Expenditure Account):

	Original Estimate	Revised Estimate	Actual	Variance to Revised
Portfolio	£000	£000	£000	£000
Leader of the Council	3,395	1,676	818	(858)
Community Services	1,553	1,616	1,593	(23)
Corporate Services	(4,978)	(1,889)	(1,440)	449
Environment	8,654	8,392	8,048	(344)
Leisure & Culture	4,940	5,760	5,572	(188)
Regeneration	9,347	8,413	8,256	(157)
Assumed Slippage	(273)	(273)		273
Total Service Spending	22,638	23,695	22,847	(848)

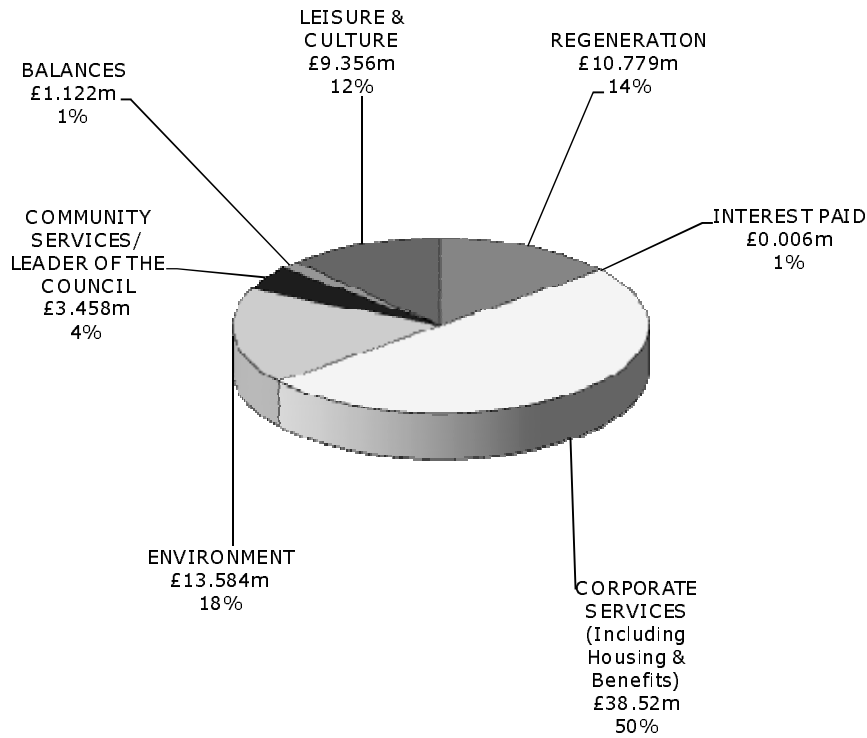
After allowing for a planned underspend of £0.273m, the underspend against the revised estimate was £0.847m, however this included carry forwards of £0.969m, making a net contribution from uncommitted balances of £0.122m.

Income - The pie charts shown below illustrate in broad terms where the Council's money comes from and the services that it provides.

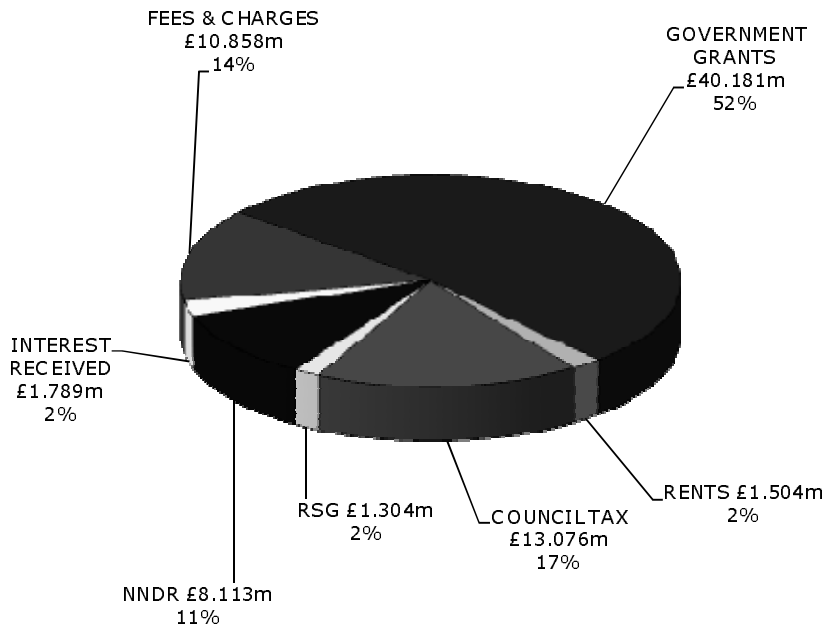
18% of the Council's income came from the services it provided through rents, fees and charges and interest. The largest single source of income was Specific Government Grants, such as Rent Allowances, Council Tax Benefit and Housing Subsidy, which provide 52% of the total.

Fees and charges were an area that was particularly hit by the economic downturn, with the main impact being in the areas of planning fees, land charges fees, pay & display car park charges and park & ride charges, all of which were significantly down against their anticipated targets.

SPENDING - WHERE IT WENT



SPENDING - WHERE IT CAME FROM



Capital Expenditure & Income

The Council spent £11.432m on Capital Projects compared to an original estimate of £12.870m. As a result of the quarterly monitoring of the capital programme there were some changes to the projected spend in 2008/09, particularly a major review relating to housing, and the revised estimate was set at £20.493m. Significant elements of the capital spending were Office Accommodation (£3.568m), Renovation Grants (£1.854m), and Support for Social Housing (£2.145m).

A summary of capital expenditure is shown below:

	Original Estimate	Revised Estimate	Actual	Variance to Revised
Portfolio	£000	£000	£000	£000
Leader of the Council	480	2,074	3,568	1,494
Community Services	181	383	166	(217)
Corporate Services	747	1,186	1,410	224
Environment	410	871	118	(753)
Leisure & Culture	2,150	3,187	1,342	(1,845)
Regeneration	12,792	12,792	4,829	(7,963)
Total Service Spending	16,760	20,493	11,433	(9,060)

The Original Estimate includes unspent resources brought forward from 2007/08 of £7.622m.

The main areas of underspend were as follows:

- New Growth Point - £1.609m
- South Maidstone Project - £3.632m
- Support for Social Housing - £1.395m

The overspend on Leader of the Council relates to the new Council offices, but this is being funded by Kent County Council and the Mall Corporation. It also includes a notional sum for the disposal of the staff car park at London House, which was included as part of the agreement to terminate the lease on the Council's old offices. This is funded by a notional capital receipt of the same value.

Capital expenditure was funded as follows:

	£000
Revenue Support	883
Disposal of Assets – Current & Previous Years	7,813
Fremfins Development Receipts	670
Other Grants & Contributions	2,067
Total	11,433

The disposal of assets during the year realised capital receipts of £1.21m, and there were a further receipts from the Maidstone Housing Trust in respect of the VAT Shelter Scheme agreement (£0.560m) and the Council's on-going share of Right to Buy receipts (£0.460m). £8.276m of useable capital receipts has been carried forward for future use.

Borrowing & Investments

The Council has adopted the requirements of the CIPFA Prudential Code for Capital Finance. This has given individual authorities responsibility for deciding their own level of affordable borrowing, based on the guidelines laid out in the Code. However, there was no long-term borrowing during 2008/09, as the capital receipts from the sale of the Council's housing stock in 2004, and other receipts, continue to be utilised to fund capital expenditure.

As there is still a large proportion of receipts unutilised this is reflected in the high level of investments, which totalled £18.930m at 31st March 2009, generating investment income of £1.789m.

The banking crisis that began in late 2008 meant that interest returns fell sharply in the second half of the year, although the target set as part of the original estimate was met. The Council had no investments in Icelandic banks and has suffered no losses on any of its investments.

Collection Fund

The Council is a Billing Authority, meaning it is responsible for collecting and paying over Council Tax contributions on behalf of Kent County Council, Kent Police Authority, Kent and Medway Towns Fire Authority, and the Parish Councils within the Borough area. The Council operates a Collection Fund into which it to pays all income collected from the Council Tax and National Non-Domestic Rates. The demands on the Fund for 2008/09 totalling £82.871m were as follows:

Authority	£000
Maidstone Borough Council	13,013
Kent County Council	58,620
Kent Police Authority	7,505
Kent & Medway Towns Fire Authority	3,733
Total	82,871

The Maidstone Borough Council demand includes £0.859m in respect of Parish Council precept demands.

The Band D level of Council Tax in 2008/09 was £1,401.57, which breaks down as follows:

Authority	£.p
Maidstone Borough Council	207.72
Kent County Council	1,001.79
Kent Police Authority	128.25
Kent & Medway Towns Fire Authority	63.81
Total	1,401.57

Individual additions to the Council Tax level were made to cover Parish Precepts in parished areas. This level of Council Tax related to a property in Band D and by the application of statutory multipliers the corresponding amount was charged to all properties in Bands A-H.

Pensions

Note 26 to the Balance Sheet refers to the Disclosure of Net Pension Assets and Liabilities. Under the requirements of FRS17 (Financial Reporting Standard) on Retirement Benefits these figures are now reflected in the Council's Balance Sheet and Income & Expenditure Account. The latest actuarial valuation carried out on behalf of the Kent County Council Pension Fund shows a significant movement in the liability related to the pension scheme, from £28.590m in 2007/08 to £37.610m in 2008/09.

Other Comments

No post balance sheet events were identified during the preparation of the Statement.

Future Developments

Future Statement of Recommended Practices for Local Authority Accounting for 2009/10 and beyond are likely to consider possible changes in the following areas:

- Adoption of International Financial Reporting Standards
- Changing from a 'presents fairly' to a 'true and fair' view audit opinion
- The implications of the Accounting Standards Board's 'Statement of Principles for Financial Reporting – Interpretation for Public Benefit Entities'
- The accounting treatment of Government Grants
- The implications of Royal Institute of Chartered Surveyors Valuation Information Paper No.10 'The Depreciated Replacement Cost Approach to Financial Reporting'

The ongoing economic situation will continue to have a significant effect on the financial position of the Council in 2009/10. With continuing uncertainty over new capital receipts, existing receipts will need to be used to fund the capital programme, which in turn will further reduce sums available to investment. Investment income will be a smaller source of income than in previous years due to continuing low interest rates, and there is also likely to continue to be reduced income from fees and charges.

The Council will continue to explore ways of reducing its costs through efficiency savings, shared services and partnership working. There is now a formal arrangement with Ashford, Swale and Tunbridge Wells Borough Councils in the form of the Mid-Kent Improvement Partnership (MKIP).

ANNUAL GOVERNANCE STATEMENT 2008/09

1. SCOPE OF RESPONSIBILITY

- 1.1 Maidstone Borough Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. Maidstone Borough Council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 1.2 In discharging this overall responsibility, Maidstone Borough Council is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, and which includes arrangements for the management of risk.
- 1.3 Maidstone Borough Council has approved and adopted a Local Code of Corporate Governance, which is consistent with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government. A copy of the Code is on the website at www.digitalmaidstone.gov.uk or can be obtained from the Council at Maidstone House, King Street, Maidstone, Kent ME15 6JQ. This statement explains how Maidstone Borough Council has complied with the code and also meets the requirements of regulation 4(2) of the Accounts and Audit Regulations 2003 as amended by the Accounts and Audit (Amendment) (England) Regulations 2006 in relation to the publication of a Statement on Internal Control.

2 THE PURPOSE OF THE GOVERNANCE FRAMEWORK

- 2.1 The governance framework comprises the systems and processes, and culture and values, by which the Authority is directed and controlled and its activities through which it accounts to, engages with and leads the community. It enables the Authority to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost-effective services.
- 2.2 The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of Maidstone Borough Council's policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.
- 2.3 This governance framework has been in place at the Maidstone Borough Council for the year ended 31 March 2009 and up to the date of approval of the annual report and Statement of Accounts.

3 THE GOVERNANCE FRAMEWORK

- 3.1 The following elements represent the key elements of the corporate governance and internal control environment:
- 3.2 The Authority's long-term objectives as set out in its '20/20 Vision' with medium and short-term objectives established and set out in the Strategic Plan. Monitoring

against the key measures of success is reported quarterly to Cabinet. National and Key Performance Indicators outturns are subject to review by Cabinet, Overview and Scrutiny and, ultimately, by the full Council.

- 3.3 The Council's Constitution specifies the roles and responsibilities of Members and Officers and lays down financial and contract procedural rules for the efficient and effective discharge of the Council's business. The Constitution includes the roles and responsibility of the Standards and Audit Committees.
- 3.4 The Council has wide ranging arrangements to consult and work with both partners and the public on issues directly related to Corporate Governance. These parties are consulted on the Council's long term vision, the key priorities of the Council and on resource issues relating to the budget strategy for the delivery of these key priorities. The major partnership is the Local Strategic Partnership (LSP) which delivers the requirement of the Local Area Agreement (LAA2). Partners and the public receive reports on the actual performance of the Council in delivering its priorities and there is also consultation on the effectiveness of these reporting arrangements.
- 3.5 Policy and decision-making is facilitated through reports from Officers to Cabinet and individual Cabinet Members. Each Cabinet Member has a specific portfolio and will take decisions on matters relevant to the portfolio. The Overview and Scrutiny Committees which broadly mirror the specific Cabinet portfolios have the opportunity to 'call-in' the decisions of Cabinet and recommend changes to decisions or policies.
- 3.6 The Audit Committee reviews all aspects of Corporate Governance and Risk Management. In particular, it considers regular reports from Internal and External Audit and gives observations and recommendations to Cabinet. It also considers the Annual Statement of Accounts and recommends them to Council.
- 3.7 Compliance with established policies, procedures, laws and regulations is achieved through:
 - a) The establishment of a Corporate Governance Officer Working Party chaired by the Chief Executive.
 - b) Internal Audit – A well established and effective Internal Audit section which works to an approved three year audit plan. Individual audit reports are produced for the relevant managers, with a copy to the Chief Executive and appropriate Director, and six monthly reports to Audit Committee and Cabinet which evaluate the overall internal control environment tested through the audit work. An annual review of audit work and effectiveness, supported where appropriate by a Peer Review or a review by External Audit every three years, is produced for Audit Committee.
 - c) External Audit – External Audit produce a number of reports which are reported to management and Members. Recommendations and comments are considered and, where necessary, action is taken to address the issues.
 - d) The Authority has a Treasury Management code of Practice and Strategy and Prudential Indicators which are monitored on a daily basis.
 - e) Financial Monitoring – Regular reports are produced for Officers authorised to spend, Management Team and Cabinet which facilitates the effective control of the budget.
 - f) Annual Corporate Planning Cycle – An approved cycle of events has been agreed by Cabinet which facilitates the effective planning of service

delivery, including the identification of risks, and budgeting.

- g) Quarterly meetings are held with each Head of Service to monitor performance and ensure compliance with a range of corporate policies with summaries of each meeting cycle being reported to Management Team.
- h) The Council has an established complaints system backed up by a database linked to the Council's CRM which monitors action taken in relation to individual complaints through an audit trail, facilitates the escalation of complaints to Stage 2 and provides a mechanism for managers to ensure that complaints are dealt with within the prescribed timescales. The system also provides strategic information on complaints which is reported regularly to Management Team and Standards Committee.
- i) Risk Management – a Risk Management Strategy has been agreed, corporate strategic risks have been identified and Management Action Plans produced. The Strategic Risk Register is subject to regular review. Risks to service delivery (operational risks) have been accepted as the responsibility of individual authorised officers and incorporated into Service Plans. Heads of Service are responsible for ensuring that their service managers retain an effective operational risk register. Risk management is a standard heading for consideration of all reports to Management Team and Members. A formal risk assessment is required for reports which require decisions on strategic issues or which seek approval for significant projects.
- j) Relationships – Open and honest professional relationships exist between the Council and external auditors and inspectors.
- k) Service delivery by trained and experienced people – the Council has had an Investors In People award for a number of years, which involves regular appraisals, service and training planning, training evaluation forms, recruitment and selection procedures and initiatives such as Work/Life Balance. Further details of HR-related initiatives are set out in an approved People Strategy. Members receive regular planned training and have received a Members' Training Charter.
- l) Performance Management – through Reach the Summit and the Best Value Performance Plan, procedures are in place to regularly review the performance of the authority across all sections and in a timely manner. Regular reports are presented to Management Team and Cabinet and overview and scrutiny committees.
- m) Statutory Accounts – the authority has traditionally had a policy of early closure of the accounts which enables presentation of the statutory Statement of Accounts to Members to meet the statutory timetable. This facilitates good financial management and allows the historic accounts to be an effective influence to future financial management.
- n) Overview and Scrutiny - The Council has a national reputation for the effectiveness of its overview and scrutiny process and this contributes significantly to the internal control environment.
- o) Standards and Audit Committee – these committees monitor and improve on arrangements for Corporate Governance within the Authority.
- p) Code of Corporate Governance – The Cabinet has agreed a Local Code of Corporate Governance which is reviewed and reported to Cabinet on an

annual basis by the Corporate Governance Officer Working Party.

- q) Monitoring Officer and Head of Corporate Law – The Council has appointed a Monitoring Officer and Head of Corporate Law to oversee its compliance with laws and statutory obligations. The Monitoring Officer, who is a Member of Management Team, reports on a regular basis to the Council's Standards Committee.

- 3.7 Corporate Governance is at the heart of everything the Council does, for staff this is incorporated into the six core values (STRIVE) in the delivery of services and this incorporates key elements such as customer service, delivering of targets, integrity in high standards of Corporate Governance, Value for Money and efficiency and equality.

4 REVIEW OF EFFECTIVENESS

- 4.1 Maidstone Borough Council has responsibility for conducting, at least annually, a review of the effectiveness of the system of corporate governance and internal control. This is undertaken by the Corporate Governance Officer Working Party. An internal review was undertaken during 2008/09. The review of effectiveness of the system of corporate governance and internal control is informed by the work of the internal auditors and the executive managers within the Authority who have responsibility for the development and maintenance of the overall governance environment, and also by comments made by the external auditors and other review agencies and inspectorates.
- 4.2 The Council is keen to allow itself to be the subject of external scrutiny and challenge and has an effective internal mechanism for regularly reviewing governance controls. The Council embraced the peer review, necessary for the Comprehensive Performance Assessment, the CPA Inspection itself and, more recently, responded positively to the inspection activity associated with the Direction of Travel, Use of Resources and Value for Money judgements. The critical but constructive comments from those processes have been incorporated into improvement plans and have been and continue to be acted upon. Other examples of external challenge are the annual external audit process, regular reviews of Benefit processes by the Audit Commission and other assessments such as those involved in the Chartermark and Beacon status. Benchmarking and other comparisons are also regularly used.
- 4.3 Six monthly internal audit reports have been presented to Audit Committee and Cabinet, giving the Head of Internal Audit's view on the overall internal control environment, which has subsequently been agreed. The annual internal audit report includes an analysis showing the 'internal control/assurance level' that was given for each audit review at the time of the audit and the reassessed assurance level that was given at the time of the follow up. Improvements in control are therefore demonstrated individually for each review and collectively as an overall "direction of travel" improvement.
- 4.4 The effectiveness of the system of Internal Audit for 2008/09 was reviewed by a combination of an internal self-assessment, customer satisfaction survey, 3 yearly review by external audit and an earlier comprehensive peer review. The results of the exercise were reported to the Audit Committee in May 2009 and concluded that the Internal Audit section was effective in operating an internal audit service for 2008/09.
- 4.5 Risk Management is included in service planning, project planning and decision making. Progress in this area has been acknowledged by the external auditors' assessment within previous annual audit letters. Significant action was made to

update and refocus the Strategic Risk Register to more closely address the key objectives contained in the Council's Strategic Plan. This occurred in late 2007/08 and subsequently in late 2008/09. Thereafter a six-monthly reporting cycle is in place.

- 4.6 Management Team and Cabinet receive regular reports on performance within the authority and also take the opportunity to review processes and procedures. This has resulted in resources being redeployed to problem areas.
- 4.7 The Responsible Financial Officer and the Monitoring Officer periodically review the Constitution, procedures for internal financial control, application of the various Codes of Conduct and, within Management Team, have specific responsibility for the relevant aspects of Corporate Governance.
- 4.8 The Cabinet has agreed a Local Code of Corporate Governance which is reviewed and reported to Cabinet on an annual basis.
- 4.9 We have been advised on the implications of the result of the review of the effectiveness of the system of corporate governance by the Corporate Governance Working Group and a plan to address weaknesses and ensure continuous improvement of the system is in place.

5 **SIGNIFICANT GOVERNANCE ISSUES**

- 5.1 The Statement of Internal Control for 2007/08, considered in May 2008, contained a small number of issues which were to be addressed during 2008/09 and these are detailed below:-
 - a) Review Contract Regulations – the review of financial regulations was agreed by Council on 23rd April 2008. The review of contract regulations have been progressed in the context of a county wide review and was agreed by Council on 22nd April 2009;
 - b) Production of a Section Managers Handbook – the Section Managers handbook has been distributed early in the 2008/09 Municipal Year;
 - c) Audit reports with a level of assurance less than substantial – 3 areas were outstanding at March 2008 relating to aspects of PCN income, Community Safety and General Fund Properties. These have been monitored and reviewed by the Corporate Governance Working Group during 2008/09 and have all now achieved a substantial level of assurance.
 - d) Engagement Strategy – best practice identified that the Authority should ensure that arrangements are in place to enable the Authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands. It was recognised that practical arrangements are in place to deal with this, but Corporate Governance would benefit from a review to consider the need for an overarching Engagement Strategy. A revised Communication Strategy has been agreed and this includes aspects of consultation and engagement. The specific requirements of engagement are to be further developed in 2009.
- 5.2 During the review of the effectiveness of Corporate Governance in 2008/09, the following areas have been identified for further work in 2009/10:-

- a) Audit reports with a level of assurance lower than substantial – five areas were outstanding at March 2009 relating to aspects of Section 106 Agreements, Refuse Collection Contract Management, Gypsy sites, Climate Change and Freedom of Information. The six monthly follow-up reviews by Internal Audit on these areas are due to be completed in April/May 2009 and the Corporate Governance Working Group will monitor and review these areas during 2009/10.
 - b) Partnership Working – further work is required during 2009/10 to build on work currently undertaken by the Council with partners on delivering outcomes for the public. Further developments may include involving partners in overall financial planning processes to deliver organisational and shared objectives, a clearer understanding of the total resources at the disposal of significant partnerships, and regular reviews of the financial performance of significant partnerships, clearly linked to outputs.
- 5.3 We propose over the coming year to take steps to address the above matters to further enhance our governance arrangements. We are satisfied that these steps will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operations as part of our next annual review.

Date:

.....
Chief Executive



Date: 16th June 2009

.....
Leader

THE STATEMENT OF RESPONSIBILITIES FOR THE STATEMENT OF ACCOUNTS

The Authority's Responsibilities

The Authority is required:

- to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of those affairs. In this Authority, during 2008/09 that officer was the Director of Resources & Partnerships;
- to manage its affairs to secure economic, efficient, and effective use of resources and safeguard its assets;
- to approve the statement of accounts.

The Director of Resources & Partnerships Responsibilities

The Director of Resources & Partnerships is responsible for the preparation of the Authority's Statement of Accounts in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom ('the Code of Practice')

In preparing this Statement, the Director of Resources & Partnerships has:



- selected suitable accounting policies and then applied them consistently;
- made judgements and estimates that were reasonable and prudent;
- complied with the Code of Practice.

The Director of Resources & Partnerships has also:

- kept proper accounting records which were up to date;
- taken reasonable steps for the prevention and detection of fraud and other irregularities.

Certificate of Director of Resources & Partnerships and Leader of the Council

We certify that the statement of accounts set out on the following pages present fairly the financial position of the Council at the accounting date and its income and expenditure for the year ended 31st March 2009.

Z.Cooke Director of Resources & Partnerships		Date:	16 th June 2009
Cllr.C.Garland Leader of the Council		Date:	16 th June 2009

STATEMENT OF ACCOUNTING POLICIES

1. GENERAL

The Statement of Accounts summarises the Council’s transactions for the 2008/09 financial year and its position at the year end of 31st March 2009. It has been prepared in accordance with CIPFA’s Code of Practice on Local Authority Accounting – A Statement of Recommended Practice.

The financial information contained in the accounts has the following qualitative characteristics, as laid out in the Code of Practice on Local Authority Accounting:

- Relevance
- Reliability
- Comparability
- Understandability

In addition, the following accounting concepts have been given precedence in the preparation of the accounts:

- Going concern
- Primary legislative requirements

The accounting convention adopted for the preparation of these accounts is a historical cost basis modified for the revaluation of certain categories of assets.

2. TANGIBLE FIXED ASSETS

Tangible fixed assets are assets that have physical substance and are held for use in the provision of services or for administrative purposes on a continuing basis.

All expenditure on the acquisition, creation or enhancement of tangible fixed assets is capitalised on an accruals basis in the accounts. Expenditure on fixed assets is capitalised, provided that the fixed asset value is over £10,000 and yields benefits to the Authority and the services it provides, for a period of more than one year. This excludes expenditure on routine repairs and maintenance of fixed assets which is charged direct to service revenue accounts.

Tangible fixed assets are valued on the basis required by CIPFA and in accordance with The Royal Institution of Chartered Surveyors (RICS) Appraisal and Valuation Manual. Fixed assets are classified into the groupings required by the Code of Practice on Local Authority Accounting, as follows:

Operational Assets	Non-operational Assets
• Land & Buildings	• Investment Properties
• Vehicles, Plant, Furniture & Equipment	• Assets Under Construction
• Infrastructure Assets	• Surplus Assets Held for Disposal
• Community Assets	
• Fixtures & Fittings	

Property and other assets used in day-to-day operations are included in the balance sheet at their open-market value based on their existing use, or at the amount it would cost to replace them.

Assets that are not in use in day-to-day operations, including investment properties, are included in the balance sheet at their open-market value.

Infrastructure assets are included in the balance sheet at the amount they cost when they were bought.

Community Assets were initially valued at a nominal £1 per asset, as per CIPFA guidance. These are assets that the Council intends to hold in perpetuity, that have no determinable finite life, and in addition may have restrictions on their disposal. Any subsequent capital expenditure on such assets is added to the Balance Sheet valuation, as CIPFA guidance now advises that Community Assets are held at historic cost.

Assets included at the Balance Sheet at current value are revalued where there have been material changes in the value, but as a minimum every five years. Increases in valuation are matched by credits to the Revaluation Reserve to recognise unrealised gains. Exceptionally, gains might be credited to the Income & Expenditure Account where they arise from the reversal of an impairment loss previously charged to a service revenue account.

The Revaluation Reserve contains revaluation gains recognised since 1st April 2007 only, the date of its formal implementation. Gains arising before that date have been consolidated into the Capital Adjustment Account.

Assets acquired under finance leases (where the lease value is over £12,000) are also capitalised in the Authority's accounts, together with the liability to pay future rentals.

When an asset is disposed of, its value in the Balance Sheet is written off to the Income & Expenditure Account as part of the gain or loss on disposal. Receipts from disposals are credited to the Income & Expenditure Account as part of the gain or loss on disposal (i.e. netted off against the carrying value of the asset at the time of disposal). Any revaluation gains in the Revaluation Reserve are transferred to the Capital Adjustment Account.

Amounts in excess of £10,000 are categorised as capital receipts. These are required to be credited to the Usable Capital Receipts Reserve, and can then only be used for new capital investment or set aside to reduce the Council's underlying need to borrow (the Capital Financing Requirement). Receipts are appropriated to the Reserve from the Statement of Movement on the General Fund Balance.

The written-off value of disposals is not a charge against Council Tax, as the cost of fixed assets is fully provided for under separate arrangements for capital financing. Amounts are appropriated to the Capital Adjustment Account from the Statement of Movement on the General Fund Balance.

3. INTANGIBLE FIXED ASSETS

Expenditure on assets that do not have physical substance but are identifiable and controlled by the Council (i.e. software licences) is capitalised when it will bring benefits to the Council for more than one financial year. The balance is amortised to the relevant service revenue account over the economic life of the investment to reflect the pattern of consumption of benefits.

4. DEPRECIATION

Depreciation is provided for on all fixed assets with a finite useful life (which can be determined at the time of acquisition or revaluation) according to the following policy:

- a) Newly acquired assets are depreciated from the year of acquisition to the last year, although assets in the course of construction are not depreciated until they are brought into use;

b) depreciation is calculated using the straight-line method for all classes of asset. The periods used for depreciation are as follows:

- Buildings – allocated over the life of the property as estimated by the valuer.
- Vehicles, Plant, Furniture & Equipment/Fixtures & Fittings - allocated over the life of the asset as estimated by a suitably qualified officer.
- Infrastructure – allocated over 20 years.

Revaluation Gains are also depreciated, with an amount equal to the difference between current value depreciation charged on assets and the depreciation that would have been chargeable based on their historical cost being transferred each year from the Revaluation Reserve to the Capital Adjustment Account.

Where grants and contributions are received that are identifiable to fixed assets with a finite useful life, the amounts are credited to the Government Grants Deferred Account. The balance is then written down to revenue to offset depreciation charges made for the related assets in the relevant service revenue account, in line with the depreciation policy applied to them.

5. IMPAIRMENT

The values for each category of assets and of material individual assets that are not being depreciated are reviewed at the end of each financial year for evidence of reductions in value. Where impairment is identified as part of the review or as a result of a valuation exercise, this is accounted for by:

- Where attributable to the clear consumption of economic benefits – the loss is charged to the relevant service account.
- Otherwise – written off against any revaluation gains attributable to the relevant asset in the Revaluation Reserve, with any excess charged to the relevant service revenue account.

Where an impairment loss is charged to the Income & Expenditure Account but there were accumulated revaluation gains in the Revaluation Reserve for that asset, an amount up to the value of the loss is transferred from the Revaluation Reserve to the Capital Adjustment Account.

6. CHARGES TO REVENUE FOR FIXED ASSETS

Service revenue accounts, support services and trading accounts are debited with the following amounts to record the real cost of holding fixed assets during the year:

- Depreciation attributable to the assets used by the relevant service
- Impairment losses attributable to the clear consumption of economic benefits on tangible fixed assets used by the service and other losses where there are no accumulated gains in the Revaluation Reserve against which they can be written off.
- Amortisation of intangible fixed assets attributable to the service

The Council is not required to raise Council Tax to cover depreciation, impairment losses or amortisation. These entries are therefore replaced by revenue provision in the Statement of Movement on General Fund Balance, by way of an adjusting transaction with the Capital Adjustment Account for the difference between the two.

7. REVENUE EXPENDITURE FUNDED FROM CAPITAL UNDER STATUTUE (Previously known as Deferred Charges)

Expenditure incurred during the year that may be capitalised under statutory provisions but does not result in the creation of fixed assets has been charged as expenditure to the relevant service revenue account in the year. Where the Council has determined to meet the cost of this expenditure from existing capital resources or by borrowing, a transfer to the Capital Adjustment Account then reverses out the amounts charged in the Statement of Movement on the General Fund Balance so there is no impact on the level of Council Tax.

8. GOVERNMENT GRANTS AND CONTRIBUTIONS (REVENUE)

Whether paid on account, by instalments or in arrears, government grants and third party contributions and donations are recognised as income at the date the Council satisfies the conditions of entitlement to the grant/contribution. There is reasonable assurance that the monies will be received and the expenditure for which the grant is given has been incurred. Revenue grants are matched in service revenue accounts with the service expenditure to which they relate. Grants to cover general expenditure (e.g. Revenue Support Grant) are credited to the foot of the Income & Expenditure Account after Net Operating Expenditure.

9. LEASES

Finance Leases

The Council accounts for leases as finance leases when substantially all the risks and rewards relating to the leased item transfer to the Council. Rental payments are apportioned between:

- A charge for the acquisition of the interest in the item (recognised as a liability in the Balance Sheet at the start of the lease, matched with a tangible fixed asset – the liability is written down as the rental becomes payable)
- A finance charge (debited to Net Operating Expenditure in the Income & Expenditure Account as the rental becomes payable)

Fixed assets recognised under finance leases are accounted for using the policies generally applied to Tangible Fixed Assets, subject to depreciation being charged over the lease term if this is shorter than the asset's estimated useful life.

Operating Leases

Leases that do not meet the definition of finance leases are accounted for as operating leases. Rentals payable are charged to the relevant service revenue account on a straight-line basis over the term of the lease, generally meaning that rentals are charged when they become payable.

10. RESERVES

The current system of capital accounting requires the Council to maintain two reserve accounts in the Balance Sheet:

- a) the Revaluation Reserve represents principally the balance of the gains arising on the periodic revaluation of fixed assets since 1st April 2007 only, the date of its formal implementation. Gains arising before that date have been consolidated into the Capital Adjustment Account.

- b) the Capital Adjustment Account represents amounts set aside from revenue resources or capital receipts to finance expenditure on fixed assets or for the repayment of external loans and certain other capital financing transactions.

11. REDEMPTION OF DEBT

The policy regarding debt redemption is only to redeem debt when, taking into account all circumstances regarding current and potential future borrowing controls, and Housing Subsidy, it is economic and viable to do so. As the Council is currently debt-free, the policy is to use current and future capital receipts in a prudent manner, and it is not planned to borrow over the period of the Financial Plan.

12. DEBTORS AND CREDITORS

The revenue accounts for the Council are maintained on an accruals basis in accordance with the Code of Accounting Practice and standard accounting practice. That is, sums due to or from the Council during the year are included whether or not the cash has actually been received or paid in the year.

An exception to this principle relates to electricity and similar quarterly payments which are charged at the date of the meter reading rather than being apportioned between financial years. This policy is consistently applied each year and therefore does not have a material effect on the year's accounts.

Internal Debtors are netted against internal Creditors on consolidation.

13. STOCK AND WORK IN PROGRESS

Stocks are valued at average cost, and this is considered to be a satisfactory estimate of actual cost and therefore, is in compliance with SSAP9 which requires stocks to be valued at the lower of cost or net realisable value.

Work in progress on uncompleted jobs relates mainly to the Council's Direct Services section. Outstanding work is valued including provision for profits or losses on those jobs. Where the outstanding work is for an internal section the charges are netted on consolidation.

14. COSTS OF SUPPORT SERVICES & OVERHEADS

The costs of support services and overheads are charged to those that benefit from the supply or service in accordance with the costing principles of the CIPFA Best Value Accounting Code of Practice 2008. The total absorption costing principle is used – the full cost of overheads and support services are shared between users in proportion with the benefits used, with the exception of:

- Corporate & Democratic Core – costs relating to the Council's status as a multi-functional democratic organisation.
- Non-distributed Costs – the cost of discretionary benefits awarded to employees retiring early.

These two cost categories are accounted for as separate headings in the Income & Expenditure Account, as part of Net Cost of Services.

15. PENSIONS

From April 1st 2003 the Council has fully complied with the requirements of FRS 17 (Retirement Benefits), which has superseded the requirements of SSAP 24 (Accounting for

Pension Costs). This requires the Council to account for retirement benefits when it is committed to giving them, for all future years where such a commitment is due.

Employees of the Council are members of the Local Government Pensions Scheme, administered by Kent County Council (KCC). The Scheme is accounted for as a defined benefits scheme:

- The liabilities of the KCC pension scheme attributable to the Council are included in the Balance Sheet on an actuarial basis using the projected unit method – i.e. an assessment of the future payments that will be made in relation to retirement benefits earned to date by employees, based on assumptions about mortality rates, employee turnover rates, etc and projected earnings for current employees.
- Liabilities are discounted to their value at current prices, using a discount rate specified by the actuaries (based on the indicative rate of return on high quality corporate bonds.)
- The assets of the KCC pension fund attributable to the Council are included in the Balance Sheet at their fair value:
 - Quoted securities – current bid price
 - Unquoted securities – professional estimate
 - Unitised securities – current bid price
 - Property – market value
- The change in net pensions liability is analysed into seven components:
 - Current service cost – the increase in liabilities as a result of years of service earned this year – allocated in the Income & Expenditure Account to the revenue accounts of services for which the employees worked.
 - Past service cost – the increase in liabilities arising from current year decisions whose effect relates to years of service earned in earlier years – debited to the Net Cost of Services in the Income & Expenditure Account as part of Non Distributed Costs.
 - Interest cost – the expected increase in the present value of liabilities during the year as they move one year closer to being paid – debited to Net Operating Expenditure in the Income & Expenditure Account.
 - Expected return on assets – the annual investment return on the fund assets attributable to the Council, based on an average of the expected long-term return – credited to Net Operating Expenditure in the Income & Expenditure Account.
 - Gains/losses on settlements & curtailments – the result of actions to relieve the Council of liabilities or events that reduce the expected future service or accrual of benefits of employees - debited to the Net Cost of Services in the Income & Expenditure Account as part of Non Distributed Costs.
 - Actuarial gains & losses – changes in the net pensions liability that arise because events have not coincided with assumptions made at the last actuarial valuation or because the actuaries have updated their assumptions – debited to the Statement of Total Recognised Gains & Losses.
 - Contributions paid to KCC pension fund – cash paid as employers' contributions to the pension fund.

In relation to retirement benefits, statutory provisions require the General Fund balance to be charged with the amount payable by the Council to the pension fund in the year, not the amount calculated according to the relevant accounting standards. In the Statement of Movement on General Fund Balance this means that there are appropriations to and from the Pensions Reserve to remove the notional debits and credits for retirement benefits and replace them with debits for the cash paid to the pension fund and any amounts payable to the fund but unpaid at the year-end.

Discretionary Benefits

The Council also has restricted powers to make discretionary awards of retirement benefits in the event of early retirements. Any liabilities estimated to arise as a result of an award and accounted for using the same policies as are applied to the Local Government Pension Scheme.

16. FINANCIAL LIABILITIES & ASSETS

The Council is currently debt-free and does not hold any financial liabilities on the Balance Sheet.

Financial assets are classified into two types:

- Loans & Receivables – assets that have fixed or determinable payments but are not quoted on an open market.
- Available-for-sale assets – assets that have a quoted market price and/or do not have fixed or determinable payments.

Loans & Receivables are initially measured at fair value and carried at their amortised cost. Annual credits to the Income & Expenditure Account for interest receivable are based on the carrying amount of the asset multiplied by the effective rate of interest for the instrument.

Available-for-sale assets are initially measured and carried at fair value. Where the asset has fixed or determinable payments, annual credits to the Income & Expenditure Account are based on the amortised cost of the asset multiplied the effective rate of interest for the instrument.

17. CONTINGENT LIABILITIES/ASSETS

Contingent liabilities and assets are recognised in the notes to the Balance Sheet. The contingent liability is not recognised within the accounts as the date of the possible transaction concerned is not sufficiently certain at this stage. The contingent asset is not accrued in conformity with the concept of prudence.

18. VALUE ADDED TAX

VAT is included in Income and Expenditure Account, whether of a capital or revenue nature, only to the extent that it is irrecoverable.

19. POST BALANCE SHEET EVENTS

Post balance sheet events that have a material effect on the accounts as prepared at 31st March 2009 are included, if any are identified.

CORE STATEMENTS

INCOME & EXPENDITURE ACCOUNT

2007/08 Net £000	Classification	2008/2009		
		Expenditure £000	Income £000	Net £000
(65)	Central Services to the Public	52,016	49,901	2,115
16,557	Cultural, Environmental & Planning Services	24,420	7,304	17,116
1,800	Highways, Roads & Transport Services	5,236	3,906	1,330
2,068	Corporate & Democratic Core	2,305	89	2,216
93	Non-distributed Costs	1,213		1,213
6,504	Housing Services	5,947	1,342	4,605
26,957	Net Cost of Services (Notes 1/2)	91,136	62,541	28,595
(1,987)	(Gains)/Losses on Disposal of Fixed Assets			(841)
784	Parish Precepts			859
6	Interest Payable			6
37	Contribution of Housing Capital Receipts to Govt.Pool			25
(2,216)	Interest and Investment Income			(1,789)
680	Pensions Interest Cost & Expected Return on Pensions Assets			1,860
24,261	NET OPERATING EXPENDITURE			28,715
(12,569)	Precept Demanded from the Collection Fund			(13,076)
(1,329)	General Government Grants (Note 3)			(1,462)
(7,919)	Distribution from Non-Domestic Rate Pool			(8,112)
2,444	(SURPLUS)/DEFICIT FOR THE YEAR			6,065

Note: (Gains)/Losses on Disposal of Fixed Assets

This credit figure does not totally represent the disposal of assets, it also includes ongoing receipts from Maidstone Housing Trust in respect of Right To Buy sales and a VAT sharing scheme that the Council is entitled to following the Large Scale Voluntary Transfer that took place in February 2004. Under the CIPFA Local Authority Accounting Code of Practice these receipts are to be treated as a gain on disposals.

STATEMENT OF MOVEMENT ON GENERAL FUND BALANCE

2007/08 £000		2008/09 £000
2,444	(Surplus)/Deficit on the Income & Expenditure Account	6,065
(3,773)	Net additional amounts required by statute & non-statutory proper practices to be debited or credited to the General Fund Balance for the year	(5,008)
(1,329)	(Increase)/Decrease in General Fund Balance for the Year	1,057
(6,999)	General Fund Balance at 1st April	(8,328)
(8,328)	General Fund Balance at 31st March	(7,271)

NOTE TO THE STATEMENT OF MOVEMENT ON GENERAL FUND BALANCE

The Income & Expenditure Account shows the Council's actual financial performance for the year, measured in terms of resources consumed and generated over the last 12 months. However, the authority is required to raise Council Tax on a different accounting basis, the main differences being:

- Capital investment is accounted for as it is financed, rather than when fixed assets are consumed.
- The payment of a share of housing capital receipts scores as a loss in the Income & Expenditure Account, but is met from the usable capital receipts balance rather than council tax.
- Retirement benefits are charged as amounts become payable to pension funds and pensioners, rather than as future benefits are earned.

The General Fund Balance shows whether the Council has over or underspent against the Council Tax that it raised for the year, taking into account the use of reserves built up in the past and contributions to reserves earmarked for future expenditure.

This reconciliation statement summarises the differences between the outturn on the Income & Expenditure Account and the General Fund Balance.

2007/08 £000		2008/09 £000
	Amounts to be included in the Income & Expenditure Account but required by statute to be excluded when determining the Movement on the General Fund Balance for the year	
(148)	Amortisation of intangible fixed assets	(259)
(2,241)	Depreciation and Impairment of fixed assets	(2,543)
133	Government Grants Deferred Amortisation	284
(4,332)	Write downs of deferred charges to be financed from capital resources	(3,755)
1,987	Net gain or loss on sale of fixed assets	841
(2,630)	Net charges to be made for retirement benefits in accordance with FRS 17	(3,860)
(7,231)	Total	(9,292)
	Amounts not included in the Income & Expenditure Account but required by statute to be included when determining the Movement on the General Fund Balance for the year	
383	Capital expenditure charged in-year to the General Fund Balance	883
(37)	Transfer from Usable Capital Receipts to meet payments to the Housing Capital Receipts Pool	(25)
3,112	Employers Contributions payable to the Local Government Pension Scheme and retirement benefits payable direct to pensioners	3,427
3,458	Total	4,285
(3,773)	Net additional amount required to be credited to the General Fund balance for the year	(5,008)

STATEMENT OF TOTAL RECOGNISED GAINS & LOSSES

This statement brings together all the gains and losses of the Council for the year and shows the aggregate increase in its net worth. In addition to the surplus generated on the Income & Expenditure Account, it includes gains and losses relating to the revaluation of fixed assets and the re-measurement of the net liability to cover the cost of retirement benefits.

2007/08 £000		2008/09 £000
2,444	(Surplus)/Deficit on the Income & Expenditure Account	6,065
(3,730)	Actuarial Gains & Losses relating to pensions	8,325
(1,974)	Gains on revaluation of fixed assets	(2,041)
296	Other recognised gains & losses	118
(2,964)	Total recognised gains and losses for the year	12,467

The other recognised gains and losses figure includes the increase or decrease in the Council's share of the year end balance on the Collection Fund (£0.059m).

BALANCE SHEET FOR THE YEAR ENDING 31ST MARCH 2009

2007/08 (Restated) £000		2008/2009	
		£000	£000
	FIXED ASSETS (Notes 11-13)		
	Operational Assets		
42,601	Land and Buildings	40,389	
1,568	Vehicles, Plant, Furniture and Equipment	1,694	
456	Fixtures and Fittings	2,997	
3,589	Infrastructure Assets	3,431	
63	Community Assets	235	48,746
	Non-operational Assets		
11,609	Investment Properties	11,634	
0	Under Construction	566	
213	Surplus for Resale	2,928	15,128
60,099			63,874
272	INTANGIBLE FIXED ASSETS (Note 14)	477	477
9,386	LONG-TERM INVESTMENTS (Note 18)		5,011
422	LONG-TERM DEBTORS (Note 19)	331	331
70,179	TOTAL LONG TERM ASSETS		69,693
	CURRENT ASSETS		
91	Stocks and Work in Progress (Note 20)	108	
16,867	Investments (Note 18)	13,919	
11,838	Debtors and Payments in Advance (Note 21)	12,921	
1	Cash and Bank	2	26,950
	CURRENT LIABILITIES		
1,522	Bank Overdraft	1,088	
2,544	Provision for Bad Debts	3,201	
9,785	Sundry Creditors (Note 22)	8,322	
390	Collection Fund (Note 27(f))	93	
2,768	Government Grants - Deferred (Note 23)	3,622	
1,191	Unapplied Govt.Grants & External Ctbns. (Note 24)	3,306	19,632
80,776	TOTAL ASSETS LESS CURRENT LIABILITIES		77,011
209	Cobtree Trust (Note 25)	151	
28,850	Liability Related to Defined Benefit Pension Scheme (Note 26)	37,610	37,761
51,717	TOTAL ASSETS LESS LIABILITIES		39,250
	FINANCED BY:		
(28,850)	Pensions Reserve (Note 26)	(37,610)	
127	Deferred Capital Receipts (Note 27 (a))	105	
1,907	Revaluation Reserve (Note 27 (b))	3,925	
56,160	Capital Adjustment Account (Note 27 (c))	57,326	
13,970	Usable Capital Receipts Reserve (Note 27 (d))	8,216	31,962
	REVENUE BALANCES		
8,328	General Fund (Note 27 (e))	7,271	
75	Collection Fund (Note 27 (f))	17	7,288
51,717	TOTAL CAPITAL EMPLOYED (Note 28)		39,250

The restatement relates to the Pensions figures (£28.850m), which have been restated in accordance with figures provided by the Council's actuaries. Further details can be found in Note 26 to the Core Statements.

CASHFLOW STATEMENT

2007/08 £000		2008/09	
		£000	£000
	REVENUE ACTIVITIES		
	EXPENDITURE		
17,465	Cash Paid to and on Behalf of Employees	19,796	
20,170	Other Operating Costs	20,757	
25,205	Housing Benefit Paid Out	28,179	
46,569	NNDR to Pool	50,062	
66,988	Precepts - KCC/KPA/KMTFA	70,191	
784	Parishes	859	
54	Payments to the Capital Receipts Pool	30	(189,874)
	INCOME		
1,254	Rents (after rebates)	1,243	
71,423	Council Tax Receipts	74,506	
7,919	NNDR from Pool	8,113	
47,183	Non-Domestic Rate Receipts	49,435	
1,329	Revenue Support Grant	1,304	
25,941	DWP Grants for Benefits	26,492	
9,628	Other Government Grants	12,462	
11,215	Cash Received for Goods and Services	11,030	184,585
(1,343)	NET CASH FLOW FROM REVENUE ACTIVITIES		(5,289)
	RETURNS ON INVESTMENT AND SERVICING OF FINANCE		
	EXPENDITURE		
(6)	Interest Paid		(6)
	INCOME		
1,949	Interest Received		1,845
600	REVENUE RELATED MOVEMENT IN CASH AND CASH EQUIVALENTS		(3,450)
	CAPITAL ACTIVITIES		
	EXPENDITURE		
4,071	Fixed Assets	6,110	
5,000	Purchase of Long Term Investments	2,000	
6,191	Other Capital Costs	4,277	(12,387)
	INCOME		
3,411	Sale of Fixed Assets	1,712	
989	Capital Grants Received	4,456	
415	Other Capital Cash Payments/Income	780	6,948
(9,847)	NET CASH INFLOW/OUTFLOW BEFORE FINANCING		(8,889)
	MANAGEMENT OF LIQUID RESOURCES		
9,450	Net (increase)/decrease in other Liquid Resources		9,322
	WHICH WAS FINANCED FROM:		
	EXPENDITURE		
(1,000)	Repayments of Amounts Borrowed - Long Term		(5,700)
-	Repayments of Amounts Borrowed - Short Term		
	Capital Element of Finance Lease Rental Payments		
	INCOME		
1,000	New Loans Raised		5,700
(397)	INCREASE/(DECREASE) IN CASH		433

NOTES TO THE CORE STATEMENTS

1 – Best Value Accountancy Code of Practice

The Statement of Recommended Practice (SORP) requires authorities to present the net cost of services using the Service Expenditure Analysis set out in the Best Value Accountancy Code of Practice. The SORP acknowledges that where an authority's management structure differs from the Service Expenditure Analysis/Standard Classification, a different presentation of the net cost of services can be adopted in accordance with the local structure. This allows performance to be reported in line with the way in which accountability for resources has been delegated. This note reconciles the net cost of services in the Income & Expenditure Account with the net cost under the Council's Cabinet structure.

Net £000	Classification	Expenditure £000	Income £000	Net £000
286	Leader of the Council	1,500	682	818
1,181	Corporate Services	48,724	44,418	4,306
1,564	Community Services	2,014	421	1,593
8,397	Environment	18,708	10,659	8,049
9,754	Regeneration	10,798	2,542	8,256
5,775	Leisure & Culture	9,392	3,819	5,573
26,957	Net Cost of Services	91,136	62,541	28,595

2 – Section 137 of the Local Government Act 1972

Section 137 of the Local Government Act 1972, as amended, empowers local authorities to make contributions to certain charitable funds, not-for-profit bodies providing a public service in the United Kingdom and mayoral appeals. The Council's expenditure was in relation to twinning and grants to outside bodies, and amounted to £24,576 (£17,243 in 2007/08)

3 – General Government Grants

2007/08 £000		2008/09 £000
1,329	Revenue Support Grant	1,304
0	Area Based Grant	23
0	Performance Reward Grant	135
1,329		1,462

4 – Finance & Operating Leases

Vehicles, Plant, Furniture & Equipment - The authority uses gritter lorries, other commercial vehicles, wheeled bins and IT equipment, financed under the terms of an operating lease. The amount paid under these arrangements in 2008/09 was £312,665 (£342,489 in 2007/08).

The Authority was committed at 31st March 2009 to making payments of £128,732 under operating leases in 2009/10, comprising the following elements:

Vehicles, Plant, Furniture & Equipment

	£000
Leases expiring in 2009/10 (Rentals)	37
Leases expiring between 2010/11 & 2014/15 (Rentals)	92
Leases expiring after 2015/16 (Rentals)	0

5 – Trading Operations

The Council operates a variety of services which are subject to commercial risk, the most significant of which are listed below.

2007/08 £000	Operation	2008/09		(Surplus)/ Deficit £000
		Income £000	Exp. £000	
(249)	Market	(691)	521	(170)
(441)	Parkwood Industrial Estate	(466)	32	(434)
(865)	Pay & Display Car Parking	(1,825)	976	(849)
15	On-street Car Parking	(595)	610	15
1	Highways & Sewers	(191)	188	(3)
-	Building Cleaning	(253)	247	(6)
-	Street Cleaning	(1,583)	1,550	(33)
-	Parks	(2,137)	2,088	(49)

6 – Publicity

Set out below, in accordance with S.5(1) of the Local Government Act 1986, is the Council's spending on publicity.

2007/08 £000		2008/09 £000
68	Recruitment Advertising	103
201	Other Advertising	263
150	Other Publicity	125
419		491

7 – Remuneration of Senior Staff

The number of employees in 2008/09 whose remuneration fell above £50,000 is:

Number 2007/08	Remuneration £	Number 2008/09
7	50,000 - 59,999	11
8	60,000 - 69,999	3
7	70,000 - 79,999	6
1	80,000 - 89,999	1
1	90,000 - 99,999	1
1	100,000 - 109,999	1
0	110,000 - 119,999	1

8 – Members Allowances

The total sum of Members Allowances paid during 2008/09 totalled £422,200. (£411,250 during 2007/08)

The Council also produce a statement, in accordance with provision 1021- 15(3) of the Local Authorities (Members Allowance) (England) Regulations 2003, giving details of allowances paid to Members for the year. This can be viewed on the Council's website www.digitalmaidstone.co.uk.

9 – Building Control Trading Account

The Local Authority Building Control Regulations require the disclosure of information regarding the setting of charges for the administration of the building control function. However, certain functions performed by the Building Control Unit cannot be charged for, such as providing general advice and liaising with other statutory authorities. The statement below shows the total cost of operating the building control unit divided between the chargeable and non-chargeable activities.

2007/08 £000		2008/09		Total £000
		Chargeable £000	Non- Chargeable £000	
	Expenditure			
285	Employee Expenses	297	20	317
40	Supplies & Services	60		60
184	Central & Support Services	132	8	140
509	Total Expenditure	489	28	517
	Income			
(542)	Building Regulation Charges	(458)		(458)
(542)	Total Income	(458)		(458)
(33)	(Surplus)/Deficit for Year	31	28	59

10 – Disclosure of Audit Costs

In 2008/09 the Authority incurred the following fees relating to external audit and inspection.

2007/08 £000		2008/09 £000
114	Fees payable with regard to external audit services	117
17	Fees payable for certification of grant claims and returns	19
3	Fees payable in respect of other services	4
134	Total	140

11 – Movement of Fixed Assets 2008/2009

OPERATIONAL ASSETS						
	Other Land & Buildings £000	Vehicles, Plant & Machinery £000	Fixtures & Fittings £000	Infrastructure £000	Community Assets £000	Total Operational Assets £000
Cost or Valuation						
At 1st April 2008	44,564	2,291	506	5,592	63	53,016
Additions	1,186	471	2,759	126	171	4,713
Disposals	(118)	0	0	0	0	(118)
Reclassifications	(3,292)	0	0	0	0	(3,292)
Revaluations	733	0	0	0	0	733
Impairment	(48)	0	0	0	0	(48)
Write-offs	(292)	0	0	0	0	(292)
At 31st March 2009	42,733	2,762	3,265	5,719	235	54,714
Depreciation & Impairments						
At 1st April 2008	(1,962)	(724)	(50)	(2,005)	0	(4,741)
Charge for 2008/09	(756)	(345)	(218)	(283)	0	(1,602)
Disposals	0	0	0	0	0	0
Reclassifications	303	0	0	0	0	303
Revaluations	71	0	0	0	0	71
At 31st March 2009	(2,344)	(1,069)	(268)	(2,288)	0	(5,969)
Balance Sheet amount at 31st March 2009	40,389	1,694	2,997	3,431	235	48,745
Balance Sheet amount at 31st March 2008	42,601	1,568	456	3,589	63	48,277
Nature of Asset Holding						
Owned	40,389	1,694	2,997	3,431	235	48,745

NON OPERATIONAL ASSETS						
	Investment Property £000	Surplus for Resale £000	Under Construction £000	Total Non-Op. Assets £000	Total Operational Assets £000	Total £000
Cost or Valuation						
At 1st April 2008	11,839	213	0	12,052	53,016	65,068
Additions	113	700	1,129	1,941	4,713	6,655
Disposals	0	(1,162)	(670)	(1,833)	(118)	(1,950)
Reclassifications	(215)	3,399	108	3,292	(3,292)	
Revaluations	717	425	0	1,142	733	1,875
Impairment	(525)	(5)	0	(530)	(48)	(577)
Write-offs	(107)	(29)	0	(136)	(292)	(429)
At 31st March 2009	11,823	3,540	566	15,929	54,714	70,643
Depreciation & Impairments						
At 1st April 2008	(229)	0	0	(229)	(4,741)	(4,970)
Charge for 2008/09	(25)	(401)	0	(426)	(1,602)	(2,028)
Disposals	0	0	0	0	0	0
Reclassifications	0	(303)	0	(303)	303	
Revaluations	65	93	0	157	71	228
At 31st March 2009	(189)	(612)	0	(801)	(5,969)	(6,770)
Balance Sheet amount at 31st March 2009	11,634	2,928	566	15,128	48,745	63,874
Balance Sheet amount at 31st March 2008	11,609	213	0	11,822	48,277	60,099
Nature of Asset Holding						
Owned	11,634	2,928	566	15,128	48,745	63,874

Community Assets have all previously been revalued at £1 each, in accordance with Note 12. The Statement of Recommended Practice for Local Authority Accounting requires Community Assets to be recorded on the Balance Sheet at Historic Cost. Due to the age and nature of many of the Community Assets it is not possible to ascertain an accurate historical cost, but expenditure incurred is now added to the value of the asset. Any expenditure on Community Assets was previously written off as Revenue Expenditure charged to Capital under Statute.

12 – Information on Assets Held

Significant Fixed Assets owned by the Council include the following:

31st March 2008		31st March 2009
	OPERATIONAL ASSETS	
	LAND & BUILDINGS	
2	Cemeteries & Crematoria	2
1	Golf Courses	1
2	Depots, Workshops, Stores & Toolshed	2
1	Halls	1
1	Leisure Centre & Pools	1
1	Markets	1
1	Multi-Storey Car Parks	1
2	Museums	2
19	Off-Street Car Parks	19
9	Offices	7
19	Public Conveniences	19
1	Theatres	1
1	Town Halls	1
	INFRASTRUCTURE	
2	Pumping Stations	2
17	Bus Shelters	17
	COMMUNITY ASSETS	
1	Band Stands	1
1	Clock Towers	1
3	Depots, Workshops, Stores & Toolsheds	3
1	Domestic Dwellings	1
3	Halls	3
221 Hectares	Parks & Open Spaces (over 2 Hectares)	221 Hectares
7	Pavilions	7
4	War Memorials	4
18	Allotments	18
3	Listed Buildings in Non-operational use	3
	NON-OPERATIONAL ASSETS	
	LAND & BUILDINGS	
7	Business Starter Units	7
3	Depots, Workshops, Stores & Toolsheds	3
40	Domestic Dwellings	39
8	Halls	8
2	Industrial Estates	2
3	Kiosks	3
1	Horticultural Nurseries	1
1	Offices	3
11	Pavilions	11
3	Shops	3
1	Old Palace Complex	1

Community Assets

In accordance with CIPFA guidance, Community Assets were previously valued at a nominal £1 each. These are assets that the Council intends to hold in perpetuity, that have no determinable finite life, and in addition may have restrictions on their disposal. The Statement of Recommended Practice for Local Authority Accounting requires Community Assets to be recorded on the Balance Sheet at Historic Cost. Due to the age and nature of many of the Community Assets it is not possible to ascertain an accurate historical cost, but expenditure incurred is now added to the value of the asset. Any expenditure on Community Assets was previously as Revenue Expenditure charged to Capital under Statute.

Several other Community Assets (Museum Displays/Commemorative Silver & Civic Regalia) which have not been given a valuation are held by the Council. These cannot easily be quantified in terms of numbers and therefore they have not been listed.

13 – Fixed Asset Valuation

The freehold and leasehold properties which comprise the Authority's Property Portfolio have been valued as at 1 April 2008 by the Corporate Property Manager – C Finch, MRICS - on the undermentioned bases in accordance with the appropriate sections of the Royal Institution of Chartered Surveyors' Appraisal and Valuation Manual, except that not all the properties were inspected. This was neither practicable nor considered by the valuer to be necessary for the purpose of the valuation.

Properties regarded by the Authority as operational were valued on the basis of open market value for the existing use or, where this could not be assessed because there was no market for the subject asset, the depreciated replacement cost.

Properties regarded by the Authority as non-operational have been valued on the basis of open market value.

The fixed assets are being valued on a rolling programme over 5 years on the basis that each year a cross section of the Authority's portfolio will be selected for revaluation. For 2008/09 revaluations, inspections were carried out between April and May 2008.

Community assets are assets that the Council intends to hold in perpetuity, they have no determinable finite useful life, and in addition may have restrictions on their disposal. Therefore, they were all revalued, in 1995/96, at £1 each. The changes to capital accounting introduced in the 2007 Statement of Recommended Practice for Local Authority Accounting now require Community Assets to be recorded on the Balance Sheet at Historic Cost. Any expenditure on Community Assets was previously written off as Revenue Expenditure charged to Capital under Statute. Net Book Value as at the 31 March 2009 is now £0.235m.

Consideration has been given as to whether the value of the Council's property portfolio has been significantly affected by the recent economic downturn. It is the opinion of the Council's Valuer that due to the general nature of the properties shown on the balance sheet there has been minimal material impact upon reported values, it is therefore considered appropriate that no adjustment for Impairment has been made.

The following statement shows the progress of the Council's rolling programme for the revaluation of fixed assets. The basis for revaluation is set out in the Statement of Accounting Policies. The table excludes the expenditure to date on the Council's new depot, which is shown on the Balance Sheet under Assets Under Construction.

	Other Land & Buildings £000	Vehicles, Plant & Equipment £000	Fixtures & Fittings £000	Community Assets £000	Sub-Total £000
Valued at historical cost	307	1,693	2,997	235	5,232
Valued at current value in:					
- 2004/05					0
- 2005/06	23,414				23,414
- 2006/07	8,428				8,428
- 2007/08	6,422				6,422
- 2008/09	1,818				1,818
Total	40,389	1,693	2,997	235	45,314

	Sub-Total £000	Infrastructure Assets £000	Investment Properties £000	Surplus for Resale £000	Total £000
Valued at historical cost	5,232	3,431	14	3	8,680
Valued at current value in:					
- 2004/05	0		251		251
- 2005/06	23,414		507	2,130	26,051
- 2006/07	8,428		7,948	388	16,764
- 2007/08	6,422				6,422
- 2008/09	1,818		2,914	408	5,139
Total	45,314	3,431	11,634	2,929	63,307

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14 – Intangible Fixed Assets

	Purchased Software £000
Original Cost	486
Amortisations to 1st April 2007	(213)
Balance at 1st April 2007	273
Expenditure in Year	463
Written off to Revenue in Year	(259)
Balance at 31st March 2009	477

The expenditure in year relates to the purchase or upgrading of software for a number of systems, the main one being the purchase of the Voice Over Internet Protocol telephone system for the new Council offices. The costs are being amortised on a straight line basis over 3 or 5 years, depending on the life expectancy of the system.

15 – Sources of Finance

2007/08 £000		2008/09 £000
0	Opening Capital Financing Requirement	0
	CAPITAL INVESTMENT:	
3,748	Fixed Assets: Operational	4,700
357	Fixed Assets: Non-operational	1,942
263	Intangible Assets	463
431	Deferred Charges	322
1,522	Renovation & Insulation Grants	1,861
4,073	Housing Association Support	2,145
29	Other Grants	0
	SOURCE OF FINANCE:	
(7,602)	Capital Receipts	(8,483)
(2,267)	Capital Grants & Contributions	(1,945)
(383)	Revenue Contributions	(883)
(171)	Commutated Sums	(122)
0	Closing Capital Financing Requirement	0

17 – Capital Commitments

At 31st March 2009, the Council's significant commitments were as follows:

- £3.5m in respect of the new depot project
- £1.0m in respect of the replacement cremator works at the Crematorium
- £3.3m in respect of social housing grant payments

18 – Financial Instruments

The Investments disclosed in the Balance Sheet are made up of the following categories of financial instruments (there were no borrowings at 31st March 2009):

	Long-Term		Short Term	
	31st March 2009 £000	31st March 2008 £000	31st March 2009 £000	31st March 2008 £000
Receivables	5,000	5,000	9,700	14,050
Available-for-sale Financial Assets	11	4,386	4,219	2,817
Total Investments	5,011	9,386	13,919	16,867

Investments intended to be held for 1 to 5 years are classed as long-term, those held for a period of less than 1 year are classed as short-term.

Receivables are initially measured at fair value and carried at their amortised cost. As these instruments are all held at fixed interest rates, fair value is assumed to be equal to the carrying value.

The Council has made a number of long-term investments in AAA rated Eurosterling Bonds, to be held for a variety of periods between 2 and 5 years. These are the Available-for-sale financial assets and were purchased using part of the proceeds of the Large Scale Voluntary Stock Transfer that took place in February 2004.

Available-for-sale assets are initially measured and carried at fair value. Fair value is assessed as being the market value of the investments as at 31st March 2009:

Carrying amount - £4.219m
Market Value - £4.304m

As the difference between the carrying amount and the market value is not materially significant no adjustment has been made to the carrying value on the Balance Sheet.

The balance held for long-term investments includes a premium payment which is being written off against interest received over the life of the investment.

The remaining investment in Eurosterling Bonds matures in 2009/10, therefore this is now classified as a short-term investment.

The Council made no investments in Icelandic Banks, as they were not on the approved lending list. At 31st March 2009 all investments held were with UK-based institutions, with the exception of £3m invested with institutions based in the Republic of Ireland.

Disclosure of the nature and extent of risks arising from financial instruments:

The authority's activities expose it to a variety of financial risks:

- Credit risk – the possibility that other parties might fail to pay amounts due to the authority.
- Liquidity risk – the possibility that the authority might not have funds available to meet its commitments to make payments.
- Market risk – the possibility that financial loss might arise for the authority as a result of changes in such measures as interest rates.

The authority’s overall risk management programme focuses on the unpredictability of financial markets and seeks to minimise potential adverse effects on the resources available to fund services. Risk management is carried out by the Head of Finance and the Treasury Management Accountant, under policies approved by the Council in the Annual Treasury Management Strategy.

The Council also provides written principles for overall risk management, as well as written policies covering specific areas such as interest rate risk, credit risk and the investment of surplus cash. These are set out in the Council’s Treasury Management Practices, which are requirement of CIPFA’s Treasury Management Code of Practice, which has been adopted by the Council. Treasury Management indicators have also been set to control key financial instruments risks in accordance with CIPFA’s Prudential Code.

Credit Risk

Credit risk arises from deposits with banks and financial institutions, as well as credit exposures to the authority’s customers. There are limits based on credit ratings set on the amount and length of time deposits can be made with individual banks and financial institutions, and these are set out in the Annual Treasury Management Strategy, which can be viewed on the Council’s website – <http://www.digitalmaidstone.co.uk>.

There are no credit limits set on the authority’s customers, as the amounts involved are not considered sufficiently material to warrant the setting of such limits.

Liquidity Risk

The Council has a comprehensive cash flow management system that seeks to ensure that cash is available as needed. If unexpected movements happen, the Council has ready access to borrowings from the money market and the Public Loans Works Board. There is no significant risk that it will be unable to raise finance to meet its commitments under financial instruments. Borrowing is only undertaken on a short-term basis for cashflow purposes, and there is also an overdraft facility of £0.5m available with Nat West Bank.

Market Risk – Interest Rate Risk

As the Council is debt-free its only risk is in relation to exposure to interest rate movements in its investments. This exposure is managed by use of Prudential Indicators, which set limits on the proportion of investments held at fixed and variable rates. These indicators are monitored on a daily basis. The Council also makes use of interest rate forecasts and market data and advice provided by its Treasury Management advisors to ensure that investment income is maximised wherever possible.

19 – Long Term Debtors

2007/08 £000		2008/09 £000
85	Loans to Outside Bodies	75
126	Mortgages	104
1	Housing Act Advances	1
210	Cobtree Trust	151
422	Total Long Term Debtors	331

This balance represents sums due to the Council which are being repaid over a period of greater than one year.

20 – Stocks & Work In Progress

2007/08 £000		2008/09 £000
	0 Work in Progress	0
	<u>Stocks</u>	
87	Stores	104
4	Stamps & Franks	4
91	Total Stocks	108
91	Total Stock & Works in Progress	108

The balance represents various stocks held by Council at year end. There were no works in progress at year end.

21 – Debtors & Payments In Advance

2007/08 £000		2008/09 £000
	<u>Amounts falling due within one year</u>	
439	Customs & Excise	134
289	Government Departments	809
5	Other Local Authorities	8
1,946	Council Tax Payers	2,324
638	NNDR Payers	1,374
6,958	Sundry Debtors (including Capital)	6,775
905	Parking Penalty Charges	1,065
6	Employee Loans	2
11,186		12,491
	<u>Amounts falling due after one year</u>	
2	Employee Loans	3
11,188		12,494
650	Payments in Advance	427
11,838	Total Debtors & Payments in Advance	12,921

The Sundry Debtors balance of £6.775m is broken down as follows:

2007/08 £000		2008/09 £000
921	Outstanding invoices at year end	1,936
840	Overpayments of Housing Benefit Subsidy	1,085
2,530	Year end general debtors	1,742
2,035	Year end capital debtors	1,402
542	Other miscellaneous amounts due	610
6,868	Total	6,775

Year end general and capital debtors represent amounts owed to the Council which relate to 2008/09, but for which an invoice had not been raised by 31st March 2009

22 – Creditors

2007/08 £000		2008/09 £000
3,960	Sundry Creditors (including Capital)	3,860
1,857	Government Departments	933
351	Other Local Authorities	502
321	Council Tax Payers	379
1,937	NDR Payers	1,273
0	Cobtree Trust	5
916	Receipts in Advance	792
394	Deposits	463
49	Retentions	115
9,785	Total Creditors	8,322

The variance in the Government Departments figure relates to the fact that the Government now owes the Council money in respect of Housing Subsidy, whereas at the end of 2007/08 it was the reverse situation.

23 – Government Grants Deferred

	2008/09 £000
Government Grants Deferred as at 1st April 2008	2,768
ADD Grants and Contributions Applied	1,138
LESS Amounts released to Consolidated Revenue Account	(284)
Government Grants Deferred as at 31st March 2009	3,622

This account is credited with grants (and other contributions) that have been used to support capital investment. The recognition of these grants/contributions as a gain to the authority is deferred until the amounts are released to the Income & Expenditure Account to abate depreciation charges on the relevant assets. The account holds the unamortised balance as deferred income.

24 - Unapplied Government Grants & External Contributions

	Ctbns. Unapplied 1st April 2008 £000	Ctbns. Received £000	Transfers £000	Capital Financing £000	Ctbns. Unapplied 31st March 2009 £000
Capital Grants & Contributions	364	3,472		(1,945)	1,891
Section 106 Agreements	827	710		(122)	1,415
	1,191	4,182	0	(2,067)	3,306

Unapplied Capital Grants & Contributions represent sums received for the funding of future capital (and some revenue) expenditure.

Section 106 Agreements are entered into as part of certain planning approvals, and require the developer to provide a sum which will be put towards a specific future purpose. This could be a capital project, a contribution towards future revenue costs, or it may need to be held by the Council until certain conditions are fulfilled, when it would then either be passed to a third party or a returned to the developer, depending on the terms of the agreement.

25 – Trust Funds

The Council is required to set out details of the nature and amount of trust funds where it acts as sole trustee, the only one of which is the Cobtree Estate Trust. The object of this trust is to hold Cobtree Manor and Cobtree Manor Estate for the benefit of the inhabitants of Maidstone and other members of the general public.

Gross expenditure in 2008/2009 totalled £487,439 (£446,146 in 2007/2008). Gross income in 2008/2009 totalled £685,424 (£797,691 in 2007/2008)

The Assets and Liabilities of the Trust as at 31st March 2009 may be summarised as follows:

	£000	£000
ASSETS		
Fixed Assets:		
Cobtree Manor Golf Course	1,079	
Cobtree Rural Park	183	
Investments	953	
		2,215
Current Liabilities:		
Maidstone Borough Council	154	
Auditors	3	
		157
TOTAL ASSETS LESS CURRENT LIABILITIES		2,058
LONG TERM LIABILITIES		
NET ASSETS		2,058

None of the Trust assets and liabilities appears on the Balance Sheet of the Council, with the exception of the matching debits and credits relating to the liabilities shown above.

26 – Disclosure of Net Pensions Asset/Liability**Participation in pension schemes**

As part of the terms and conditions of employment of its officers and other employees, the authority offers retirement benefits. Although these benefits will not actually be payable until employees retire, the authority has a commitment to make the payments that needs to be disclosed at the time that employees earn their future entitlement.

The authority participates in the Local Government Pension Scheme, administered locally by Kent County Council. This is a funded defined benefit final salary scheme, meaning the authority and employees pay contributions into a fund, calculated at a level intended to balance the pensions liabilities with the investment assets.

Transactions relating to retirement benefits

The authority recognises the cost of retirement benefits in the Net Cost of Services when they are earned by employees, rather than when the benefits are eventually paid as pensions. However the charge the authority is required to make against Council Tax is based on the cash payable in the year, so the real cost of retirement benefits is reversed out in the Statement of Movement on General Fund Balance. The following transactions have been made in the Income & Expenditure Account during the year:

	2008/09	2007/08
	£000	As restated £000
Income & Expenditure Account		
Net Cost of Services:		
Current Service Cost	1,420	1,930
Past Service Costs	520	0
Losses/(Gains) on Curtailments & Settlements	60	20
Net Operating Expenditure:		
Interest Cost	5,910	5,280
Expected Return on Scheme Assets	(4,050)	(4,600)
Net Charge to the Income & Expenditure Account	3,860	2,630

Statement of Movement on General Fund Balance:		
Reversal of net charges made for retirement benefits in accordance with FRS 17	(3,860)	(2,630)
Actual amount charged against the General Fund		
Balance for pensions in the year:	3,427	3,112
Employers' contributions payable to scheme	3,427	3,112

Assets and liabilities in relation to retirement benefits

Reconciliation of present value of the scheme liabilities:

	2008/09	2007/08
	£000	As restated £000
1st April	86,370	98,480
Current Service Cost	1,420	1,930
Interest Cost	5,910	5,280
Contributions by scheme participants	740	630
Actuarial gains and losses	(6,960)	(15,910)
Past service costs	520	0
Losses/(Gains) on Curtailments	60	20
Estimated Unfunded Benefits Paid	(200)	(200)
Estimated Benefits Paid	(3,900)	(3,860)
31st March	83,960	86,370

Reconciliation of fair value of the scheme liabilities:

	2008/09	2007/08
	£000	As restated £000
1st April	57,520	65,390
Expected Return on Assets	4,050	4,600
Contributions by scheme participants	740	630
Contributions by the Employer	3,240	2,910
Contributions in respect of unfunded benefits	200	200
Actuarial gains and losses	(15,300)	(12,150)
Unfunded Benefits paid	(200)	(200)
Benefits paid	(3,900)	(3,860)
31st March	46,350	57,520

The expected return on scheme assets is determined by considering the expected returns available on the assets underlying the current investment policy. Expected yields on fixed interest investments are based on gross redemption yields as at the Balance Sheet date. Expected returns on equity investments reflect long-term real rates of return experienced in the respective markets.

The actual return on scheme assets in the year was £11.290m (£3.510m in 2007/08)

Scheme History

	2004/05 *	2005/06 *	2006/07	2007/08	2008/09
	£000	£000	As restated £000	As restated £000	£000
Present value of liabilities:					
Local Government Pension Scheme	(85,497)	(99,540)	(98,480)	(86,370)	(83,960)
Fair value of assets in the Local Government Pension Scheme	49,031	61,800	65,390	57,520	46,350
Surplus/(deficit) in the scheme:	(36,466)	(37,740)	(33,090)	(28,850)	(37,610)
Experience Gains/(Losses) on Assets	1,934	9,746	(420)	(12,150)	(15,300)
Experience Gains/(Losses) on Liabilities	(3,202)	(53)	130	2,700	30

* The Council has elected not to restate fair value of scheme assets for 2004/05 and 2005/06 as permitted by FRS17 (as revised)

The liabilities show the underlying commitments that the Council has in the long run to pay retirement benefits. The total liability of £37.610m has a substantial impact on the net worth of the Council as recorded on the Balance Sheet, resulting in a negative overall balance of £15.300m.

26 However, statutory arrangements for funding the deficit mean that the financial position of the Council remains healthy. The deficit on the local government scheme will be made good by increased contributions over the working life of employees, as assessed by the scheme actuary.

Basis for estimating assets and liabilities

Liabilities have been assessed on an actuarial basis using the projected unit method, an estimate of the pensions that will be payable in future years dependent upon assumptions about mortality rates, salary levels, etc. The Kent County Council Pension Fund liabilities have been assessed by Hymans Robertson, an independent firm of actuaries, estimates for the Fund being based upon the latest full valuation of the scheme as at 1st April 2007.

The principal assumptions used by the actuary have been:

	2008/09	2007/08 As restated
Long-term expected rate of return of assets in the scheme:		
Equity investments	7.0%	7.7%
Bonds	5.4%	5.7%
Property	6.3%	7.0%
Cash	4.0%	4.8%
Mortality assumptions:		
Longevity at 65 for current pensioners:		
Men	21.5 years	-
Women	24.4 years	-
Longevity at 65 for future pensioners:		
Men	22.6 years	-
Women	25.5 years	-
Rate of inflation	3.1%	3.6%
Rate of increase in salaries	4.6%	5.1%
Expected Return on Assets	6.3%	7.0%
Rate for discounting scheme liabilities	6.9%	6.9%
Take-up of option to convert annual pension into retirement lump sum		

The Local Government Pension Scheme's assets consist of the following categories, by proportion of the total assets held:

Fair Value of Employer Assets

	31st March 2009 £000	31st March 2008 £000
Equity Investments	30,590	39,950
Bonds	7,880	8,070
Property	4,170	6,220
Cash	3,710	3,280
	46,350	57,520

History of experience gains and losses

The actuarial gains identified as movements on the Pensions Reserve in 2008/09 can be analysed into the following categories, measured as a percentage of assets or liabilities at 31st March 2009.

	2004/05	2005/06	2006/07	2007/08	2008/09
	%	%	As restated %	As restated %	%
Actuarial Gains / (Losses)	(14,201)	(523)	4,990	3,760	(8,340)
Increase/(Decrease) in Irrecoverable Surplus from Membership	0	0	0	0	0
Actuarial Gains / (Losses) recognised in STRGL	(14,201)	(523)	4,990	3,760	(8,340)
Cumulative Actuarial Gains/(Losses)	(14,201)	(14,724)	(9,734)	(5,974)	(14,314)

Projected pension expense for the year to 31st March 2010

Analysis of projected amount to be charged to operating profit for the year to 31st March 2010.

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	31st March 2010	
	£000	% of pay
Projected Current Service Cost	1,210	10.4
Interest on Obligation	5,710	49.4
Expected Return on Plan Assets	(2,920)	(25.3)
Total	4,000	34.6%

The estimate of the Employer’s contributions for the year to 31st March 2010 will be approximately £3.280m.

27 – Summary Introduction to Detail of Movement on Reserves

The Council keeps a number of reserves in the Balance Sheet. Some are required to be held for statutory reasons, some are needed to comply with proper accounting practice, and others have been set up voluntarily to indicate resources for future spending plans and objectives.

Reserve	Balance at 1st April 2008 (Restated) £000	Gains or Losses £000	Transfers between Reserves £000	Net Movement in year £000	Balance at 31st March 2009 £000
Pensions Reserve	(28,850)	(8,760)		(8,760)	(37,610)
Deferred Capital Receipts	127		(22)	(22)	105
Revaluation Reserve	1,907	2,041	(23)	2,018	3,925
Capital Adjustment Account	56,160	(7,398)	8,564	1,166	57,326
Useable Capital Receipts Reserve	13,970	2,765	(8,519)	(5,754)	8,216
General Fund	8,328	(1,057)		(1,057)	7,271
Collection Fund	75	(58)		(58)	17
	51,717	(12,467)	0	(12,467)	39,250

The purposes of the various reserves are as follows:

- Pensions Reserve – balancing account to allow the inclusion of the Pensions Liability in the Balance Sheet. This is detailed in note 26.
- Deferred Capital Receipts - amounts derived from the sale of assets which will be received in instalments over agreed periods of time.
- Revaluation Reserve – store of gains on revaluation of fixed assets not yet realised through sales.
- Capital Adjustment Account – store of capital resources set aside to meet past expenditure.
- Useable Capital Receipts – proceeds of fixed asset sales available to meet future capital investment.
- General Fund – resources available to meet future running costs for non-housing services.
- Collection Fund – a statutory account to account for the collection and payment of Council Tax and Non-Domestic Rates.

Note 26 provides further details of the Pensions Reserve, whilst details of the remaining reserves are set out below.

a) Deferred Capital Receipts

	£000
Deferred Capital Receipts as at 1st April 2008	127
LESS Capital Receipts Received	(22)
Deferred Capital Receipts as at 31st March 2009	105

Deferred Capital Receipts are amounts derived from the sale of assets which will be received in instalments over agreed periods of time or where the receipts have not been received by the year end. They arise totally from mortgages on sales of council houses.

b) Revaluation Reserve

		£000
Revaluation Reserve as at 1st April 2008		1,907
ADD	Revaluation Gains	2,041
LESS	Historic Cost Depreciation Adjustment	(23)
Revaluation Reserve as at 31st March 2009		3,925

The reserve records the accumulated gains on the fixed assets held by the authority arising from increases in value, as a result of inflation or other factors (to the extent that these gains have not been consumed by subsequent downward movements in value).

The reserve is also debited with amounts equal to the part of the depreciation charges on assets that has been incurred only because the asset has been revalued. On disposal, the Revaluation Reserve balance for the asset disposed of is written out to the Capital Adjustment Account. The overall balance on the Reserve thus represents the amount by which the current value of the fixed assets carried in the Balance Sheet is greater because they are carried at revalued amounts rather than depreciated historical cost.

Whilst these gains arising from revaluations increases the net worth of the authority they would only result in an increase in spending power if the relevant assets were sold and capital receipts generated.

c) Capital Adjustment Account

	£000	£000
Capital Adjustment Account as at 1st April 2008		56,160
ADD:		
Historic Cost Depreciation Adjustment		23
Capital Financing:		
Capital Receipts	8,483	
Revenue Contributions	883	
Grants/Contributions	929	
Government Grants Deferred Account	284	
		10,579
LESS:		
Write Down of Rev.Exp.funded from Capital by Statute Impairment	(4,547)	
Depreciation	(835)	
Amortisation of Intangible Fixed Assets	(1,709)	
Asset Disposal	(259)	
Prior Year Adjustments *	(1,950)	
* - Assets disposed of in previous years	(136)	
		(9,436)
Capital Adjustment Account as at 31st March 2009		57,326

The account accumulates (on the debit side) the write-down of the historical cost of fixed assets as they are consumed by depreciation and impairments or written off on disposal. It accumulates (on the credit side) the resources that have been set aside to finance capital expenditure. The same process applies to capital expenditure that is only capital by statutory definition (Revenue Expenditure Funded from Capital under Statute). The balance on the account thus represents timing differences between the amount of the historical cost of fixed assets that has been consumed and the amount that has been financed in accordance with statutory requirements.

d) Useable Capital Receipts Reserve

	£000
Useable Capital Receipts Reserve as as 1st April 2008	13,970
ADD: Capital Receipts	2,754
LESS: Capital Receipts Applied	(8,483)
Pooled Capital Receipts	(25)
Useable Capital Receipts Reserve as as 31st March 2009	8,216

The Usable Capital Receipts Reserve represents the capital receipts available to finance capital expenditure in future years, after setting aside any statutory amounts for the repayment of external loans.

e) General Fund Balances

2007/08		2008/09
£000		£000
6,068	General	5,668
945	Invest to Save	579
200	Large Buildings Maintenance Fund	0
1,000	Local Development Framework Fund	884
86	Trading Accounts	30
29	Asset Replacement	110
8,328	Total General Fund Balance	7,271

In addition to the separately identified balances listed above, which are for future planned objectives, the General Balance of £5.603m includes £0.969m for minor schemes to be completed in 2009/10.

f) Collection Fund

The Collection Fund is a statutory fund in which the Council records transactions for Council Tax, Business Rates and Residual Community Charges. The balance on the fund is available as follows:

Authority	£000
Maidstone Borough Council	17
Kent County Council	78
Kent Police Authority	10
Kent & Medway Towns Fire Authority	5
Total	110

On the Balance Sheet the Collection Fund balance is disaggregated between the figure owed to the Council (£0.017m) which is shown as part of the Council Balances and Funds, and the remainder (£0.093m) which is shown as a Current Liability, as these Authorities are creditors.

28 – Analysis of Net Assets Employed

Net Assets Employed as at 31st March 2008 (Restated)		Net Assets Employed as at 31st March 2009
£000		£000
51,642	General Fund	39,234
75	Collection Fund	17
51,717		39,251

The decrease in balances is explained in the Explanatory Foreword.

29 – Related Party Transactions

During the year transactions with related parties arose as follows:

	£000
Receipts	
Central Government - Revenue Grants	41,643
Payments	
Kent County Council - Precept	58,620
Kent Police Authority - Precept	7,505
Kent & Medway Towns Fire Authority - Precept	3,734
Kent County Council - Pension Fund	327

All Members and Senior Officers were required to complete a declaration of interests that included details of any finance-related transactions with the Council. There was only one declaration of a material nature – one Member is the Director of a charitable organisation that receives a £6,000 grant from the Council.

30 – Contingent Asset

The Council has made a claim to HM Revenues & Customs for the recovery of VAT paid in respect of off street car parking. This was as a result of a European Court of Justice ruling in favour of the city of Oporto in Portugal regarding VAT treatment of the income

The claim is for £2,503,204, and covers the financial years 1998/99 to 2008/09. A number of other Authorities are also pursuing similar claims. The Council have not currently made any allowance for any settlement in this statement as this issue is still ongoing.

HM Revenue & Customs' current appeal to the High Court against the European Court of Justices' decision has been referred back to the European Court of Justice by the High

Court. Current estimates suggest a waiting time of two years for a ruling. HM Revenue & Customs' current advice is that any refunds would be subject to unjust enrichment rules and may not benefit local authorities directly.

The Council has also submitted a claim to HM Revenues & Customs under the principles established in the *Fleming/Conde Nash* decision in the House of Lords. This permits the Council to apply for a refund of VAT dating back to 1981/82 on the basis that the House of Lords decision overturned a 3 year capping rule on VAT refunds that had been in place. An application has been made for refunds totalling £2.1m, but it is anticipated that the payment will probably be in the region of £0.700m. It is also difficult at this stage to clarify when any payment might be made as HM Revenue & Customs are dealing with a large number of similar claims from local authorities all over the UK.

31 – Contingent Liability

The Council entered into a PFI Agreement with Kent County Council and nine other Kent District Councils in 2006/07 which aims to provide affordable housing throughout the county. In the event of the contractor defaulting on its obligations 10 years into the contract there is the possibility of the Council incurring an estimated liability of £6.954m, and in the event of the contract being terminated through force majeure after 10 years there is an estimated liability of £8.052m. Whilst these scenarios are considered highly unlikely the sums concerned are material enough to be noted.

32 – Euro Costs

The Council only made a small number of low value payments in Euros during 2008/09, and therefore does not have a specific account for these transactions, which are shown as sterling payments in the Council's bank account based on the exchange rate at the time.

33 – Post Balance Sheet Events

The Statement of Accounts were authorised for issue by the Director of Resources & Partnerships on 15 June 2009, the date on which they were presented to the Council's Audit Committee to recommend formal approval to full Council.

There have been no events arising between the Balance Sheet date of 31st March 2009 and the date of authorisation above that materially effect the figures on the Balance Sheet.

34 – Cashflow Statement: Reconciliation of Net Surplus/Deficit on Income & Expenditure Account

Reconciliation of net surplus / deficit on the Income & Expenditure Account to the net cash flow from revenue activities.

2007/08 £000		2008/09 £000	
(2,444)	SURPLUS/ (DEFICIT) ON INCOME & EXPENDITURE ACCOUNT		(5,873)
(784)	Surplus / (Deficit) on other funds Collection Fund		(354)
4,156	Non-Cash Transactions non-cash amounts requiring exclusion from the Income & Expenditure Account. (See Statement of Movements in the General Fund.)		4,749
1,621	Items on an Accruals Basis Increase / (Decrease) in Creditors (Increase) / Decrease in Debtors & Payments in Advance, less Provision	(3,516)	
(1,937)	for Bad Debts	1,562	
(12)	(Increase) / Decrease in Stock	(18)	(1,972)
(1,943)	Items Classified Later in the Statement Servicing of Finance		(1,839)
(1,343)	NET CASH FLOW FROM REVENUE ACTIVITIES		(5,289)

35 – Cashflow Statement: Movement in Cash

The movement in bank and cash is analysed as follows. The Authority is debt free and there is no reconciliation to net debt.

	£000
31st March 2008 (Net overdraft)	1,522
31st March 2009 (Net overdraft)	1,089
Movement	433

36 – Cashflow Statement: Movement in Liquid Resources

The movement in liquid resources is analysed as follows. Liquid resources are defined as the short-term investment (less than 365 days) of surplus funds made by the Authority.

	£000
31st March 2008	16,867
31st March 2009	13,919
Long term investments reclassified in 2008/09	6,374
Cash Movement	9,322

37 – Cashflow Statement: Analysis of Government Grants

Other Government Grants shown in the statement are analysed as follows:

2007/08 £000	Grant	2008/09 £000
0	Local Authority Business Growth Initiative	1,021
7,563	Council Tax Benefit	8,192
928	Benefit Administration	971
1,137	Miscellaneous	2,278
9,628	Total	12,462

38 – Group Accounts

The authority has no financial relationships with other organisations or entities that give rise to the need to include Group Accounts within this Statement.

39 – Local Area Agreement

The Local Area Agreement has been developed at a County Level with Kent County Council the Accountable Body. Maidstone Borough Council played an active role as part of the development of the latest agreement with the governance arrangements endorsed by the Leader in May 2008. The Council and Local Strategic Partnership are currently working on the Local Action Plan and this will determine which of the 35 targets are a priority for Maidstone.

Whether any additional resources are put into these priority areas or indeed whether these are viewed as a priority across Kent will be a decision for the Kent Partnership.

COLLECTION FUND

2007/08 £000		2008/09	
		£000	£000
	INCOME		
71,549	Income From Council Tax	75,152	
7,474	Transfers From General Fund Council Tax Benefit Council Tax Reduction Scheme (Note 1)	8,087	83,239
46,518	Income From Non-Domestic Rates (Note 2)		50,836
	Adjustment To Previous Years Community Charge		
	Council Tax Benefit Subsidy Limitation		
125,541	Total Income		134,075
	EXPENDITURE		
	Precepts and Demands		
55,669	Kent County Council	58,620	
7,054	Kent Police Authority	7,505	
12,434	Maidstone Borough Council	13,013	
3,560	Kent & Medway Towns Fire Authority	3,734	82,872
	Non-Domestic Rates		
46,313	Payments To National Pool	50,628	
206	Cost of Collection Allowance	208	50,836
	Bad and Doubtful Debts		
174	Write Off	160	
76	Additional / (Reduced) Provision For Non Payment	165	325
839	Contribution toward previous year's Collection Fund surplus		396
126,325	Total Expenditure		134,429
(784)	Surplus/(Deficit) For Year		(354)
1,248	Surplus Brought Forward From Previous Years		464
464	Surplus as at 31st March 2009 (Note 4)		110

NOTES TO THE COLLECTION FUND**1 – Council Tax**

Council Tax income derives from charges raised according to the value of residential properties, which have been classified into 8 valuation bands estimating, for this specific purpose, 1 April 1991 values. Individual charges are calculated by estimating the amount of income required to be taken from the Collection Fund by Kent County Council, Kent Police Authority and this Council for the forthcoming year and dividing this by the council tax base [the total number of properties in each band adjusted by a proportion to convert the number to a Band D equivalent and adjusted for discounts: 58,514.8 for 2008/09

(57,892.6 for 2007/08) (see table below)]. This basic amount of council tax for a Band D property £1,401.57 for 2008/09 (£1,349.78 for 2007/08) is multiplied by the proportion specified for the particular band to give an individual amount due. Parish Precepts are added to this basic amount.

The bands, number of dwellings in each, the multiplier for each and the resultant tax base are detailed in the table below.

Band	Number of Dwellings	Multiplier	Council Tax Base
Band A (incl disabled relief)	1.50	5/9	0.8
Band A	3,303.25	6/9	2,202.2
Band B	6,783.75	7/9	5,276.3
Band C	14,812.75	8/9	13,166.9
Band D	14,725.25	9/9	14,725.3
Band E	8,011.50	11/9	9,791.8
Band F	4,700.25	13/9	6,789.3
Band G	3,376.25	15/9	5,627.1
Band H	275.75	18/9	551.5
			383.6
			58,514.8

Council Tax income is as follows:

	£000
Initial Accounts	91,309
Additional Accounts	1,303
Less: Reduced Accounts	(9,213)
	83,399
Less: Amounts written off	(160)
	83,239

2. Income from Non-Domestic Rates

Under the National System for non-domestic rates, the Council collects from local businesses an amount equal to the rateable value of their property multiplied by a uniform rate set by the Government. This money is paid into a National Pool. The Council receives in return a contribution from the Pool based on a standard amount per head of local adult population. This is paid into the Council's General Fund.

Non-Domestic Rate Income to the Collection Fund is as follows:

	£000
Non-Domestic Rateable Value £133.971m (£124.402m 2007/08)	63,075
Non-Domestic Rate Multiplier 46.2p (44.4p 2007/08)	
Small Business Multiplier 45.8p (44.1p 2007/08)	
Less: Allowances and adjustments during the year	(12,239)
Net Income to Fund	50,836

3. Adjustment for Previous Years Community Charge

Although Council Tax replaced Community Charge on 1st April 1993, the Council has continued to account for residual adjustments in relation to the Community Charges raised in earlier years in the Collection Fund. The Council has carried a full provision against any residual debt and in 2007/08 a decision was taken to utilise the provision and write off the remaining debt of £18,929.

4. Surplus/(Deficit) on the Collection Fund re Council Tax

Any surplus at the year end is distributed amongst the precepting authorities over the following two financial years. A deficit must be covered by council tax raised the following year. The distribution for 2008/09 given in the tables below is of a surplus.

Surplus at 31st March 2009 (£000) £464

Distribution:	2008/09 £000	2009/10 £000
Maidstone Borough Council	62	11
Kent County Council	280	49
Kent Police Authority	35	6
Kent & Medway Towns Fire Authority	18	3
	395	69

2008/09 Surplus (£000) £110

Distribution:	2009/10 £000	2010/11 £000
Maidstone Borough Council	17	
Kent County Council	78	
Kent Police Authority	10	
Kent & Medway Towns Fire Authority	5	
	110	

The amount distributed has to be used by each authority to reduce the amount of Council Tax that they have to raise to finance their own expenditure. The distribution is calculated by reference to the proportion of the respective precepts and demands made in the previous year. For 2010/11 the distribution required is less than £1,000.

5. Amounts Written Off

The following amounts were written off during the year:

	2007/08 £000	2008/09 £000
Council Tax	174	160
Non-Domestic Rates	252	231
Community Charge	19	
	445	391

GLOSSARY OF FINANCIAL TERMS

ACCOUNTS

Statement aggregating items of income and expenditure and assets and liabilities. The accounts may show detailed transactions for every activity (generally used for management and control purposes during a financial year) or be summarised to show the overall position at the end of the period. The latter are known as final accounts and show both the net surplus (profit) or deficit (loss) and a balance sheet of the assets, liabilities and other balances at the end of the accounting period. Authorities are required to publish a Statement of Accounts as specified in the *Accounts and Audit Regulations 2003*.

BALANCE SHEET

A statement of the assets, liabilities and other balances of an authority at the end of an accounting period.

BALANCES

Capital or revenue reserves of an authority made up of the accumulated surplus of income over expenditure on the general fund or any other account. Revenue balances may be utilised to provide for unforeseen circumstances, to ensure that payments can be made pending the receipt of income, and if justified they may be used to reduce the collection fund levy.

CAPITAL EXPENDITURE

Generally, expenditure which is of value to an authority in the provision of services beyond the end of the financial year in which it was incurred, e.g. purchase of land and buildings, construction or improvement of buildings.

CAPITAL FINANCING

The raising of money to pay for capital expenditure. Usually the cost of capital assets is met by borrowing, but capital expenditure may also be financed by other means such as leasing, contributions from the revenue accounts, the proceeds of the sale of capital assets, capital grants, reserves and other contributions.

CAPITAL RECEIPTS

Proceeds from the sale of capital assets. Capital receipts can be used to repay the debt on assets financed from loan or to finance new capital expenditure, subject to compliance with statutory requirements.

CREDITORS

Amounts owed by an authority for work done, goods received, or services rendered but for which payment had not been made at the date of the balance sheet.

DEBTORS

Sums of money due to the authority but unpaid at the balance sheet date.

DEPRECIATION

The measure of the wearing out, consumption, or other reduction in the useful economic life of a fixed asset, whether arising from use, passage of time or obsolescence through technological or other changes.

FIXED ASSETS

Tangible assets that yield benefits to the local authority and the services it provides for a period of more than one year.

Intangible assets are assets that do not have a physical substance but are identifiable and controlled by the authority, such as computer software.

OPERATIONAL ASSETS

Fixed assets held and occupied, used or consumed by the local authority in the direct delivery of those services for which it has either a statutory or discretionary responsibility.

NON-OPERATIONAL ASSETS

Fixed assets held by a local authority, but not directly occupied, used or consumed in the delivery of services. Examples of non-operational assets are investment properties and assets that are surplus to requirements, pending sale or redevelopment.

GENERAL FUND

The main revenue account of a charging authority that summarises the cost of all services provided by the Council.

REVENUE EXPENDITURE FUNDED FROM CAPITAL BY STATUTE

Previously known as Deferred Charges. Capital payments that do not give rise to an asset such as house renovation grants.

REVENUE SUPPORT GRANT

A general grant paid by central government to local authorities to help finance the cost of services. It is paid to charging authorities for credit to the Collection Fund.

REVENUE ACCOUNT

An account which records the day to day expenditure and income of an authority on such items as salaries and wages, running costs of services, the purchase of consumable materials and equipment, and the financing costs of capital assets.

SUPPORT SERVICES

An allocation of the net cost of the administrative and professional departments which provide support for all the Council's services (e.g. Executive Services, Finance, Personnel), together with the costs of pooled administrative buildings.

USABLE CAPITAL RECEIPTS

Funds received by an authority from the sale of capital assets that have yet to be used to finance capital expenditure or repay debt.

MAIDSTONE BOROUGH COUNCIL

COUNCIL

24 JUNE 2009

REPORT OF CORPORATE SERVICES OVERVIEW AND SCRUTINY COMMITTEE

Report prepared by Acting Overview and Scrutiny Manager

1. WHOLE AND PARTIAL COUNCIL ELECTIONS REVIEW

1.1 Issue for Decision

1.1.1 To consider the report of the Corporate Services Overview and Scrutiny Committee with regard to whole and partial council elections, as attached at **Appendix A**.

1.2 Recommendation of Corporate Services Overview and Scrutiny Committee

1.2.1 That Council reviews the report of the Corporate Services Overview and Scrutiny Committee and makes a decision as to whether or not to go out to consultation on implementing whole council elections.

1.2.2 That improving voter turnout be reviewed by the Council.

1.2.3 That, as set out within Section 53 of the Local Government and Public Involvement in Health Act 2007, if the election cycle changes, Parish Council elections be held at the same time as Local Council elections.

1.2.4 That Council reviews this report and agrees whether single member wards would be desirable, and subject to the Council's decision on whether to move to whole Council elections, a request should be made to the Boundary Commission, as outlined within Section 55 of the Local Government and Public Involvement in Health Act 2007.

1.3 Reasons for Recommendation

1.3.1 Whole Council Elections

1.3.1.1 At the meeting of Maidstone Borough Council on 27 February 2008, Councillor Mrs Stockell put forward the following motion:

"Following on from the previous questions on the issue of having whole Council elections and the obvious support at that time from Councillors, Members were advised by the Chief Executive that this could not be feasibly introduced until 2009.

I would therefore formally propose that this Council agrees, in accordance with the provisions of the Local Government and Public Involvement in

Health Act 2007, to consult all interested parties on the introduction of whole Council elections for Maidstone.”

This motion was carried and the Democratic Services Manager was tasked with investigating the potential for the Council to move to whole Council elections.

- 1.3.1.2 If Members decide, on the basis of this report, not to go out to consultation, this decision will override the original decision to consult as taken on 27 February 2008.

However, if consultation goes ahead, following this a special meeting of the Council would need to be called to consider whether to move to whole Council elections. The resolution would need to be passed by a majority of at least two thirds of voting Members. For the Council to move to whole Council elections, it must take the decision by 31 December 2010 for implementation in 2011.

- 1.3.1.3 Members of the Corporate Services Overview and Scrutiny Committee agreed that before consultation was carried out with residents and other interested parties, it would be worthwhile compiling evidence for and against whole and partial council elections. This would allow both Members and consultees to make an informed decision on which method would be most appropriate for Maidstone. The report of the Corporate Services Overview and Scrutiny Committee therefore does not offer a view as to which option would be most appropriate for Maidstone; this is a decision for all Members to take for themselves having considered the evidence put forward.

- 1.3.1.4 Evidence in favour of whole and partial Council elections is summarised in the table below and covered in more detail within the report:

Benefits for:	Whole Council Elections	Partial Council Elections
Electorate	<p>Simplification of electoral process.</p> <p>Electoral equality (some residents currently elect Borough Councillors 3 out of every 4 years whilst others only get one opportunity every 4 years).</p> <p>Greater opportunity to influence the political make up of the Council.</p>	<p>Political make up of the Council should reflect more sensitively the changing views of the electorate where elections take place by thirds.</p> <p>Greater accountability as councillors are required to engage with the electorate and defend their decisions on a more regular basis.</p>
Politicians	<p>Greater opportunity to organise campaigns and develop detailed manifestos.</p> <p>Greater period of time for</p>	<p>Mix of new and experienced councillors, allowing for efficient councillor teams and capacity building.</p>

	<p>the ruling party to fulfil its manifesto promises.</p> <p>Only campaigning once every 4 years reduces chance of candidates and supporters losing interest in the campaigning process.</p>	<p>Less candidates need to be found to stand at elections, reducing the chance of seats being uncontested.</p> <p>Require less resources when campaigning as candidates and supporters do not have to cover the whole Borough – beneficial for smaller parties.</p>
Council/officers	<p>Political stability encouraging more complex decisions to be made, which might be put off where elections are held most years.</p> <p>Less time in total over the four years is dedicated to the election process, meaning less time during which the Council is not fully functional.</p> <p>Opportunity to plan longer-term.</p> <p>Greater opportunity to build up relationships between officers and Cabinet Members.</p> <p>Financial savings of approximately £12,500 per year.</p> <p>More time for elections team between elections to carry out other tasks, e.g. democratic engagement.</p>	<p>Less opportunity for complete reversals of policy every 4 years.</p> <p>Electing by thirds results in less public enquiries to the Council during the election period and less disruption to Council work than during the election period for whole Council elections.</p> <p>Maintenance of knowledge within the elections team.</p> <p>By-elections are less likely to occur.</p> <p>Election count less complex, allowing it to take place on the night of the election and requiring less training of staff each time.</p>

1.3.1.5 The 2003 Local Government Chronicle (LGC) Elections Centre document, "Electoral Cycles in English Local Government", considered the implications of the frequency of elections on the electorate's voting behaviour. The paper concluded that electoral frequency and the proportion of Members elected were only two factors in a wide range of factors influencing voter turnout, and it was problematic to predict to what extent a change to voting frequency would affect levels of electoral

participation. Furthermore, the report indicated that while alterations to the voting system could lead to an initial increase in voter turnout, this increase may not persist once the novelty of the change has faded.

- 1.3.1.6 This statement was rejected by the Electoral Commission in its 2003 report "The Cycle of Local Government Elections in England", which argued:

"The balance of evidence suggests that local government electors are less likely to participate in the democratic process in areas that hold elections by thirds".

1.3.2 **Consultation**

- 1.3.2.1 While Section 33 of the Local Government and Public Involvement in Health Act 2007 states that "the council must not pass the resolution [on moving to whole council elections] unless it has taken reasonable steps to consult such persons as it thinks appropriate on the proposed change", there is no guidance on what "reasonable steps" or "appropriate persons" are considered to be. A number of options have therefore been considered, with budgets for consultation ranging from approximately £700 to include a consultation flyer with electoral registration forms (to be sent out in August), to £6000-£10,000 to consult using a range of more in-depth mechanisms to consult with residents, political parties and other key stakeholders.

1.3.3 **Voter Turnout**

- 1.3.3.1 As outlined at section 1.3.1.5, a wide range of factors impacts upon voter turnout. The Corporate Services Overview and Scrutiny Committee considers the improvement of voter turnout to be vital to ensuring that the Council adequately represents Maidstone's residents, regardless of electoral cycle, therefore the Council is asked to review methods of improving voter turnout.

1.3.4 **Parish Council Elections**

- 1.3.4.1 Currently, Parish Council elections are held at the same time as ward elections which allows residents to vote for their Parish Councillors at the same time as their Borough Councillor. This is also cost effective, as Maidstone Borough Council covers the cost of parish elections held simultaneously to ward elections.
- 1.3.4.2 Section 53 of the Local Government and Public Involvement in Health Act 2007 allows Councils to alter the years for ordinary elections for Parish Councillors. A resolution to move to whole Council elections need not affect the Parish Council elections unless the Council decides to make an order so that Parish Council elections coincide with District Council elections; this is not an obligation.
- 1.3.4.3 Due to the cost implications and to ensure the electoral process remains as simple as possible, it is recommended that if the Council moves to

whole Council elections, Parish Council elections should also change to be held at the same time as Borough Council elections.

1.3.5 Single Member Wards

1.3.5.1 Section 55 of the Local Government and Public Involvement in Health Act 2007 states that a local authority can only make a request to move to single Member wards if it has whole council elections. Members of the Corporate Services Overview and Scrutiny Committee felt that it would be appropriate to consider this option at the same time as the whole Council elections issue so that if Members agreed to request a Boundary Review, any changes could be made to coincide with a change to whole Council elections from 2011.

1.3.5.2 Currently, 18 wards in Maidstone are multi-Member and 8 are single-Member.

1.3.5.3 As with whole Council elections, there are a number of advantages and disadvantages with single Member wards:

Advantages	Disadvantages
<p>Clarity of leadership.</p> <p>The Elections Centre associates low voter turnout with large wards; single Member wards are smaller.</p> <p>Can provide a point of unity between several communities.</p>	<p>Multi-Member wards allow parties to field a range of candidates which may be more representative of the population.</p> <p>Multi-Member wards have practical advantages, for example if one ward Councillor suffers from illness, ward residents still have access to an elected representative. Also, multi-Member wards can be considered beneficial for those areas represented by the Leader or a Cabinet Member, as those Members have greater responsibilities and workloads than other local ward Members.</p>

1.3.5.4 A change to single Member wards would require significant officer time, funding and major planning. If Members believe a change to single Member wards would be appropriate, a request would need to be made to the Boundary Commission to review the possibility of implementing single Member wards. This can only occur if the Council agrees to move to whole Council elections.

1.4 Alternative Action and why not Recommended

1.4.1 Council could decide not to consider the report and its recommendations, however this is not considered desirable for the following reasons:

- The Council has already agreed to consult interested parties with regard to a potential move to whole Council elections: this report provides further information on this topic to ensure that Councillors and residents can make an informed decision; and
- The report has identified further issues around elections, including election turnout, the cycle of parish council elections, and single Member wards, which should be addressed to ensure that the Council’s approach to reviewing the electoral cycle is inclusive.

1.5 Impact on Corporate Objectives

1.5.1 Consideration of the recommendations as outlined within the report would support the following Key Objective:

“Encourage greater citizen participation, especially in registering to vote, elections and Council meetings and promote greater engagement with Council members”.

1.6 Risk Management *COMPULSORY*

1.6.1 There are no risks that arise as a result of the report.

1.7 Other Implications

1.7.1

1.	Financial	X
1.	Staffing	
2.	Legal	X
3.	Equality Impact Needs Assessment	
4.	Environmental/Sustainable Development	
5.	Community Safety	
6.	Human Rights Act	
7.	Procurement	
8.	Asset Management	

1.7.2 If the Council agrees to consult on the issue of whole council elections, funding will need to be allocated to this.

1.7.3 Any potential change to the cycle of elections or ward boundaries, if a move to single Member wards is approved, will need to follow the

processes outlined in the Local Government and Public Involvement in Health Act 2007.

1.8 Background Documents

1.8.1 *Whole and Partial Council Elections Report (2009)* External Overview and Scrutiny Committee

Electoral Cycles in English Local Government (2003) Local Government Chronicle Elections Centre

The Cycle of Local Government Elections in England (2003) Electoral Commission

NO REPORT WILL BE ACCEPTED WITHOUT THIS BOX BEING COMPLETED

Is this a Key Decision? Yes No

If yes, when did it appear in the Forward Plan? _____

Is this an Urgent Key Decision? Yes No

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**CORPORATE SERVICES OVERVIEW AND SCRUTINY
COMMITTEE**

WHOLE AND PARTIAL COUNCIL ELECTIONS REVIEW

MUNICIPAL YEAR 2008 - 2009

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1. Executive Summary

- Local Government now has power to pass a decision to move to whole council elections. The Councillors Commission recommends a single election method be utilised by all local authorities to ensure uniformity. The Electoral Commission advises that all local authorities should hold whole council elections.
- We have identified that neither electing by partial nor whole council elections is certain to be more beneficial to the electorate, politicians or the local authority. Rather both offer conflicting advantages and disadvantages.
- There is evidence of electoral confusion with regard to frequency and timing of local elections nationwide. Although uniformity of local area elections may reduce confusion, it may not necessarily be the most appropriate method to ensure a sustainable increase in electoral turnout.
- Turnout within the Kent Districts between 2003 and 2007 does not show any correlation between electorate participation and election frequency.
- Consultation should take place over a minimum of 12 weeks and must reflect the Code of Practice of Consultation as established by the Cabinet Office. It is advised that an outside agency be employed to ensure best results. Consultation should take place as is seen appropriate.
- Although it is not mandatory to do so, it is advisable that Parish Council elections are held simultaneously to Local Council elections.
- Although there is a possibility that single member wards may improve clarity of the electoral process, multi member wards enable Councillors to share expertise and assist each other within their roles. The implementation of single member wards will require major planning, Boundary Commission consent, significant officer time and considerable funding.

2. Recommendations

Recommendation 1: That Council reviews this report and makes a decision as to whether or not to go out to consultation on implementing whole council elections.

Recommendation 2: That improving voter turnout be reviewed by the Council.

Recommendation 3: That, as set out within Section 53 of the Local Government and Public Involvement in Health Act 2007, if the election cycle changes, Parish Council elections be held at the same time as Local Council elections.

Recommendation 4: That Council reviews this report and agrees whether single member wards would be desirable, and subject to the Council's decision on whether to move to whole Council elections, a request should be made to the Boundary Commission, as outlined within Section 55 of the Local Government and Public Involvement in Health Act 2007.

The Elections Cycle

A comparison of Whole Council and Partial Council Elections

3. Introduction

- 3.1 At the meeting of Maidstone Borough Council on 27 February 2008, Councillor Mrs Stockell put the following motion to the Council:

“Following on from previous questions on the issue of having whole Council elections and the obvious support at the time from Councillors, Members were advised by the Chief Executive that this could not be feasibly introduced until 2009.

I would therefore formally propose that this Council agrees, in accordance with the provisions of the Local Government and Public Involvement in Health Act 2007, to consult all interested parties on the introduction of whole Council elections for Maidstone.”

- 3.2 This motion was carried and the Democratic Services Manager is now investigating the potential for the Council to move to whole Council elections.

4. Terms of Reference and Focus

4.1 The focus of this Review is as follows:

- What are the advantages and disadvantages of moving to whole council elections for:
 - The electorate
 - The politicians
 - The Council (including electoral administrative staff)
- What methods of consultation can be used?
- What is the impact, if any, on voter turnout?

4.2 The Terms of Reference of this Review are as follows:

- Establish clear advantages and disadvantages of moving to whole council elections in order that councillors and the electorate can be reliably and fully informed; and
- Identify an appropriate method of consultation to gather views on the proposed changes.

4.3 Committee Membership:

Councillor Mrs Paulina Stockell (Chairman)
Councillor Derek Butler (Vice-Chairman)
Councillor Allan Bradshaw
Councillor Eric Hotson
Councillor David Marshall
Councillor Mrs Pat Marshall
Councillor Brian Mortimer
Councillor Colin Parr
Councillor Mrs Fran Wilson

4.4 The Committee would like to thank all those who all those who gave their time to assist with the review, including: Alison Broom, Director of Operations; Steve Goulette, Assisted Director of Regulatory and Environmental Services; Brian Parsons, Head of Internal Audit and Risk Strategy Management; Neil Harris, Democratic Services Manager; Gill Gymer, Registration Services Manager; Vronni Ward, Corporate Marketing Manager; John Turner, Chief Executive of the Association of Electoral Administrators; Councillor R Bliss, Leader of Shepway District Council; and the Democratic Services teams within Swale Borough Council and all Kent districts.

5. Background

- 5.1 Within Kent, the majority of local authorities hold 'whole' or 'all-out' elections every four years. Borough Councillors for Maidstone, Swale and Tunbridge Wells, however, are elected for a four year term and stand down by thirds ('partial council' elections). Local elections occur within the borough three out of the four years. Within the fourth year Kent County Council (KCC) elections are held.
- 5.2 Since the enactment of Section 33 of the Local Government and Public Involvement in Health Act 2007, the power to change to whole council elections rests with the Local Council as opposed to National Government. Maidstone Borough Council can resolve to move to whole council elections up until 31st December 2010. The first whole council elections will then take place in 2011. Swale Borough Council has also undertaken a review into the possible move to whole council elections and now has a commitment to go to consultation on moving to whole council elections¹. There is no obligation for the Council to change the current election process.
- 5.3 This review demonstrates that there are advantages and disadvantages with each electoral method and neither one can be said to be considerably more beneficial. This is reflected within the Electoral Commission's report published in 2008, which concluded that a more co-ordinated and unified approach to electoral administration is necessary. There was, however, less agreement as to how this should be achieved². Changing the frequency of elections may not be the most appropriate method.

¹ Swale Borough Council are currently unable to provide details of when consultation will take place.

² *Electoral Administration in the UK*, The Electoral Commission, 2008, page 11.

6. Legislation

6.1 In 2006 the Local Government White Paper, "Strong and Prosperous Communities", stated that Government would "give all local authorities the freedom to opt for whole council elections and enable all those holding such elections to move to single member wards³"; this was enacted within the Local Government and Public Involvement in Health Act 2007.

6.2 Section 33 of the Local Government and Public Involvement in Health Act 2007 provides the following requirements with regard to Council resolutions for whole council elections:

- 1) A council must comply with this section in passing a resolution for whole-council elections.
- 2) The council must not pass the resolution unless it has taken reasonable steps to consult such persons as it thinks appropriate on the proposed change.
- 3) The resolution must be passed—
 - a) At a meeting which is specially convened for the purpose of deciding the resolution with notice of the object, and
 - b) By a majority of at least two thirds of the members voting on it.
- 4) The council must pass the resolution in a permitted resolution period.
- 5) In subsection (3) the reference to the members of the council includes, in a case where the council are operating a mayor and cabinet executive, the elected mayor of the council.
- 6) In this section "permitted resolution period" means—
 - a) In relation to a metropolitan district council –
 - i. The period ending with 31 December 2009, or
 - ii. The period in 2013, or in any fourth year afterwards, that starts with the day after that council's annual meeting and ends with 31 December.
 - b) In relation to a non-metropolitan district council –
 - i. The period ending with 31 December 2010, or
 - ii. The period in 2014, or in any fourth year afterwards, that starts with the day after that council's annual meeting and ends with 31 December.

³ *Strong and Prosperous Communities, The Local Government White Paper (2006) Cm 6939-I, p.49.*

- 7) The Secretary of State may by order provide that a permitted resolution period is to end later than the day determined in accordance with subsection (6).

7. Electoral Commission Guidance

7.1 In 2004, the Electoral Commission published a report entitled *The Cycle of Local Government Elections in England*. The report recommended that:

“the cycle of local and sub-national government elections in England should follow a clear and consistent pattern, within and across local authorities. Individual authorities should not be permitted to ‘opt out’ of this pattern, and any newly created authorities should also follow the same pattern⁴”;

“each local authority in England should hold whole council elections, with all councillors elected simultaneously, once every four years⁵”; and

“The Commission recommends that all local government electors in England should elect members of their district, metropolitan borough, London borough or unitary council simultaneously once every four years. Two years later, in the mid-point of the electoral cycle, electors in areas with county councils, city-wide authorities or any future sub-national government should elect representatives to those bodies⁶.”

7.2 The 2007 report of the Councillors Commission⁷ supports the proposal for whole Council elections, with Recommendation 18 stating:

“A uniform cycle of all-out four yearly local elections should be introduced across the whole of England. All authorities in a given region should be elected on the same day, but not all regions should hold elections at the same time. Local elections should not take place on the same day as national or European elections⁸.”

7.3 Despite the Electoral Commission’s recommendations it is also recognised that it may not necessarily be desirable to have one election method in place across the entire of the UK. Rather, it is emphasised that the most appropriate voting mechanism is one which best suits the electorate within the local area. In 2003 the Electoral Commission stated that:

“[W]e do not see a consistent pattern of local electoral cycles as necessarily desirable in its own right. Rather, we recognise the significant benefits to wider public understanding and awareness

⁴ *Cycle of Local Government Elections*, the Electoral Commission, Executive Summary, (2004), p.4

⁵ *Ibid.*

⁶ *Ibid* page 5.

⁷ The Report of the Councillors Commission, *Representing the Future*, (2007), available at <http://www.communities.gov.uk/documents/localgovernment/pdf/583990.pdf>

⁸ *Ibid* p.83.

of democratic rights that a more consistent pattern would bring⁹.”

- 7.4 Despite the Electoral Commissions recommendations, there are also arguments which support the continuation of partial council elections.

⁹ *The Cycle of Local Government Elections in England*, Report and Recommendations, Electoral Commission (2003) p.14.

8. Implications for the Electorate and Voter Turnout

8.1 The Electoral Administration Act 2006 identifies that Local Councils are expected to take decisions which will encourage improvements in electorate participation. Electorate participation is essential in order to ensure a sufficient democratic process and the legitimacy of Local Government. The significant issue to consider, therefore, is whether the implementation of whole council elections will encourage an increase in voter turnout.

8.2 Simplification of the Election Process

The primary reason given for the Government proposal for authorities to implement whole council elections was that it should enable a simpler voting system, increasing clarity for local voters. Research conducted by MORI during March and April 2003 reported that a significant proportion of the electorate was unaware of the frequency of local elections within their area¹⁰.

8.3 A complicated electoral process and a lack of understanding of the system may deter the electorate from voting, resulting in a low turnout. The Electoral Commission stated:

“We are concerned that the complex current pattern of different local electoral cycles across England does not help electors to understand the opportunities open to them for participation in the democratic process.¹¹”

8.4 Arguably, this confusion is exacerbated within the Borough as a result of the combination of multi-member *and* single-member wards¹². Consequently there will be years in which elections occur only in some wards. Within Maidstone 11 wards are represented by three Councillors, seven are represented by two Councillors and eight have single Councillor representation. The implementation of whole council elections will require all local elections to occur in unison and therefore should reduce electorate confusion. Supporting this MORI (2003) recorded that 58% of those questioned backed the alignment of all ward elections within their authority¹³.

¹⁰ *Electoral Cycles, General Public Quantitative Research*, The Electoral Commission, (April – May 2003), p.4. 23% gave an incorrect answer or said they did not know when asked if there was a local election to be held soon.

¹¹ *Cycle of Local Government Elections*, the Electoral Commission, Executive Summary, January, (2004) p.1.

¹² *The Cycle of Local Government Elections in England*, Report and Recommendations, Electoral Commission (2003) p.12.

¹³ *Electoral Cycles, General Public Quantitative Research*, The Electoral Commission, (April – May 2003), p.11.

- 8.5 Nonetheless, the Councillors Commission suggests that implementing whole council elections is not necessarily the most appropriate way of addressing problems associated with the local electoral system, in particular the issue of a low electoral turnout¹⁴.
- 8.6 In 2003 the Local Government Chronicle (LGC) Elections Centre produced a paper – Electoral Cycles in English Local Government¹⁵ – which directly considered the implications of the frequency of elections upon the electorate’s voting behaviour. The study compared the electorate turnout within Metropolitan Boroughs which hold partial elections, and 32 London Boroughs which hold whole council elections. The comparison of these two authority types demonstrates that the London Boroughs generally have a higher turnout¹⁶. Nevertheless, the paper identifies that electoral frequency and the proportion of members elected are only two factors determining electorate participation. For example, it was found that within all areas turnout declines as ward size increases. Additionally, where strong competition exists between the three main political parties, local people are more likely to participate in the election. Finally, the report indicates that although alterations in the voting system may lead to an initial change in voter turnout, this increase may not persist once the change in model has faded¹⁷. This makes it problematic to predict to what extent a change to voting frequency will affect levels of electorate participation¹⁸.
- 8.7 Further to this, consultation carried out by the Electoral Commission identified that a number of respondents, particularly those from within local government, suggested that low levels of turnout were actually caused by “the decreasing powers and relevance of local government’s ability to affect change¹⁹”, a matter which was picked up when a Corporate Services Overview and Scrutiny working group reviewed the balance of power between central and local government earlier this year. If this is the case, amendments to the electoral cycle are unlikely to result in a significant improvement to democratic participation. However, the Commission rejects this opinion and continues by stating that:

¹⁴ The Report of the Councillors Commission, *Representing the Future*, (2007), p.30. Recommendation one of the Committee states that all local authorities should be charged with an explicit duty to facilitate local democratic engagement; to explain local governance; to actively promote civic participation; and to promote the role of councillors.

¹⁵ Rallings, C and Thrasher, LGC Elections Centre, *Electoral Cycles in English local Government*, (2003).

¹⁶ *Ibid* p.23.

¹⁷ *Ibid*.

¹⁸ *Ibid* p.2.

¹⁹ *The cycle of Local Government Elections in England*, Report and Recommendations, The Electoral Commission, (2003), p.20.

"We recognise that many different factors may influence levels of turnout, but do not accept that individual exceptions to the Elections Centre's findings invalidate its conclusions. The balance of evidence suggests that local government electors are less likely to participate in the democratic process in areas that hold elections by thirds²⁰."

8.8 Voter Fatigue

It is also contended that whole council elections diminish the possibility of voters becoming disinterested in elections as a result of being required to vote annually. This is known as "voter fatigue"²¹. Ensuring that the electorate holds an interest in the local political climate, as opposed to burdening them with a repetitive election process should ensure the electorate remains active.

8.9 However, in 2003 MORI stated that 71% of those questioned as part of the Electoral Commission's review thought that the frequency of elections was "about right"²². Only 8% of people living in wards with partial elections said that they were taking place too often²³. This suggests that 'voter fatigue' as a result of partial elections is not as much of a problem as has been suggested by those who favour the use of whole council elections. Furthermore, if whole council elections were implemented, the electorate would continue to be expected to participate in European Parliament elections, National elections and County Council elections.

8.10 Electoral Equality

The Electoral Commission has identified that to ensure a democratic voting system, the local voting process must be equitable. The current use of both whole and partial council elections within England renders this impossible. The existence of multi-member and single-member wards within the Maidstone Borough may also intensify this problem. In 2004 the Commission identified that:

"It is fundamentally unfair and, in our view, unacceptable that within an individual local authority some electors may have fewer opportunities to vote and influence the political composition of the authority than their neighbours in a different ward²⁴."

²⁰ *The cycle of Local Government Elections in England*, Report and Recommendations, The Electoral Commission, (2003), p.20.

²¹ Rallings, C and Thrasher, M, *Electoral Cycles in English Local Government*, LGC Elections, (2003), p.3.

²² *Electoral Cycles, General Public Quantitative Research*, The Electoral Commission, (April – May 2003), p.9.

²³ *Ibid* p10.

²⁴ *Cycle of Local Government Elections*, the Electoral Commission, Executive Summary, (2004), p.2.

8.11 In order to guarantee an equitable system of electoral arrangements in areas which hold partial elections, it would be necessary to elect a uniform number of Councillors within each of the Borough's wards. A whole council election system would require no change to the Council's current electoral arrangements,²⁵ and so may be more desirable.

8.12 Political Influence

A further contention supporting the implementation of whole council elections is that the system would provide the electorate with a greater opportunity to influence the political party in power. The Electoral Commission has stated that: "[w]hole council elections...ensure that all eligible electors in the authority have the opportunity to influence the political composition and control of the authority at the same time."²⁶ If the electorate perceive themselves as being able to influence which party is in power during an electoral term, it is predictable that a larger turnout will be recorded. If, however, it is felt that votes hold little political consequence, it is probable that local people will not value the importance of a local election and so will not be as willing to participate. Holding whole council elections also prevents the political control of the Council shifting without the whole electorate having had an opportunity to vote immediately prior to the change.

8.13 Partial elections, however, provide less opportunity for unexpected, possibly disruptive and politically exaggerated amendments to the make-up of councils and their policies and so should reflect more sensitively the changing views of the electorate.

8.14 Conversely, some suggest that partial elections encourage difficult or politically sensitive decisions to be put off, unlike whole council elections which provide three years of stability encouraging more complex decisions to be made.

8.15 Political Accountability

Finally, it is strongly maintained that partial elections provide greater accountability as a result of the requirement for Councillors to engage with voters, promote their policies and defend their decisions on a more frequent basis. It is contended that the more frequent the opportunity to vote the more democratic the electoral process is. The LGC *Elections Centre – Electoral Cycles in English Local Government* supports these suggestions by stating that "...increasing the frequency when some fraction of the local council membership is held to account helps to strengthen democratic accountability²⁷."

²⁵ *Ibid.*

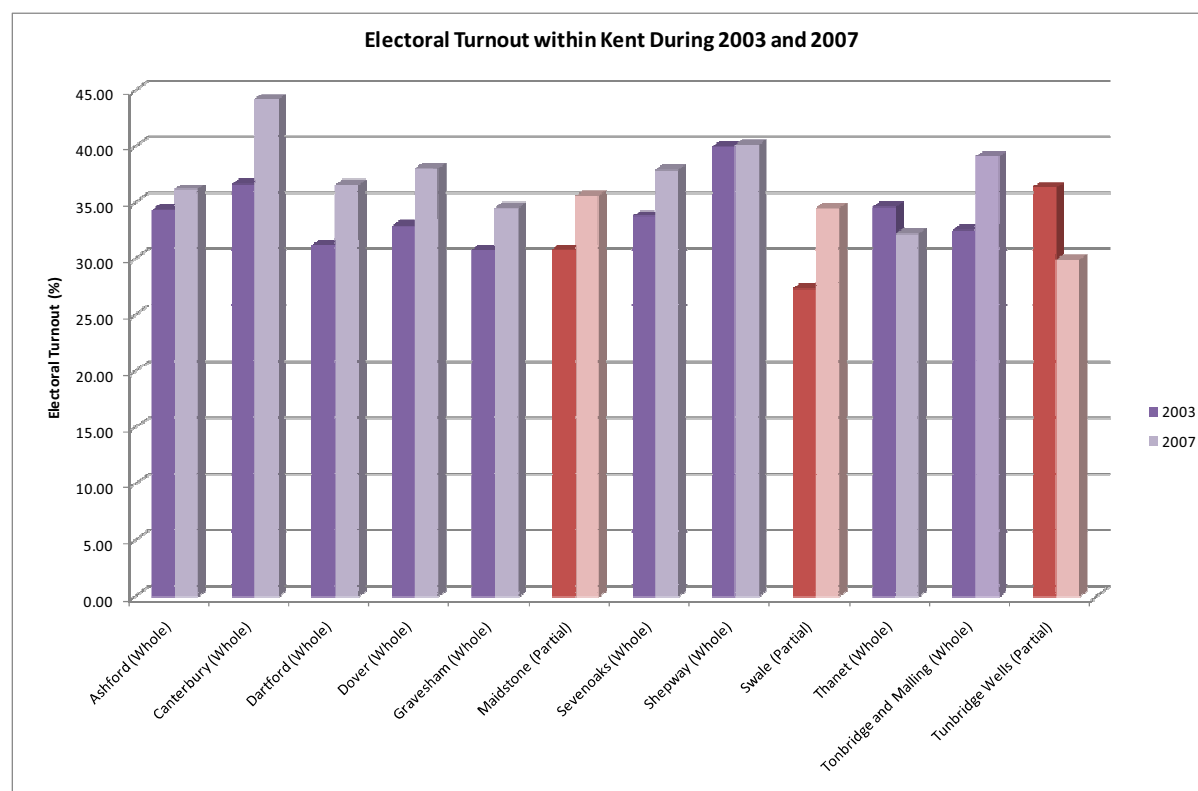
²⁶ *Ibid*, Page 18.

²⁷Rallings, C and Thrasher, M, *Electoral Cycles in English Local Government*, LGC Elections, (2003) p.1.

8.16 Electoral Turnout within Kent

Authority	2007	2006	2005	2004	2003	Average (2003 - 2007)
Ashford (Whole)	36.18				34.39	35.29
Canterbury (Whole)	44.20				36.70	40.45
Dartford (Whole)	36.63				31.25	33.94
Dover (Whole)	38.02				32.92	35.47
Gravesham (Whole)	34.56				30.78	32.67
Maidstone (Partial)	35.58	37.30		39.33	30.80	35.75
Sevenoaks (Whole)	37.90				33.80	35.85
Shepway (Whole)	40.17				40.00	40.09
Swale (Partial)	34.53	35.00		37.10	27.32	33.49
Thanet (Whole)	32.24				34.65	33.45
Tonbridge and Malling (Whole)	39.08				32.55	35.82
Tunbridge Wells (Partial)	29.90	39.77		36.73	36.34	33.12

8.17 The above table gives the election results off all Kent authorities within 2003 and 2007. The Canterbury and Shepway boroughs, which elect by whole council elections, have the highest average of electoral turnout during this time period. However the election results within those authorities which use this election method are wide ranging and a number of those also recorded particularly poor elections results. Gravesham District Council has the lowest average turnout and also elects by whole council elections.



8.18 The figure above presents the electoral turnout for all District Councils within Kent. Those coloured in shades of purple elect by whole council elections and those shaded in pink hold partial council elections. Between 2003 and 2007 all districts recorded a rise in electoral turnout, other than Thanet, which elects by whole elections, and Tunbridge Wells which elects by thirds.

9. Implications for Politicians

- 9.1 Arguably council elections should be run in the manner which best encourages electorate participation as opposed to the method which is most advantageous to politicians. This is supported by a Member who has suggested:

"It should be the job of the council to set the terms of election that best suit the residents of the borough. It is not for the council to consider the effect this will have on individual Councillors no matter what their party affiliation or indeed lack of. The nature of democracy and campaigning will determine the makeup of the council chamber – not the terms of the election."²⁸

- 9.2 Nevertheless, benefits experienced by candidates and political parties will most likely benefit the electorate. The Elections Process Review Survey carried out by the scrutiny team, in which local Councillors were asked to provide their opinion as to whether or not a move to whole council elections is desirable, identified that 70.5% of those who responded were against moving to whole council elections. The most common reason given was the belief that less frequent elections would diminish democratic accountability²⁹.

9.3 Consistency of Governance

Whole council elections provide political parties with a greater opportunity to organise campaigns, consult with the public and should allow for the production of a more detailed manifesto prior to an election. The political party then has a four year period to fulfil its manifesto promises. This provides the electorate with a greater amount of time to judge the party on its policies and performance, in particular the setting of council tax³⁰.

- 9.4 However, partial elections ensure that, particularly in multi-member wards, first time Councillors are able to consult with their more experienced colleagues. This will ensure more efficient Councillor teams and newly elected Councillors should be able to build capacity over time³¹. In contrast, whole council elections may result in a lack of Councillor expertise at the outset of a new political term in addition to a complete reversal of policies between alternating administrations. The Head of Internal Audit and Risk Strategy, Mr Brian Parsons, who manages the internal audit partnership with Ashford Borough Council, identified that:

"At the last ABC election (2007), 16 of the 43 members were new. At the 2003 election, there had been 21 new members.

²⁸ Review of the Election Process Survey, Overview and Scrutiny, 2009.

²⁹ *Ibid.*

³⁰ *The cycle of Local Government Elections in England*, Report and Recommendations, The Electoral Commission, (2003), p.18.

³¹ *Ibid.*

This meant that significant training had to be carried out for Councillors after each election, particularly with regard to planning, although this had never led to a situation where the municipal year could not start as planned.³²

9.5 Mobilisation of Politicians and Political Activists

All out elections would demand a larger number of candidates to stand for election in order to ensure that all of the 55 seats within the Borough were contested. During the 2007 partial elections, two seats, for the first time in Maidstone, were uncontested. There are reasonable grounds to suggest that the election of uncontested candidates undermines the democratic legitimacy of either voting system. Arguably this problem will be intensified if whole council elections are put into operation within the Borough.

- 9.6 Whole council elections are less time consuming for political activists who, like the electorate, may suffer from fatigue as a result of the frequency of partial elections. All-out elections require political parties and activists to mobilise their supporters only once every four years. This should ensure that potential and existing candidates do not lose interest. Conversely, whole council elections require the organisation of enough supporters to canvass the entire Borough. A Member has also identified that whole council elections are disadvantageous to smaller political parties. It was stated that:

“This at a stroke makes it very difficult for the smaller parties to operate and collectively organise. Those parties with well oiled and financially supported machines will be able to buy in organisational assistance.”³³

Additionally, a Local Councillor is of the opinion that;

“I am convinced that the Party ‘machines’ get very rusty if not exercised annually and the quality of campaigning and informing the public of the ‘products’ on offer suffers considerably. It breeds complacency in Members and in Parties which is bad for democracy.”³⁴

- 9.7 Partial elections enable the Councillor’s workload to be spread more evenly over the four year period, as opposed to whole council elections which can result in a substantial increase in work during the election year.

³² Minutes of the Meeting of the Corporate Services Overview and Scrutiny Committee, Whole Council Elections, Meeting with Officers, Wednesday 21 January 2009.

³³ Review of the Election Process Survey, Overview and Scrutiny 2009.

³⁴ Review of the Election Process Survey, Overview and Scrutiny, 2009.

9.8 Cycle of Parish Council Elections

Modifications to the electoral cycle within the Borough may also require changes to the Parish Council elections. Currently it is usual for Parish elections to be held at the same time as ward elections, as Maidstone Borough Council covers the cost of parish elections held simultaneously to ward elections. Section 53 of the Local Government and Public Involvement in Health Act 2007 allows Councils to alter the years for ordinary elections for Parish Councillors. This is to enable an individual to vote for a District Councillor at the same time as voting for a Parish Councillor.

9.9 A resolution to move to whole council elections need not affect the Parish Council elections unless the Council decides to make an order so that Parish Council elections coincide with District Council elections. This is a power that the Council may or may not exercise and is not an obligation,³⁵ however it would be more cost effective for the Parish Councils to hold elections at the same time as the District Council elections.

9.10 Appendix A details the time table of Parish elections based upon the current election system.

³⁵ Refer to Electoral Commission, Guidance on Community Governance Reviews, April 2008, section 148.

10. Implications for the Council and Officers

10.1 Political Consistency

The cycle or frequency of elections will influence the capacity of local authorities to manage efficiently and deliver their responsibilities. Those who argue in favour of whole council elections “emphasised the importance of consistency of policies and representatives through a defined period of office, without the interruption and diversion of intervening elections³⁶.” Whole council elections ensure the Council has a clear mandate to work from. One Member is of the opinion that;

“The greatest advantage will be the opportunity for the administration to actually get down and do something significant and see it through. Far too often the administrations (on both sides) are looking over their shoulders at the next election and going for a quick fix, and, even worse, are not able (or prepared) to tackle a problem in other than a short term way.”³⁷

10.2 Additionally, Mr Parsons has identified that “[t]he continuity of a four year term [within Ashford Borough Council] gave the opportunity to plan longer-term. For example, in Maidstone the Strategic Plan was overhauled each year but in Ashford it stayed in place for four years at a time with periodic reviews to ensure it remained appropriate.”³⁸

10.3 Supporters of elections by thirds suggest that stability is more suitably provided by an election method that allows gradual political change as opposed to a sudden shift in political power³⁹. However, the Electoral Commission has confirmed that it favours the political stability which accompanies whole council elections. The Commission identifies that authorities who elect by thirds have traditionally had single-party political control which some perceive as being a sign of stability. Nevertheless, it disagrees with this contention by suggesting that this is merely “a legacy of political stability rather than any inherent structural stability,” and so has no reflection upon the electoral system used within the borough.

10.4 Furthermore, whole council elections provide officers with greater opportunity to establish a robust relationship with Councillors over the four year term. This should benefit the functioning of the Council unlike

³⁶ *The cycle of Local Government Elections in England*, Report and Recommendations, The Electoral Commission, (2003), p.20.

³⁷ Review of the Electoral Process, Overview and Scrutiny 2009.

³⁸ Minutes of the Meeting of the Corporate Services Overview and Scrutiny Committee, Whole Council Elections, Meeting with Officers, Wednesday 21 January 2009.

³⁹ *The cycle of Local Government Elections in England*, Report and Recommendations, The Electoral Commission, (2003), p.20.

the frequent shift of personalities which accompanies partial council elections.

10.5 Administrative Issues

Whole council elections may enable a financial saving in relation to the employment of administrative staff⁴⁰. Shepway District Council, which elects quarterly, has identified that if elections were to take place annually, there would be no scope to review practices and undertake training. The Chief Executive of the Association of Electoral Administrators has advised that a change of the frequency of local elections, however, is unlikely to have a dramatic effect upon the required support from the administrative service.

10.6 If whole council elections were to be implemented within Maidstone, staff would be involved in the administration of an election every other year (this includes county elections). The registration services team within the Council is currently small. Having limited knowledgeable staff may cause problems during the restricted election period which accompanies whole council elections.

10.7 Whole council elections require less time throughout the four year term being allocated to the 'pre-election period'. This is a six week period corresponding with the election campaign, during which politically sensitive announcements cannot or should not be made. The aim is to prevent sitting parties from making attractive policy declarations and decisions which could unduly influence voters in the run up to an election. During this pre- election period, business of the council ceases. Whole council elections require this process to occur only once in the four year term, rather than the two or three times that would be necessary in the case of partial elections. Whole elections therefore, are affected by a shorter time period in which the council are not fully functional.

10.8 However, The Director of Prosperity and Regeneration, Mrs Alison Broom, who has worked for Maidstone Borough Council and the London Boroughs of Camden and Merton, both of which were unitaries with whole council elections, recognised that;

"[i]n her experience, work increased in the run-up to a whole council election. Although decisions could not be made, the number of councillors canvassing right across the Borough led to a significant amount of enquiries from members of the

⁴⁰ Councillor Bliss of Shepway District Council indicated that the number of offices engaged full time in elections has not exceeded more than two for many years.

public. Whilst this did happen at MBC, it was on a smaller scale as only one third of the councillors were up for election."⁴¹

10.9 Financial Considerations

The electoral method used within the Borough will inevitably have cost implications. Moving to whole council elections should enable a number of financial savings over the four year period. The hiring of polling stations will not need to occur on such a frequent basis and fewer polling cards will be printed. The total expenses incurred during the most recent local elections within the Maidstone Borough were recorded as £147,845.34. Nevertheless the savings which result from the use of a whole Council election system are not as high as may first be expected. In 2003 it was established that to hold whole Council elections every four years would result in a total saving of £50,000, giving an annual saving of £12,500⁴².

10.10 Whole Council elections cost considerably more than each single election of a partially elected borough and expenditure continues to be incurred during those years which are not subject to an election, for example as a result of storage costs. Counting methods required during whole council election are also significantly more complicated and costly. The Council is likely to experience further costs as a result of an increased number of by-elections during the whole election period compared to those which occur currently.

⁴¹ Minutes of the Meeting of the Corporate Services Overview and Scrutiny Committee, Whole Council Elections, Meeting with Officers, Wednesday 21 January 2009.

⁴² As stated by the Leader of the Council at the meeting of Maidstone Borough Council, 27 March 2003.

11. Single Member Wards

11.1 Section 55 of the Local Government and Public Involvement in Health Act 2007 states that a local authority can only make a request to the Boundary Commission to carry out a review for single-member wards if it is already subject to a scheme for whole Council elections. There is however, no requirement to make the request and it should not affect a decision to move to whole Council elections. Nevertheless if the Council is considering this option it is sensible to assess the possibility at the same time as the assessment of whole council elections, so as to enable changes to be made together in 2011, if considered desirable. 64% of Maidstone's Councillors who gave their opinion on single-member wards identified that there were both advantages and disadvantages for ward residents having only one political representative⁴³. If alterations are made to the current ratio of ward members to Councillors, it needs to be ensured that these amendments provide closer contact between the residents and elected member, not less.

11.2 The key criticism of single-member wards is that candidates may appeal only to a restricted number of local people, which may discourage some from voting. The Councillors Commission report identified that "Councillors are significantly unrepresentative of the population as a whole in a descriptive sense⁴⁴." The report continues by suggesting that multi-member wards encourage political parties to maximise their appeal to the electorate by providing a more varied range of candidates, which provides those from under represented groups with a greater possibility of being selected than would be the case in single-member wards. Recommendation 19 of the report states that:

"In view of the potential positive impact that multi-member wards can have in terms of encouraging the election of under represented groups and encouraging teamwork and the sharing of responsibilities between councillors, multi-member wards should be adopted throughout the local government electoral system⁴⁵."

11.3 A number of Local Councillors have identified that multi-member wards also serve a practical role by ensuring that, should one ward Councillor suffer from illness, for example, the ward residents continue to have access to an elected representative. Additionally, it is arguable that multi-member wards are particularly beneficial for those areas who are represented by the Leader or a Cabinet Member. These Councillors will

⁴³ Review of the Elections Process Survey, Overview and Scrutiny, 2009.

⁴⁴ Representing the Future, Report of the Councillors Commission, (2007), p.13.

⁴⁵ *Ibid* p.85.

be subjected to particular responsibilities which accompany the position and so may find it more difficult to allocate sufficient time to the concerns of local residents.

- 11.4 Multi-member wards can have a positive impact in encouraging the election of under represented groups and encouraging teamwork and sharing responsibilities between Councillors. Nevertheless The Electoral Commission is of the opinion that local people can more easily relate to a single Councillor due to greater clarity of leadership, making a single ward Councillor more appropriate.
- 11.5 A number of Maidstone Borough Councillors are of the opinion that single-member wards provide unity between several communities, encouraging community engagement and enabling social events to be shared. For example, a member has stated that “[m]y ward happens to be a very homogeneous community. We share many activities...”⁴⁶ It has also been raised that multi-members may not deliver the most appropriate representation in rural areas which are often defined by one Parish Council in addition to comparable desires of local residents.
- 11.6 Finally, single-member wards may alleviate the problem of low turnout which the Elections Centre associates with large wards⁴⁷ and as has been previously indicated, may help to clarify the electoral system, thereby encouraging more local residents to vote.
- 11.7 Evidently a move to single-member wards would require major planning and Boundary Commission consent. A Member identifies:

“The notion of single Member Wards is one which I have always advocated BUT I do not think that we would be allowed to proceed without the express permission of the Electoral Boundary Commission. Ward Boundaries are set in place by the Commission to a very precise formula of Members to Electorate in ratio and this then relates to the Electoral Divisions of the County Council which have a different ratio and so on up to the Parliamentary representation in the Constituency.”

- 1.8 Additionally, significant officer time and considerable funding will be required to implement this change. If this move is considered desirable, a request to the Boundary Commission should be made to carry out a review of the possibility of single-member wards within the Borough.

⁴⁶ Review of the Election Process, Overview and Scrutiny, 2009.

⁴⁷ Rallings, C and Thrasher, LGC Elections Centre, *Electoral Cycles in English local Government*, (2003), p.17.

12. Consultation

12.1 The Council must not pass a resolution to move to whole Council elections unless it has taken reasonable steps to consult on the implications that will result from these changes. Currently no guidance exists as to the extent the Council is expected to consult with regard to changing the election frequency. The Council's Consultation Handbook should be referred to⁴⁸. Additionally the Code of Practice of Consultation⁴⁹ should be followed. This advises that the written consultation period should be 12 weeks. The five additional guidelines of the consultation process are as follows:

- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- Ensure that your consultation is clear, concise and widely accessible.
- Give feedback regarding the responses received and how the consultation process influenced the policy.
- Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
- Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate⁵⁰.

12.2 Following consultation a Council can make a decision by a resolution passed by a majority of at least two thirds of members voting at a specifically convened (an extraordinary) meeting of which notice has been given. The resolution can only be passed during the permitted resolution period. For whole Council elections to be implemented by 2011 within the Maidstone Borough, a resolution must be sought by 31st December 2010.

12.3 Consultation Methods

Swale Borough Council has suggested that consultation takes places with the use of a website questionnaire, local media coverage, letters to Parish clerks, political groups, key stakeholders, an email questionnaire to the citizens panel, posters in libraries, Council offices and Parish notice boards.

12.4 Having met with the Corporate Marketing Manager a number of possible consultation mechanisms were discussed, and an approximate budget of

⁴⁸ Maidstone Borough Council, *Consultation Handbook*, (2002) – this handbook is currently under revision.

⁴⁹ Code of Practice on Consultation, Cabinet Office, (2004)

⁵⁰ *Ibid* p.4.

£6,000 - £10,000 was recommended⁵¹. It should be ensured that those participating are provided with an adequate understanding of the two election mechanisms in order to provide valuable responses.

- 12.5 The Council should consult as seen appropriate. Possibilities include a focus group representing the “general public”; publicising the possible amendments on the internet and allowing for feedback; or consulting directly with Parish Councils. Council employees should be informed and given the opportunity to provide feedback via Wakey Wakey and a Citizen’s Jury could be established to enable informed members of the public to participate in a debate and vote as to their preferred election method. The consultation process would benefit from the employment of an outside agency.

⁵¹ This is an approximation and should be clarified if detailed planning of consultation proposals takes place.

13. Conclusion

- 13.1 It is apparent that there are numerous arguments for and against both election cycles. Evaluation suggests that neither of the two is acutely more advantageous than the other.
- 13.2 Arguably, to ensure consistent and equitable elections within Kent, Maidstone Borough Council should implement whole Council elections. This argument will be intensified if Swale Borough Council continues with the decision to move to whole Council elections following consultation.
- 13.3 Although the Electoral Commission recommends the implementation of whole Council elections it does recognise that the method used should be that which is most appropriate for the local area. The election method employed should be that which will best encourage voter participation. Nevertheless, analysis identified that it is problematical to determine whether all out elections will achieve an increase in voter turnout. Data of electoral turnout within Kent shows no substantial difference between those authorities that elect with whole Council elections and those that utilise partial Council elections. Although the districts that recorded the highest voter turnout within Kent elected by whole Council elections, the lowest recorded turnout was also recorded by a district which utilised all out elections.
- 13.4 Whole Council elections will be accompanied by financial savings, yet these are relatively slight and may be off-balanced by the identified disadvantages of whole Council elections.
- 13.5 As the Councillors Commission identifies, various other improvements could be made to the election mechanism in order to increase voter participation. It may therefore be more appropriate to implement these methods as opposed to exchanging one election method with another.

14. Evidence Log

Bibliography

Cabinet Office, *Code of Practice on Consultation*, January 2004.

Councillors Commission, *Representing the Future*, The Report of the Councillors Commission, December 2007.

Maidstone Borough Council, *Consultation Handbook*, May 2002.

Rallings, C, Thrasher, M, *Electoral Cycles in English Local Government*, LGC Elections Centre, July 2003.

Swale Borough Council, *Moving to Whole Council Elections*, 27 August 2008.

The Electoral Commission, *Guidance on Community Governance Reviews*, April 2008.

The Electoral Commission, *Electoral Admission in the UK*, August 2008.

The Electoral Commission, *Cycles of Local Government Elections in England*, Executive Summary, January 2004.

The Electoral Commission, *General Public Quantitative Research, Research Study Conducted for the Electoral Commission*, April – May 2003.

The Electoral Commission, *The Cycle of Local Government, Report and Recommendations*, 2003.

Improvement and Development Agency, *Elections 'by thirds' or 'all ups'*, November 2007. <http://www.idea.gov.uk/idk/core/page.do?pageId=7582188> (viewed November 2008).

Witness Sessions

1 July 2008, Interview with:
The Democratic Services Manager, Neil Harris

9 October 2009, Interviews with:
Phillippa Saray, Regional Manager South of England, Electoral Commission

21 January 2009, Interviews with:
Councillor Richard Ash, Cabinet Member for Corporate Services; Alison Broom, Director of Operations; Steve Goulette, Assistant Director of Regulatory and Environmental Services; Brian Parsons, Head of Internal Audit and Risk Strategy; Angela Woodhouse, Overview and Scrutiny Partnership Manager.

Written Evidence

Review of Election Process Survey - Written Councillor responses as to the appropriateness of moving to whole council elections and implementing single member wards.

APPENDIX A

Timetable for Elections Based upon the Current Electoral System

NAME OF WARD	PARISHES SITUATED IN WARD	YEAR OF ELECTION
HEADCORN	East Sutton	2010
BEARSTED	Bearsted	2011
DETLING AND THURNHAM	Detling, Thurnham	
DOWNSWOOD AND OTHAM	Downswood, Otham	
HARRIETSHAM AND LENHAM	Harrietsham, Lenham (North Ward), Lenham (South Ward)	
LEEDS	Broomfield and Kingswood, Leeds	
LOOSE	Loose	
MARDEN AND YALDING	Nettlestead, Yalding, Collier Street, Marden	
SOUTH	Tovil	
STAPLEHURST	Staplehurst	
SUTTON VALENCE AND LANGLEY	Sutton Valence, Langley	
BARMING	Barming, Teston	2012
BOUGHTON MONCHELSEA AND CHART SUTTON	Boughton Monchelsea South, Boughton Monchelsea North, Chart Sutton	
BOXLEY	Boxley North, Boxley South, Boxley South East, Boxley Woodlands, Bredhurst	
COXHEATH AND HUNTON	Coxheath, East Farleigh, West Farleigh, Hunton, Linton	
HEADCORN	Boughton Malherbe, Headcorn, Ulcombe, East Sutton	
MARDEN AND YALDING	Marden	
NORTH DOWNS	Bicknor*, Frinsted*, Hucking*, Otterden*, Wichling*, Wormshill*, Hollingbourne, Stockbury	
KENT COUNTY COUNCIL ELECTIONS		2009
EUROPEAN	PARLIAMENTARY	2009

ELECTIONS

35 Parish Councils

6 Parish Meetings

* indicates Parish Meeting

MAIDSTONE BOROUGH COUNCIL

COUNCIL

24 JUNE 2009

REPORT OF THE DEMOCRATIC SERVICES MANAGER

Report prepared by Janet Barnes

1. URGENT DECISIONS TAKEN BY THE EXECUTIVE

1.1 CABINET MEMBER FOR LEISURE AND CULTURE

1.1.1 The Cabinet Member for Leisure and Culture agreed on 24 April 2009 that the decision set out below was urgent and needed to be actioned within the call-in period. In accordance with the Overview and Scrutiny Procedure Rules of the Constitution, the Mayor, in consultation with the Head of Paid Service and the Chairman of the Environment and Leisure Overview and Scrutiny Committee, agreed that the decision was reasonable in all the circumstances and should be treated as a matter of urgency and not be subject to call-in.

1.1.2 Conversion of Senacre Community Hall to a 14-19 Vocational Skills Studio

To consider whether to allow Kent County Council to convert and manage Senacre Community Hall for use as a 14-19 Vocational Skills Studio.

1.1.3 Decision Made

- (i) That approval be given for Senacre Community Hall to be converted and managed by Kent County Council for use as a vocational skills studio, together with other uses such as adult education evening classes.
- (ii) That a nursery is retained within the converted building.
- (iii) That delegated authority be given to the Head of Corporate Law and Legal Services to negotiate and enter into lease terms with Kent County Council, provided that he is satisfied that the terms of the disposal represent the best consideration reasonably obtainable for the land.
- (iv) That the Director of Prosperity and Regeneration be authorised to place a public notice pursuant of Section 123 of the Local Government Act 1972 in respect of the disposal of open space shown in Appendix 1 to the Report of the Assistant Director of Development and Community Strategy and that any representations which might be received in response to the advertisement be considered by me prior to a recommendation being made to the Cabinet Member for Corporate Services concerning its disposal.
- (v) That the matter be referred to the Cabinet Member for Corporate Services, for information.

RECOMMENDED:

That the report be noted.

Background Documents

Record of Decision of the Cabinet Member for Leisure and Culture dated 24 April 2009