

A2. Core Provisions of the Constitution

1. THE RESIDENTS

1.1. Rights of Local Residents

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

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

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

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

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

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

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

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

- (b) Via consultations, that where possible shall include an online option, to give their views;
 - (c) To lobby their local Ward Members.
- 1.1.4. **Complaints.** Local Residents have the right to make complaints and to have these determined objectively by: -
- (a) the Council itself under its Complaints Scheme and arrangements as to Member conduct;
 - (b) where applicable, the Local Government and Social Care Ombudsman.

1.2. Responsibilities

If Local Residents disrupt or participate in the disruption of meetings or engage in abusive or threatening behaviour or a course of behaviour amounting to harassment of any Member or Officer, then this will affect the way in which the Council interacts with those Local Residents in the exercise of those rights. In these instances, the Council may take action such as removing individual Local Residents from meetings and/or managing their contact with Officers and/or Members.

2. THE MAYOR

2.1. Election of the Mayor

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

2.2. Efficient Role of the Mayor

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

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

2.3. Dignified Role of the Mayor

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

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

3. THE MEMBERS

3.1. Composition & Eligibility

3.1.1. **Composition.** The Council shall comprise of a number of Members, otherwise called councillors, with one or more Members elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State (“Scheme of Elections”).

3.1.2. **Eligibility.** Only registered voters of the Borough or those living or working or owning land there will be eligible to hold the office of Member of the Council as long as they are not otherwise disqualified.

3.2. Election & Terms of Members

3.2.1. The ordinary election of a third (or as near as may be) of all Members will be held on the first Thursday in May in each year until 2023 inclusive, in accordance with the Scheme of Elections.

3.2.2. From 2024, whole council elections shall be held on the first Thursday in May of that year and then every four (4) years thereafter.

3.2.3. The terms of office of Members will ordinarily be four (4) years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four (4) years later.

3.3. Role of Members

All Members will: -

3.3.1. Collectively be the ultimate policymakers and will carry out a number of strategic & corporate functions;

3.3.2. Contribute to the good governance of the Borough;

3.3.3. Effectively represent the interests of their Ward and Local Residents;

3.3.4. Respond to enquiries & representations, and offer representation & assistance in respect of the Council, to individual Local Residents.

3.4. Rights of Members to Access Information & Meetings

~~3.4.1.—The following principles are subject to further explanation given in the Access to Information Procedure Rules in Part C and to case law and legislation which deals with members rights to access information.~~

~~3.4.2.~~3.4.1. An elected Member is entitled by virtue of his or her office to have access to all documents in the Council's possession where ~~he/she~~they ~~has~~haves a need to know the information contained in those documents, and where the Member's interest in having access to a document is not outweighed by any other legal duties which would normally require the document not to be provided to the Member, such as data protection and confidentiality duties. Please refer to the Access to Information Rules in Part C4 for further information.

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

~~3.4.4.—Any officer or body with delegated authority to make a decision under this Constitution determining whether a Member has a need to know certain information shall consider that there is likely to be a need to know where:—~~

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

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

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

3.5. Rights in Respect to Proceedings

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

- 3.5.1. The right, together with four (4) others, to requisition an Extraordinary Meeting of the Council;
- 3.5.2. The right to move amendments to any Motion by the Leader concerning the Administration's Programme for the Municipal Year;
- 3.5.3. The right to move a Motion on Notice at a meeting of the Council;
- 3.5.4. The right to ask Questions on Notice at meetings of the Council, the Committees and the [Executive Cabinet](#);
- 3.5.5. The right to have a subject added to the agenda of a meeting of a Committee;
- 3.5.6. The right to refer the determination of a planning application affecting the Member's Ward to the Planning Committee;
- 3.5.7. The right to refer a breach of planning control to the Planning Committee;
- 3.5.8. The right, together with two (2) others, to refer a serious nuisance or a major service failing directly to the [Executive Cabinet](#);
- 3.5.9. The right, together with two (2) others, to call-in a decision of the [Executive Cabinet](#) for scrutiny;
- 3.5.10. The right to issue a Member Call for Action;
- 3.5.11. For the purposes of provision 3.5.8;

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

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

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

3.6. Conduct

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

3.7. Allowances

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

4. DECISIONS

4.1. Principles of decision making

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

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

4.2. Rules of Procedure

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

4.3. Types of decision

Decision types may be classified in a number of ways.

4.3.1. The Member Body Responsible

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

4.3.2. **Significance**

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

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

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

4.4. **Responsibility for decision making**

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

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

4.5. **Decision making in Certain Individual Cases**

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

5. THE FULL COUNCIL

5.1. Introduction

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

5.2. Types of Meeting

There are three types of Council meeting: -

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

5.3. Proceedings at Meetings of the Council

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

5.4. Functions of Full Council

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

5.5. Meaning of Budget and Policy Framework

- 5.5.1. The Policy Framework means the following Plans and Strategies:

- (a) Those required by law to be adopted by the Council. These include:
 - (i) Crime and Disorder Reduction Strategy;
 - (ii) Licensing Authority Policy Statement including any Cumulative Impact Policies;
 - (iii) Local Development Framework - Plans and alterations which together comprise the Development Plan and Development Plan Documents;
 - (iv) Sustainable Community Strategy;
 - (v) Policies made under the Gambling Act (including any resolution relating to casinos);
- (b) Those which the Council has decided should be adopted by the Council meeting as a matter of Local Choice:

(i) The Strategic Plan

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

(i) The Capital Programme

(ii) The Capital Investment Strategy

(iii) Medium Term Financial Plan

(iv) Treasury Management Strategy

- 5.5.2. ~~The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure (including the Capital Strategy) and the setting of virement limits.~~ Setting the Council's Budget and Council Tax.

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

5.6. —

6. THE COMMITTEES

6.1. Outline of the Council's Committees

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

6.2. Policy Advisory Committees

~~6.2.1. There shall be up to four Policy Advisory Committees ("PACs") consisting each of nine (9) Members.~~

~~6.2.2.~~ 6.2.1. The purpose of the PACs shall be: -

- (a) To involve Members who are not on the Executive Cabinet in the work of the Executive Cabinet and to promote collegiate working between the Executive Cabinet and such Members;
- (b) As a forum for: -
 - (i) Members to raise issues pertaining to the discharge of the Council's functions;

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

6.3. The Overview & Scrutiny Committee

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

~~6.3.3-6.3.2.~~ Part B of this Constitution shall set out a more detailed specification of the functions of the Overview & Scrutiny Committee.

~~6.3.4.—The Members on the Overview & Scrutiny Committee shall elect one of their number to chair that Committee and another to act as vice Chair, with preference in the election process to chair that Committee being given to Members from the largest non-Administration Political Group on the Council~~

~~6.3.5.—The role and powers of the Overview & Scrutiny Committee are not affected by whether or not a decision relates to a matter within the Administration's Programme.~~

~~6.3.6.—The Overview & Scrutiny Committee must report annually to the Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.~~

6.4. Regulatory Committees

~~6.4.1.—There shall be a Licensing Committee consisting of thirteen (13) Members.~~

~~6.4.2-6.4.1.~~ The purpose of the Licensing Committee shall be to exercise the licensing and gambling functions on behalf of the Council including: -

- (a) the creation and review of the statutory and non-statutory policies;
- (b) the setting of fees and charges including making recommendations to the Council as required; and
- (c) via the Licensing sub-Committee, to make decisions about individual licensing matters and appeals where not otherwise delegated to Officers.

~~6.4.3.—The Members on the Licensing Committee shall elect one of their number to chair that Committee and another to act as vice Chair.~~

~~6.4.4.—There shall be a Planning Committee consisting of thirteen (13) Members.~~

~~6.4.5-6.4.2.~~ The ~~purpose of the functions of the~~ Planning Committee shall be to determine town and country planning and development control matters and associated issues.

~~6.4.6.—The Members on the Planning Committee shall elect one of their number to chair that Committee and another to act as vice-Chair.~~

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

6.5. Governance, Standards & General Purposes

~~6.5.1.—There shall be an Audit, Governance & Standards Committee consisting of nine (9) Members plus two (2) Parish Councillors.~~

~~6.5.2.~~6.5.1. The purpose of the Audit, Governance & Standards Committee shall include: -

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

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

~~6.5.4.~~6.5.2. The purpose of the functions of the Democracy & General Purposes Committee shall include: -

- (a) Acting as the guardian of this Constitution, working with the Monitoring Officer to ensure that it is maintained and adhered to;
- (b) Being responsible for Member training and development
- (c) Determining matters relating to elections and electoral registration;
- (d) Other democratic services responsibilities and functions;

~~6.5.5.~~6.5.3. Part B of this Constitution provides more detail of the role & responsibilities of these Committees.

6.6. The Employment Committee

~~6.6.1.—There shall be an Employment Committee consisting of nine (9) Members.~~

~~6.6.2.~~6.6.1. The purpose of the Employment Committee shall be to undertake the following functions: -

- (a) To develop and approve the Council's human resources strategies, policies and officer terms and conditions of employment subject to the approval of any budget implications by the Executive Cabinet and/or Council as appropriate.
- (b) To appoint: -
 - (i) a Chief Officers Appointments Panel to consider appointments at chief officer and head of service level;
 - (ii) a Chief Officers Investigation and Disciplinary Panel to consider any disciplinary allegations against chief officers and head of service level (excluding the Chief Executive, Monitoring Officer and Section 151 Officer);
 - (iii) a Chief Officers Disciplinary Appeals Panel to consider appeals against dismissal by any chief officer or heads of service (excluding the Chief Executive, Monitoring Officer and Section 151 Officer) or disciplinary action short of dismissal by any chief officer or head of service (including the Chief Executive, Monitoring Officer and Section 151 Officer); and
 - (iv) a Statutory Officer's investigation and Disciplinary Panel to consider any disciplinary allegations against the Chief Executive, Monitoring Officer and Section 151 Officer.
- (c) Dealing with employment and staffing matters unless otherwise delegated.

6.7. Miscellaneous

6.7.1. Any sub-Committee of any of the aforementioned Committees shall:

~~(a) —Be drawn mainly from the membership of the parent Committee;~~

~~(b)~~(a) Be subject to the rules on political balance cited above;

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

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

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

7. THE [EXECUTIVECABINET](#)

7.1. Role and Form

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

7.2. The Leader

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

7.3. The Deputy Leader

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

7.4. Other Members on the ExecutiveCabinet

Other Members on the ExecutiveCabinet shall hold office until:

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

7.5. The Administration's Programme

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

~~7.5.2. Where Full Council does not approve the Administration's Programme within the timescales set out in Provision 7.5.1~~

~~above, with or without amendments agreed by Full Council, the Executive and the Officers shall use their best endeavours to secure that such a programme, acceptable to the majority of Members, is so approved. In this event, a proposal for the Administration's Programme shall be put to each meeting of Full Council until one is approved.~~

~~7.5.3.~~7.5.2. Where the Administration's Programme is approved by Full Council but either sets out proposed changes to the Budget & Policy Framework, or otherwise conflicts with the Budget & Policy Framework, this shall not alter the prevailing Budget & Policy framework unless Council resolves explicitly that the Budget and Policy Framework should be so amended; if no such resolution is made the ExecutiveCabinet and the Officers shall undertake the work necessary to bring detailed implementation proposals for such changes to a future meeting of Full Council for approval.

~~7.5.4.~~7.5.3. Where the Administration's Programme is approved by Full Council and contains particular pledges within the scope of ExecutiveCabinet Functions that are not in conflict with the existing Budget & Policy Framework, each of those particular pledges shall then form priority items for consideration by the ExecutiveCabinet and not require prior consideration by a Policy Advisory Committee. This shall not prevent the Leader or a Member on the ExecutiveCabinet choosing to place the matter before a Policy Advisory Committee nevertheless.

7.6. Delegations, Decisions and Proceedings of the ExecutiveCabinet

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

- (b) The matter is a reference to the [ExecutiveCabinet](#) from another Committee, including the Overview & Scrutiny Committee, whose terms of reference allowed the matter to be considered;
 - (c) The matter was the subject of a particular pledge contained within the Administration’s Programme approved by the Full Council and does not conflict with the Budget & Policy Framework;
 - (d) The matter was the subject of a Motion before Full Council referred directly to the [ExecutiveCabinet](#) for consideration;
 - (e) The matter was the subject of a Member Agenda Item Request that has been considered by any Committee and that Committee has resolved to request an Officer’s report on the matter be submitted directly to the [ExecutiveCabinet](#);
 - (f) The matter concerns a serious nuisance or major service failure and at least three (3) Members have submitted a request it be considered by the [ExecutiveCabinet](#);
 - (g) The matter is urgent and the Urgency Arrangements set out in the [ExecutiveCabinet](#) Procedure Rules in Part C of the Constitution have been engaged.
- 7.6.3. Key Decisions and Other Material Decisions [made by the Cabinet will take place at a public meeting. Individual Cabinet Member decisions can be made outside of a public meeting. which are made by Members or Member bodies shall be made in public, either at a meeting of the Executive Cabinet or at another meeting convened for the purpose of making the decision.](#)—This will not prevent all or part of any item being considered in private in accordance with the Access to Information Procedure Rules if confidential or exempt information is likely to be discussed but the decision will always be made in public.
- 7.6.4. Proceedings of the [ExecutiveCabinet](#) shall take place in accordance with the [ExecutiveCabinet](#) Procedure Rules set out in Part C of this Constitution.

8. THE OFFICERS

8.1. Roles to be Appointed

- 8.1.1. The Council shall engage such staff as it considers necessary to carry out its functions.
- 8.1.2. The following shall be designated as Chief Officers: -

- (a) The Chief Executive (and Head of Paid Service);
 - (b) The Director of Finance, Resources & Business Improvement;
 - (c) The Director of Regeneration & Place;
- 8.1.3. The following Statutory Officers must be appointed and/or designated: -
- (a) Head of Paid Service;
 - (b) Chief Finance Officer; and
 - (c) The Monitoring Officer
- 8.1.4. The role of Head of Paid Service may be undertaken by the same person, if a qualified accountant, who undertakes the role of Chief Finance Officer. The role of Monitoring Officer however must not be undertaken by a person also undertaking either the role of Head of Paid Service or the role of Chief Finance Officer.

8.2. Appointments

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

8.3. Delegations to Officers

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

8.4. Principles of Officer Support of Member Bodies

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

- 8.4.1. all Officers are employed by, and are accountable to, the Council as a whole, and the Council will both expect and respect the political neutrality of Officers in the discharge of their functions;
- 8.4.2. adequate support from Officers is provided for the discharge of all the functions of the Council and specifically the roles of the Council, the Committees, the [Executive Cabinet](#) and individual Members representing their communities;

- 8.4.3. day to day managerial and operational decisions are the responsibility of the Council's Chief Executive, Directors, Heads of Service, and other Officers;
 - 8.4.4. the Council seeks to avoid creating potential conflicts of interests for Officers arising from the separation of the [Executive Cabinet](#) and Scrutiny roles; and
 - 8.4.5. all Officers have access to appropriate training and development to help them support the various functions of the Council and its Members effectively.
- 8.5.** The roles, responsibilities and rights of Officers and Members are set out in the Protocol on Officer/Member Relations in Part E of this Constitution.

8.6. Scope of Senior Officer Roles

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

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

~~(d) — Planning and Development~~

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

~~(a) — Business Improvement~~

~~(b) — Finance~~

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

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

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

~~(a) — Head of Audit Partnership~~

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

~~(c) — Head of Legal Partnership~~

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

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

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

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

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

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

~~8.6.9-8.6.3. _____~~ Monitoring Officer

~~(a) — Head of Legal Partnership~~

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

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

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

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

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

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

~~8.6.10~~8.6.4. Chief Finance Officer

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

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

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

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

8.7. Conduct

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

8.8. Structure

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

9. JOINT ARRANGEMENTS

9.1. Outline of Arrangements

The Council and the [ExecutiveCabinet](#) may: -

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

9.2. Joint Arrangements

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

- 9.2.3. Except as set out below, the [ExecutiveCabinet](#) may only appoint Members on the [ExecutiveCabinet](#) to a joint committee and those Members need not reflect the political composition of the Council as a whole.
- 9.2.4. The [ExecutiveCabinet](#) may appoint Members to a joint committee from outside the [ExecutiveCabinet](#) in the following circumstances:
- (a) the joint committee has functions for only part of the area of the Borough. In such cases, the [ExecutiveCabinet](#) may appoint to the joint committee any Member whose Ward is wholly or partly contained within the area;
 - (b) the joint committee is between the County Council and this Borough Council only and relates to functions of the [ExecutiveCabinet](#) of the County Council. In such cases, the [ExecutiveCabinet](#) of the County Council may appoint to the joint committee any Member for an electoral division which is wholly or partly contained within the area.
- In both of these cases the political balance requirements do not apply to such appointments.
- 9.2.5. Details of any Joint Arrangements including any delegations to joint committees are set out in Part B of this Constitution.

9.3. Access to information

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

9.4. Delegation to and from other local authorities

- 9.4.1. The Council may delegate functions that are not [ExecutiveCabinet](#) Functions to another local authority or, in certain circumstances, the [ExecutiveCabinet](#) of another local authority.
- 9.4.2. The Leader or, in the absence of any direction by the leader to the contrary, the [ExecutiveCabinet](#), a Member on the [ExecutiveCabinet](#) or a committee of the [ExecutiveCabinet](#) may delegate [ExecutiveCabinet](#) Functions to another local authority or the [ExecutiveCabinet](#) of another local authority in certain circumstances.
- 9.4.3. The decision whether or not to accept a delegation of a service from another local authority shall be reserved to a Full Council meeting. The agreement to collaborate on one off cross border

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

9.5. Contracting out

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

10. FINANCE, CONTRACT AND LEGAL MATTERS

10.1. Financial management

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

10.2. Contracts

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

10.3. Legal proceedings

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

10.4. Authentication of documents

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

10.5. Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Mid Kent Legal Partnership. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document

necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Mid Kent Legal Partnership should be sealed. The affixing of the Common Seal will be attested by the Head of Mid Kent Legal Partnership or some other person authorised by ~~him~~/her/them.