

## **APPENDIX 2**

# **ARTICLES OF THE CONSTITUTION**

### ***Article 1 – The Constitution***

#### **1.1 The Role of the Council**

The overriding role of the County Council is to improve the quality of life of the people of Kent by:

- (1) arranging delivery of responsive, accessible and cost-effective services with policies driven by the sole purpose of serving all Kent residents and Council Tax payers
- (2) providing clear and accountable community leadership
- (3) championing the county's interests, supporting the local economy and enhancing the environment
- (4) consulting and involving the Kent public in planning ahead and making decisions on their behalf
- (5) influencing and working in partnership with other organisations

#### **1.2 Powers of the Council**

The Council exercises its powers and duties in accordance with the law and this Constitution.

#### **1.3 The Constitution**

These articles comprise the Constitution of the Kent County Council and should be read in conjunction with the Appendices.

#### **1.4 Interpretation and Review of the Constitution**

- (1) Where the Constitution permits the Council to choose between different courses of action, the Council will choose that option which is closest to the role and purposes stated in 1.1, above.
- (2) The Council monitors and reviews the operation of the Constitution, as set out in Article 15.
- (3) References in this Constitution to male persons shall be deemed to include male and female persons.

#### **1.5 Informal Governance**

This constitution makes provision for the formal governance and meetings of the Council. It is recognised that arrangements at an operational level are necessary and that these are not reflected in the constitution but must be consistent with it.

- (1) Arrangements for informal governance involving Members and Officers shall be agreed between the Leader and the Head of Paid Service and lodged with the Monitoring Officer who shall make them available to all Members.

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(2) The Head of Paid Service is responsible for making arrangements for the operation of the organisation from an officer perspective and is required to provide the Leader and the Monitoring Officer with a copy of these arrangements.

### ***Article 2 – Members of the Council***

#### **2.1 Composition and eligibility**

(1) The Council comprises 81 Members. Members are elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

(2) Only registered voters of Kent or those living or working there are eligible to hold the office of Member.

#### **2.2 Election and terms of Members**

(1) The election of all Members is held on the first Thursday in May every four years. The terms of office of Members start on the fourth day after being elected and finish on the fourth day after the date of the next all-Member election.

(2) A list of the names, addresses and electoral divisions of current Members is set out in Appendix 9, together with a description of the Register of Members' Interests and the procedures for publicising, maintaining and updating that Register, the amounts paid in allowances and expenses to Members, and Members' Annual Reports.

#### **2.3 Roles and functions of Members**

**(1) Non-executive Members may participate in:**

- (a) developing policies for the delivery of services for the whole of the community of Kent
- (b) approving Kent-wide policies and budgets
- (c) monitoring the effectiveness of service delivery and the appropriateness of policy across the County
- (d) holding the Leader and Cabinet to account through scrutiny
- (e) ensuring the probity of Council financial and other transactions (including through audit and standard processes)
- (f) regulatory and other direct functions of the Council (planning applications, appeals, etc)
- (g) appointing Senior Officers
- (h) appointing people to serve on outside bodies

**and as Local Members should:**

- (i) seek to ensure the application of Council policies and the delivery of services in their own locality meet the needs of the local community

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- (j) represent and support individual constituents in their dealings with the Council

### **(2) The Leader and Cabinet Members should:**

- (a) be the focus for leading the Kent community
- (b) consult with and be accountable to non-executive Members
- (c) propose the annual Budget to the full Council
- (d) participate in the approval by the full Council of Kent-wide policies and budgets
- (e) lead the development of policies for the delivery of services to the whole community of Kent
- (f) monitor the effectiveness of service delivery and the appropriateness of policy across the County
- (g) ensure they account for the efficient and effective delivery of services and functions within Council policies and budgets
- (h) support and contribute to the probity of Council financial and other transactions

### **and may participate in the ordinary committees of the Council (with the exception of Governance & Audit Committee) that:**

- (i) discharge regulatory and other direct functions of the Council (planning applications, appeals, etc)
- (j) appoint Senior Officers
- (k) appoint people to serve on outside bodies

### **and as Local Members should:**

- (l) seek to ensure the application of Council policies and the delivery of services in their own locality meet the needs of the local community
- (m) represent and support individual constituents in their dealings with the Council. In the absence of a Member for reasons of ill health or otherwise, the Local Member concerned (or, if they are unwilling or unable to do that, the relevant Group Leader) should nominate another Member to act on their behalf in relation to representing their constituents.

### **(3) Rights and duties**

- (a) All Members have such rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law

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- (b) Members will not make public information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Member or officer entitled to know it. For these purposes, “confidential” and “exempt” information are as defined in the Access to Information Procedure Rules in Part 6 of Appendix 4
- (c) All Members commit to undertaking training and development to assist them in fulfilling their roles and responsibilities in accordance with the Elected Member Development Policy Statement

### **(4) Member-Led Authority**

- (a) Kent County Council is a Member-Led Authority. Accordingly, Members are responsible for all formal decision-making save for those decisions that are delegated to officers through this Constitution or those where the officer has a statutory duty that takes precedence.
- (b) Members define and agree the policy and budgetary framework of the council in accordance with applicable laws providing sufficiency of resources.
- (c) Members are also responsible for the scrutiny of the decisions that are made. This is done through pre-scrutiny of decisions at Cabinet Committees, the formal scrutiny process and the review of decisions and activity in Cabinet Committees, Non-Executive committees and the Governance and Audit Committee specifically.
- (d) Officers are responsible for advising Members in relation to proposed decision-making, acting in accordance with this constitution and on areas where they have professional expertise. Officers are responsible for delivering and managing the activity that flows from decisions that are taken by Members.
- (e) All officers are managed under the direction and control of the Head of Paid Service. The Head of Paid Service is responsible for ensuring the accountability of officers.

### **2.4 Conduct**

Members will at all times observe the Code of Member Conduct set out in Part 1 of Appendix 6 and related advice issued by the Council’s Standards Committee.

### **2.5 Allowances**

Members will be entitled to receive allowances and reimbursement of expenses in accordance with the Members’ Allowances Scheme set out in Appendix 7. This scheme is approved by the full Council with advice from an independent Member Remuneration Panel.

### **2.6 Disabled Members**

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The Council will make reasonable adjustments, or take positive steps, to make services accessible to disabled Members so that they are able to fully participate in the affairs of the Council. This includes assessing and meeting physical and sensory requirements as reasonably required by such Members.

### ***Article 3 – The Public and the Council***

#### **3.1 Public rights**

Members of the public have the following rights:

(1) **Voting and petitions.** People on the electoral roll for Kent have the right to vote and sign a petition to request a referendum for an alternative form of Constitution.

(2) People who live, work or study in the County Council's area have the right to submit or sign a petition in accordance with the County Council's Petition Scheme as set out in Appendix 4 Part 5 Annex E.

(3) **Information.** Representatives of the media and members of the public have the right to:

- (a) attend meetings of the Council, the Cabinet and Council committees, except where confidential or exempt information is likely to be disclosed and the meeting is held in private. The Council will make reasonable adjustments, or take positive steps, to make its premises accessible to disabled members of the public.
- (b) find out from the list of Forthcoming Executive Decisions (FED) what key decisions will be taken by the Leader and Cabinet and when
- (c) access agendas for meetings, reports by officers, background papers and records of decisions in a variety of different formats
- (d) inspect the Council's accounts and make representations to the external auditor
- (e) see all information included in the Council's Publication Scheme issued under the Freedom of Information Act 2000

(4) **Public Rights.** Public rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 6 of Appendix 4.

(5) Members of the public also have the opportunity to address committees of the Council exercising regulatory or final appellate powers.

(6) **Complaints.** Members of the public have the right to complain to:

- (a) the Council under its complaints scheme
- (b) the Local Government Ombudsman after using the Council's complaints scheme

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- (c) the Council's Standards Committee about a breach of the Members' Code of Conduct.

### ***Article 4 – The Full Council***

#### **4.1 Meanings**

(1) **Policy Framework.** The Policy Framework means the plans and strategies selected by the Council annually within the framework set by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and set out in Appendix 3.

(2) **Budget.** The Budget includes the allocation of financial resources to different services and projects, contingency and other funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement and the planning of its capital expenditure.

#### **4.2 Functions of the full Council**

Only the full Council exercises those functions set out in Part 1 of Appendix 2.

#### **4.3 Council meetings**

There are three types of Council meeting:

- (1) the annual meeting
- (2) ordinary meetings
- (3) extraordinary meetings

and they will be called and conducted in accordance with the Procedure Rules set out in Appendix 4.

#### **4.4 Responsibility for functions**

The Council discharges other functions through committees and officers. Appendix 2 sets out the committees and officers who discharge those functions. The Schedule in Part 3 of Appendix 2 sets out the functions of the Council that are not the responsibility of the Leader and Cabinet.

### ***Article 5 – Chairing the Council***

#### **5.1 Role and function of the Chairman**

- (1) The Chairman and Vice-Chairman are elected annually by the Council.
- (2) The Chairman of the Council or, in his absence, the Vice-Chairman has the following responsibilities:
  - (a) to uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary

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- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community
- (c) to ensure that the Council meeting is a forum for the debate of matters of importance to Kent and for non-executive Members to hold the Leader, Cabinet Members and committee chairmen to account
- (d) to attend such civic and ceremonial functions as the Council and the Chairman determines appropriate.

### ***Article 6 –Scrutiny Committees***

#### **6.1 Scrutiny Committee**

Under section 21 of the Local Government Act 2000, the Council has appointed the Scrutiny Committee from among the non-executive Members to perform the roles and functions set out in Part 2 of Appendix 2. Their terms of reference cover all the main services of the Council and also meets at least once a year as the Crime and Disorder Committee. In addition, the Scrutiny Committee co-ordinates the Select Committee work programme.

#### **6.2 Health Overview and Scrutiny Committee**

The Health Overview and Scrutiny Committee is appointed by the Council under the Health and Social Care Act 2012 to scrutinise the health services across Kent and to perform the functions set out in Appendix 2 Part 2.

#### **6.3 All Scrutiny Committees shall:**

- (1) exercise overall responsibility for the resources made available to them by the Council
- (2) exercise overall responsibility for the work programme of the officers employed to support their work
- (3) conduct their proceedings in accordance with the Procedure Rules set out in Appendix 4.

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### ***Article 7 – The Leader and Cabinet***

#### **7.1 Role of the Leader and Cabinet**

The Leader with the Cabinet comprise the Executive and are responsible for all of the Council's functions that are not the responsibility of any other part of the Council, whether by law or under this Constitution, as set out in Part 4 of Appendix 2.

#### **7.2 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules determined by the Leader and set out in Part 5 of Appendix 4.

### ***Article 8 – Regulatory and Ordinary Committees***

#### **8.1 Regulatory and other Council functions**

The Council appoints committees to discharge functions that are not the responsibility of the Cabinet as set out in Part 2 of Appendix 2.

### ***Article 9 – The Standards Committee***

#### **9.1 Standards Committee**

The Council appoints the Standards Committee to support the proper conduct of the Council's business by Members.

#### **9.2 Role and Function**

The Standards Committee has the composition, roles and functions as set out in Part 2 of Appendix 2.

### ***Article 10 – Partnership and Joint Working Arrangements***

#### **10.1 Promotion of Economic, Social and Environmental Well-being**

The Council or the Leader, in order to promote or improve the economic, social and environmental well-being of Kent, may:

- (1) enter into arrangements or agreements with any person or body
- (2) co-operate with, or facilitate or co-ordinate the activities of, any person or body
- (3) exercise on behalf of that person or body any functions of that person or body
- (4) appoint Joint Committees or establish other partnership bodies
- (5) delegate to or accept the delegation of functions from another local authority.

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### **10.2 Joint arrangements and Committees**

Details of joint arrangements, including any delegations to Joint Committees, are set out in Part 5 of Appendix 2.

## **Article 11 – Officers**

### **11.1 Management Structure**

(1) **General.** The Council engages those officers it considers necessary to carry out its functions.

(2) **Structure.** The overall management structure is determined by the Council on the advice of the Head of Paid Service and the Leader. The Head of Paid Service reports to the Cabinet and the Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers. A description of the overall directorate structure of the Council showing the management structure and deployment of officers is set out at Appendix 8.

(3) **Chief Officers.** The most senior posts in the structure are designated as Chief Officers within the terms of the Local Government Acts; these are set out in Appendix 8. The most senior officer is the Head of Paid Service

(4) **Appointment of Officers.** The Head of Paid Service is appointed by the full Council on the recommendation of the Personnel Committee. Other Senior Managers (Chief and Deputy Chief Officers in terms of the Local Government Act 1972) are appointed by the Personnel Committee acting on its behalf. Appointment of all other officers is delegated by the Council to Senior Managers. The recruitment, selection and dismissal of officers will comply with the Personnel Management Rules set out in Appendix 2.

(5) **Head of Paid Service, Monitoring Officer, Chief Finance Officer, Director of Adult Social Services and Director of Children's Services.** The Council will designate officers to act as each of the following:

- (a) Head of Paid Service (Corporate Director Strategic & Corporate Services)
- (b) Monitoring Officer (General Counsel)
- (c) Chief Finance Officer (Corporate Director of Finance & Procurement)
- (d) Director of Adult Social Services (Corporate Director Adult Social Care and Health)
- (e) Director of Children's Services (Corporate Director Children, Young People and Education)

The officers designated are listed in Appendix 8 and will have the functions described in Article 11.2–11.7 below.

### **11.2 Functions of the Head of Paid Service**

- (1) The core roles of the Head of Paid Service are:

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- (a) overall corporate management and operational responsibility (including overall management responsibility for all staff including Corporate Directors)
- (b) the provision of professional advice to all parties in the decision making process (the executive, overview and scrutiny, full council and other committees)
- (c) together with the Monitoring Officer, responsibility for a system of record keeping for all the local authority's decisions (executive or otherwise)
- (d) representing the council on partnership and external bodies (as required by statute or the council)
- (e) arrangements for internal control and the inclusion of the Annual Governance Statement in the annual accounts.
- (f) make arrangements for the operation of the organisation from an officer and delivery perspective.

(2) The Head of Paid Service will report to the Council on:

- (a) the manner in which the discharge by the authority of its functions is co-ordinated
- (b) the number and grades of staff required by the authority for the discharge of its functions
- (c) the organisation of the authority's staff
- (d) the appointment and proper management of the authority's staff.

(3)

The Head of Paid Service will:

- Be the senior Council officer for supporting the Cabinet
- Support the Leader of the Council to develop and implement a corporate strategy and relevant business priorities for the council
- Provide regular advice on the corporate performance of the Council as well as provide written briefings on key corporate and strategic issues to enable effective political leadership and control
- Support the Leader of the Council represent the needs of Kent at a local, regional and national level.
- In conjunction with the General Counsel, support opposition Leaders and backbench Members in ensuring that they receive information, advice and assistance from officers.

(d)

### 11.3 Functions of the Monitoring Officer

The Monitoring Officer will:

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(1) Maintain an up-to-date version of the Constitution and will ensure that it is widely available for inspection by Members, officers and the public.

(2) After consulting with the Head of Paid Service and the Chief Finance Officer, report to the full Council (or to the Leader or Cabinet in relation to an executive function) if he considers that any proposal, decision or omission would give, is likely to give, or has given, rise to a contravention of any enactment or rule of law, or any maladministration or injustice. Such a report has the effect of stopping the proposal or decision being implemented until the report has been considered.

(3) Contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(4) Receive complaints relating to alleged breaches of the adopted Code of Conduct and to process complaints in accordance with the adopted Arrangements for dealing with Code of Conduct Complaints.

(5) Ensure that records of executive decisions, including the reasons for those decisions and relevant officer reports and background papers, are made publicly available.

(6) Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members.

(7) Ensure appropriate governance for the council in the execution of its role as a shareholder of its portfolio of companies

(8) Contribute to the corporate management of the Council, in particular through the provision and commissioning of professional legal advice.

(9) In conjunction with the Head of Paid Service, support opposition Leaders and backbench Members in ensuring that they receive information, advice and assistance from officers.

### **11.4 Functions of the Chief Finance Officer**

The Chief Finance Officer will:

(1) After consulting with the Head of Paid Service and the Monitoring Officer, report to the full Council (or to the Leader or Cabinet in relation to an Executive function) and the Council's external auditor if he 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.

(2) Have responsibility for the administration of the financial affairs of the Council.

(3) Maintain an adequate and effective internal audit.

(4) Contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(5) Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework

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issues to all Members and will support and advise Members and officers in their respective roles.

(6) Provide financial information about the Council to Members of the Council, the media, members of the public and the community.

### **11.5 Duty to provide sufficient resources to the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer**

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

### **11.6 Functions of the Director of Adult Social Services**

(1) The Director of Adult Social Services is known in Kent as the Corporate Director Adult Social Care and Health.

(2) The functions of the Director of Adult Social Services include:

(a) Providing accountability for assessing local needs and ensuring availability and delivery of a full range of quality adult social services

(b) Providing professional leadership, including workforce planning

(c) Championing the rights of adults with social care needs and their carers in the wider community, including proactive and person-centred services

(d) Leading the implementation of standards to drive up the quality of care

(e) Promoting local access and ownership and driving partnership working to delivering a responsive whole system approach to social care

(f) Delivering an integrated whole systems approach to supporting communities, in particular by working closely with the Director of Children's Services to support individuals with care needs through the different stages of their lives

(g) Promoting social inclusion and well-being to deliver a proactive approach to meeting the care needs of adults in culturally sensitive ways

(h) Discharging all statutory obligations, requirements and responsibilities on behalf of the council regarding the safeguarding and protection of vulnerable adults

(i) Ensuring that the obligations and responsibilities at (h) above are complied with by the directorate as well as internal and external commissioned providers.

(j) Immediately notifying the Head of Paid Service and Monitoring Officer in relation to a failure to discharge statutory obligations, requirements and responsibilities by the Corporate Director, the directorate or an internal or external commissioned provider

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(k) Ensuring that appropriate training is in place for all staff within the directorate around discharging statutory obligations and statutory guidance relating to vulnerable adults and that appropriate contractual provisions are in place to apply the same requirement to internal and external commissioned providers.

(l) Implementing such working arrangements as are necessary with the Corporate Director Children, Young People and Education and Lead Cabinet Members to ensure that statutory compliance is achieved and any overlaps are managed effectively and in compliance with legislation and best practice.

(m) Working with the Strategic Commissioner and the Corporate Director for Children, Young People and Education to ensure services work effectively, lawfully and commercially at all times with demonstrable governance.

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### 11.7 Functions of the Director of Children's Services

(1) The Director of Children's Services is known in Kent as the Corporate Director Children, Young People and Education.

(2) The functions of the Director of Children's Services include:

(a) professional responsibility and accountability for the effectiveness, availability and value for money of all local authority children's services;

(b) leadership both within the local authority to secure and sustain the necessary changes to culture and practice, and beyond it so that services improve outcomes for all and are organised around children and young people's needs; and

(c) building effective partnerships with and between those local bodies, including the voluntary and community sectors, who also provide children's services in order to focus resources (financial, human, physical or any other) jointly on improving outcomes for children and young people.

(d) Discharging all statutory obligations, requirements and responsibilities on behalf of the council regarding the safeguarding and protection of vulnerable young people between the ages of 0 and 25.

(e) Ensuring that the obligations and responsibilities at (d) above are complied with by the directorate as well as internal and external commissioned providers.

(f) Immediately notifying the Head of Paid Service and Monitoring Officer in relation to a failure to discharge statutory obligations, requirements and responsibilities by the Corporate Director, the directorate or an internal or external commissioned provider

(g) Ensuring that appropriate training is in place for all staff within the directorate around discharging statutory obligations and statutory

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guidance relating to vulnerable adults and that appropriate contractual provisions are in place to apply the same requirement to internal and external commissioned providers.

(h) Implementing such working arrangements as are necessary with the Corporate Director Adult Social Care and Health and Lead Cabinet Members to ensure that statutory compliance is achieved and any overlaps are managed effectively and in compliance with legislation and best practice.

(i) Working with the Strategic Commissioner and the Corporate Director for Adult Social Care and Health to ensure services work effectively, lawfully and commercially at all times with demonstrable governance.

(h)

### 11.8 Working Arrangements for the Director of Children's Services, Director of Adult Services and Lead Members for Children's Services, Education and Adult Services

The relevant Corporate Directors and Cabinet Members shall ~~make formalise~~ such working arrangements as necessary to ensure statutory compliance and maintain service delivery to vulnerable children, young people and adults. The relevant post-holders are responsible for ensuring these arrangements are kept up to date with a copy of the arrangements being provided to the Leader, the Head of Paid Service and the General Counsel for their approval prior to adoption. ~~and~~ These obligations must also form part of the job descriptions and employment contracts for both Corporate Director posts.

### 11.9 Functions of the Director of Public Health

(1) The Director of Public Health will:

(a) ensure the County Council exercises its public health functions including but not limited to improving and protecting public health across the county and championing health matters throughout the County Council;

(b) act as the principal adviser on health matters, advise the County Council on all matters relating to public health: health improvement, health protection and healthcare and such other areas as may be prescribed;

(c) act as a statutory member of the Health and Wellbeing Board, advise and contribute to the development of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy and the commissioning of services;

(d) be accountable for the public health grant being used to gain public health outcomes for the population of Kent through the commissioning of public health services, particularly those mandated; and

(e) have direct access to and work with the Head of Paid Service in line with national guidance in order to discharge the functions of the Director of Public Health.

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### **11.10 Conduct**

Officers will comply with the Officers' Code of Conduct set out in Appendix 6.

### **Article 11.11 Statutory and Proper Officers:**

It is the function of the Personnel Committee to recommend to the County Council for approval the designation of individuals as statutory and proper officers. The schedule of statutory and proper officers is contained in Appendix 2 Part 7.

## ***Article 12 – Decision Making***

### **12.1 Responsibility for decision making**

A record of what part of the Council or individual has responsibility for particular decisions is set out in Appendix 2.

### **12.2 Principles of decision making**

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

- (1) action proportionate to the desired outcome
- (2) due consultation and the taking of professional advice from officers
- (3) respect for human rights in all its forms
- (4) a presumption in favour of openness
- (5) clarity of aims and desired outcomes
- (6) explanation of the options considered and giving reasons for decisions.

### **12.3 Decision Making Procedure Rules**

Subject to Article 12.4, the Council, Council Committees and Sub-Committees, the Leader, the Cabinet, Cabinet Committees and Cabinet Members may only make decisions in accordance with the relevant Procedure Rules set out in Appendix 4.

### **12.4 Decision making by Council bodies acting as tribunals**

The Council, a Committee or Sub-Committee, a Member or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the Human Rights Act 1998.

## ***Article 13 – Finance, Contracts, Resource Management and Legal Matters***

### **13.1 Code of Corporate Governance**

The Council seeks to follow best practice in corporate governance for local authorities. Appendix 10 lists the documents agreed by the Governance & Audit Committee to form the Council's Code of Corporate Governance.

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### **13.2 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Resource Management Responsibilities Statement set out in Appendix 5, the Council's Financial Regulations and the other procedures approved under those Regulations.

### **13.3 Legal proceedings**

The Monitoring Officer is authorised to institute, defend or participate in and settle any legal proceedings, or authorise others to do so, in any case where such action is necessary to give effect to decisions of the Council or in any case where he considers that such action is necessary to protect or pursue the Council's interests or where he considers it expedient for the promotion or protection of the interests of the inhabitants of Kent.

### **13.4 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 Monitoring Officer or other person authorised by him, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **13.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. 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 Monitoring Officer, should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by him, provided that in any transaction relating to land to which The Regulatory Reform (Execution of Deed and Documents) Order 2005 applies, the Common Seal shall be attested by a Member of the County Council and an authorised signatory.

## ***Article 14 – Review and Revision of the Constitution***

### **14.1 Duty to monitor and review the Constitution**

The Council regularly monitors and reviews the operation of the Constitution to ensure that its aims and principles are given full effect.

### **14.2 Changes to the Constitution**

Changes to the Articles of the Constitution must be approved by the full Council after consideration of the proposal by the Selection & Member Services Committee and appropriate public consultation. Changes to factual references or changes required by a change in the law will be made by the Monitoring Officer. Changes to the Appendices of the Constitution will be published by the Monitoring Officer to reflect decisions duly taken by the Council, Leader, Cabinet, a Committee or Senior Officer.

## ***Article 15 – Suspension, Interpretation and Publication of the Constitution***

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### **15.1 Suspension of the Constitution**

(1) The Articles of this Constitution may not be suspended.

(2) Rules of the Council set out in the Appendices to the Constitution may be suspended in accordance with the law and the procedures set out in those rules.

### **15.2 Interpretation**

The ruling of the Chairman of the Council as to the interpretation or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **15.3 Publication**

The Monitoring Officer will:

(1) give a copy of this Constitution to each Member upon delivery of that individual's declaration of acceptance of office on first being elected to the Council.

(2) ensure that copies of the Constitution are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by Members of the local media and the public on payment of a reasonable fee.

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### **Within Appendix 2 Part 4:**

#### ***Executive Scheme of Officer Delegation***

##### **1. Principles**

1.1 This scheme operates from 12 July 2018 ~~1 April 2012~~.

1.2 In this scheme “officer” means the holder of any post named in this scheme as having delegated powers and duties.

1.3 This scheme delegates powers and duties in relation to Executive functions which are the responsibility of Leader and Cabinet Members.

1.4 This scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation within those descriptions and all powers and duties incidental to that legislation.

1.5 This scheme operates under Section 14 of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (‘the Regulations’) and all other enabling powers.

1.6 This scheme includes the obligation on officers to keep Members (notably Cabinet Members) properly informed of activity arising within the scope of these delegations.

1.7 Any exercise of these delegated powers shall be subject to the policies approved by the Leader from time to time and shall be guided by the relevant Codes of Conduct.

1.8 Any exercise of delegated powers shall be subject to any statutory restrictions, provisions made in the revenue or capital budgets, Standing Orders, Financial Regulations or other Procedure Rules as contained within the Constitution.

1.9 This scheme assumes that once a Member-level decision has been taken, the implementation of that decision will normally be delegated to officers, so that multiple Member decisions are not required in respect of the same matter.

1.10 However, Cabinet Members may at any time require officers to refer a matter that would otherwise be taken under this scheme of delegation to either themselves or Cabinet for decision.

1.11 This scheme includes the power for officers to further delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officer. Sub-delegations may be made across service boundaries.

1.12 Officers to whom matters have been sub-delegated may escalate the making of those decisions to the relevant Corporate Director, who can then (if appropriate) refer the matter to the Cabinet Member or Cabinet.

1.13 A power specifically delegated by this scheme to one officer shall not be exercised by another officer without the consent of the former.

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1.14 Sub-delegations shall be recorded in a register kept by each Directorate and notified to the Monitoring Officer under Section 100G of the Local Government Act 1972.

1.15 Any officer exercising powers or duties in pursuance of full sub-delegation will be politically restricted under Section 2(1)(g) of the Local Government and Housing Act 1989.

1.16 All action taken under the terms of these delegations shall be properly discussed in advance with the relevant Cabinet Members and documented.

1.17 In each case, the delegated authority to officers includes management of the human and material resources made available for the service areas and the functions concerned within the limitations of this scheme and subject to specific delegations in this scheme or elsewhere to another officer.

1.18 In each case the delegated authority excludes the determination by the officer concerned of policy, exceptions to policy and budgets.

### **2. Delegations to officers**

2.1 The powers delegated to officers exclude the authority to take Key Decisions.

2.2 Officers are accountable and responsible for the management of their services and the implementation, management and delivery of Council and Cabinet policies and Executive Decisions.

2.3 Decisions which an officer takes under delegated powers **must**:

- (a) implement a policy or decision previously approved or taken by the Cabinet or a Cabinet Member or
- (b) facilitate or be conducive or incidental to the implementation of a policy or decision previously taken by the Cabinet or a Cabinet Member or
- (c) relate to the management of the human, material and financial resources made available for the functions for which they are responsible

2.4 It shall always be incumbent on an officer to consult in advance with the appropriate Cabinet Member on the exercise of a delegated Executive Function, or agree with them not to exercise a delegated Executive Function but to refer the matter instead to the Cabinet or relevant Cabinet Member.

2.5 Given the seniority of these officers the Constitution has been predicated on the following expectations:

- Officers advise on the delivery of the agenda of the executive but support all Members
- Officers whilst leading their Directorate will always prioritise the global needs of Kent County Council rather than their individual service
- Officers will work together to ensure seamless service delivery for the benefit of Kent residents.

2.6 Officers will transparently, proactively and in a timely manner raise concerns and difficulties with Corporate Management Team, Head of Paid Service, Section 151 Officer or the Monitoring Officer as appropriate. Corporate Directors are required

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throughout the year to provide ongoing assurance and proactively raise matters of concern.

2.7 Officers are also responsible for ensuring that decision makers, Committees and Members receive appropriate, full and impartial advice to support lawful, reasonable and proportionate decision making. Officers are expected to deploy their professional expertise honestly and directly in the best interests of Kent County Council.

2.8 All Chief Officers must work with the Head of Paid Service to discharge the Council's statutory and discretionary responsibilities. The sharing of all relevant information, particularly at the early stages of any decision-making by Statutory Chief Officers and their services will assist in fulfilling those responsibilities.

**3. Subject to the provisions of paragraph 2.3 (above), the Executive Functions to be the Responsibility of Chief Officers are as follows:**

### **3.1 TO THE HEAD OF PAID SERVICE**

(i) To exercise the relevant functions of the Leader of the Council (Cabinet Member for Business Strategy, Audit & Transformation) in relation to the overall strategic direction, policies and priorities of the Cabinet and of Council, including the overall corporate revenue and capital budget strategy and ensuring that the appropriate systems are in place to assure the performance management of the authority.

(ii) To exercise the relevant functions of the Cabinet Member Corporate & Democratic Services, the Cabinet Member Adult Social Care & Public Health, the Cabinet Member Commercial & Traded Services and the Cabinet Member Economic Development in relation to their portfolios.

(iii) To exercise in cases of urgency the Executive Functions delegated to other Chief Officers.

(iv) To incur expenditure in the event of a civil emergency.

(v) On behalf of the County Council, to receive assurance from other Chief Officers that they have discharged their delegated functions in accordance with the provisions of this constitution and at all times lawfully, reasonably and proportionately.

### **3.2 TO THE CORPORATE DIRECTOR, CHILDREN, YOUNG PEOPLE AND EDUCATION**

(i) To exercise the functions conferred on or exercisable pursuant to Section 18 of the Children Act 2004 and Regulations made thereunder.

~~(ii) —~~

(ii) To exercise the relevant functions of the Cabinet Member Specialist Children's Services, Cabinet Member Education & Health Reform and the Cabinet Member Adult Social Care & Public Health in relation to their portfolios.

(iii) To exercise the relevant functions conferred on or exercisable pursuant to Section 532 of the Education Act 1996 and Regulations made thereunder.

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### **3.3 TO THE CORPORATE DIRECTOR, ADULT SOCIAL CARE AND HEALTH**

- (i) To exercise the relevant functions of the Cabinet Member Specialist Children's Services, Cabinet Member Education & Health Reform and the Cabinet Member Adult Social Care & Public Health in relation to their portfolios.
- (ii) To exercise the functions conferred on or exercisable pursuant to Section 6(A1) of the Local Authority Social Services Act 1970 and Regulations made thereunder.

### **3.4 TO THE CORPORATE DIRECTOR, GROWTH, ENVIRONMENT & TRANSPORT**

- (i) To exercise the relevant functions of the Cabinet Member Environment & Transport, the Cabinet Member Economic Development and the Cabinet Member for Community Services in relation to their portfolios.

### **3.5 TO THE CORPORATE DIRECTOR FINANCE & PROCUREMENT**

- (i) To exercise the relevant functions conferred on or exercisable pursuant to Section 151 of the Local Government Act 1972 and Regulations made thereunder.
- (ii) To exercise the relevant functions of the Leader of the Council (Cabinet Member for Business Strategy, Audit & Transformation), the Cabinet Member Finance & Procurement, the Cabinet Member Corporate & Democratic Services, the Cabinet Member Commercial & Traded Services and the Cabinet Member Education & Health Reform in relation to their portfolios.

### **3.6 TO THE CORPORATE DIRECTOR HUMAN RESOURCES**

- (i) To exercise the relevant functions of the Leader of the Council (Cabinet Member for Business Strategy, Audit & Transformation) and the Cabinet Member Corporate & Democratic Services in relation to their portfolios.

### **3.7 TO THE GENERAL COUNSEL**

- (i) To exercise the relevant functions conferred on or exercisable pursuant to Section 5 of the Local Government and Housing Act 1989, as amended by Schedule 5 paragraph 24 of the Local Government Act 2000.
- (ii) To exercise the relevant functions of the Leader of the Council (Cabinet Member for Business Strategy, Audit & Transformation), the Cabinet Member Corporate & Democratic Services, and the Cabinet Member Commercial & Traded Services in relation to their portfolios.

### **3.8 TO ALL CHIEF OFFICERS**

- a) Request for written explanation

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In discharging responsibilities under paragraphs 1.16 and 2.4-2.8 above, where a Chief Officer considers the direction or specific course of action proposed by the Leader or Cabinet Member in:

- a) policy or budgetary development ahead of a Key or other decision; or
- b) implementing an already agreed Key decision,

Will not meet minimum standards of:

- a) Regularity and Propriety; or
- b) Feasibility; or
- c) Value for money

Then the Chief Officer is required to write to the Leader or Cabinet Member asking for a written explanation as to the reasons for that direction or proposed course of action.

When a request for written explanation is made under this provision to the Leader or Cabinet Member, then they will respond to the Chief Officer in writing within 7 days.

When a request for written explanation is made by a Chief Officer and responded to by the Leader or Cabinet Member, the Head of Paid Service will be notified.

### **b) Requirement to report any request for written explanation**

The Head of Paid Service will report, at the next appropriate meeting of the Governance and Audit Committee, on any use of this provision for written explanation from the Leader or a Cabinet Member.

## **3.9 Involvement of Local Members**

(1) In exercising any delegations or in preparing a report for consideration by the Cabinet or a Cabinet Member, where appropriate officers shall consult the relevant Local Member(s) on any matter that appears to specifically affect their division.

(2) Any formal objection by a Local Member to a proposed course of action shall be immediately raised by the Local Member with the relevant Cabinet Member.

(3) All reports to the Cabinet or a Cabinet Member shall include the views of Local Members.

(4) In providing views on issues to officers, Local Members are respectfully reminded of their obligations under the member code of conduct and the need to consider any conflict or disclosable personal or pecuniary interest when representing local issues.

(5) In responding to external consultations, the process for involvement of local members as set out in the consultation protocol at Appendix 11 shall apply.

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### Appendix 3: Policy Framework

#### PLANS AND STRATEGIES INCLUDED IN THE POLICY FRAMEWORK

#### The Following Policies and Procedures Rrequireing Council debate and approval:

- The Strategic Statement
- The Minerals and Waste Development Framework
- The Youth Justice Plan
- Community Strategy
- Community Safety Framework
- The Local Transport Plan
- Pay Policy
- Medium Term Financial Plan
- Annual Budget

<b>Name of Plan</b>
Strategic Statement (Bold Steps for Kent)
Community Strategy (Vision for Kent)
Commissioning Framework for Kent County Council

#### Requiring consideration by Cabinet Committees and Scrutiny Committee, and Cabinet recommendation to the Council for approval

<b>Name of Plan</b>	<b>Statutory</b>	<b>Duration</b>	<b>Next Due</b>	<b>Notes</b>
Crime and Disorder Reduction Strategy (KCC Community Safety Framework)	Yes	2012–14	2012	
Local Transport Plan 3 (Local Transport Plan for Kent 2011-16)	Yes	5 years	1 April 2016	DfT Guidance requires LTP3 to consist of a Strategy and Implementation Plan(s). Local authorities decide duration of each to suit their needs. Progress reporting is not required.
Local Transport Plan 4 (Local Transport Plan for Kent 2016-21)	Yes	5 years (Tentative)	1 April 2021	Normally, Dept. for Transport LTP guidance is issued 2 years before submission but since all local authorities have decided their own LTP3 timescales, not clear if this approach will continue.

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<b>Name of Plan</b>	<b>Statutory</b>	<b>Duration</b>	<b>Next Due</b>	<b>Notes</b>
Kent Minerals and Waste Development Framework  (Minerals and Waste Core Strategy – Mineral site Allocations)	Yes	At least 15 year timeframe from adoption, i.e. until 2030	(Estimated dates of adoption in this column) 2013  2014	In preparation. Development Scheme and Programme agreed by KCC and Communities and Local Government in December 2011. Submission of key document (core strategy and site plans) to Government respectively in 2012 and 2013. Subject to regular (approximately five yearly) reviews.
Waste Management Site Allocations			2014	
Youth Justice Plan	Yes	1 Year	July 2012	
				Annual Operating Plan submitted for approved by County Council.