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Your Ref:  
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Date: 9 December 2009

Dear Member

**COUNTY COUNCIL - THURSDAY, 10 DECEMBER 2009**

I am now able to enclose, for consideration at Thursday, 10 December 2009 meeting of the County Council, a revised version of this report which has been updated following consideration at the meeting of the Selection and Members Services Committee on Friday 4 December 2009.

**Agenda No    Item**

7.    **Proposed Amendments to the Constitution (Pages 1 - 186)**

Yours sincerely



**Peter Sass**  
**Head of Democratic Services & Local Leadership**

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By: Alex King; Deputy Leader  
Geoff Wild, Director of Law and Governance

To: County Council – 10 December 2009

Subject: Changes to the Constitution

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Summary: This report sets out amendments to the Constitution which were recommended at the Selection and Member Services Committee on 4 December 2009 for approval by the County Council.

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### **Additional Amendments to the Constitution**

1 At the meeting of the Selection and Member Services Committee on 4 December 2009 the following additional amendments to the Constitution were recommended to the County Council for approval. An updated version of the Constitution setting out these amendments and incorporating the protocols on Councillor Call for Action and Crime and Disorder Committee, in addition to the consequential amendments already proposed, is attached.

- a) Executive summary (*large page no 11*) last paragraph replace “Policy Overview and Scrutiny Committee” with “Policy Overview and Scrutiny **suite.**” (*small page no 2*)
- b) Executive summary (*large page no 11*) at end add “References in this Constitution to any gender shall include every gender, and words and expressions denoting the singular shall include the plural and vice versa.” (*small page no 2*)
- c) Appendix 4, Part 4 (*large page 86*) paragraph 4.7 – delete last sentence “Officers may not otherwise decline to provide information except under conditions advised by the Standards Committee.” (*small page no 77*)
- d) Appendix 4, Part 4 (*large page no 87*) paragraph 4.9) add to the end of the paragraph “or for the purposes of clarification”. (*small page no 78*)
- e) Process for developing the budget – (*large page no 113 -115*) – re-insert reference to Cabinet Scrutiny Committee. (*small number 104 -106*)
- f) Decisions by Officers and Council Committees (*large page no 119*) paragraph 8.18 – all references to “Cabinet Scrutiny Committee should be replaced by “Scrutiny Board”. (*small number 110*)
- g) Property Management Protocol – non-highway acquisitions – (*large page 130*) paragraph 7 – reinsert “Cabinet Scrutiny Committee” in place of “Scrutiny Board”. (*small page number 121*)

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Background Information: *None*



# THE CONSTITUTION OF THE KENT COUNTY COUNCIL

*Adopted by the Council:* 15 September 2005  
*Amended by the Council:* 17 October 2005  
23 March 2006  
12 May 2006  
17 May 2006  
10 July 2006  
2 November 2006  
21 June 2007  
6 September 2007  
18 October 2007  
13 December 2007  
19 June 2008  
11 December 2008  
25 June 2009  
[10 December 2009](#)

# CONTENTS

<b><u>EXECUTIVE SUMMARY.....</u></b>	<b><u>1</u></b>
--------------------------------------	-----------------

<b><u>ARTICLES OF THE CONSTITUTION.....</u></b>	<b><u>3</u></b>
-------------------------------------------------	-----------------

ARTICLE 1 – THE CONSTITUTION.....	3
ARTICLE 2 – MEMBERS OF THE COUNCIL.....	3
ARTICLE 3 – THE PUBLIC AND THE COUNCIL.....	6
ARTICLE 4 – THE FULL COUNCIL.....	7
ARTICLE 5 – CHAIRING THE COUNCIL.....	7
ARTICLE 6 – POLICY OVERVIEW AND SCRUTINY COMMITTEES.....	8
ARTICLE 7 – THE LEADER AND CABINET.....	8
ARTICLE 8 – REGULATORY AND ORDINARY COMMITTEES.....	9
ARTICLE 9 – THE STANDARDS COMMITTEE.....	9
ARTICLE 10 – PARTNERSHIP AND JOINT WORKING ARRANGEMENTS.....	9
ARTICLE 11 – OFFICERS.....	10
ARTICLE 12 – DECISION MAKING.....	13
ARTICLE 13 – FINANCE, CONTRACTS, RESOURCE MANAGEMENT AND LEGAL MATTERS....	14
ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION.....	15
ARTICLE 15 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION..	15

<b><u>APPENDIX 1: STATEMENT OF EXECUTIVE ARRANGEMENTS.....</u></b>	<b><u>16</u></b>
--------------------------------------------------------------------	------------------

1. FORM OF EXECUTIVE.....	16
2. ROLE OF THE EXECUTIVE.....	16
3. ROLE OF THE COUNCIL.....	16
4. OVERVIEW AND SCRUTINY COMMITTEES.....	17
5. JOINT ARRANGEMENTS.....	17
6. DECISION RULES AND PUBLIC ACCESS TO INFORMATION.....	17
7. STANDING ORDERS.....	17

<b><u>APPENDIX 2: ALLOCATION AND DELEGATION OF FUNCTIONS AND RESPONSIBILITIES.....</u></b>	<b><u>18</u></b>
--------------------------------------------------------------------------------------------	------------------

<b><u>APPENDIX 2 PART 1: THE FUNCTIONS EXERCISED BY THE COUNCIL.....</u></b>	<b><u>19</u></b>
------------------------------------------------------------------------------	------------------

1. CONSTITUTION.....	19
2. APPOINTMENTS.....	19
3. COMMITTEES.....	19
4. FINANCE.....	19
5. POLICY.....	20
6. EMPLOYEES.....	20
7. OTHER FUNCTIONS.....	20

<b><u>APPENDIX 2 PART 2: FUNCTIONS DELEGATED BY THE COUNCIL TO COMMITTEES.....</u></b>	<b><u>21</u></b>
----------------------------------------------------------------------------------------	------------------

POLICY OVERVIEW AND SCRUTINY COMMITTEE SUITE.....	21
---------------------------------------------------	----

ORDINARY COMMITTEES .....	25
CORPORATE GOVERNANCE COMMITTEES .....	29

**APPENDIX 2 PART 3: FUNCTIONS DELEGATED BY THE COUNCIL TO OFFICERS** ..... 31

SCHEDULE OF COUNCIL FUNCTIONS .....	32
-------------------------------------	----

**APPENDIX 2 PART 4: LEADER AND CABINET** ..... 38

LEADER.....	38
APPOINTMENT OF MEMBERS TO THE CABINET .....	38
APPOINTMENT OF THE DEPUTY LEADER .....	41
DELEGATION OF FUNCTIONS TO CABINET MEMBERS .....	41
DEPUTY CABINET MEMBERS .....	41
FUNCTIONS DELEGATED TO OFFICERS .....	42
INVOLVEMENT OF LOCAL MEMBERS .....	43

**APPENDIX 2 PART 5: PARTNERSHIP COMMITTEES AND BODIES AND JOINT ARRANGEMENTS** ..... 44

JOINT ARRANGEMENTS AND COMMITTEES .....	44
FORM, COMPOSITION AND FUNCTION OF JOINT COMMITTEES .....	44
PROCEDURE RULES .....	44
PARTNERSHIP .....	44
CONTRACTING OUT.....	45
RECORDS.....	45

**APPENDIX 2 PART 6: PERSONNEL MANAGEMENT RULES**..... 46

STAFF TERMS AND CONDITIONS.....	46
CHIEF AND SENIOR OFFICERS.....	46
DISCIPLINARY ACTION .....	47
DISMISSAL OF A CHIEF OR SENIOR OFFICER.....	48
OTHER OFFICERS.....	49

**APPENDIX 3: POLICY FRAMEWORK**..... 56

**APPENDIX 4: PROCEDURE RULES** ..... 58

**APPENDIX 4 PART 1: RULES APPLYING TO COUNCIL MEETINGS**..... 59

DEFINITIONS.....	59
PLANNING OF THE COUNCIL MEETING .....	59
AGENDAS FOR MEETINGS .....	59
QUORUM.....	60
CHAIRMAN AND VICE-CHAIRMAN .....	60
MINUTES OF COUNCIL MEETINGS.....	61
QUESTIONS.....	61

REPORTS ON MATTERS FOR DECISION OR DEBATE .....	62
LEADER'S REPORT .....	62
ITEM FOR FULL DEBATE .....	62
ITEMS FOR TIME-LIMITED DEBATE .....	62
MINUTES OF GOVERNANCE & AUDIT, PLANNING APPLICATIONS AND REGULATION	
COMMITTEES.....	62
MOTIONS AND AMENDMENTS .....	63
VOTING AT MEETINGS OF THE COUNTY COUNCIL .....	63
CONDUCT OF DEBATE.....	64
POINTS OF ORDER AND PERSONAL EXPLANATIONS .....	64
TIMING OF SPEECHES.....	65
MOTIONS .....	65
AMENDMENTS .....	65
WRITTEN COPY OF MOTIONS AND AMENDMENTS .....	66
PROCEDURAL MOTIONS.....	66
RIGHTS TO SPEAK AND REPLY .....	67
APPOINTMENT OF THE LEADER .....	67
APPOINTMENT OF THE LEADER OF THE OPPOSITION .....	68

**APPENDIX 4 PART 2: RULES APPLYING TO COUNCIL AND COMMITTEE MEETINGS .....** 69

PUBLIC MISCONDUCT .....	69
RECORDING MEETINGS.....	69
DISCUSSION OF INDIVIDUAL OFFICERS .....	69
NON-ATTENDANCE AT MEETINGS .....	69
MEMBERS' INTERESTS .....	69
THE PARTY WHIP .....	69
SUSPENSION OF PROCEDURE RULES .....	70
APPOINTMENT OF COMMITTEES/TERMS OF OFFICE.....	70
PROCEDURES AT COMMITTEE MEETINGS .....	70
QUORUM.....	71
SUBSTITUTES .....	71
ATTENDANCE LIST .....	71
ELECTION OF CHAIRMAN AND OTHER OFFICE HOLDERS .....	71
MEETING PLANNING .....	71
AGENDA.....	72
CONSIDERATION OF REPORTS .....	72
VOTING .....	73
RIGHTS TO ATTEND AND SPEAK .....	73

**APPENDIX 4 PART 3: ADDITIONAL RULES APPLYING TO POLICY OVERVIEW AND SCRUTINY COMMITTEES.....** 74

POLICY OVERVIEW AND SCRUTINY COMMITTEES (POSCs) PROTOCOL .....	74
----------------------------------------------------------------	----

**APPENDIX 4 PART 4: ADDITIONAL RULES APPLYING TO CABINET SCRUTINY COMMITTEE .....** 77

REQUESTS FOR INFORMATION.....	77
AGENDA PLANNING.....	77
QUESTIONING.....	77
FORMULATION OF RECOMMENDATIONS AND REPORTS.....	78



**APPENDIX 4 PART 5: RULES APPLYING TO SELECT COMMITTEES..... 79**

TOPIC REVIEW PLANS..... 79  
MEETING ARRANGEMENTS..... 79  
QUESTIONING..... 79  
REVIEW REPORTS ..... 80  
OVERVIEW AND SCRUTINY INTER-AUTHORITY CO-OPERATION ..... 80

**ANNEX A: PROTOCOL FOR OVERVIEW AND SCRUTINY INTER-AUTHORITY CO-OPERATION ..... 81**

**ANNEX B: PROTOCOL FOR HEALTH OVERVIEW AND SCRUTINY ..... 82**

**ANNEX C: PROTOCOL FOR THE OPERATION OF THE CRIME AND DISORDER COMMITTEE ..... 86**

**ANNEX D: COUNCILLOR CALL FOR ACTION PROTOCOL ..... 88**

**APPENDIX 4 PART 6: CABINET PROCEDURE RULES ..... 94**

MEETINGS OF THE CABINET ..... 94  
AGENDAS ..... 94  
QUORUM..... 94  
CHAIRING..... 94  
ATTENDANCE ..... 94  
CONDUCT OF MEETINGS ..... 95  
DISCUSSION OF EMPLOYEES..... 95  
CONFLICTS OF INTEREST ..... 95

**APPENDIX 4 PART 7: ACCESS TO INFORMATION PROCEDURE RULES ..... 96**

FORWARD PLAN OF KEY DECISIONS..... 96  
MEETINGS..... 97  
PUBLICATION OF REPORTS TO CABINET MEMBERS..... 98  
PUBLICATION OF RECORDS OF DECISIONS BY CABINET AND CABINET MEMBERS ..... 98  
ACCESS TO MINUTES AND RECORDS OF DECISIONS..... 99  
SUPPLY OF COPIES..... 99  
LIST OF BACKGROUND DOCUMENTS..... 99  
PUBLIC INSPECTION OF BACKGROUND DOCUMENTS ..... 100  
SUMMARY OF PUBLIC'S RIGHTS ..... 100  
MEMBER INFORMATION SYSTEM ..... 100  
RIGHTS TO INSPECT DOCUMENTS ..... 100  
CONFIDENTIAL AND EXEMPT INFORMATION..... 100

**APPENDIX 4 PART 8: DECISION MAKING PROCEDURE RULES ..... 103**

THE FRAMEWORK FOR CABINET DECISIONS ..... 103

PROCESS FOR DEVELOPING THE POLICY FRAMEWORK.....	103
PROCESS FOR DEVELOPING THE BUDGET.....	104
DECISIONS AT VARIANCE FROM THE BUDGET, POLICY FRAMEWORK OR RESOURCE MANAGEMENT RULES .....	106
DECISIONS IN ACCORDANCE WITH THE BUDGET AND POLICY FRAMEWORK .....	107
CABINET DECISIONS .....	107
DECISIONS BY THE LEADER, CABINET MEMBERS OR CABINET COMMITTEES .....	108
RULES FOR URGENT DECISIONS .....	109
DECISIONS BY OFFICERS AND COUNCIL COMMITTEES.....	110
DECISION MAKING PROCEDURE RULES – VIREMENT.....	110

**APPENDIX 5: RESOURCE MANAGEMENT RESPONSIBILITIES STATEMENT  
(INCLUDING PROPERTY MANAGEMENT PROTOCOL AND CONTRACTS AND  
TENDERS STANDING ORDERS) ..... 112**

CONTRACTS AND TENDERS STANDING ORDERS .....	118
PROPERTY MANAGEMENT PROTOCOL.....	120

**APPENDIX 6: ETHICAL BEHAVIOUR CODES AND PROTOCOLS..... 128**

**APPENDIX 6 PART 1: CODE OF MEMBER CONDUCT ..... 128**

THE GENERAL PRINCIPLES GOVERNING THE CONDUCT OF MEMBERS .....	135
ROLE DESCRIPTION – ALL MEMBERS .....	136

**APPENDIX 6 PART 2: OFFICERS CODE OF CONDUCT..... 137**

A. STANDARDS OF SERVICE.....	137
B. HARASSMENT .....	137
C. DISCLOSURE OF INFORMATION .....	137
D. POLITICAL NEUTRALITY .....	138
E. RELATIONSHIPS .....	138
F. STAFF APPOINTMENTS AND OTHER EMPLOYMENT MATTERS .....	139
G. OUTSIDE COMMITMENTS .....	140
H. PERSONAL INTERESTS .....	140
I. EQUALITY ISSUES.....	141
J. SEPARATION OF ROLES DURING TENDERING .....	141
K. WORKING WITH VOLUNTARY AND OTHER ORGANISATIONS.....	141
L. GIFTS AND HOSPITALITY .....	142
M. SPONSORSHIP - GIVING AND RECEIVING.....	143
N. HEALTH AND SAFETY AT WORK .....	143
O. EQUIPMENT AND MATERIALS .....	143
P. USE OF FINANCIAL RESOURCES .....	144
RELATED PROCEDURES, POLICIES, GUIDELINES AND SUPPORT .....	144

**APPENDIX 7: MEMBERS’ ALLOWANCES SCHEME..... 145**

**APPENDIX 8: MANAGEMENT STRUCTURE..... 147**

**APPENDIX 9: MEMBER DETAILS..... 154**

**APPENDIX 10: CODE OF CORPORATE GOVERNANCE ..... 161**

## Executive Summary

The County Council is the democratically elected strategic authority for Kent. It has the broad power under the Local Government Act 2000 to promote and improve the social, economic and environmental well-being of the area and has statutory responsibility for the provision of a range of services.

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

- arranging delivery of services driven by the sole purpose of serving all Kent residents and Council Tax payers
- providing clear and accountable community leadership
- championing the county's interests, supporting the local economy and enhancing the environment
- consulting and involving the Kent public in planning ahead and making decisions on their behalf
- influencing and working in partnership with other organisations.

The strategic view is set out in Kent County Council's policies (currently including the Strategic Statement - '[Towards 2010](#)' and the Community Strategy entitled 'The Vision for Kent'). The Council develops strategic plans for the county in consultation with the wider Kent community and implements those plans through its own services (delivered by its own staff or by contractors), in partnership with other organisations and by influencing other agencies. A significant part of the Council's role, within the County, nationally and internationally, is to champion the interests of the people of Kent.

Deleted: The Next Four Years'

The Constitution of the Council is determined in accordance with legislation and periodically reviewed and amended by the Council as necessary. The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed. The Constitution is divided into [15](#) Articles, which form the basic rules governing the Council's business; more detailed procedures and codes of operating are included in the Appendices. It seeks to provide effective decision making procedures, ensuring that the Cabinet is accountable to the body of the Council, while providing a role for non executive Members in quasi judicial committees, in policy formation, overview and scrutiny.

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The Council consists of 84 Members, elected by eligible Kent residents every four years. The Members are governed by codes of conduct laid down by legislation and formally adopted by the Council. Adherence to these codes is monitored by a Standards Committee, including outside independent people, which can recommend disciplinary measures to the Council. A Panel of independent people, again drawn from outside the Council, proposes a scheme of allowances for Members for agreement by the Council.

The Council elects its Chairman and Vice-Chairman each year, who then preside over its meetings, ensuring that the procedures are followed, and embody its civic representation. These office-holders have no executive responsibility.

The balance of power within the Council reflects the numerical strength of the individual political parties and, outside the Executive structure, formal meetings of Members reflect this proportionality.

The Council elects a Leader at the beginning of each four year term. The Leader, as the head of the Executive, appoints a Cabinet and allocates accountabilities, responsibilities and delegates powers.

The Leader with the Cabinet has executive authority over all the Council's functions and activities except those that are reserved to the Council and its committees by statute. The Council has the power to dismiss the Leader through a vote of no confidence.

The Council agrees the Policy Framework and the annual Budget and is responsible for a series of regulatory and governance functions, which are discharged through committees that it appoints and holds accountable to itself.

The Council's Policy Framework is recommended to the Council by the Leader and updates on progress and changes to the Framework are made to the Council as appropriate.

Cabinet Members decide policy within the Policy Framework, take the decisions not delegated to officers and oversee the delivery of services in relation to the responsibilities allocated to them by the Leader, ensuring that the Council delivers its obligations to the Kent community. The Cabinet is also responsible for initiating policy development.

A Forward Plan of forthcoming key decisions is published regularly. Procedure Rules of the Council set out the processes surrounding executive and key decisions.

The Cabinet Scrutiny Committee is charged with maintaining oversight of the decisions made by the Cabinet and has the power to require reconsideration of those decisions if it deems it appropriate. The Committee, although conforming to the rules on proportionality, is normally chaired by the Leader of the Opposition.

The Council ensures that Members outside the Cabinet can contribute to the development of policy by the appointment of Policy Overview and Scrutiny Committees, which are consulted by the Leader and Cabinet Members on policy development. Specific issues relating to the Council's services are also reviewed through time limited Select Committees and by all-party Member Panels, which report to the Policy Overview and Scrutiny Committees.

**Deleted:** participate in Best Value reviews

The Council, advised by the Chief Executive and the Leader, determines the overall officer structure to deliver the Council's responsibilities, under the management of Chief Executive, Chief and Senior Managers. The Council appoints the Chief Executive as Head of Paid Service and designates appropriate senior officers as Monitoring Officer and Chief Finance Officer, who are responsible for resolving constitutional disputes and other matters laid down in the Constitution. It also agrees financial, employment and procurement procedures, together with terms and conditions of employment for staff.

Members must respect the political neutrality of officers. Since the majority of functions are the responsibility of the Executive, many officers work to the Executive for most of their time. Other officers, however, work to support the Policy Overview and Scrutiny Committee Suite. Nevertheless, in all circumstances officers must continue to work for and serve the local authority as a whole and this role must be endorsed and supported by all Members.

**Deleted:** Cabinet Scrutiny and

References in this Constitution to any gender shall include every gender, and words and expressions denoting the singular shall include the plural and vice versa.

# 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.

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

### 2.1 Composition and eligibility

- (1) The Council comprises 84 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) develop<sup>ing</sup> policies for the delivery of services for the whole of the community of Kent
- (b) approv<sup>ing</sup> 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
- (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

**(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
- (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 7 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

**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

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) **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 Forward Plan 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.

(3) **Public Rights.** Public rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 7 of Appendix 4.

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

(5) **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
- (c) the Council's Standards Committee or the Standards Board for England 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
- (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 – Policy Overview and Scrutiny Committees**

**6.1 Policy Overview and Scrutiny Committee suite**

Under section 21 of the Local Government Act 2000, the Council has appointed the Cabinet Scrutiny Committee, the Scrutiny Board, the Policy Overview and Scrutiny Committees and the Health Overview and 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 the Council's duty under the Health and Social Care Act 2001 to scrutinise the health services in Kent.

**6.2 Policy Overview and 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.

**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 6 of Appendix 4.

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The Council appoints the Cabinet Scrutiny Committee from among the non-executive Members to perform the role and functions set out in Part 2 of Appendix 2.¶  
¶  
6.2 Powers of the Cabinet Scrutiny Committee¶  
¶  
The Cabinet Scrutiny Committee has the power to:¶  
¶  
(1) require the Leader, Cabinet Members and officers to attend before it and answer questions¶  
¶  
(2) question and gather evidence from any person (with their consent).¶  
¶  
6.3 The Cabinet Scrutiny Committee shall:¶  
¶  
(1) exercise overall responsibility for the resources made available to it by the Council¶  
¶  
(2) exercise overall responsibility for the work programme of any officers employed to support its work¶  
¶  
(3) conduct its proceedings in accordance with the Procedure Rules set out in Appendix 4.¶  
¶  
**Article 7 – Policy Overview Committees**¶  
¶  
7.1 Policy Overview ... [1]

**Deleted: 7.2 Powers of Policy Overview Committees**¶  
¶  
Each Policy Overview Committee has the power to:¶  
¶  
<#>assist and advise the Council, the Leader and the Cabinet in the development of the Policy Framework¶  
¶  
<#>review the performance of the Council in relation to its policy objectives and performance targets ¶ ... [2]

**Deleted: 8.2 Form and composition**¶  
¶  
The Cabinet consists of the Leader of the Council together with at least two, but not more than nine, other Members.¶  
¶  
8.3 Leader¶  
¶  
The Leader must be a Member of the Council elected to the position of Leader by the full Council. The Leader holds office until the next elect( ... [3]

## **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 Composition**

The Standards Committee is composed of an equal number of Members of the Council (who may not include the Leader) and persons who are neither an elected Member, a co-opted Member, an officer of the Council nor of any other body having a Standards Committee (the Independent Members). The total number of Members is determined by the Council. The independent Members are entitled to vote at meetings of the Committee. One of the independent Members will Chair the Committee.

### **9.3 Role and Function**

The Standards Committee has the 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.

### **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.](#)

**Deleted: 11.2 Joint arrangements and Committees**

¶  
(1) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions that are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of Joint Committees with those other local authorities.¶

¶  
(2) The Leader may establish joint arrangements with one or more local authorities and/or their executives to exercise functions that are executive functions. Such arrangements may involve the appointment of Joint Committees with those other local authorities.¶

¶  
(3) Details of any joint arrangements, including any delegations to Joint Committees, are set out in Appendix 2.¶

¶  
**11.3 Form, composition and function of Joint Committees**¶

¶  
(1) Except as set out below, the Leader may only appoint Cabinet Members to Joint Committees and such appointments need not reflect the political composition of the Council as a whole.¶

¶  
(2) In the circumstances set out below:¶

¶  
(a) the Leader may appoint non-executive Members to a Joint Committee¶

¶  
(b) the Council may disregard the requirement for such appointments to be proportionate to political group numbers.¶

¶  
(3) The circumstances are:¶

¶  
(a) the Joint Committee has functions relating to a part of the area of the Council that is smaller than two-fifths of the Council by area or population, or¶

¶  
(b) the Joint Committee is with a single district council and relates to executive functions of the County Council.¶

¶  
In both of these cases the political balance requirements in the Local Government and Housing Act 1989 do not apply and any Member for an electoral division which is wholly or partly contained within the area may be ... [4]

## 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 Chief Executive and the Leader. The Chief Executive 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 departmental 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,

Deleted: (the Chief Executive

Deleted: )

Deleted: (Chief Executive)

(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 the Chief Executive and 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 separate officers to act as each of the following:

- (a) Head of Paid Service ([Chief Executive](#))
- (b) Monitoring Officer ([Director of Law & Governance](#))
- (c) Chief Finance Officer ([Director of Finance](#))
- (d) Director of Adult Social Services ([Managing Director of Adult Social Services](#))
- (e) Director of Children's Services ([Managing Director of Children, Families 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:
  - (a) overall corporate management and operational responsibility (including overall management responsibility for all staff)
  - (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).
- (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.

### 11.3 Functions of the Monitoring Officer

The Monitoring Officer will:

(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 and act on reports made by Ethical Standards Officers and decisions of case tribunals appointed by the Standards Board for England.

(5) Conduct investigations into matters referred by Ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.

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

(7) 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.

### 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 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 Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring and Chief Finance Officers with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

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

(1) The Director of Adult Social Services (known in Kent as the Managing Director of Adult Social Services) is a statutory post with strategic responsibility for the planning, commissioning and delivery of social services for all adult client groups and with a leading role in delivering the wider vision for social care.

(2) The key roles 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

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

(1) The Director of Children's Services (known in Kent as the Managing Director Children, Families and Education) is a statutory post with strategic responsibility for building and leading arrangements under the Children Act 2004 (the Act) for improving outcomes for and well-being of children and young people, either directly or with other agencies. The Director is a member of the Children's Services Authority's (CSA) corporate team and is accountable to the authority's executive.

(2) The Director of Children's Services is appointed for the purposes of the Children's Services Authority's functions in four key areas:

(a) Education Services: the authority's functions in its capacity as a local education authority, except those excluded under section 18(3) of the Act (namely certain functions relating to further education, higher education and adult education)

(b) Social Services: the authority's social services functions within the meaning of the Local Authorities Social Services Act 1970, insofar as they relate to children, and the local authority's functions for children and young people leaving care

(c) Health Services: any health related functions exercised on behalf of an NHS body under section 31 of the Health Act 1999, insofar as they relate to children

(d) Inter-agency co-operation: the functions of the CSA set out in the 2004 Act, in particular building and leading the arrangements for inter agency cooperation in relation to the well-being and safeguarding of children, maintaining a database of basic information of all children in the area and preparing and publishing a Children and Young People's Plan

## 11.8 Conduct

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

## **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.

### 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 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.

### 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 the Chief Executive.

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

### 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.

## **Appendix 1: Statement of Executive Arrangements**

This Appendix sets out the Council's executive arrangements, determined after consultation in accordance with paragraph 4 of the Local Government Act 2000 (Proposals for Executive Arrangements) (England) Direction 2000.

### **1. Form of Executive**

The form of the executive is set out in Article 8 [and Appendix 2 Part 4](#). The Council has adopted a Leader and Cabinet Executive consisting of a Member of the Council elected as Leader of the Executive by the Council and up to nine Members of the Council appointed to the Cabinet by the Leader. [This](#) includes provisions for the election, term of office and removal of the Leader (paragraph 2(2) of Schedule 1 to the Local Government Act 2000 ("the 2000 Act")). In accordance with paragraph 2(3)(b) of the same Schedule, the number of Members to be appointed to the Executive is determined by the Leader.

The Council does not make any provision (under paragraph 4 of Schedule 1 to the 2000 Act) with respect to the quorum, proceedings or location of meetings of the Executive, nor the appointment of Committees of the Executive. These matters are left to the Executive to determine and are recorded in Appendix 4 [Part 6](#).

The Council does not make any provision (under section 15(2) of the 2000 Act) with respect to the allocation of Executive functions among the Cabinet, its Members or Committees. These matters are left to the Leader to determine and are recorded in Appendix 2 [Part 4](#).

### **2. Role of the Executive**

The role of the Executive is set out in Article 8. The functions of the Executive are those prescribed by the 2000 Act and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ("the 2000 Regulations") and comprise all the functions of the Council not exercised by the Council itself or delegated by the Council to a Committee or to an officer. The arrangements for performing these functions are set out in Appendix 2 [Part 4](#).

### **3. Role of the Council**

The role of the Council is set out in Articles 1 and 4. The Council has decided that all the functions listed in Schedule 2 to the 2000 Regulations shall be exercised by the Council. This decision is reflected in the arrangements set out in Appendix 2.

The Council has decided to exercise its discretion (under paragraph 1 of Schedule 4 to the 2000 Regulations) to broaden the range of plans and strategies it approves beyond the list prescribed in Schedule 3 of those Regulations. The plans and strategies selected for approval by the Council are included in the Policy Framework in Appendix 3 and the mechanism for keeping that list under review in Appendix 4 [Part 8](#).

**Deleted:** The conduct of Best Value reviews is shared between the Council and the Executive as set out in Appendix 4.

#### 4. Overview and Scrutiny Committees

The requirements of section 21 and Schedule 1 to the 2000 Act comprise the appointment of a Cabinet Scrutiny Committee, a Scrutiny Board and Policy Overview and Scrutiny Committees, as provided for within Article 6 and Appendix 2 Part 2.

#### 5. Joint Arrangements

Both the Council and the Executive may enter into such joint and partnership arrangements as are provided for within Article 10 and Appendix 2 Part 5.

#### 6. Decision Rules and Public Access to Information

The principles governing the making of decisions are set out at Article 12; public rights to access information are set out in Article 3. Detailed rules to give effect to these principles and to apply the provisions of sections 100 and 100A-K of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 are set out in Parts 7 and 8 of Appendix 4.

#### 7. Standing Orders

The standing orders of the Council, including those required to be made by law are included in the Procedure and Resource Management Rules in Appendices 4 and 5.

**Deleted:** (a) Cabinet Scrutiny Committee¶

¶ (i) This Committee is responsible for the review or scrutiny of decisions made by the Executive, including the power to recommend that decisions be reconsidered, either by the Executive or by the Council, under section 21(3) of the 2000 Act.¶

¶ (ii) This Committee has the power under section 21(2)(c) of the 2000 Act to review or scrutinise the discharge of any functions that are not the responsibility of the Executive (see Article 6).¶

¶ (iii) When exercising its powers in relation to education functions, this Committee will include persons nominated by the Diocesan Boards of Education of the Canterbury and Rochester Dioceses of the Church of England and the Roman Catholic bishop whose diocese includes Kent (paragraph 7 of Schedule 1 to the 2000 Act), as well as persons elected as representatives of parent governors at schools maintained by the Council as the local education authority for Kent (paragraph 9 of Schedule 1 to the 2000 Act). These arrangements are detailed in Appendix 2.¶

¶ (b) Policy Overview Committees¶

¶ (i) These committees make reports or recommendations to the Council or the Executive on the discharge of functions or matters affecting its area or inhabitants (see Article 7).¶

¶ (ii) The Policy Overview Committee whose terms of reference involve education functions, includes persons nominated by the Diocesan Boards of Education of the Canterbury and Rochester Dioceses of the Church of England and the Roman Catholic bishop whose diocese includes Kent (paragraph 7 of Schedule 1 to the 2000 Act), as well as persons elected as representatives of parent governors at schools maintained by the Council as the local education authority for Kent (paragraph 9 of Schedule 1 to the 2000 Act). These arrangements are detailed in Appendix 2.¶

¶ ... [5]

**Deleted:** . The arrangements in force from time to time are listed in

## **Appendix 2: Allocation and Delegation of Functions and Responsibilities**

This Appendix records the arrangements made by the Council, the Leader and Council Committees on the allocation and delegation of the powers and functions given to the Council, in accordance with the Local Government Act 2000 (Constitutions)(England) Direction 2000.

It comprises:

Part 1 – The functions exercised by the Council itself

Part 2 – The functions delegated by the Council to Committees

Part 3 – The functions delegated by the Council to officers (required by section 100G(2) of the Local Government Act 1972)

Part 4 – The Leader and Cabinet, including the descriptions of functions and powers exercised by the executive, a committee or member of the executive or an officer

Part 5 – Partnership Committees and Bodies

Part 6 – Personnel Management Rules

## **Appendix 2 Part 1: The functions exercised by the Council**

The full Council takes the following decisions itself:

### **1. Constitution**

Adopts and agrees changes to:

- (a) the Articles of the Constitution
- (b) the Procedure Rules set out in Appendix 4 (except those relating to the internal functioning of the Cabinet)
- (c) the Resource Management Responsibilities Statement set out in Appendix 5
- (d) the Ethical Behaviour Codes set out in Appendix 6
- (e) the name of the Council

### **2. Appointments**

- (a) Elects or dismisses the Leader.
- (b) Appoints the Leader of the Opposition.
- (c) Removes Committee Chairmen or Cabinet Members from office for misconduct.
- (d) Confirms or rejects the recommendation of the Personnel Committee on the appointment of the Chief Executive.
- (e) Confirms or rejects recommendations by the independent Selection Panel for people to be appointed as independent Members of the Standards Committee and Member Remuneration Panel.
- (f) Approves the absence of a Member from meetings of the Council for more than six months.
- (g) Takes any other disciplinary action against any Member on the advice of the Standards Committee.

### **3. Committees**

Determines the number of committees, their terms of reference, the total number of places on them and the allocation of those places to the political groups or other persons.

### **4. Finance**

- (a) Agrees the annual Budget and Council Tax.
- (b) Sets the limits for virement or other Budget changes by the Leader, the Cabinet, Cabinet Members, Committees or officers.

(c) Sets the limits defining key financial decisions.

(d) Determines any expenditure proposed by the Leader or the Cabinet that is outside the limits referred to in (b), above, if the proposal is referred to it by the Cabinet Scrutiny Committee.

(e) Agrees the Members' Allowances Scheme set out in Appendix 7.

## **5. Policy**

(a) Determines and approves the plans and strategies which comprise the Policy Framework set out in Appendix 3 and any changes to them.

(b) Determines any proposed action by the Leader or the Cabinet that is at variance with any plan or strategy contained in the Policy Framework, if the proposal is referred to it by the Cabinet Scrutiny Committee.

**Deleted:** (reviewed annually through the Best Value Performance Plan)

## **6. Employees**

(a) Agrees the overall Management Structure proposed by the Chief Executive set out in Appendix 8.

(b) Determines the terms and conditions of employees.

(c) Approves changes to the Personnel Management Rules (except matters delegated to the Personnel Committee).

## **7. Other functions**

(a) Makes, amends, revokes or re-enacts bylaws.

(b) Promotes or opposes local or personal Bills in Parliament.

(c) Deals with any other matter reserved to the full Council by law.

## Appendix 2 Part 2: Functions delegated by the Council to Committees

### Policy Overview and Scrutiny Committee Suite

#### 1. Cabinet Scrutiny Committee

##### 14 Members

Conservative: 11; Liberal Democrat: 1; Labour: 1; independent 1; and (for relevant education items only): Churches: 3; Parent Governors: 2.

#### 1.1 The Council has appointed this committee under section 21 of the Local Government Act 2000 to:

(a) review or scrutinise formal decisions made by the Leader, the Cabinet, Cabinet Members or Cabinet committees.

(b) call-in any decision made but not yet implemented by the Leader, the Cabinet or a Cabinet Member and either:

- (i) recommend that the decision be reconsidered by the person who made it or
- (ii) arrange for its function under (a) above (so far as it relates to the decision) to be exercised by the Council

(c) make reports or recommendations to the Leader, Cabinet, Cabinet Member, the relevant officer or the Council arising out of its functions.

1.2 When exercising its powers in relation to education functions, this Committee will include persons nominated by the Diocesan Boards of Education of the Canterbury and Rochester Dioceses of the Church of England and the Roman Catholic bishop whose diocese includes Kent (paragraph 7 of Schedule 1 to the 2000 Act), as well as persons elected as representatives of parent governors at schools maintained by the Council as the local education authority for Kent (paragraph 9 of Schedule 1 to the 2000 Act).

#### 1.3 The Cabinet Scrutiny Committee has the power to:

(a) require the Leader, Cabinet Members and officers to attend before it and answer questions.

(b) question and gather evidence from any person (with their consent).

(c) appoint one or more sub-committees to discharge any of its functions.

#### 2. Policy Overview and Scrutiny Committees

2.1 These committees make reports or recommendations to the Council or the Executive on the discharge of functions or matters affecting its area or inhabitants (see Article 7).

2.2 The Policy Overview and Scrutiny Committees whose terms of reference involve education functions, include persons nominated by the Diocesan Boards of Education of the Canterbury and Rochester Dioceses of the Church of England and the

**Deleted:** <#>review or scrutinise decisions made or actions taken by the Leader, the Cabinet, a Cabinet Member, a Council Committee or an officer¶  
¶ <#>exercise the rights set out in the Procedure Rules to call-in and recommend for reconsideration any decisions made but not yet implemented by the Leader, the Cabinet, a Cabinet Member, a Council Committee or an officer¶  
¶ (c) make reports and recommendations to the Council, the Leader, the Cabinet, a Policy Overview Committee or any other Council Committee arising from the exercise of the preceding terms of reference.



Roman Catholic bishop whose diocese includes Kent (paragraph 7 of Schedule 1 to the 2000 Act), as well as persons elected as representatives of parent governors at schools maintained by the Council as the local education authority for Kent (paragraph 9 of Schedule 1 to the 2000 Act).

2.3 The Procedure Rules include provision (in Appendix 4 Part 8) regulating how the Cabinet Scrutiny and Policy Overview and Scrutiny Committees exercise these powers.

2.4 The work of the Policy Overview and Scrutiny Committees is co-ordinated by the Scrutiny Board.

2.5 Each Policy Overview and Scrutiny Committee has the power to:

(a) assist and advise the Council, the Leader, a Cabinet Member and the Cabinet in the development of the Policy Framework

(b) review the performance of the Council in relation to its policy objectives and performance targets

(c) require the Leader, Cabinet Members and officers to attend before it and answer questions

(d) review or scrutinise the performance of other public bodies in Kent, invite reports from them and request them to address the Committee about their activities and performance

(e) question and gather evidence from any person (with their consent)

(f) conduct research, community and other consultation about service performance, policy issues and possible options

(g) recommend to the Scrutiny Board the appointment of Select Committees (with the legal status of Sub-Committees) to conduct reviews with the same powers as the main Committee

(h) make reports and recommendations to the Council, the Leader, a Cabinet Member, the Cabinet or any other Council Committee or officer arising from the exercise of the preceding terms of reference or affecting Kent or its inhabitants within their allocated areas of responsibility.

### 3. Scrutiny Board

#### 10 Members

Conservative: 9; Liberal Democrat: 1.

This committee is made up of the Chairman of Cabinet Scrutiny Committee, the Chairmen of the Policy Overview and Scrutiny Committees, the Chairman of the Health Overview and Scrutiny Committee and such other Members as may be required to comply with the proportionality requirements of the Local Government and Housing Act 1989.

This committee has been appointed by the Council under section 21 of the Local Government Act 2000, either by itself or by allocation to one or more of the Policy Overview and Scrutiny Committees, to:

(a) review or scrutinise:

(i) decisions made or other action taken in connection with the discharge of any non-Executive functions

(ii) actions taken in connection with the discharge of any Executive functions by the Leader, the Cabinet or Cabinet Members (other than formal decisions)

(iii) officer decisions (whether exercising Executive or non-Executive functions)

(b) request, but not require, that implementation of a decision be postponed when considering any decision taken by an officer or by a Committee exercising functions delegated by the Council.

(c) co-ordinate the programme of Select Committee reviews during the year

(d) allocate Select Committee reviews to Policy Overview and Scrutiny Committees and decide the appointment, co-ordination, composition and chairing of Select Committees to conduct the reviews

(e) undertake policy development activity where this is of a cross-cutting nature, or allocate this power to the relevant Policy Overview and Scrutiny Committee

(f) consider and keep under review the overall mechanisms and functions of the Overview and Scrutiny process and to make recommendations to the Council as appropriate

(g) deploy Policy Overview and Scrutiny support staff and resources

#### 4. Children, Families & Education – Learning and Development Policy Overview and Scrutiny Committee

##### *12 Members*

*Conservative: 11; Liberal Democrat: 1; and (for relevant education items only): Churches: 3; Parent Governors: 2 (Teacher Advisor Representatives - non voting: 6).*

This committee considers the functions of the Council that are the responsibility of the Service Director, Learning and related matters affecting Kent or its residents.

#### 5. Children, Families & Education – Vulnerable Children and Partnerships Policy Overview and Scrutiny Committee

##### *13 Members*

*Conservative: 11; Liberal Democrat: 1; Labour: 1; and (for relevant education items only): Churches: 3; Parent Governors: 2 (Teacher Advisor Representatives - non voting: 6).*

This committee considers the functions of the Council that are the responsibility of the Service Directors for Vulnerable Children, Children & Young Peoples Health and Commissioning, Quality Assurance & Partnerships and related matters affecting Kent or its residents.

6. Children, Families & Education – Resources and Operations Policy Overview and Scrutiny Committee

12 Members

Conservative: 11; Liberal Democrat: 1; and (for relevant education items only): Churches: 3; Parent Governors: 2 (Teacher Advisor Representatives - non voting: 6).

This committee considers the functions of the Council that are the responsibility of the Service Directors for Resources, Planning & Projects and Capital Programmes & Infrastructure and related matters affecting Kent or its residents.

7. Adult Social Services Policy Overview and Scrutiny Committee

13 Members

Conservative: 11; Liberal Democrat: 1; Labour: 1.

This committee considers the functions of the Council that are the responsibility of the Managing Director of Adult Social Services and related matters affecting Kent or its residents.

8. Environment, Highways and Waste Policy Overview and Scrutiny Committee

12 Members

Conservative: 11; Liberal Democrat: 1.

This committee considers the functions of the Council that are the responsibility of the Executive Director of Environment, Highways and Waste and related matters affecting Kent or its residents.

9. Regeneration and Economic Development Policy Overview and Scrutiny Committee

12 Members

Conservative: 11; Liberal Democrat: 1.

This committee considers the functions of the Council that are the responsibility of the Executive Director Strategy, Economic Development & ICT in relation to regeneration, economic development and related matters affecting Kent or its residents.

10. Communities Policy Overview and Scrutiny Committee

12 Members

Conservative: 11; Liberal Democrat: 1.

This committee considers the functions of the Council that are the responsibility of the Managing Director of Communities and related matters affecting Kent or its residents.

It is also responsible for the scrutiny of authorities responsible for Crime and Disorder strategies in accordance with section 19 of the Police and Justice Act 2006 and the Protocol at Appendix 4 Part 5 Annex C.

Deleted: and

11. Corporate Services Policy Overview and Scrutiny Committee

12 Members

Conservative: 11; Liberal Democrat: 1.

This committee considers the functions of the Council managed by the Chief Executive (with the exception of regeneration and economic development) and related matters affecting Kent or its residents.

### 13. Health Overview and Scrutiny Committee

*12 Members*

*Conservative: 10; Liberal Democrat: 1; Labour: 1.*

This committee reviews and scrutinises matters relating to health and social care in Kent and exercises the powers conferred on the Council under the Health and Social Care Act 2001 and the Local Government and Public Involvement in Health Act 2007.

### 14. Select Committees

*8 Members*

*Conservative: 7; Liberal Democrat: 1.*

(a) These are time limited, task specific sub-committees of the Policy Overview [and Scrutiny](#) Committees, appointed to carry out reviews on behalf of the Policy Overview [and Scrutiny](#) Committees with the same powers as the main committee.

(b) The general scope of each Select Committee review is agreed by the [Scrutiny Board](#) when it is included in the work programme. The detailed terms of reference of each Select Committee Review are developed by a cross party Member group (one from each group), for approval by the Select Committee and endorsement by the parent Policy Overview [and Scrutiny](#) Committee.

(c) A register of all appointments of Select Committees is kept by the Monitoring Officer.

#### **Ordinary committees**

1. The Council has delegated the following powers and functions to its ordinary committees under section 102 of the Local Government Act 1972:

#### 2. Electoral and Boundary Review Committee

*8 Members*

*Conservative: 7; Liberal Democrat: 1.*

This Committee is responsible for dealing with all matters relating to elections, reviews of electoral and local government boundaries and the creation of parish councils.

#### 3. Flood Risk Management Committee

*7 Members*

*Conservative: 6; Liberal Democrat 1.*

This committee is responsible for:

(a) the preparation monitoring and review (in conjunction with the Flood Risk Management Officer) of a strategic action plan for flood risk management in Kent, taking into account KCC Select Committee recommendations, the Pitt Review and relevant requirements of the Flood and Water Bill (and Act in due course)

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1.10 Policy Overview Co-ordinating Committee¶

¶

10 Members¶

Conservative: 9; Liberal Democrat: 1. ¶

¶

This committee is made up of the Chairman of Cabinet Scrutiny Committee, the Chairmen of the nine Policy Overview Committees and the Chairman of the Health Overview and Scrutiny Committee, and such other Members as may be required to comply with the proportionality requirements of the Local Government and Housing Act 1989.¶

¶

This committee has been appointed by the Council under section 21 of the Local Government Act 2000 to co-ordinate:¶

¶

<#>the addition to or deletion from the programme of Select Committee reviews during the year¶

¶

<#>the allocation of Select Committee reviews to Policy Overview Committees and the appointment, co-ordination, composition and chairing of Select Committees to conduct the reviews¶

¶

<#>determination of any issue arising as to which committee should deal with a matter cutting across their terms of reference¶

¶

<#>the deployment of Overview and Scrutiny support staff and other resources.¶

¶

**Deleted:** Policy Overview Co-ordinating Committee

(b) reporting annually (and more often if necessary) to the Environment, Highways & Waste Policy Overview Committee and to the Cabinet Member for Environment, Highways and Waste

(c) reviewing and responding to any consultation on the implementation of the Pitt Review and the future development of the Flood and Water Management Bill (and associated Act)

(d) receiving reports from the South East Regional Flood Defence Committee and responding as appropriate

(e) the investigation of water resource management issues in Kent

4. Personnel Committee

Deleted: 3

8 Members

Conservative 7; Liberal Democrat: 1.

This committee is chaired by the Leader of the Council or his nominee and is responsible for:

(a) recommending to the Council a candidate for appointment as Chief Executive

(b) appointing Chief and Senior Officers on Grade M or above and determining their terms and conditions and those of the Chief Executive (including subsequent pay movement)

(c) designating individual officers as Monitoring Officer and Chief Finance Officer

(d) recommending to the Council the designation of individual officers as Returning Officer and statutory proper officers

(e) agreeing changes to grievance, disciplinary and incapability procedures for employees and advising the Leader and Cabinet on changes to the other terms and conditions of employees

(f) agreeing changes to the delegations to officers under the Personnel Management Rules

(g) through ad hoc Sub-Committees of Members (Panels), hearing and dealing with the final stage of unresolved grievances from Chief and Senior Officers and appeals by such officers against dismissal, transfer or downgrading.

5. Planning Applications Committee

Deleted: 4

18 Members

Conservative: 16; Liberal Democrat: 1; independent 1.

This committee is responsible for the determination of planning applications and related matters in relation to the control of development under the Town and Country Planning Act 1990 and related statutory instruments and may exercise any of the powers of the County Council in Part A of the schedule to Appendix 2 Part 3 of the Constitution.

17 Members

Conservative: 15; Liberal Democrat: 1; Independent 1.

This committee is responsible for the Council's functions in relation to the enforcement of the control of development under the Town and Country Planning Act 1990 and related statutory instruments and may exercise any of the powers of the County Council in Part A of the schedule to Appendix 2 Part 3 of the Constitution. The committee also considers:

- (a) appeals against refusal to approve premises for the solemnisation of marriages (or the attachment of a condition to such an approval)
- (b) the registration of common land or town or village greens or the variation of common rights where any party raises objection
- (c) the creation, stopping up, diversion of any footpath or bridleway or the reclassification of any public path where substantive objection has been raised or a political party or the local Member requests

*(The Council agreed on 20 September 2001 that functions (a)-(c) could be delegated to sub-committees)*

- (d) reports of Kent County Council's work with the Environment Agency

(e) appeals by pupils and parents against school-related decisions that are not considered by an external appeal committee, including transport, education awards and religious education. Such appeals to be dealt with by ad hoc sub-committees of Members (Panels) chaired by and including at least one member of the Regulation Committee. All Panel members must have received appropriate training before taking up their positions.

(f) The making, variation or revocation of Gating Orders under the Highways Act 1980 (Gating Orders) (England) Regulations 2006.

*(The Council agreed on 19 June 2008 that function (f) could be delegated to sub-committees)*

9 Members

Conservative: 7; Liberal Democrat: 1; Labour: 1.

This committee is responsible for:

- (a) developing the role of Members, particularly within their local community
- (b) keeping the Constitution under review and making recommendations to Council on any changes that may be required
- (c) keeping the committee structure under review and making recommendations to Council as and when necessary on the number, names, terms of reference, size and political proportionality of committees

(d) making recommendations to Council as and when necessary on the political proportionality of the Council's representation on other authorities, joint committees and partnership bodies

(e) the appointment or removal of LEA governors to school governing bodies (*the Council agreed on 20 September 2001 that this function could be delegated to a sub-committee – the Governor Appointments Panel*)

(f) the appointment or removal of LEA nominees to Management Committees of Pupil Referral Units (*the Committee agreed on 4 July 2008 that this function could be delegated to a sub-committee – the Governor Appointments Panel*)

(g) for making or arranging the following appointments and nominations:

- (i) Parent Governor Members of Council committees
- (ii) non-Council representatives on the Kent School Organisation Committee
- (iii) independent appeal panels (school admissions and exclusions)
- (iv) independent members of Social Services Complaints Review Panels
- (v) the selection panel for independent Members of the Standards Committee and the Member Remuneration Panel
- (vi) any other non-Council Members on Council Committees
- (vii) members of appeal panels in the event of disciplinary action against the Chief Executive, Chief Finance Officer, Monitoring Officer or other Senior Managers

(h) making appointments and nominations on behalf of the Council to serve on outside bodies (except those needing to be made by the Leader in connection with a delegation by him of his functions, the list of those appointments to be agreed between the Leader and the Committee from time to time)

(i) monitoring expenditure on Members allowances, expenses and services

(j) overseeing all Member accommodation, facilities and support services, including conferences, training, secretarial and other officer support, and making recommendations to the relevant Cabinet Member, as appropriate

(k) agreeing arrangements for Member attendance at conferences

## 8. Superannuation Fund Committee

Deleted: 7

*11 Members*

*Conservative: 7; Liberal Democrat: 1; District/Borough Members (1 Con, 1 Lab, 1 LibDem - voting): 3; others (non-voting): 5.*

The Chairman is elected by Members of the County Council only.

This Committee discharges the functions of the Council in relation to the control and investment of the Superannuation Fund.

## **Corporate Governance Committees**

### **1. Governance & Audit Committee**

*13 Members*

*Conservative: 12; Liberal Democrat: 1.*

The Council appoints the Governance & Audit Committee from amongst the non-executive Members to ensure the financial affairs of the Council are properly and efficiently conducted. This committee has responsibility for:

(a) monitoring the Council's compliance with its own published standards and controls and with other standards, and considering any proposals for changes to Financial Regulations and the Code of Practice on Contracts and Tenders

(b) liaising with the Audit Commission over the appointment of the Council's external auditor

(c) discussing with the external auditor and Cabinet the basis of the annual audit, including the overall level and composition of the fee and the content of performance work

(d) receiving all reports by the external auditor including all performance reports and the Annual Management Letter

(e) overseeing the Internal Audit activity of the Council

(f) considering and responding to reports from the external auditor and Audit Commission

(g) monitoring the response of the Cabinet and Council Committees to audit reviews and investigations and the implementation of agreed recommendations

(h) overseeing the operation of the Council's complaints procedures, including the response of the Cabinet or a Council Committee to any report by the Local Government Ombudsman

(i) approving the annual accounts on behalf of the Council

(j) approving the writing-off of debts from the Council's accounts (except those agreed by the Director of Finance as provided for in the Financial Regulations)

(k) monitoring the operation of borrowing and investment policies and Treasury Management activity

(l) agreeing the risk management policy with the Cabinet, reviewing the effectiveness of risk management and monitoring insurance arrangements

(m) keeping under review the Council's arrangements for corporate governance and agreeing from time to time necessary actions to ensure compliance with best practice

### **2. Standards Committee**

*6 Members*

*Conservative: 1; Labour: 1; Liberal Democrat: 1; independent: 3.*



The Chairman is appointed by the Council from among the independent Members. This committee has responsibility for:

- (a) promoting and maintaining high standards of conduct by Members, (including any co-opted Members and church and parent governor education representatives)
- (b) assisting Members through advice and training to observe the Members' Code of Conduct set out in Appendix 6 to the Constitution
- (c) monitoring the operation of the Members' Code of Conduct and advising the Council on its operation and revision
- (d) granting dispensations to Members from requirements relating to interests set out in the Members' Code of Conduct
- (e) seeking to resolve any concerns about a Member's conduct by mutual agreement to reduce the need for a complaint to be referred to the Standards Committee
- (f) Receiving complaints that a Member is alleged to have breached the Code of Conduct and deciding whether the matter merits investigation; taking appropriate action as defined in the Standards Committee (England) Regulations 2008; and reviewing decisions to take no action on a particular complaint if so requested by the complainant
- (g) dealing with any reports from a case tribunal or interim case tribunal of the Standards Board, and any report on a matter which is referred by an Ethical Standards Officer to the Monitoring Officer
- (h) censuring, suspending or partially suspending a Member or former Member in accordance with the provisions of the Local Government Act 2000.

Independent Members of the Standards Committee are recommended to the Council for appointment by a panel of three people (not Members of the Council) appointed by the Selection & Member Services Committee.

The Procedure Rules applying to Committee meetings also apply to meetings of the Standards Committee.

### 3. Member Remuneration Panel

*3 independent members.*

Independent Members of the Remuneration Panel are recommended to the Council for appointment by a panel of three people (not Members of the Council) appointed by the Selection & Member Services Committee.

It has responsibility for making recommendations to the Council on a scheme of allowances and expenses for Council Members and for reviewing that scheme in whole or in part as required by law or requested by the Selection & Member Services Committee.

The Panel is not a Committee of the Council. No Member of the Council has a right to attend its meetings and its procedures are determined by the Panel itself.

## **Appendix 2 Part 3: Functions delegated by the Council to Officers**

1.1 The Council has delegated the exercise of its functions set out in the Schedule to this part of Appendix 2 to the Chief Executive and Senior Managers.

1.2 Any action by the Chief Executive or Senior Managers under this delegation shall be in accordance with:

- (a) the overall policies approved by the Council or its Committees
- (b) an approved budget
- (c) the Resource Management Responsibilities Statement set out in Appendix 5 and associated Resource Management Rules.

1.3 The Chief Executive and Senior Managers, when exercising these delegated powers, must maintain a close liaison with the appropriate Committee or Sub-Committee Chairman and refer any proposed action to the relevant Committee or Sub-Committee if so required by the relevant Chairman.

1.4 The Chief Executive and Senior Managers may, in turn, delegate their powers to more junior officers, but must ensure that such delegations are documented to the satisfaction of the Monitoring Officer and are regularly reviewed.

1.5 Officers are also authorised to act on behalf of the Council by specific provisions within the Procedure Rules set out in Appendix 4, the Resource Management Responsibilities Statement set out in Appendix 5 and associated Resource Management Rules, including Financial Regulations.

1.6 Any manager may exercise any power delegated to an officer for whom they have supervisory responsibility.

1.7 The Chief Executive and Senior Managers (or an officer authorised by them) may take action on urgent matters which would otherwise require reference to, or consultation with, the Council or a Committee if there is no time for such reference or consultation to be made; appropriate Committee Chairmen should be consulted if time permits. All such decisions should be reported to the next meeting of the Council or Committee.

1.8 Involvement of Local Members:

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

(2) All reports to the Council or a Committee shall include the views of local Members.

(3) If a Local Member objects to a proposed decision by an officer, the relevant Council or Committee Chairman shall be consulted and the matter normally referred to the Council or Committee.

### **Schedule of Council Functions**

*These functions are the responsibility of the Council and not of the Leader*

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>
<b>A. Functions relating to town and country planning and development control</b>	
1. Power to determine application for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990.
2. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
3. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.
4. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.
5. Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder.
6. Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492).
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).
8. Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
9. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.
10. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
11. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.
12. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
13. Power to serve a planning contravention notice, breach of condition notice, temporary notice or stop notice.	Sections 171C, 171E, 187A and 183(1) of the Town and Country Planning Act 1990.
14. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.
15. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT
16. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of Schedule 14 to that Act.
17. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
18. The obtaining of information as to interests in land.	Section 330 of the Town and Country Planning Act 1990
<b>B. Regulatory Services Functions</b>	
1. Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3, 5, 6 and 11 of the Poisons Act 1972.
2. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925.
3. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933, bylaws made under that Part, and Part II of the Children and Young Persons Act 1963.
4. Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510).
5. Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957.
6. Powers to license the movement, sale and collection of pigs.	Articles 12, 13 and 14 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).
7. Power to license the movement of cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).
8. Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematographic Film Act 1922.
<b>C. Functions Relating to Highways</b>	
1. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991.
2. Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980.
3. Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.
4. Power to license works in relation to buildings etc. that obstruct the highway.	Section 169 of the Highways Act 1980.
5. Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.
6. Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>
7. Power to restrict the placing of rails, beams etc over highways.	Section 178 of the Highways Act 1980.
8. Power to consent to construction of cellars etc under street.	Section 179 of the Highways Act 1980.
9. Power to consent to the making of openings into cellars etc under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980.
10. Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.
11. Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.
12. The making of agreements for the execution of highways works.	Section 278 of the Highways Act 1980
<b>D. Functions relating to Public Paths</b>	
1. Power to create footpath or bridleway by agreement.	Section 25 of the Highways Act 1980.
2. Power to create footpaths and bridleways.	Section 26 of the Highways Act 1980.
3. Duty to deep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980.
4. Power to stop up footpaths and bridleways.	Section 118 of the Highways Act 1980.
5. Power to determine application for public path extinguishment order.	Section 118ZA and 118C(2) of the Highways Act 1980.
6. Power to make a rail crossing extinguishment order.	Section 118A of the Highways Act 1980.
7. Power to make a special extinguishment order.	Section 118B of the Highways Act 1980.
8. Power to divert footpaths and bridleways.	Section 119 of the Highways Act 1980.
9. Power to make a public path diversion order.	Section 119Z and 119C(4) of the Highways Act 1980.
10. Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980.
11. Power to make a special diversion order.	Section 119B of the Highways Act 1980.
12. Power to require applicant for order to enter into agreement.	Section 119C(3) of the Highways Act 1980.
13. Power to make an SSSI diversion order.	Section 119D of the Highways Act 1980.
14. Duty to keep register with respect of applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980.
15. Power to decline to determine certain applications.	Section 121C of the Highways Act 1980.
16. Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>
17. Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980.
18. Power to apply for variation of order under section 130B of the Highways Act 1980.	Section 130B(7) of the Highways Act 1980.
19. Power to authorise temporary disturbance of surface of footpath or bridleway.	Section 135 of the Highways Act 1980.
20. Power temporarily to divert footpath or bridleway.	Section 135A of the Highways Act 1980.
21. Functions relating to the making good of damage and the removal of obstructions.	Section 135B of the Highways Act 1980.
22. Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.
23. Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981.
24. Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981.
25. Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981.
26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981.
27. Duty to reclassify roads used as public paths.	Section 54 of the Wildlife and Countryside Act 1981.
28. Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.
29. Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984.
30. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981.
31. Power to authorise stopping-up or diversion of footpath or bridleway.	Section 257 of the Town and Country Planning Act 1990.
32. Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.
33. Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000.
34. Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.
<b>E. Functions Relating to Elections</b>	
1. Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.
2. Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.

<b>FUNCTION</b>	<b>PROVISION OF ACT OR STATUTORY INSTRUMENT</b>
3. Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.
4. Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.
5. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
6. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
7. Power to determine fees and conditions for supply of copies of, or extracts from, election documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215).
8. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000.
<b>F. Functions relating to name and status of areas and individuals</b>	
1. Power to change the name of the county.	Section 74 of the Local Government Act 1972.
2. Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
<b>G. Other Functions</b>	
1. Power to make, amend, revoke or re-enact bylaws	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978.
2. Power to promote or oppose local or personal Bills	Section 239 of the Local Government Act 1972.
3. Functions relating to local government pensions, etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972.
4. Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).	The Accounts and Audit Regulations 1996 (S.I. 1996/590).
5. Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966.
6. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972.
7. Power to appoint staff or place them at the disposal of other authorities.	Sections 112 and 113 of the Local Government Act 1972.
8. Duty to appoint officers as Head of Paid Service, Monitoring Officer, as responsible for administration of financial affairs and provide staff for them	Sections 151 of the Local Government Act 1972, 4(1) and 5(1) of the Local Government and Housing Act 1989.

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT
9. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.
10. Power to make payments or provide other benefits in cases of maladministration, etc.	Section 92 of the Local Government Act 2000.
11. The making of arrangements for appeals against exclusion of pupils.	Section 67(1) and Schedule 18 of the Schools Standards and Framework Act 1998.
12. The making of arrangements for admission appeals.	Section 94(1) and (4) and Schedule 24 of the Schools Standards and Framework Act 1998.
13. The making of arrangements for children to whom section 87 applies: appeals by governing bodies.	Section 95(2) and Schedule 25 of the Schools Standards and Framework Act 1998.
14. The making of arrangements for enabling questions to be put on the discharge of the functions of a police authority.	Section 20 (questions on police matters at council meetings) of the Police Act 1996.
15. The making of appointments of Members to police authorities.	Paragraphs 2 to 4 of Schedule 2 to the Police Act 1996.
16. The obtaining of particulars of persons interested in land.	Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

Deleted: 16. The conducting of best value reviews. ... [6]

And:

1. Any function under a local Act.
2. The determination of an appeal against any decision made by or on behalf of the authority.
3. The discharge of any function relating to the control of pollution or the management of air quality.
4. The appointment (and the revocation of any such appointment) of an individual:
  - (a) to any office other than an office in which he is employed by the authority
  - (b) to any body other than:
    - (i) the authority
    - (ii) a joint committee of two or more authorities
  - (c) to any committee or sub-committee of such a body

except those needing to be made by the Leader in connection with the delegation by him of his functions, the list of those appointments to be agreed from time to time by the Selection & Member Services Committee.
5. The appointment of proper officers
6. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.



## Appendix 2 Part 4: Leader and Cabinet

*This Part of the Appendix records the arrangements made by the Leader for the allocation of responsibilities and the discharge of executive functions by himself, Cabinet Members and officers. Wherever arrangements are not specifically made for the discharge of executive functions by Cabinet Members or officers, those functions remain with the Leader. The Leader may make new arrangements for the discharge of executive functions by Cabinet Members or officers at any time on either a temporary or permanent basis, in accordance with the Procedure Rules set out in Part 6 of Appendix 4.*

### Leader

1. The Leader must be a Member of the Council elected to the position of Leader by the full Council at the beginning of each four year term. The Leader holds office until the next election of all Members of the Council unless s/he:

(1) resigns from the office

(2) is suspended from being a Member under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension)

(3) ceases to be a Member

(4) is removed from office by resolution of the Council in accordance with the Procedure Rules set out in Appendix 4.

### **Appointment of Members to the Cabinet**

3. The Cabinet consists of the Leader of the Council together with at least two, but not more than nine, other Members appointed by the Leader.

**Deleted:** The Cabinet comprises the Leader and nine other Members

4. Other Cabinet Members hold office until the next election of all Members of the Council unless they:

(1) resign from office

(2) are suspended from being Members under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)

(3) cease to be Members

(4) are removed from office by the Leader or by the Council in accordance with the Procedure Rules set out in Appendix 4.

5. Cabinet Members have the responsibilities indicated below:

**Deleted:** who

Portfolio	Responsibilities	Cabinet Member	Deputy Cabinet Members
Leader	Business Solutions and Policy ( <i>shared with Cabinet Member for Corporate Support Services &amp; Performance Management</i> ), South East Centre of Excellence	Paul Carter	
Deputy Leader, Localism & Partnerships	Localism, Democratic Services, Partnership working (LSPs, etc), International, Public Service Board, Kent Partnership, Vision for Kent, District relationships	Alex King	Andrew Bowles  Alan Marsh ( <i>International only</i> )
Corporate Support Services & Performance Management	ISG, Commercial Services, Property, Personnel, Procurement, Performance Management, Communications & Media, Corporate Policy, Strategic Development Unit (including Gateways, Contact Centre), Legal Services, Audit	Roger Gough	Bryan Sweetland  Michael Northey
Finance	Revenue and Capital budgets, Financial control, Section 151, External funding, Capital/Revenue Income generation	John Simmonds	Susan Carey
Adult Social Services	Older people, Physical disability, Learning disability, In house provision, Supporting People (tbc), TeleHealth, Occupational therapy, Contracting, Gypsies and travellers, Safeguarding over-19s	Graham Gibbens	Mike Angell ( <i>Older People's Champion</i> )
Environment, Highways & Waste	Waste, Planning, Highways, Local Transport Plan, Environment	Nick Chard	David Brazier
Regeneration & Economic Development	Regeneration, Economic Development, Backing Kent Business, Backing Kent People, Rural development, tourism, Locate in Kent, Produced in Kent, Visit Kent, Kent Film Office	Kevin Lynes	Andrew Wickham  Julie Rook
Children Families and Education	<b>Learning:</b> Advisory Service & Curriculum Development, Governance and School Support, Early Years and Childcare, Extended Schools, 14-24 Strategy, Progression and Skills, Education linked to economic regeneration, Education linked to Community Services <b>Vulnerable children, CYP Health and Quality Assurance Partnerships:</b> Children and Families Social Care, Special and additional needs, Corporate Parenting and Looked-After-Children, Social Care's Preventative	Sarah Hohler	Jenny Whittle ( <i>Learning</i> )  Leyland Ridings ( <i>Vulnerable Children, CYP Health and Quality Assurance Partnerships</i> )

	Strategy, Transition Planning in Partnership with KASS, Senior Health Commissioning, Locality Health Commissioning, CAMHS, Teenage Pregnancy, Disabled Children's Services, Children's Trust Partnerships, Safeguarding, Performance Monitoring and Quality Assurance, Policy Development and Service Review, Kent Safeguarding Children Board <b>Resources, Planning and Projects and Capital Programmes and Infrastructure:</b> Financial Planning and Monitoring, HR and Workforce Development, Business Planning and Projects, Communications and Democratic Support, BSF and Capital Programmes, ICT, Admissions and Transport, Client Services		Gary Cooke <i>(Resources, Planning &amp; Projects and Capital Programme &amp; Infrastructure)</i>
Community Services	Libraries, Archives, Sport & Olympics, Adult learning, Cultural Development, Arts, Turner, KDAAT, YOS, Community Safety, Youth Services, Kent Volunteers, Registration & Coroners, Emergency Planning, Kent Scientific Services, Trading Standards, Supporting Independence	Mike Hill	Avtar Sandhu
Public Health & Innovation	Public Health	Alan Marsh	

6. (1) The Leader determines which individual Members of the Cabinet, committees of the Cabinet, officers or joint or other bodies are responsible for the exercise of particular executive functions. In particular, the Leader, may:

- (a) allocate areas of responsibility to those Members
- (b) arrange for the discharge of executive functions by himself, the Cabinet collectively, committees of the Cabinet, individual Cabinet Members or the Chief Executive and Senior Managers

(2) All the Leader's decisions under paragraph 6.(1) take effect only when they have been notified to all Members through the Monitoring Officer. Any subsequent changes must similarly be notified to all Members before any decision under those changed arrangements can be made.

(3) Cabinet Members can be removed from office by the Leader by written notice to the Member concerned and the Monitoring Officer. The Council may remove a Member from the Cabinet if so recommended by the Standards Committee.

(4) The Leader determines and publishes through the Monitoring Officer the Procedure Rules for Cabinet meetings. These rules shall include provision requiring a Cabinet Member with an interest in a matter with which he is dealing to declare that interest and ask the Leader to assign its determination or consideration to another Cabinet Member.

**Deleted:** The Leader appoints at least two but not more than nine other Members of the Council to join him in the Cabinet and

**Deleted:** (c) appoint non-executive Members to advise, assist or represent a Cabinet Member. Such Deputies may not discharge any function given to the Cabinet Member nor vote at a Cabinet meeting.¶

**Deleted:** this Procedure Rule

### ***Appointment of the Deputy Leader***

7. (1) The Leader shall appoint one of the Cabinet Members to act as Deputy Leader.

(2) Subject to (3) below, the Deputy Leader, unless he resigns as Deputy Leader or ceases to be a Member of the Council, holds office until the end of the term of office of the Leader.

(3) The Leader may, if he thinks fit, remove the Deputy Leader from office.

(4) Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in his place.

(5) If, for any reason, the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his place.

(6) If, for any reason:

(a) the Leader is unable to act or the office of Leader is vacant and

(b) the Deputy Leader is unable to act or the office of Deputy Leader is vacant

then the Cabinet must act in the Leader's place or must arrange for a Cabinet Member to act in his place.

### ***Delegation of functions to Cabinet Members***

8. The Cabinet may collectively take a decision on any matter included on a Cabinet meeting agenda, in accordance with Cabinet Procedure Rules (Appendix 4 Part 6).

9. The Leader may direct, in relation to any proposed decisions to be taken by the Cabinet or the Cabinet Member, that he be consulted on those decisions.

10. In taking decisions, Cabinet Members must comply with the principles of decision making in Article 12, the Procedure Rules set out in Appendix 4, the Resource Management Responsibilities Statement set out in Appendix 5 and associated Resource Management Rules, including Financial Regulations.

11. Each Cabinet Member is responsible, within their allocated responsibility area, for taking key decisions (as defined in Appendix 4 Part 7).

12. Each Cabinet Member is also responsible, within their allocated responsibility area, for taking decisions which are otherwise delegated to officers but which are:

(a) not in accordance with the Policy Framework or Budget agreed by the Council or management and business plans within their portfolio

(b) withdrawn from the delegation to Senior Managers.

### ***Deputy Cabinet Members***

13. Cabinet Members may, with the consent of the Leader, appoint other Members of the Council to act as their 'Deputy Cabinet Members' for such purposes as the

Leader and the Cabinet Member may agree; a Deputy Cabinet Member may not take decisions on behalf of the Cabinet Member nor vote at a Cabinet meeting.

14. Deputy Cabinet Members have the following responsibilities:

- (a) leading on the development of policy proposals, as directed
- (b) substituting at appropriate internal meetings, including Cabinet and Scrutiny
- (c) advising on decisions to be taken by the Cabinet Member
- (d) representing the Council and Cabinet Member at external meetings
- (e) chairing relevant Advisory Boards, as appropriate
- (f) handling media interviews and enquiries on behalf of the Cabinet Member in his absence

### ***Functions delegated to Officers***

15. The delivery of management and business plans, as agreed by Cabinet Members, is delegated to the relevant Senior Manager(s).

16. Any action under these delegations shall be in accordance with:

- (a) policies approved by the Council, the Leader, Cabinet or a Cabinet Member
- (b) the approved budget and approved management and business plans
- (c) the Council's Financial Regulations and other Resource Management Rules.

17. When exercising delegated powers, officers must maintain a close liaison with the relevant Cabinet Member and refer any proposed action to the Leader, Cabinet Member, or the Cabinet if so required by the Leader or the relevant Cabinet Member.

18. Officers may, in turn, delegate their powers to more junior officers (unless otherwise directed by the Leader or relevant Cabinet Member), but must ensure that such delegations are documented to the satisfaction of the Monitoring Officer and are regularly reviewed.

19. Any manager may exercise any power delegated to an officer for whom they have supervisory responsibility.

20. Officers may take action on urgent matters that would otherwise require reference to, or consultation with, the Leader, Cabinet or Cabinet Member if there is no time for such reference or consultation to be made.

21. Officers shall refer to the Leader, Cabinet or relevant Cabinet Member any decision:

- (a) to compulsorily acquire land
- (b) to carry out major highway creation or improvement works
- (c) to refuse consent to any proposed action by a District Council under the Highways or Road Traffic Regulation Acts

**Deleted:** ¶  
9. Each Cabinet Member is responsible, within their allocated responsibility area, for taking key decisions (as defined in Appendix 4 Part 7). ¶  
¶  
10. Each Cabinet Member is also responsible, within their allocated responsibility area, for taking decisions which are otherwise delegated to officers but which are: ¶  
¶  
(a) not in accord with the Policy Framework or Budget agreed by the Council or management and business plans within their portfolio ¶  
¶  
(b) withdrawn from the delegation to Senior Managers. ¶

(d) to respond to planning consultations by district councils, government departments or statutory undertakers where objection or adverse comment is proposed to be made

(e) to suspend local management from any school

(f) to issue a public notice for any significant change to a school in terms of number of pupils, age range, type or status of school, closure or merger, or creation of a new school

(g) which they otherwise consider should be determined by Members.

### ***Involvement of Local Members***

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

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

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

## **Appendix 2 Part 5: Partnership Committees and Bodies and Joint Arrangements**

### **Joint arrangements and Committees**

1. The Council may establish joint arrangements with one or more local authorities and/or their executives to either exercise functions that are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of Joint Committees with those other local authorities.

2. The Leader may establish joint arrangements with one or more local authorities and/or their executives to exercise functions that are executive functions. Such arrangements may involve the appointment of Joint Committees with those other local authorities.

### **Form, composition and function of Joint Committees**

1. Except as set out below, the Leader may only appoint Cabinet Members to Joint Committees and such appointments need not reflect the political composition of the Council as a whole.

2. In the circumstances set out below:

(a) the Leader may appoint non-executive Members to a Joint Committee

(b) the Council may disregard the requirement for such appointments to be proportionate to political group numbers.

3. The circumstances are:

(a) the Joint Committee has functions relating to a part of the area of the Council that is smaller than two-fifths of the Council by area or population,  
or

(b) the Joint Committee is with a single district council and relates to executive functions of the County Council.

In both of these cases the political balance requirements in the Local Government and Housing Act 1989 do not apply and any Member for an electoral division which is wholly or partly contained within the area may be appointed.

4. A Cabinet Member may serve on such a Joint Committee if otherwise eligible to do so as a Member of the Council

### **Procedure Rules**

Joint Committees will follow Procedure Rules set out in the resolution appointing them.

### **Partnership**

The Leader may enter into partnership agreements with other persons and organisations, subject to the consent of the Council if the agreement involves the transfer or delegation of any discretionary decision making.

## [Contracting out](#)

[The Leader may contract out to other persons or organisations functions that 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, subject to the consent of the Council if the contract involves the transfer or delegation of the Council's discretionary decision making.](#)

## [Records](#)

The Monitoring Officer is responsible for maintaining a comprehensive summary of [partnership committees, bodies and joint arrangements](#), together with their terms of reference, membership and records.

Current arrangements include:

- [County Strategy Group \(Crime and Disorder Reduction Partnership\)](#)
- Early Years and Childcare Development Partnership
- East Kent Joint Arrangements Committee
- East Kent Joint Scrutiny Committee
- Joint Transportation Boards
- [Joint Health Overview and Scrutiny Committee with Medway Council](#)
- Kent and Essex Sea Fisheries Committee
- Kent and Medway Joint Police Authority Appointments Committee
- Kent Partnership
- Kent School Organisation Committee
- [Pilot arrangements for local engagement](#)
- Public Service Board
- Standing Advisory Committee on Religious Education
- Sussex Sea Fisheries Committee

**Deleted:** <#>Kent and Medway Joint Structure Plan Advisory Committee¶



## Appendix 2 Part 6: Personnel Management Rules

### ***Staff Terms and Conditions***

1. The Council, on the recommendation of the Leader, determines changes to staff terms and conditions (other than those imposed by national agreements).

### ***Chief and Senior Officers***

2. In these rules “Senior Manager” means Chief and Senior Officers on Grade M or above.

3. The quorum of the Personnel Committee, or any sub-committee of that Committee, when considering any appointment or disciplinary action under rules 4-16, below, must include a member of the Cabinet as a voting member.

### ***Appointment of Chief and Senior Officers***

4. Rules 4-9 apply to the appointment of the Chief Executive and Senior Managers.

5. For all such appointments the Director of Personnel & Development or his nominee shall:

- (a) draw up a statement specifying:
  - (i) the duties of the post; and
  - (ii) any qualifications or qualities required;
- (b) make suitable arrangements for the post to be externally advertised to bring it to the attention of suitably qualified persons (unless applicants are to be sought only from among the Council’s existing staff); and
- (c) make arrangements for the statement in paragraph (a) above to be sent to any person on request.

6. In all cases either all qualified applicants or a selected short-list will be interviewed as set out in the table below:

<b>Post</b>	<b>Appointing Body</b>	<b>Adviser</b>
Chief Executive	Personnel Committee to interview and report to Council with recommendation	As determined by the Committee
Senior Manager	Personnel Committee or Member Panel (Sub-Committee)	Chief Executive and/or Senior Manager

The Personnel Committee may vary these arrangements, except those relating to the Chief Executive.

7. Where no suitably qualified person has applied, the post shall be re-advertised.

8. When a Senior Manager ceases to hold that post or is likely to be absent for any length of time, the Chief Executive, after consultation with the political group

leaders, may appoint someone to act temporarily in that capacity and determine the salary to be paid. The temporary appointment shall not extend beyond six months without the approval of the Personnel Committee.

9. No offer of an appointment as Chief Executive or Senior Manager may be made until:

(1) the Monitoring Officer has recorded the name of the person to be offered the appointment and any other particulars the Committee (or other appointing body or person) considers relevant to the appointment

(2) that information has been sent by the Monitoring Officer to the Leader and all members of the Cabinet with a date and time by which any objection to the making of the offer can be made by the Leader

(3) the Monitoring Officer has confirmed that the date and time for objection by the Leader has elapsed and either:

(i) in the case of the Chief Executive, the Council has confirmed the appointment after consideration of any such objection and resolving that it is not material or not well-founded; or

(ii) in all other cases, no such objection has been made or the appointing body has considered any such objection and has resolved or decided that the objection is not material or not well-founded.

10. The Chairman of the Standards Committee shall be consulted before a new or existing officer is appointed or designated as Monitoring Officer; and his views shall be presented to the Personnel Committee.

***Disciplinary Action***

11. Disciplinary action or suspension during investigation of allegations of misconduct in relation to the Chief Executive and Senior Managers may only be taken as provided in the table below:

	<b>Suspension</b>	<b>Investigation</b>	<b>Disciplinary Action/ Dismissal/Appeal</b>
<b>Chief Executive (Head of Paid Service)</b>	Personnel Committee on advice from the Director of Personnel & Development and Monitoring Officer <i>or</i> the Director of Personnel & Development, if Committee cannot be convened	Designated independent person appointed by Personnel Committee  Report to Personnel Committee or Council	Council

	<b>Suspension</b>	<b>Investigation</b>	<b>Disciplinary Action/Dismissal/Appeal</b>
<b>Chief Finance Officer and Monitoring Officer</b>	Personnel Committee on advice from the Chief Executive <i>or</i> Chief Executive, if Committee cannot be convened	Designated independent person appointed by Personnel Committee  Report to Personnel Committee	Personnel Committee  Appeal to a panel of Members appointed by the Selection & Member Services Committee
<b>Other Senior Managers</b>	Personnel Committee on advice from the Chief Executive <i>or</i> Chief Executive, if Committee cannot be convened	Other officer or independent person appointed by the Personnel Committee or Chief Executive  Report to Personnel Committee or Chief Executive	Personnel Committee or Chief Executive  Appeal to a panel of Members appointed by the Selection & Member Services Committee

12. No disciplinary action, other than suspension as provided for above, may be taken in respect of the Head of Paid Service, Chief Finance Officer or Monitoring Officer other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.

13. All suspended officers shall be on full pay during the investigation of the alleged misconduct, which must be completed no later than two months after the suspension takes effect (subject to any direction by the designated independent person in the case of the Head of Paid Service, Chief Finance Officer or Monitoring Officer).

14. The Chairman of the Standards Committee shall be consulted after any investigation of an allegation of misconduct by the Monitoring Officer; and his advice shall be presented to the Personnel Committee.

### ***Dismissal of a Chief or Senior Officer***

15. No decision to dismiss a Chief Executive or Senior Manager shall take effect until:

(1) the Monitoring Officer has recorded the name of the person to be dismissed and any other particulars the Personnel Committee (or other responsible body or person) considers relevant to the dismissal

(2) that information has been sent by the Monitoring Officer to the Leader and all members of the Cabinet with a date and time by which any objection to the dismissal can be made by the Leader

(3) the Monitoring Officer has confirmed that the date and time for objection by the Leader has elapsed and either the Council (in the case of the Head of Paid Service) or the responsible body (in all other cases) has considered any such objection and has resolved or decided that the objection is not material or not well-founded.

### *Appeals*

16. Any appeal must be lodged with the Monitoring Officer within 10 working days of written confirmation to the officer of the disciplinary action and must include a written statement of the grounds on which the appeal is made.

17. Subject to these rules, all disciplinary procedures, including hearings and appeals, shall be conducted as far as possible in accordance with the provisions of the Kent Scheme of Conditions of Service.

18. Appeal hearings shall not include Members involved in the decision to take disciplinary action.

### **Other Officers**

19. Members may not take part in the appointment of any other officers (except assistants for political groups) nor in any disciplinary or dismissal action, except as provided for above or as a member of an appeal panel.

### *Delegations to Officers*

20. (1) Officers at the level stated and above are empowered to take the decisions about staff set out in the table below.

(2) Managers are also authorised to make other day to day operational decisions on the management of their staff in accordance with the relevant procedures and conditions of employment. A list of these authorisations is held by the Director of Personnel & Development, and may be altered by the Chief Executive.

<b>Topic</b>	<b>Decision</b>	<b>Minimum Level of Decision</b>
Recruitment and Appointment	Agree the recruitment and appointment of staff graded on Kent Scale 10 and above who are not covered by either the Personnel Committee or the County Council.	Head of Service/Support Unit
Assistance with Employee Relocation Costs	Application of the internal relocation scheme.	Head of Service/Support Unit
	Application of the enhanced relocation management scheme.	Director of Personnel & Development
	Updating of the relocation allowances.	Director of Personnel & Development
Application of Mortgage and Rent Subsidy Schemes	Application of Mortgage Subsidy and Rent Subsidy Schemes.	Head of Service/Support Unit

<b>Topic</b>	<b>Decision</b>	<b>Minimum Level of Decision</b>
Acting-up Arrangements	Agree acting up arrangement and determine appropriate payment where an employee is required to undertake the duties of a higher graded post on a temporary basis.	Head of Service/Support Unit to agree and review annually or earlier should the need arise
Extending service beyond the age of 65 years, and the employment of pensioners	Approval to extend the service of an employee beyond the normal retirement age of 65 and the employment of pensioners, subject the guidelines set out in the Procedures and Conditions of Employment manual, the LGPS regulations and insurance provisions.	Senior Manager
Termination of Employment	Termination of employment on redundancy, early retirement, incapability and disciplinary grounds in accordance with KCC's Employment Stability and Early Retirement Policies, and the Incapability and Disciplinary Procedures.	Decisions on redundancies and early retirements for Senior Managers to be taken by Chief Executive following consultation with the political group leaders and the Chief Finance Officer  All other redundancies and early retirements (other than ill health) to be jointly agreed by the Director of Personnel & Development and Senior Manager. Plus details of all early retirements to be published on a six monthly basis for Members  All other terminations of employment to be agreed by Senior Manager
Use of Ex-Employees as Consultants	Approval to use ex-employees as consultants on a "contract for service" basis with reference to the Code of Practice on Tendering and Contracts.	Senior Manager
Withholding of Redundancy Payment	Agreement to the withholding of a redundancy payment to an employee who unreasonably refuses suitable alternative employment.	Jointly agreed by Senior Manager and Director of Personnel & Development

<b>Topic</b>	<b>Decision</b>	<b>Minimum Level of Decision</b>
Early Retirements on Efficiency, Redundancy and Voluntary Grounds	<p>Awarding of augmented service for early retirement under the LGPS Regulations 1997 in accordance with KCC's Early Retirement Policy.</p> <p>In wholly exceptional circumstances, varying KCC's Early Retirement Policy in respect of awarding augmented service within the LGPS regulations.</p> <p>Waiving of an actuarial reduction for voluntary early retirements agreed on compassionate grounds where the 85-year rule is not met.</p>	Jointly agreed by Senior Manager, Director of Personnel & Development and the Pensions Manager, following consultation with the relevant Cabinet Member and Chief Finance Officer
Payment of Gratuities	Agree to the payment of a gratuity on the retirement of an employee who has a minimum of 5 years continuous service and who was not eligible to join the Pension Scheme for part of that service.	Senior Manager
Employer Discretions under the Local Government Pension Scheme Regulations 1997	Exercise of employer discretions under the Local Government Pension Scheme Regulations 1997 in accordance with KCC's policy statement.	Jointly agreed by Senior Manager, Director of Personnel & Development, Pensions Manager, following consultation with the relevant Cabinet Member and Chief Finance Officer
Changes to NJC Pay and Conditions	Agree the implementation of NJC pay awards and changes to conditions of service in accordance with NJC agreements.	Director of Personnel & Development
Advances of Salary	Agree payment of an advance of salary.	Senior Manager
Dealing with salaries and pay progression outside of the normal procedures	In exceptional circumstances agree to pay an employee on a spot salary or on a salary above the evaluated grade for the post.	Senior Manager
Payment of outstanding salary to a named individual in the event of death in service of an employee	Payment of the outstanding salary of an employee who has died in service to an individual where the next of kin is not immediately obvious.	Head of Service/Support Unit

<b>Topic</b>	<b>Decision</b>	<b>Minimum Level of Decision</b>
Extension of Sick Pay	Agree conversion of any period of sick pay entitlement from half to full pay.  Agree extension of sick pay beyond the aggregate of full and half pay.	Senior Manager  Director of Personnel & Development, on recommendation of Senior Manager
Recovery of Sick Pay	Agree recovery of sick pay where employees have been off sick due to their own misconduct.	Director of Personnel & Development, in conjunction with Chief Finance Officer
Payment of Merit Awards to Kent Scheme Staff	Approval to pay merit awards to Kent Scheme staff which do not total more than 10% of an employee's gross annual salary in any one financial year.	Head of Service/Support Unit
Payment of Honoraria to NJC Staff	Approval to pay honoraria to NJC staff to maximum of £500 or 10% of salary, whichever is the greater, in any one financial year.	Head of Service/Support Unit
Payment of enhanced overtime during emergency procedures	Approve enhanced overtime payments to staff on grades F to I where "emergency procedures" have been invoked.	Senior Manager
Payment of overtime outside of the normal arrangements	Exceptionally approve overtime rates which are different to those set out in the Procedures and Conditions of Employment manual.	Senior Manager
Payment of and Revisions to Plus or Excess Rates	Approve the payment of and revisions to plus rates or excess rates to staff employed on NJC conditions.	Senior Manager
Standby Allowances	Approve updating of Standby allowance rates under the NJC and Kent Schemes.	Director of Personnel & Development
Sleeping-in Duty, Special Needs (for Nursery Staff) and Laboratory Technicians Allowances, Homeworking allowances and Food Charges	Approve updating of Sleeping – in Duty Allowances, Special Needs Allowances for Nursery Staff, Laboratory Technicians Allowances and Food Charges.	Director of Personnel & Development
Annual Leave Buy-out	Agree, for exceptional reasons, to buy-out an employee's annual leave to a maximum of 5 days in any one leave year.	Head of Service/Support Unit

<b>Topic</b>	<b>Decision</b>	<b>Minimum Level of Decision</b>
Leave for Extraneous Duties, e.g. JPs, Local Authority Members, School Governors	Grant an employee up to 18 days paid leave per year for undertaking extraneous duties.	Head of Service/Support Unit
Special Leave for Trade Union Conferences	Approval for representatives nominated by a recognised Trade Union to be granted up to 5 days paid leave to attend annual/biennial conferences	Head of Service/Support Unit
Special Leave for Retained Fire Fighters	Approval for retained fire fighters to be granted up to 2 weeks additional paid leave to attend recognised courses concerning their fire service duties.	Head of Service/Support Unit
Special Leave for Election Duties	Grant paid leave to employees acting as Presiding Officers and Poll Clerks at Parliamentary, European Parliament, County Council or County District Council elections.	Head of Service/Support Unit
Special Leave for Service in Non-Regular Forces	Grant volunteer members of the non-regular forces up to two weeks additional paid leave per year to attend camp.	Head of Service/Support Unit
Participation in the Reserve Armed Forces	Where appropriate grant approval for an employee to enter an agreement to become a reservist in the regular reserve forces or the volunteer reserves as appropriate.	Head of Service/Support Unit
Special Leave for Parliamentary Candidates	Grant special leave – 3 weeks with pay, 1 week without – to employees holding non-politically restricted posts who are adopted as candidates at a Parliamentary or European Parliament election.	Senior Manager
Paid time off to pursue personal legal action against another individual or organisation	Exceptionally grant paid time off to an employee to pursue personal legal action against another individual or organisation.	Senior Manager
Compassionate Leave beyond normal provisions	In exceptional circumstances grant paid compassionate leave beyond the normal provisions of 10 days in any one leave year.	Senior Manager



<b>Topic</b>	<b>Decision</b>	<b>Minimum Level of Decision</b>
Unpaid Leave	Approval for employees to be granted up to and including 10 days unpaid leave.  Approvals for employees to be granted between 11 days and 6 months unpaid leave.	Head of Service/Support Unit  Senior Manager
Concessionary Leave	Approval in exceptional circumstances of an additional paid concessionary day's leave.	Chief Executive (in consultation with Chairman of Personnel Committee)
Reimbursement for Meals	Exceptionally agree the reimbursement of reasonable and actual expenditure on a meal.	Head of Service/Support Unit
Reimbursement of Hotel Expenses	Exceptionally agree the reimbursement of reasonable and actual hotel expenses incurred.	Head of Service/Support Unit
Travelling Allowances	Allocation of car user status (casual, essential, lease) in accordance with established procedures to posts where use of a motor vehicle is required in order to perform the duties.  Exceptionally grant essential car user status on criteria other than that set out in the Procedures and Conditions of Employment manual.  Updating of travelling allowances and charges for county owned cars.	Head of Service/Support Unit  Head of Service/Support Unit  Director of Personnel & Development
Travel to and from Joint Consultative Committees by employee representatives	Approval for an employee representative to use his own car and be paid a travelling allowance when travelling to and from Joint Consultative Committees.	Head of Service/Support Unit
Use of First Class Travel	In exceptional circumstances approve the use of first class travel.	Head of Service/Support Unit
Payment of Travelling Expenses at work	In exception circumstances agree the payment of travelling expenses to and from work.	Head of Service/Support Unit
Career Breaks	Agree applications for career breaks.	Head of Service/Support Unit

<b>Topic</b>	<b>Decision</b>	<b>Minimum Level of Decision</b>
Car Loans	Setting the maximum amount that can be granted for a car loan.  Setting the rate of interest for car loans.	Chief Finance Officer
Benchmark Lease Car	Setting the benchmark car for the lease car scheme.	Director of Personnel & Development
Secondments	Agree secondments outside of KCC.  Agree secondments within KCC.	Chief Executive or Senior Managers  Head of Service/Support Unit
Changes to the delegations and authorisations to Line Managers	Agree changes to the Officer delegations.  Agree changes to the authorisations to Line Managers.	Chief Executive  Director of Personnel & Development

## Appendix 3: Policy Framework

### PLANS AND STRATEGIES INCLUDED IN THE POLICY FRAMEWORK

#### Requiring Council debate and approval

<u>Name of Plan</u>
<a href="#">Strategic Statement (Towards 2010)</a>
<a href="#">Community Strategy (Vision for Kent)</a>

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#### Requiring Policy Overview and Scrutiny Committee consideration and Council approval

<u>Name of Plan (Policy Overview and Scrutiny Committee)</u>	<u>Statutory</u>	<u>Duration of Plan</u>	<u>Next Plan Due</u>	<u>Notes</u>
<a href="#">Children and Young Peoples Plan (CF&amp;E POSCs Communities POSC)</a>	<a href="#">Yes</a>	<a href="#">2008-2011</a>	<a href="#">2011</a>	<a href="#">Multi-agency plan</a>
<a href="#">Crime and Disorder Reduction Strategy (Community Safety Framework) (Communities POSC)</a>	<a href="#">Yes</a>	<a href="#">2008-11</a>	<a href="#">2011</a>	
<a href="#">Local Transport Plan 2 (Environment, Highways &amp; Waste POSC)</a>	<a href="#">Yes</a>	<a href="#">2006-11</a>	<a href="#">March 2011</a>	
<a href="#">Local Transport Plan 3 (Strategy) (Environment, Highways &amp; Waste POSC)</a>	<a href="#">Yes</a>	<a href="#">15 years (tentative)</a>	<a href="#">March 2026</a>	<a href="#">DfT Guidance requires two separate documents: Strategy and Implementation Plan. Local authorities decide duration of each of to suit their needs. Reporting and reward funding to be through CAA process so unlikely to be requirement for formal delivery reporting as per LTP1 &amp; LTP2</a>

<u>Name of Plan</u> <i>(Policy Overview and Scrutiny Committee)</i>	<u>Statutory</u>	<u>Duration of Plan</u>	<u>Next Plan Due</u>	<u>Notes</u>
<u>Local Transport Plan 3</u> <u>(Implementation Plan)</u>  <i>(Environment, Highways &amp; Waste POSC)</i>	<u>Yes</u>	<u>3 years</u> <u>(Tentative)</u>	<u>March</u> <u>2014</u>	<u>Outlines proposals For delivery of the policies contained in the Strategy</u>
<u>Kent Minerals and Waste Development Framework</u> <u>(Minerals and Waste Core Strategy - Mineral site Allocations</u>  <u>Waste Management Site Allocations</u> <i>(Environment, Highways &amp; Waste POSC)</i>	<u>Yes</u>	<u>15 year</u> <u>timeframe</u> <u>from</u> <u>adoption i.e.</u> <u>until 2026</u>	<u>2011</u>  <u>2012</u>  <u>2012</u>	<u>In preparation. Development Scheme and Programme agreed by KCC and GOSE in May 2009. Submission of key documents (Core strategy and Site Allocations) to Government respectively in 2011 and 2012. Subject to regular (approximately five yearly) reviews.</u>
<u>Youth Justice Plan</u>  <i>(Communities POSC)</i>	<u>Yes</u>	<u>18 Months</u>	<u>April</u> <u>2010</u>	<u>Current plan started in October 2008, and runs until the end of March 2010.</u>

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## Appendix 4: Procedure Rules

This Appendix sets out the rules governing the meetings of the Council, its Committees and the Cabinet, and the procedures for the taking and minuting of decisions.

The rules are approved by the Council, except for the Cabinet Procedure Rules in Part 6 (agreed by the Leader).

The Appendix is in nine parts:

Part 1 Council Meetings

Part 2 Council Committee and Cabinet Meetings

Part 3 Policy Overview and Scrutiny Committees

**Deleted:** Cabinet

Part 4 Cabinet Scrutiny Committee

Part 5 Select Committees

Part 6 Cabinet

Part 7 Access to Information

Part 8 Decision Making

**Deleted:** Part 9 Best Value

## **Appendix 4 Part 1: Rules applying to Council Meetings**

### ***Definitions***

1.1 “Chairman” means the Chairman of the Council or the Member presiding at the meeting of the Committee or Sub-Committee.

“Clerk” means an officer appointed for that purpose by the Monitoring Officer.

“Political group” means a group formed under Section 15 of the Local Government and Housing Act 1989.

1.2 The Chairman’s ruling on the meaning or application of these Procedure Rules or any other aspect of the proceedings of a Council or Committee meeting cannot be challenged.

1.3 The Chairman may give any directions he considers appropriate to deal with an emergency or ensure compliance with these Procedure Rules or a resolution of the Council related to them.

### ***Planning of the Council Meeting***

1.4 The Council normally meets in County Hall, Maidstone, on such days as it determines. In particular, it will meet during February (to consider the Budget and set the rates of Council), April, May (as its annual meeting), September, October, November and December each year

1.5 Meetings normally begin at 10:00am.

1.6 If a meeting cannot begin or has to cease because there is no quorum, it shall be reconvened at a date and time to be decided by the Chairman.

1.7 The Chairman may vary the day, time and place of a meeting or convene an additional meeting if he considers it necessary, after consultation with the political group leaders.

1.8 (1) The Chairman, allocates seats at Council meetings to each Member. Members must sit in their allocated seat.

(2) Members attending Council meetings must sign an attendance list.

1.9 The Clerk summons all Members to meetings by sending an agenda and accompanying papers to each Member’s nominated address. The agenda and papers are normally sent out at least seven clear days before the meeting.

### ***Agendas for Meetings***

1.10 The agenda for each meeting, except the Budget meeting, will include:

- (1) minutes of the previous meeting for approval and signing
- (2) an item for questions to be asked by Members
- (3) reports on items for decision

(4) policy items for discussion referred by a Policy Overview and Scrutiny Committee or the Leader prior to the preparation of final proposals

(5) reports by the Leader, the Cabinet, the Cabinet Scrutiny Committee, Policy Overview and Scrutiny Committees, the Health Overview & Scrutiny Committee or Select Committees

(6) one item for full debate

(7) up to three items for time-limited debate

(8) minutes of the Planning Applications and Regulation Committees for information only

(9) minutes of the Governance & Audit Committee for time-limited debate

(10) any other relevant reports or papers.

1.11 The Chairman determines the topic of the item for full debate, the order of items and a timetable for each Council meeting after consultation with the political group leaders.

1.12 (1) The Council adjourns for lunch at a convenient point after 12:45pm decided by the Chairman. The lunch adjournment will not exceed an hour and a quarter.

(2) Each meeting shall end by 4:30pm unless otherwise agreed by the Council by a vote without a debate. Any recommendations by the Leader or the Cabinet that have not been dealt with at the end of the meeting shall be deemed to have been agreed as recommended. Any other motions or recommendations that have not been put to the vote fall.

1.13 The agenda for the Budget meeting is limited to:

(1) questions

(2) consideration of the Leader's recommendations for the Budget, Capital Programme, Borrowing Policy, Council Tax and the limits defining key financial decisions

(3) other items the Chairman agrees be taken as urgent.

1.14 Additional (extraordinary) meetings, including meetings requisitioned by groups of Members under Schedule 12 of the Local Government Act 1972, will only consider the items of business for which they have been called and any other items the Chairman considers appropriate.

### **Quorum**

1.15. The quorum for a meeting of the Council is 21 Members.

### **Chairman and Vice-Chairman**

1.16 (1) The Chairman and Vice-Chairman of the Council are elected at the annual meeting of the County Council. They remain in office until the election of their successor, they resign or the Council vote their removal. In the latter two cases, an election for their successor should be held as soon as possible.

(2) No Member, who has a personal or prejudicial interest (as defined in the Code of Member Conduct) in any matter being considered by the Council, may preside at a meeting while that matter is under discussion.

(3) If neither the Chairman nor Vice-Chairman is present or able to preside, the Council shall elect another Member to preside for that meeting or item.

### ***Minutes of Council Meetings***

1.17 The Chairman asks the Council to agree the minutes of the previous meeting as a true record. No discussion may take place except on their accuracy.

### ***Questions***

1.18 (1) Any Member may ask one question at each meeting. Questions must be signed and delivered to the Clerk before 5:00pm on the Friday before the meeting. The Clerk gives each question a number and informs the Member of this number and records the time of receipt.

(2) Questions must not:

(a) ask for information already in the Member's possession or which has been published to Members either in a Committee report or otherwise

(b) be about something that is outside the responsibilities or powers of the Council

(c) criticise the motives or personal character of any Member or employee of the Council.

(3) The Chairman can decide that a question shall not be asked or answered if it would not be in the public interest or on any other reasonable ground.

(4) Questions will be called in their numbered order and be answered in the order they are received by the Clerk unless the Chairman decides otherwise.

(5) If the questioner is not present when called by the Chairman, the Chairman shall call the next question.

(6) Answers to questions will be given by the Leader, the relevant Cabinet Member, Committee Chairman, the Member nominated by the Police or Fire Authorities or by another Member designated by the Chairman of the Council.

(7) The Member giving the answer has discretion as to the content of the reply and how it is given. In particular, he may decline to answer in full if this would involve an unreasonable amount of work or cost, or be contrary to the public interest. All oral answers to questions should be brief and relevant, with any detailed background or statistics given in writing.

(8) After the answer has been read out the questioner may put one supplemental question in order to clarify a point given in the answer.

(9) After the Council meeting, a copy of the question and the answer will be given to the Member asking the question and made available to all other Members of the Council.



(10) Questions that have not been answered before the end of the 30 minutes allowed will not be called but all questions will be answered in writing.

### ***Reports on matters for decision or debate***

1.19 The Chairman shall normally call on the Leader, relevant Cabinet Member or Committee Chairman to move any recommendation in a report before the Council with or without such amendment as that Member thinks fit.

### ***Leader's Report***

1.20 (1) The Leader may make an oral report on key issues arising since the last meeting.

(2) The Leader of the Opposition and the other political group leaders may comment on the Leader's report, but no other Member may speak except with the consent of the Chairman.

(3) The Leader has a right of reply to any comments made on his report.

(4) No motions may be moved nor resolutions passed under this item.

(5) The Leader's report shall not exceed ten minutes; his reply shall not exceed two minutes; and other speeches on this item shall not exceed seven minutes in length, except with the consent of the Council, which shall be given or refused without debate.

### ***Item for Full Debate***

1.21 (1) The Chairman, in consultation with the political group leaders, shall determine the topic of the item for full debate at each meeting.

(2) Each debate will be on the basis of a motion proposing an outcome (e.g. that the Council notes the information presented to it, or takes some specified action).

### ***Items for Time-Limited Debate***

1.22 (1) Each political group may place a motion on the agenda for time-limited debate by giving notice (including the written consent of a seconder) to the Clerk at least fourteen days before the meeting. The motion must relate to the work of the Council or to a matter of concern to the County of Kent. The Clerk shall place all such items on the agenda in the order that they are received.

(2) Debate on each motion shall not exceed forty-five minutes.

(3) No speech shall exceed three minutes in length.

### ***Minutes of Governance & Audit, Planning Applications and Regulation Committees***

1.23 (1) The Clerk shall include in the agenda for ordinary meetings of the Council the minutes of every meeting of the Governance & Audit, Planning Applications and Regulation Committees that have taken place since the previous meeting.

(2) Exempt minutes will not be submitted; instead, the Clerk shall include the written summary of proceedings prepared under section 100C(2) of the Local Government Act 1972 for public inspection.

(3) Debate on the minutes of the Governance & Audit Committee shall not exceed 15 minutes.

(4) The minutes of the Planning Applications and Regulation Committees are submitted to the Council for information only. No discussion shall be permitted on any such minute.

### ***Motions and Amendments***

1.24 (1) Motions, amendments and recommendations must be worded so that, if they are agreed by the Council, they can be passed as a valid resolution. If a motion, amendment or recommendation is not so worded, the Chairman may instruct the Clerk to omit it from the agenda or rule that the motion or amendment be not put.

(2) If a motion:

(a) proposes to rescind the whole or part of any resolution passed by the County Council or a Committee in the preceding six months; or

(b) has the same effect as a motion which has been rejected by the Council in the preceding six months; or

(c) has been proposed in Council but not seconded in the preceding six months;

it must be signed by at least 22 Members before it can be accepted.

(3) If any such motion is considered and rejected by the Council or falls at the end of debate, no motion to the same effect can be proposed for a further 12 month period. At the end of that further period, a motion to the same effect as that rejected or fallen may only be accepted if it is signed by 32 Members of the Council.

(4) This Procedure Rule does not apply to any motion proposed by the Chairman or the Leader or to any motion proposed by a Member moving the recommendation of a Committee to the Council.

### ***Voting at meetings of the County Council***

1.25 (1) Whenever a vote is required at meetings of the Council it will be taken using the electronic voting system.

(2) Members are not entitled to vote unless their own cards have been inserted into their delegate unit so that their names and presence in the Council Chamber can be registered by the system.

(3) Any vote cast from a delegate unit other than a Member's own is not a valid vote unless the Chairman is satisfied that a Member's delegate unit is not in working order and/or has directed that a Member sit in a seat other than his own and use another delegate unit.

(4) Before a vote is taken the Chairman shall announce that a vote is to be taken and the division bell shall be rung for 60 seconds unless the Chairman is satisfied that all Members are present in the Chamber.

(5) 20 seconds will be allowed for electronic voting to take place.

(6) The Chairman shall announce that the vote is closed and declare the result.

(7) The Clerk shall make the record of how votes were cast available for Member and public inspection and record in the minutes how each Member voted.

(8) If the votes for and against are equal, the Chairman shall immediately declare if he is using his casting vote and, if so, whether for or against the proposal.

(9) If the electronic voting system is not in working order, or the meeting is not taking place in the Council Chamber, Members shall vote by show of hands. Immediately before or after a vote is taken, ten Members may require a written ballot be conducted by rising in their places. The written ballot shall use forms distributed and collected by the Clerk.

1.26 No vote or debate shall be allowed on earlier business once the Council has proceeded to the next business.

### ***Conduct of Debate***

1.27 If the Chairman rises during a debate any Member then standing shall resume his seat and all Members except the Chairman shall be silent.

1.28 (1) When speaking Members must stand.

(2) Members may speak only when called by the Chairman.

(3) Members must address all their remarks to the Chairman.

(4) Speeches must be relevant to the matter under discussion, must not be unnecessarily repetitive, use unbecoming language, question the motives of any other Member, make personal comments about another Member, criticise an officer of the Council nor commit or incite any breach of order. The Chairman may call the Member to order for doing any of these things and may direct him to stop speaking.

(5) If a Member disregards the authority or ruling of the Chairman or behaves irregularly, improperly or offensively or wilfully obstructs the business of the meeting, the Chairman may propose that the Member leave the meeting.

(6) The Chairman will immediately seek for that motion to be seconded by another Member; if seconded, the motion is put to the vote without discussion.

(7) If the motion is carried, the named Member must leave the room for the remainder of the meeting or until the Council agrees, by vote taken without debate, he may return.

### ***Points of Order and Personal Explanations***

1.29 (1) Members must confine their speeches to the matter under discussion or to a point of order or to a personal explanation.

(2) A point of order is an allegation that there has been a breach of these Procedure Rules.

(3) A personal explanation is a correction of an inaccurate statement about the Member's past action or speech or his personal circumstances.

(4) A Member who wishes to raise a point of order or make a personal explanation may stand to attract the Chairman's attention.

(5) The Chairman may allow a Member who stands for these reasons to speak immediately if he considers it may be necessary as a result of a statement just made by the Member speaking. Otherwise he will wait until the Member speaking has finished before calling the Member who has stood up.

(6) The ruling of the Chairman on a point of order or personal explanation and when the Member may speak is final and not open to discussion.

### ***Timing of Speeches***

1.30 No speech shall exceed five minutes in length, except:

(1) as provided in the preceding paragraphs; or

(2) by consent of the Council, which shall be given or refused without debate; or

(3) if the Chairman agrees that the Leader or other Member responding formally to debate may speak for up to seven minutes; or

(4) if the Chairman agrees that the leader of each political group at the start of the Budget debate may speak for up to ten minutes.

### ***Motions***

1.31 (1) Only the following motions may be proposed at Council meetings:

(a) motions proposed by the Chairman

(b) motions to correct an inaccuracy in the minutes

(c) motions related to an item on the agenda for decision or debate

(d) procedural motions under Procedure Rule 1.35

(e) a motion to exclude the media and public.

(2) Motions under (c) above must comply with Procedure Rule 1.24.

### ***Amendments***

1.32 (1) An amendment must:

(a) either add or delete a word or words

(b) be relevant to and intelligible with the motion

(c) not introduce a new topic

(d) not negate the motion

(e) not amend the motion so it no longer complies with Procedure Rule 1.24.

(2) All amendments must be seconded. If there is no seconder the amendment falls.

1.33 (1) Once an amendment has been moved and seconded, no further amendment may be proposed until that amendment has been dealt with.

(2) If an amendment is rejected, further amendments may be proposed to the original motion.

(3) If an amendment is carried, the motion as amended then becomes the motion for debate. This revised motion may be subject to proposals for further amendment provided these do not reinstate the sense of the original motion.

(4) No amendment may be proposed after the Chairman has called the proposer of the original motion to reply to the debate.

### ***Written Copy of Motions and Amendments***

1.34 (1) The text of any motion or amendment must be given to the Chairman. If it is not he may rule that it falls.

(2) A proposer may withdraw or change a motion or amendment provided:

- (a) in the case of a motion, there are no amendments outstanding
- (b) the seconder agrees
- (c) the Council consents, if necessary by a vote taken without debate.

### ***Procedural Motions***

1.35 (1) The following procedural motions may be proposed at any time during a Council meeting:

- (a) that the question be put
- (b) that consideration of the matter be referred to a later meeting, to the Leader, or to a committee
- (c) that the debate be adjourned for a stated time
- (d) that the Council proceeds to next business
- (e) that debate continues beyond the times determined under Procedure Rules 1.12 and 1.30
- (f) that a Procedure Rule or Rules be suspended in whole or in part
- (g) to exclude the public from the meeting.

(2) Motions (a)-(d) above may not be proposed by any Member who has proposed or seconded or spoken about a motion or amendment under discussion.

(3) No debate shall take place on any of these procedural motions (except for a motion to suspend the Procedure Rules or exclude the public, if the Chairman thinks it appropriate). If proposed and seconded, the Chairman shall put them immediately to the vote without further debate.

### ***Rights to Speak and Reply***

1.36 (1) Members may speak no more than once on each item, motion or amendment, except to:

- (a) exercise a right of reply
- (b) make a personal explanation
- (c) raise a point of order.

(2) The proposer of any motion, other than a procedural motion under Procedure Rule 1.35, has a right to reply at the close of the debate upon the motion and upon any amendment to it. The Chairman will call the Member to make a reply immediately before the amendment or motion is put to the vote or a vote is taken on a procedural motion to refer the matter, adjourn the debate or proceed to next business.

(3) The proposer of an amendment does not have a right to reply to the debate on that amendment.

(4) A Member seconding a motion or amendment may reserve their speech until later in the debate on that motion or amendment, but must declare they are doing so. If they have not spoken previously, the Chairman will give them an opportunity (unless it is in response to a procedural motion under 1.35(1)(a) or (d)) to make their speech immediately before asking the proposer of the motion to reply to the debate.

(5) A Member replying to a debate must confine his speech to commenting on points made during the debate.

(6) The Chairman of the Standards Committee (or another independent member nominated by him) may attend a meeting of the Council, including any part of the meeting from which the public and press are excluded, to speak to and answer questions on a report by the Standards Committee.

### ***Appointment of the Leader***

1.37 (1) The Leader is elected at:

- (a) the annual meeting of the Council following an election of all Members, or
- (b) the next meeting following the resignation, dismissal or vacation of office by the Leader.

(2) The election of the Leader shall be conducted by the Chairman on the basis of nominations being made and seconded and put to the vote. In the event of there being more than two nominations and no one candidate receiving an absolute majority of votes of all Members present and voting, there will be a second vote solely between the two candidates with the largest number of votes.

(3) Dismissal of the Leader can only be made on the basis of a motion signed by five Members of the Council and included on the agenda for a Council meeting. The motion shall indicate the reasons for the proposed dismissal. The motion shall take precedence over any other item of business but is otherwise subject to the same rules as other motions.

(4) If a motion to dismiss the Leader is carried, it takes effect immediately.

***Appointment of the Leader of the Opposition***

1.39 The Council confirms the nomination of the Leader of the Opposition put forward by the leaders of the political groups not represented in the Cabinet.

## **Appendix 4 Part 2: Rules applying to Council and Committee Meetings**

### ***Public Misconduct***

2.1 If a member of the public interrupts a meeting or otherwise behaves irregularly, improperly or offensively, the Chairman may request him to leave the room or order that he is removed. In the event of a general disturbance, the Chairman may suspend the meeting or direct that the public be excluded from it. No one so removed or excluded will be permitted to return to the meeting.

### ***Recording Meetings***

2.2 (1) No audio or visual recording shall be made at meetings except for the official recording made by the Clerk or recordings agreed by the Chairman to be made by a media organisation.

(2) Recordings of Council proceedings will be made available by the Clerk to any Member who requests them.

### ***Discussion of Individual Officers***

2.3 No discussion shall take place in a meeting about the terms or conditions of employment or the conduct of any officer of the Council unless the meeting has first considered whether to exclude the public.

### ***Non-Attendance at Meetings***

2.4 Any Member who is not likely to meet the requirement in the Local Government Act 1972 to attend at least one meeting of either the Council, a Committee or a Sub-Committee in any period of six consecutive months should write to the Clerk explaining their non attendance. The Clerk will report to the Council, which will decide whether the Member can remain a Member of the Council. Approval to continue in office must be given before the six months expires.

### ***Members' Interests***

2.5 The Chairman may instruct a Member to leave the room while an item is under discussion if he has reason to believe the Member has a prejudicial interest or has failed to declare a personal interest.

### ***The Party Whip***

2.6 Any instruction given by or on behalf of a political group to any Member who is a member of that group as to how that Member shall speak or vote on any matter before the Council, or any Committee or Sub-Committee, or the application or threat to apply any sanction by the group in respect of that Member should he speak or vote in any particular manner, shall be notified to the Clerk by the group before the debate on that item commences and recorded in the minutes.



### ***Suspension of Procedure Rules***

2.7 The Council, Cabinet or a Committee may agree to suspend any Procedure Rule in whole or in part for any item of business.

### ***Appointment of Committees/Terms of Office***

2.8 (1) The Council determines the number and terms of reference and allocates the number of places on each Committee to each political group.

(2) Either the Council or the Committee allocates the number of places on each Sub-Committee to each political group.

(3) The political groups nominate the Members to serve on Committees or Sub-Committees to the Clerk, who makes the appointment on behalf of the Council and records it in the minutes.

(4) Members, once confirmed as Members of a Committee or Sub-Committee, continue to hold office until they:

(a) resign

(b) cease to be Members of the Council (unless re-elected for a further term)

(c) are removed from membership by the Council or appointing Committee.

2.9 (1) Once appointed, Committees continue in office until the Council appoints a successor Committee or resolves the Committee cease.

(2) Committees may not appoint Sub-Committees except for Select Committees as referred to in Article 7 of the Constitution or as the Council may agree.

(3) Sub-Committees cease on completion of the task set out in their terms of reference.

### ***Procedures at Committee Meetings***

2.10 (1) The following Procedure Rules (2.11 - 2.23) apply to all Committees and Sub-Committees of the Council (including Policy Overview and Scrutiny and Corporate Governance Committees) although only the word "Committee" is used. "Sub-Committees" include any Panels, Boards or group of Members to which a Committee delegates a function under Section 101 of the Local Government Act 1972.

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(2) These Procedure Rules do not apply to Select Committees, Panels, Boards or other groups of Members appointed by a Committee or Sub-Committee only to provide advice or guidance to Members or officers. Procedures for the operation of such advisory bodies will be determined either by the appointing Committee or the group itself.

(3) These Procedure Rules do not apply to Joint Committees with other authorities. Their rules are set out by the resolution appointing them.

## **Quorum**

2.11 (1) The quorum for a meeting of a Committee is one third of its total voting membership.

(2) A Committee may still exercise its functions validly even if Members have not been appointed to all the places on it.

## **Substitutes**

2.12 (1) If a Member cannot attend a meeting of a Committee, a nominated spokesman of his political group may nominate a substitute by written notice to the Clerk.

(2) Under no circumstances will substitutes be permitted for meetings of Member groups overseeing performance reviews and only in exceptional circumstances for meetings of Select Committees.

(3) Political groups should only nominate Members as substitutes on the Personnel, Planning Applications and Regulation Committees (and on Panels of such committees) if they have had training in the relevant procedures.

(4) The notice of substitute Members must be given to the Clerk before the meeting begins and will be announced by him at the beginning of the meeting. Once the meeting has been informed of the appointment of a substitute Member, the original Member may not resume membership of the Committee until after the conclusion of the meeting.

## **Attendance List**

2.13 Members attending Committee meetings must sign the attendance list or ensure the Clerk records their presence.

## **Election of Chairman and other Office Holders**

2.14 (1) Unless the Council has resolved otherwise, each Committee shall elect a Chairman (other than the Cabinet Scrutiny and Personnel Committees) and Vice-Chairman at its first meeting after the annual meeting of the Council immediately following an election of all Members.

(2) The Chairman and Vice-Chairman remain in office until the election of their successors, they resign or the Committee votes their removal. In the latter two cases, an election for their successor should be held as soon as possible.

(3) If the Chairman or Vice-Chairman is not present or able to preside, the Committee shall elect another Member to preside for that meeting or item.

(4) A political group whose membership on a Committee does not include a Chairman or Vice-Chairman may appoint a spokesman to act on behalf of their group in relation to the business of the Committee; that appointment must be notified in writing to the Clerk.

## **Meeting Planning**

2.15 (1) The dates, times and venues of Committee meetings shall be decided either by the Committee or the Chairman within any guidelines set by the Council.

(2) The Clerk will summon all Members of a Committee to meetings by sending an agenda and accompanying papers to each Member's nominated address. The agenda and papers will normally be sent out at least seven clear days before the meeting.

### **Agenda**

2.16 (1) The agenda for each meeting of a Committee will normally include:

- (a) minutes of the previous meeting for approval and signing
- (b) reports seeking a decision from the Committee
- (c) any item which a Member of the Committee wishes included on the agenda, provided it is relevant to the terms of reference of the Committee and notice has been given to the Clerk at least nine days before the meeting.

(2) The Chairman may decide that there are special circumstances that justify an item of business, not included on the agenda, being considered as a matter of urgency. He must state these reasons at the meeting and the Clerk shall record them in the minutes.

2.17 Committees normally consider items in the order that they appear on the agenda. The Chairman may vary the order if he thinks it appropriate and will explain his reasons to the Committee.

### **Consideration of Reports**

2.18 The Chairman may:

- (1) ask the Committee to agree a recommendation without a motion being proposed or seconded or a vote being taken or
- (2) seek a motion to agree, reject, defer consideration or vary the recommendation.

2.19 (1) Any motion or amendment:

- (a) must be relevant to the item under discussion
- (b) must not seek to rescind any resolution of the Council or the Committee passed within the previous six months
- (c) must not be to the same effect as a motion that has been defeated at a meeting of the Council or the Committee within the previous six months
- (d) must not introduce a new item of business without the Chairman's consent.

(2) Sub-paragraphs (b) and (c) above do not apply to motions proposed by the Chairman; nor where a matter has been referred from one Committee to another or from a Committee to the Council; nor do they prevent the Leader or officers recommending a change to a previous decision.

(3) If any motion is formally proposed and seconded, the rules of debate in the Council meeting Procedure Rules 1.27 to 1.36 will apply.

### **Voting**

2.20 (1) If any Member requests, the Chairman will call a vote on any recommendation or a motion or amendment. The vote will be by a show of hands by Members of the Committee present, including substitute Members.

(2) If the votes for and against are equal, the Chairman shall immediately declare if he is using his casting vote and, if so, whether for or against the proposal.

(3) Immediately after a vote has been taken, an individual Member may ask that the way he cast his vote either for or against the proposal or to abstain be recorded in the minutes.

(4) One-third of the voting Members present may require that the way all Members cast their vote for or against or to abstain shall be recorded in the Minutes; such a request must be made before the vote is taken.

### **Rights to Attend and Speak**

2.21 (1) Any Member of the Council may attend any meeting of a Committee, including those parts of the meeting from which the public and press are excluded. They do not have a right to vote or move a motion or amendment, but may speak with the consent of the Chairman (such consent to be sought before the meeting and should not normally be withheld).

(2) If a Committee is considering an item of business in private that relates to the personal or financial affairs of an individual employee or a member of the public, it may resolve to exclude from the meeting any Member who is not a member of the Committee. Before doing so, a Member representing a member of the public must be given the opportunity to speak.

2.22 To ensure a fair and proper debate the Chairman may:

(1) prevent any Member from speaking more than once on any item, motion or amendment (except in the circumstances set out in Procedure Rule 1.35)

(2) require a Member to cease speaking if he has spoken for more than five minutes

(3) if requested, allow a Member of the Council who is not a member of the Committee to speak on any particular item (but not vote).

2.23 (1) Members of a Committee who have voting rights on that Committee but are not Members of the Council, may propose or second motions and amendments as if they were Members of the Council.

(2) Members of Committees who do not have voting rights on that Committee have the same rights to speak as any Member of the Council but may not vote nor propose nor second a motion or amendment.

2.24 The Planning Applications and Regulation Committees may permit members of the public interested in their decisions to address their meetings, in accordance with the principles of decision making contained in Article 13.2 of this Constitution.

## Appendix 4 Part 3: Additional Rules applying to Policy Overview and Scrutiny Committees

**Deleted:** Cabinet

3.1 (1) These rules apply only to Policy Overview and Scrutiny Committees (including the [Scrutiny Board](#) the Cabinet Scrutiny Committee [and Select Committees](#)).

**Deleted:** Policy Overview Co-Ordinating Committee

(2) Cabinet Members may not serve as ordinary or substitute members of these committees or of Select Committees.

(3) Deputy Cabinet Members may not serve [as ordinary or substitute members of these committees](#) or of Select Committees dealing with issues that are within their own areas of responsibility.

**Deleted:** appointed by Cabinet Members

**Deleted:** on the Cabinet Scrutiny Committee, Policy Overview Committees, Health Overview & Scrutiny Committee

(4) Reports [or recommendations](#) to the Leader, [Cabinet Member](#), Cabinet Council [or officer may](#) include the views of Members dissenting from the majority recommendation of the Committee.

[\(5\) These committees may:](#)

[\(a\) require Members and officers of the authority to attend before them to answer questions and](#)

[\(b\) invite other persons to attend meetings](#)

[\(6\) It is the duty of any Member or officer to comply with a requirement in \(5\)\(a\) above. However, officers below Senior Manager level are not required to attend meetings except with their agreement and that of the relevant Senior Manager.](#)

[\(7\) If a Cabinet Member is unable to attend as requested, a Deputy Cabinet Member may attend on their behalf. Cabinet Members and officers will normally attend together for questioning.](#)

**Deleted:** (5) Committees may not require officers below Senior Manager level to attend their meetings except with the agreement of that officer and the relevant Senior Manager.¶¶

### **Policy Overview [and Scrutiny](#) Committees ([POSCs](#)) Protocol**

(as approved by County Council 23 March 2006)

**Deleted:** POC

This protocol covers the following areas:

- Agenda setting meeting
- Monitoring of Select Committee recommendations

#### **Agenda setting meeting**

(1) An informal meeting will be held at least six weeks before each Policy Overview [and Scrutiny](#) Committee meeting.

(2) Arrangements will be made for the following to attend:

- (a) the Policy Overview and Scrutiny Committee Chairman, Vice Chairman and the [Party Spokesmen, where appropriate](#)
- (b) the relevant Cabinet Members
- (c) representatives from the relevant Directorate.

**Deleted:** Liberal Democrat

(3) At this meeting a first draft of the agenda will be discussed. This initial draft will consist of:

- (a) standard items, e.g. the draft capital and revenue budget in January
- (b) Policy Framework documents that go to POSCs for comment before being submitted to County Council for approval Deleted: POC
- (c) documents or issues that it has been agreed the POSC will monitor or review Deleted: POC
- (d) items that have been previously agreed by Members as items for future meetings
- (e) items that have been proposed by a member of the POSC, which is relevant to the functions of that POSC
- (f) any local government matter referred by any Member of the Council that is relevant to the functions of the POSC and which:
  - (i) relates to the discharge of any function of the Council and
  - (ii) affects all or part of the Member's electoral division or any person who lives or works there (see the Councillor Call for Action Protocol in Appendix 4 Part 5 Annex D)
- (g) progress reports on the work of any Select Committees and Informal Member Groups that report to the POSC. Deleted: POC

(4) Officers will be present at the meeting to brief Members on what the reports are likely to cover, which will give Members the opportunity to ensure that the reports cover all the issues that they require.

(5) Attendees will have the opportunity to suggest items for the agenda or for future meetings.

(6) At this meeting a consensus is reached on whether the proposed items should:

- (a) remain on the agenda
- (b) be information only items and come off the agenda and be circulated to Members separately
- (c) be flagged up as possible items for a future meeting
- (d) be dealt with in a different way, e.g. by an IMG or put forward for a possible Select Committee
- (e) whether any additional items should be added to the agenda.

(7) Following this meeting a revised agenda is circulated to the participants for confirmation, which then becomes the agreed agenda for the POSC meeting. Deleted: POC

### **Monitoring of Select Committee recommendations**

(8) When a Select Committee has produced its report and Cabinet has endorsed its recommendations, it is essential that monitoring takes place in relation to progress with the recommendations.

(9) Three months after Cabinet has endorsed the Select Committee report, the relevant Policy Overview Committee should receive an action plan from officers setting out how they propose to take the recommendations forward.

(10) One year after Cabinet has endorsed the Select Committee report, the Select Committee will be reconvened to receive a report which details progress with each of the recommendations.

(11) The Minutes from this meeting of the Select Committee will be presented to the next meeting of the [POSC](#) by the Chairman of the Select Committee for comments and noting.

Deleted: POC

(12) It is assumed that once this process has been carried out the recommendations become embedded in the work of the Directorate, or an explanation will have been accepted by Members as to why this not possible. Therefore, in normal circumstances, it should not be necessary to receive a further report specifically on progress with the recommendations.

### **Publicising and Launching Select Committee Reports**

(13) All communications between Select Committee Members and the media shall be in accordance with the Public Relations Protocol for Select Committee Reviews and Reports (as approved by the Council on 11 December 2008).

## **Appendix 4 Part 4: Additional Rules applying to Cabinet Scrutiny Committee**

4.1 These rules apply only to the Cabinet Scrutiny Committee.

4.2 The Chairman of this Committee shall normally be the Leader of the Opposition.

### ***Requests for information***

4.3 (1) This procedure shall be used by Members when seeking information on matters that the Cabinet Scrutiny Committee is capable of considering.

(2) Any requests for information shall be made in writing through the Clerk who will acknowledge receipt.

(3) Members are encouraged to use the resources of the KCC Intranet and Corporate Library to identify information that is already available before instigating a request under this procedure.

(4) A request for information will be forwarded by the Clerk to the relevant Senior Manager. The information requested will be supplied to the Clerk as soon as possible or an indication given when it will be available.

(5) If an officer feels unable to supply information requested, or considers it inappropriate to do so, the Senior Manager must be consulted. If the Senior Manager agrees, he will then supply to the Clerk a written explanation of why the information requested cannot be supplied. The Clerk will give this explanation to the Member and inform the Member of his right to request the Chairman of the Cabinet Scrutiny Committee or their group spokesman on the Committee to have the matter considered by that Committee.

### ***Agenda Planning***

4.4 The agenda for ordinary meetings of the Cabinet Scrutiny Committee shall be set through the procedure set out in Procedure Rules 8.9-8.13, below.

### ***Questioning***

4.5 The Chairman may permit a Member not on the Cabinet Scrutiny Committee (including [Cabinet](#) Members and Deputy Cabinet Members) to speak and ask questions if a matter on the agenda has a particularly significant impact on the Member's division or if the Member has not been supplied with information under Procedure Rule 4.3(5).

4.6 Members should endeavour not to request detailed information from officers at meetings of the Committee, unless they have given prior notice through the Clerk. If, in the course of question and answer at a [Committee](#) meeting, it becomes apparent that further information would be useful, the officer being questioned may be required to submit it in writing to the Cabinet Scrutiny Committee members through the Clerk.

4.7 In the course of questioning at meetings, officers other than the Chief Executive and Senior Managers may decline to give information or respond to questions on the ground that it is more appropriate that the question be directed to the Chief Executive or relevant Senior Manager.

**Deleted:** Officers may not otherwise decline to provide information except under conditions advised by the Standards Committee.



4.8 Cabinet Members and officers may decline to answer questions in an open session of the Committee on the grounds that the answer might disclose information that would be exempt or confidential as defined in the Access to Information Procedure Rules. In that event, the Committee may resolve to exclude the media and public in order that the question may be answered in private session.

### ***Formulation of Recommendations and Reports***

4.9 After answering questions, the Cabinet Member, Deputy Cabinet Member and Officers may remain but should not normally be invited to speak during debate unless it seems likely the Committee will be proposing an action on which they have not commented and on which advice is either sought or should be given in order to protect the Council's interests or for the purposes of clarification.

**Deleted:** will normally leave the room prior to the debate on the item for which they have attended.

4.10 At the debate stage, the Committee has to decide whether to express comments on the proposal(s) to the Leader, Cabinet, Cabinet Member, the relevant officer or the Council.

**Deleted:** ordinary Committee

(1) The Chairman shall first explore through debate if there is a consensus on the views to be expressed by the Committee.

(2) If there is no consensus, the Chairman will ask if any Member wishes to move a formal proposal as to the view to be expressed by the Committee. If seconded, a debate will take place under normal Procedure Rules applying to committees, including the possibility of amendments to the motion before the Committee.

(3) If the motion is passed, it will become the formal view of the Committee.

(4) If the motion is lost, but no other motion is put forward, the Committee will be deemed to have decided to make no comment.

4.11 The Committee may not criticise or adversely comment on any individual officer by name.

4.12 Committee meetings shall be electronically recorded by the Clerk unless the Committee decides it is inappropriate. Procedure Rule 2.2(2) on making transcripts available shall apply to these recordings.

## Appendix 4 Part 5: Rules applying to Select Committees

### **Topic Review Plans**

5.1 A rolling two year Select Committee Work Programme will be set by the [Scrutiny Board](#) as soon as possible after the Annual Council meeting following County Council elections and will be kept under review and added to on a rolling programme basis. In setting out the programme, the [Scrutiny Board](#) will be mindful of the resources and officer and Member time required to implement it.

**Deleted:** Policy Overview Co-Ordinating Committee

**Deleted:** Policy Overview Co-Ordinating Committee

5.2 Select Committee Reviews will not commence before approval by the relevant Policy Overview [and Scrutiny](#) Committee, or by the Chairman and Spokesmen of the relevant Policy Overview [and Scrutiny](#) Committee, of a detailed Review Plan covering:

(1) the terms of reference of the review, including the general nature of the expected outcomes, which should be developed by a cross-party Member group (one from each political group) for approval by the Select Committee and endorsement by the relevant Policy Overview [and Scrutiny](#) Committee.

(2) the names of any co-opted person from outside the Council to serve on the Select Committee (such co-opted Members will not have a vote)

(3) the staff and other resources required to deliver the review including, if required, the ability to appoint an adviser to the Select Committee

(4) an approximate timetable of meetings and final reporting date (normally within 6 months of the review commencing)

(5) the main witnesses and information sources expected to be involved in the review.

### **Meeting Arrangements**

5.3 Select Committees shall ensure that:

(1) dates and arrangements for witnesses to attend their meetings (or otherwise give evidence to Committee members) are agreed with witnesses in advance

(2) advance notice is given to witnesses of the areas to be covered in questioning

(3) information is, wherever possible, distributed to the Committee Members in writing before the witness attends.

### **Questioning**

5.4 Members should endeavour not to request detailed information from officers at Select Committee meetings unless they have given prior notice through the Clerk. If, in the course of question and answer at a meeting, it becomes apparent that further information would be useful, the officer being questioned may be required to submit it in writing to the Committee Members through the Clerk.

5.5 In the course of questioning at meetings, officers other than the Chief Executive and Directors may decline to give information or respond to questions on the ground

that it is more appropriate that the question be directed to the Chief Executive or relevant Director. Officers may not otherwise decline to provide information except under conditions advised by the Standards Committee.

5.6 Cabinet Members, officers and other witnesses may decline to answer questions in an open session of a Committee on the grounds that the answer might disclose information that would be exempt or confidential as defined in the Access to Information Procedure Rules. In that event, the Committee may resolve to exclude the media and public in order that the question may be answered in private session.

5.7 The Clerk shall electronically record meetings of a Select Committee unless the Select Committee decides it is inappropriate or raises objection. A written summary of evidence given at Select Committee meetings will be prepared by the Clerk and agreed with the witness prior to its publication.

### **Review Reports**

5.8 During Topic Reviews, Select Committees shall ensure that relevant Cabinet Members and [officers](#) are kept informed of the progress of the review and have full opportunity to comment and inform the deliberations of the Committee.

5.9 Select Committees shall ensure that relevant [officers](#) are consulted on any statistics, data and information which are to be included in their reports or on which they intend to base conclusions. The report should include all such data and information or state where it is available to Members

5.10 Reports shall include all summaries of evidence given to the Committee during the Topic Review.

5.11 When producing their reports, Select Committees should make explicit the likely resource implications of their proposals and have due regard to their affordability and deliverability, taking account of the resources available to the Council.

5.12 Select Committees may not in their reports criticise or adversely comment on any individual officer by name.

5.13 Once the draft report is prepared with its conclusions and recommendations, the Select Committee must ensure that relevant Cabinet Members and [officers](#) have the opportunity to comment on the draft report before it is published.

5.14 The Chairman of the relevant Policy Overview [and Scrutiny](#) Committee, in discussion with the Leader of the Council, will agree the order of the submission of the report to the Cabinet/Policy Overview [and Scrutiny](#) Committee/Council/or any other Council Committee.

5.15 The relevant Policy Overview [and Scrutiny](#) Committee will monitor and review the Executive's response to Select Committee reports.

### **Overview and Scrutiny inter-authority co-operation**

5.16 Policy Overview [and Scrutiny](#) Committees in preparing Review Plans, and Select Committees in carrying out reviews and preparing reports, shall comply with the protocols agreed by the former Kent Association of Local Authorities governing co-operation between authorities on overview and scrutiny (Annex A to this Part) and overview and scrutiny of health services (Annex B to this Part).

## **Annex A: Protocol for Overview and Scrutiny Inter-Authority Co-Operation**

### Aim of the Protocol

5A.1 To ensure the Overview and Scrutiny Committees of all Kent local authorities can review issues of community interest effectively and with efficient use of all local authority staff resources.

### Principles

5A.2 All authorities should be supported in considering issues of community well being wider than the responsibilities of their councils.

5A.3 Authorities should work together to maximise the exchange of information and views, minimise bureaucracy and make best use of the time of Members and officers of local and other authorities.

### Procedures

5A.4 Authorities should seek to exchange information on programmes and results of reviews.

5A.5 If an Overview and Scrutiny Committee wishes to review an issue in which another authority has a statutory role or in which evidence from the officers of another authority would be helpful, it should consult with that authority about:

- the purpose of the review
- the areas of interest to the other authority
- the input that can be given by Members or officers of the other authority.

5A.6 Consideration should be given to whether the issue is more appropriately discussed in another forum, for example a joint committee, or whether there is scope for joint action including the co-opting of Members of the other Authority onto the Overview and Scrutiny Committee for the purpose of the review.

5A.7 Where a proposal is subject to a public consultation process, scrutiny is most helpful if conducted as part of that process e.g. allowing any findings and recommendations to be available in time to influence the final decision.

5A.8 Subject to such prior consultation, Authorities will seek to respond positively to requests for information or for a Member or officer to attend meetings of Overview and Scrutiny Committees or for information.

5A.9 While it is ultimately for each Authority to decide who it considers the most appropriate person(s) to speak on its behalf to an Overview and Scrutiny Committee, consideration will be given to meeting specific requests.

5A.10 Dates and times of Member and officer attendance at Overview and Scrutiny meetings should be agreed with them.

5A.11 Each Authority will nominate a contact officer for the operation of these procedures.

## **Annex B: Protocol for Health Overview and Scrutiny**

5B.1 These protocols are agreed within a context that assumes organisationally:

- (1) the bringing into force of the Health and Social Care Act 2001
- (2) the continued development of partnership working, especially between Social Services and NHS bodies
- (3) the continued existence at District/Borough level of local overview and scrutiny committees concerned with NHS matters
- (4) the continued existence of representative organisations operating at sub-county level
- (5) a partnership approach working with not against NHS bodies in the county

5B.2 The protocols are based on the principles that:

- (1) Overview and Scrutiny should focus on supporting the improvement of health services to Kent residents.
- (2) Overview and Scrutiny should minimise the additional administrative burdens on local authorities or NHS bodies.
- (3) Overview and Scrutiny agendas need to be developed jointly by the local authorities and the NHS bodies.
- (4) Overview and Scrutiny needs to operate at different levels within Kent.

### **STRUCTURES**

5B.3 Overview and Scrutiny structures will comprise:

#### **District Council Overview and Scrutiny Committees**

- (1) To look at local service issues:
  - (a) Local co-ordination (or joint committees) to ensure cross-district issues dealt with jointly
  - (b) Local KCC Members and CHC representatives to have rights of participation
  - (c) Focused on PCTs

#### **KCC Health Overview & Scrutiny Committee**

- (2) To look at broad and wide area issues, including from the viewpoint of the County Council's Social Service responsibilities:
  - (a) An emphasis on working through themed (topic) reviews conducted by Select Committees (smaller ad hoc groups) including District and Patient members

- (b) DC and CHC representatives to have rights of participation
- (c) Service reconfigurations to be looked at through Select Committees (ad hoc time limited sub-committees including DC and CHC participation) reporting to the KCC Health Overview & Scrutiny Committee to consider reference to the national Reconfiguration Panel (when the legislation is brought into force)
- (d) Focused on Health Authorities

### **Medway Overview and Scrutiny Committee**

(3) To combine both levels of operation within the Medway area but linked into the co-ordinated system.

### **CO-ORDINATION**

5B.4 Overview and Scrutiny activity at local and Kent level needs free exchange of information and protocols for co-ordination of work and resolution of conflicts. To facilitate this there will be:

- (1) a regular meeting of Committee Chairmen and NHS representatives to agree a programme of work across the county and Medway
- (2) a similar officer forum to support and advise the Chairmen on the work programme and co-ordinate requests for NHS officers to provide papers, information or attend committee meetings

5B.5 The KCC Committee membership allows for DC and CHC membership:

- (1) a permanent representation of three District/Borough Members nominated by KALA and two CHC representatives nominated by the CHCs on a non-voting basis
- (2) a right for the Chairmen of each District/Borough Overview and Scrutiny Committee (or another relevant Member) and each CHC to attend and speak at the KCC Committee (or send a representative) on a matter particularly affecting that area
- (3) appointment of members of relevant District Overview and Scrutiny Committees and CHCs to individual topic reviews (agreed through the Chairmen's meeting)

5B.6 District Committees will allow local KCC Members and CHC representatives to attend and speak at the Committee.

5B.7 KCC and DC members on CHCs will be briefed by and feed back to their appointing Councils.

### **REVIEW PLANNING**

5B.8 Overview and Scrutiny will take the form of a programme of reviews. Each review should be preceded by a Review Plan discussed within the officer forum and agreed with the relevant NHS bodies. Any disagreement should be considered by the relevant Overview and Scrutiny Committee after the NHS representative has attended the Committee to express the NHS view and answer member questions.

5B.9 The Review Plan should:

- (1) set the terms of reference for the review including the general nature of the expected outcome
- (2) set an approximate timetable of meetings and a reporting date
- (3) state the officers supporting the review within the local authority, the NHS and the CHCs and estimate the time commitment required of them
- (4) state the main witnesses and information sources expected to be involved

## **REVIEW ADMINISTRATION**

5B.10 The arrangements for meetings of Overview and Scrutiny Committees shall ensure that:

- (1) Dates for witnesses to attend Committee meetings are agreed with witnesses as far in advance as possible
- (2) NHS Chief Executives and other local authorities' Chief Executives arrange for appropriate officers chosen by them to attend to give evidence on the identified topics (subject to any provision to be made in statutory regulations)
- (3) Advance notice is given of the areas to be covered in questioning
- (4) Information is wherever possible distributed to the Committee in writing before the witness attends

## **MEETING PROTOCOLS**

5B.11 All Overview and Scrutiny Committees should incorporate in their Procedure Rules or otherwise ensure that:

- (1) Committee Members should endeavour not to request detailed information from officers of the NHS or another local authority at meetings of the Committee, unless they have given prior notice through the Clerk. If, in the course of question and answer at a meeting of Committee, it becomes apparent that further information would be useful, the officer being questioned may be required to submit it in writing to members of the Committee through the Clerk
- (2) In the course of questioning at meetings, officers of the NHS or another local authority may decline to give information or respond to questions on the ground that it is more appropriate that the question be directed to a more senior officer or Member
- (3) Officers of the NHS or another local authority may decline to answer questions in an open session of the Committee on the grounds that the answer might disclose information which would be exempt or confidential as defined in the Access to Information Act 1985. In that event, the Committee may resolve to exclude the media and public in order that the question may be answered in private session

- (4) Committees may not criticise or adversely comment on any individual officer of another local authority or of an NHS body by name

## **REPORTING**

5B.12 All local authorities should ensure that:

- (1) A record is made of the main statements of witnesses appearing before the Committee and agreed with those witnesses prior to publication or use by the Committee (Committee meetings may be electronically recorded)
- (2) Drafts of Committee reports and recommendations should be made available for comment by the relevant NHS body (or local authority) whose operations might be commented on and any adverse comments or concerns reported to the Committee before the final report is published
- (3) The Chief Executive of any NHS body and/or the Chief Officer of any other local authority involved with the review is given advance notice of the date of publication of the report and consulted on the text of any accompanying press release
- (4) Reports should include an agreed timetable for any NHS body and/or other local authority involved to publish a response to the report's recommendations once confirmed by the appropriate Overview and Scrutiny Committee

## **SERVICE RECONFIGURATIONS**

5B.13 NHS bodies remain responsible for public and other consultation on service reconfiguration proposals.

5B.14 The intention to carry out a consultation will be discussed in the officer forum.

5B.15 The KCC Health Overview & Scrutiny Committee will consult District/Borough Councils and CHCs for the areas affected by each proposal on whether to:

- (1) consider the matter at a full meeting of the Committee
- (2) set up a KCC Select Committee to consider the proposal
- (3) request a District/Borough Overview and Scrutiny Committee to consider the proposal

5B.16 If a Select Committee is established or a District/Borough Overview and Scrutiny Committee requested to carry out a review:

- (1) paragraphs 8-12 above shall apply to its work programme and proceedings
- (2) the Review Plan shall as far as possible be integrated with the NHS body's consultation programme
- (3) consideration shall be given to:
  - (a) including one or more members of District/Borough Councils on the Select Committee or KCC members on the District/Borough Overview and Scrutiny Committee



- (b) including CHC members on the Committee
  - (c) other arrangements for ensuring all local authorities and CHCs may express their views and seek information on the proposal
- (4) the review report shall be submitted to the KCC Health Overview & Scrutiny Committee who will consider the recommendations together with any response by the NHS body and decide whether to refer the proposal to the Reconfiguration Panel.

## **Annex C:**

### **Protocol for the operation of the Crime and Disorder Committee**

#### **5C.1 Introduction**

- (1) Section 19 of the Police and Justice Act 2006 (which came into force on 30 April 2009) requires all local authorities to identify a Crime and Disorder Committee.
- (2) At the County Council meeting on 30 April 2009 KCC identified the Communities POSC as its Crime and Disorder Committee.

#### **5C.2 Scope of the Committee**

- (1) The Crime and Disorder Committee has the power to:
- (a) Review and scrutinise decisions made, or other action taken, in connection with the discharge by the authorities responsible for crime and disorder strategies of their crime and disorder functions and make recommendations
  - (b) Consider a Councillor Call for Action relating to crime and disorder matters
- (2) The role of the Committee is as a “critical friend” of the community safety partnership, providing it with constructive challenge at a strategic level. Its role is not fault finding at an operational level.
- (3) The Committee’s remit is to review and scrutinise the decisions and actions of the partnership as a whole and not individual organisations within it.
- (4) The responsible authorities for Crime and Disorder strategies are:
- (a) Kent Police Authority
  - (b) Kent Police, Kent & Medway Fire and Rescue Authority
  - (c) Primary Care Trusts and
  - (d) District/County Councils
  - (e) Kent Probation Service (from April 2010)

#### **5C.3 Frequency of meetings/agenda setting**

- (1) Meetings of the Communities POSC (meeting as the Crime and Disorder Committee) will be programmed to be held at least twice a year.

(2) An informal meeting will be held at least six weeks before each Committee meeting (and if possible much earlier) where the Chairman, Vice Chairman and Minority Group Spokesman will consider items for the next meeting and agree the agenda.

(3) Items for the Committee may be suggested by the County Strategy Group and the Chairman of this Group may attend the agenda setting meeting to put forward these items.

(4) As soon as the agenda has been agreed, relevant responsible authorities will be informed of any information, attendance or co-optees required for that meeting.

#### **5C.4 Co-option of additional Members**

(1) The Kent Police Authority and Kent & Medway Fire and Rescue Authority shall be represented on the Committee by members of the Committee who are also members of the Kent Police Authority/Kent & Medway Fire and Rescue Authority.

(2) The Committee has the right to co-opt representatives from responsible authorities onto the Committee when a specific matter is being considered that may lead to recommendations for that authority.

#### **5C.5 Requirement to attend meetings**

(1) The Committee may require an officer of a responsible authority to attend before it in order to answer questions.

(2) A minimum of 28 days notice will be give of the requirement to attend, except in the case of urgent items when the notice period may be shorter.

#### **5C.6 Requirement to provide information to the Committee**

(1) Information requested by the Committee from responsible authorities which is relevant to the exercise of the Committee's functions must be provided.

(2) The Committee will give at least 28 days notice of information that it requires, except in the case of urgent items when the notice period may be shorter.

#### **5C.7 Meeting protocol**

(1) Committee members should not request detailed information from representatives of a responsible authority at meetings of the Committee, unless they have given prior notice through the Clerk. If, in the course of a question-and-answer session at a Committee meeting, it becomes apparent that further information would be useful, the representative being questioned may be required to submit it in writing to members of the Committee.

(2) In the course of questioning at meetings, representatives of a responsible authority may decline to give information or respond to questions on the ground that it is more appropriate that the question be directed to a more senior officer or Member.

(3) Representatives of a responsible authority may decline to give information on the grounds that the answer might disclose information which

may not be disclosed under the Local Government (Access to Information Act) 1985 or the Data Protection Act 1998. In this event, the Committee may resolve to exclude the media and public in order that the question may be answered in private session.

(4) During the course of the meeting, the Committee and its members may not criticise or adversely comment by name any individual officer of a responsible authority.

#### **5C.8 Responses to Crime and Disorder Committee reports**

(1) If the Committee intends to make a recommendation or a report to a responsible authority, it will do so in draft form and give the relevant responsible authority the opportunity to comment on the factual accuracy of it before it makes a formal recommendation or produces a report.

(2) Once a formal recommendation or report is made to a responsible authority, the authority is required to respond in writing to the Committee within 28 days. If there are extenuating circumstances which make this timescale unreasonable, the Committee should be made aware of them in writing as soon as possible and before the end of the 28 day period.

### **Annex D: Councillor Call for Action Protocol**

#### **5D.1 Key Points**

- (a) The "Councillor Call for Action" (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007 and came into force on 1 April 2009. CCfA applies to all councils in England and Wales.
- (b) The CCfA enables any Member of the Council to refer to a Policy Overview and Scrutiny Committee any matter which:
  - (i) relates to the discharge of a function of the authority
  - (ii) is relevant to the functions of the committee and
  - (iii) affects all or part of their division or any person who lives or works there
- (c) A Member can refer a matter even if no constituent has asked them to consider it, and there is no requirement for Members in multi-member divisions to agree – any of them can refer a matter.
- (d) It will be up to individual Local Members to determine which issues to take forward as CCfAs.
- (e) If a Member decides not to refer a matter, no further action is taken under a CCfA.
- (f) The committee does not have to take up a Member's request but, if it does not do so, it has to explain its reasons why.
- (g) There will be no right of appeal for the member of the public via the council's committees.

- (h) [The operation of CCfA should be used only in exceptional circumstances where all other possible avenues for resolution of the issue have been followed by the referring Member, and yet a problem still exists.](#)

## **5D.2 Issues excluded from referral as a CCfA**

[The Overview and Scrutiny \(Reference by Councillors\) \(Excluded Matters\) \(England\) Order 2008 excludes the following matters from referral as a CCfA:](#)

- (a) [any matter relating to a planning decision](#)
- (b) [any matter relating to a licensing decision](#)
- (c) [any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment](#)
- (d) [any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of a Policy Overview and Scrutiny Committee or at a meeting of a sub-committee of that Committee](#)

[In addition to the above exclusions, if the matter relates to a crime and disorder issue it should first be referred to the Crime and Disorder Committee.](#)

## **5D.3 Steps to be taken prior to making a CCfA**

[Prior to referring a matter as a CCfA, Members should have tried to resolve the issue using all mechanisms and resources available to them. A flowchart has been designed at \*\*Appendix A\*\* to assist Members in deciding whether an issue is ready for referral to a Policy Overview and Scrutiny Committee as a CCfA.](#)

## **5D.4 How to make a CCfA**

[If the issue has not been resolved despite alternative mechanisms being explored, a Member can refer it to the relevant Policy Overview and Scrutiny Committee as a CCfA. To do this the Member should complete and submit a CCfA request form \(\*\*Appendix B\*\*\). The Clerk will check this to ensure that the issue is not an excluded matter \(see paragraph 5D.2 above\) and will then inform the Chairman of the relevant Committee that the item will be included on their next available agenda. The Member will be informed whether or not their request has been successful. It will then be up to the Committee Members to decide whether or not to take the matter further.](#)

[In deciding whether or not to take the request further the Committee should consider:](#)

- (a) [What actions have been taken by the Member in relation to resolving the issue](#)
- (b) [Any representations made by the Member as to why the committee should take the matter up](#)
- (c) [Whether all reasonable attempts have been made by the elected Member to resolve the issue](#)
- (d) [Whether a similar issue has been considered recently and, if so, whether the circumstances have changed](#)

- (e) [Whether this is an issue which is currently being looked at by another form of scrutiny, e.g. a District Committee](#)
- (f) [Whether the matter referred has the potential to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring Member's division](#)

[If the Committee decides not to accept the CCfA referral, it must inform the Member and provide reasons.](#)

#### **[5D.5 Options available to the Committee if it accepts the CCfA referral](#)**

[If the Committee accepts the CCfA referral, it should then decide how to take the matter forward. The following should be considered by the Committee:](#)

- (a) [Potential solutions to the issue and how these could be achieved](#)
- (b) [Whether an Informal Member Group should be set up to undertake a more in depth review](#)
- (c) [Whether further evidence should be requested or relevant witnesses and representatives from partner organisations be invited to the Committee meeting](#)
- (d) [Who will decide that the issue is resolved](#)

#### **[5D.6 Potential outcomes from the committee meeting hearing the CCfA](#)**

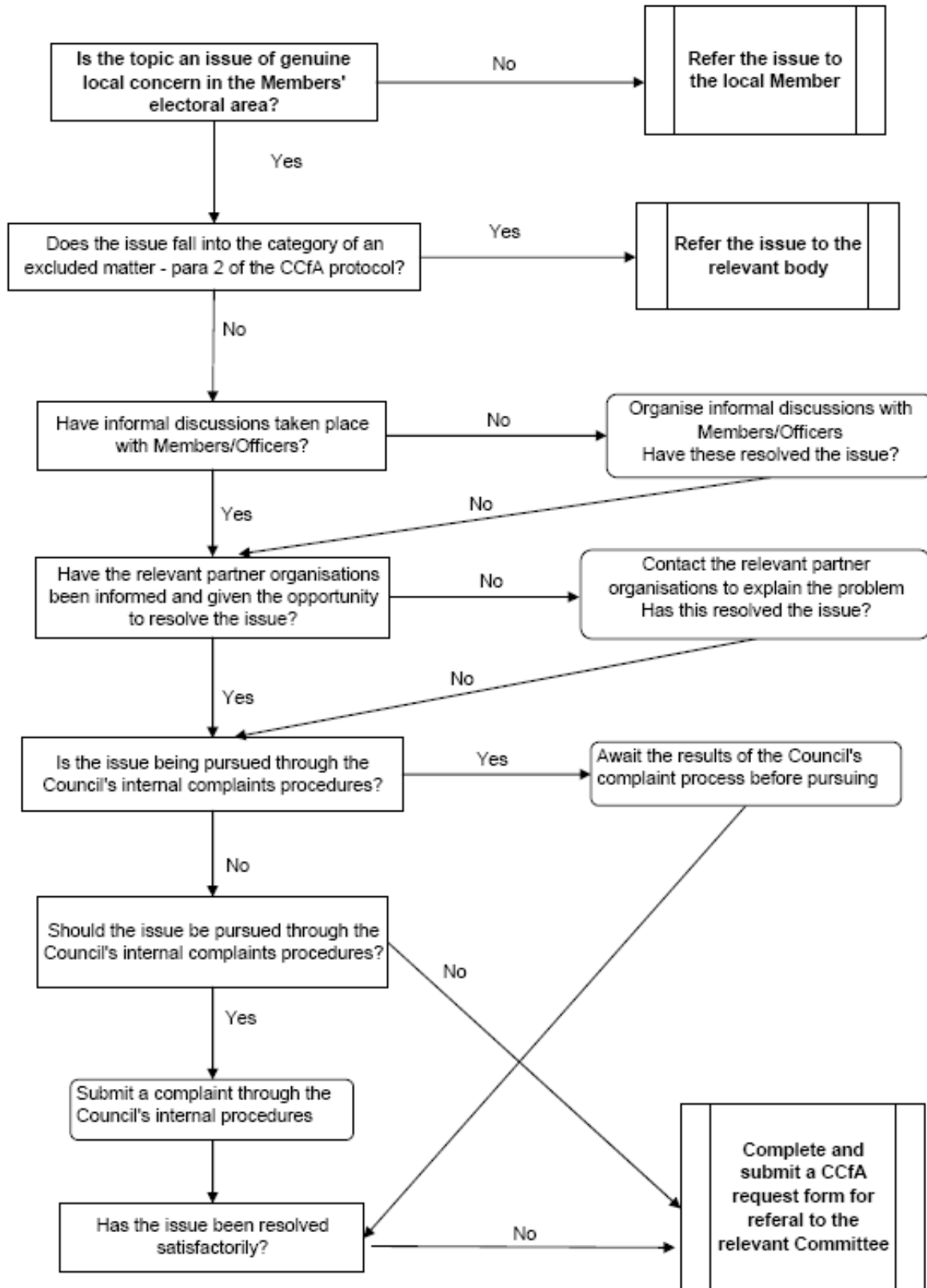
[Following the Committee meeting there are a number of potential outcomes:](#)

- (a) [The Committee could determine not to make a report, with the Local Member notified in writing](#)
- (b) [The Committee could determine that it is a complex issue requiring further investigation and commission a review of the issue via the Scrutiny Board](#)
- (c) [The Committee could write a report and make recommendations on the CCfA to the Cabinet, full Council, or relevant Committee](#)

[Once the Committee has completed its work on the CCfA request, the Member who made the request will receive a copy of any report or recommendations made.](#)

# CCfA

## Appendix A



## Call for Action Request Form

This form should be used by any Member of Kent County Council who would like the relevant overview or scrutiny committee to consider a Councillor Call for Action in their area.

Your contact details:
Name (print):
Signature:
Date:

The title of your Councillor Call for Action:
-----------------------------------------------

Have you exhausted the steps set out in Annex A to the CCfA protocol? Yes <input type="checkbox"/> No <input type="checkbox"/>
Have you approached the relevant Overview and Scrutiny Committee on the same issue in the past six months? Yes <input type="checkbox"/> No <input type="checkbox"/>

Please outline your main areas of concern:
What evidence do you have in support of your CCfA:
Which areas or groups are affected by the CCfA?
How have you tried to resolve the issue?
Is the CCfA currently the subject of legal action by any party (to your knowledge) or is it being examined by a formal complaints procedure?
Are there any deadlines associated with the CCfA of which the scrutiny committee needs to be aware?

**Please complete and return this form to:**

Overview, Scrutiny and Localism Manager  
Sessions House  
County Hall  
Maidstone  
ME14 1XQ

Or by email to [overviewandscrutiny@kent.gov.uk](mailto:overviewandscrutiny@kent.gov.uk)



## **Appendix 4 Part 6: Cabinet Procedure Rules**

*This Part of the Appendix records the rules made by the Leader governing meetings of the Cabinet and the discharge of executive functions by himself, the Cabinet and Cabinet Members*

### **Meetings of the Cabinet**

6.1 Meetings of the Cabinet shall be held on such dates and at such times and venues as the Leader shall decide.

6.2 The Clerk will summon all [Cabinet](#) Members to meetings by sending an agenda and accompanying papers to each Member four working days before the meeting. The agenda and papers will be sent at the same time to the Members of the Cabinet Scrutiny Committee.

**Deleted:** nominated address.  
The agenda and papers will normally be sent out

### **Agendas**

6.3 The agenda for each meeting of the Cabinet will comprise:

- (a) the minutes of the previous meeting for approval and signing
- (b) such items as the Leader decides
- (c) any report by the Head of Paid Service, Chief Finance Officer or Monitoring Officer.

6.4 The Leader may decide that there are special circumstances that justify an item of business, not included on the agenda, being considered as a matter of urgency. He must state these reasons at the meeting and the Clerk shall record them in the minutes.

### **Quorum**

6.5 The quorum for a meeting of the Cabinet is three Members.

### **Chairing**

6.6 If the Leader or Deputy Leader is not present or able to preside, the Cabinet shall elect another Member to preside for that meeting or item.

### **Attendance**

6.7 Members attending Cabinet meetings must sign the attendance list or ensure the Clerk records their presence.

6.8 Any Member of the Council may attend any meeting of the Cabinet, including those parts of the meeting when the public is excluded. They do not have a right to speak without the consent of the Leader.

6.9 If the Cabinet is considering an item of business in private that relates to the personal or financial affairs of an individual employee or a member of the public, the Leader may exclude from the meeting any Member who is not a member of the Cabinet.

### ***Conduct of meetings***

6.10 The Leader shall conduct the business of the meeting so as to encourage decision by consensus.

6.11 Every Member is entitled to express a view on each item of business.

6.12 Following debate the Leader will summarise the discussion and formulate a proposition that he will put to the Cabinet for agreement. A vote will not be taken unless the Leader so decides but any Member who dissents from a decision of the Cabinet is entitled to have that dissent recorded in the minutes, provided this request is made immediately upon the decision having been taken.

6.13 If necessary to maintain an orderly discussion, the Leader may:

- (a) require a vote to be taken by a show of hands
- (b) restrict the number of times any Member may speak
- (c) restrict the length of speeches
- (d) adjourn the discussion to a later meeting

6.14 In the event of a vote being taken and the votes for and against being equal, the Leader has a second or casting vote.

6.15 If necessary to maintain order, the Leader may:

- (a) with the consent of the Cabinet, require a member of the Cabinet, [the](#) Council or the public to leave the room
- (b) direct a Member to be silent
- (c) adjourn or terminate the meeting.

### ***Discussion of Employees***

6.16 No discussion shall take place concerning an individual employee unless the Leader has decided whether to discuss the matter in public or private session.

### ***Conflicts of interest***

6.17 Procedure Rule 2.5 on Members' interests applies to Cabinet meetings.

6.18 A Cabinet Member with a personal (but not prejudicial) interest in a matter with which [s/he](#) is dealing must declare that interest and inform the Leader and the Monitoring Officer. The Leader may assign its determination or consideration to another Cabinet Member.

## **Appendix 4 Part 7: Access to Information Procedure Rules**

### ***Forward Plan of Key Decisions***

7.1 Procedure Rules 7.1-7.9 apply only to “key decisions”. Key decisions are defined in the Executive Arrangements (Access to Information) (England) Regulations 2000. In accordance with the statutory definition and Government guidance, key decisions are executive decisions that are likely to:

(1) result in savings or expenditure which is significant having regard to the budget for the service or function (currently defined by the Council as in excess of £1,000,000); or

(2) be significant in terms of its effects on communities living or working within one or more electoral divisions.

7.2 Decisions which should be regarded as “key decisions” because they are likely to have a “significant” effect either in financial terms or on the Council’s services to the community include:

(1) Decisions about expenditure or savings over £1,000,000 which are not provided for within the approved budget or Medium Term Financial Plan.

(2) Adoption of major new policies not already included in the Policy Framework (Appendix 3) or changes to established policies.

(3) Approval of management and business plans.

(4) Decisions that involve significant service developments, significant service reductions, or significant changes in the way that services are delivered, whether County-wide or in a particular locality. For example, closure of a school, approval of a major project (such as a highway scheme) or programme of works, major changes in the eligibility criteria for provision of a service, major changes in the fees charged for a service, or proposals that would result in a service currently provided in-house being outsourced.

(5) Decisions where the consequences are likely to result in compulsory redundancies or major changes in the terms and conditions of employment of a significant number of employees in any of the Council’s functions.

7.3 The Leader is responsible for publishing a Forward Plan of key decisions.

7.4 All key decisions will be made by the Leader, the Cabinet or a Cabinet Member.

7.5 The Chief Executive and Senior Managers are responsible for identifying issues likely to give rise to key decisions and informing the Clerk of the issue [at least six months in advance of the decision being taken](#) and:

(1) the likely time at which the decision will be taken and by whom

(2) the arrangements for consultation

(3) how and by when views can be expressed about the issue

(4) what documents related to the issue have been submitted to the person or body making the decision.

7.6 The Monitoring Officer is responsible for:

(1) advising on the interpretation of the statutory definition and whether the likely decision will fall within it

(2) publishing the Forward Plan approved by the Leader before the first day of each month on which it takes effect.

7.7 The Forward Plan shall not contain any information or refer to any documents which are exempt or confidential as defined in the Access to Information Procedure Rules nor any details of the advice of a political adviser or assistant nor a staff officer to a political group leader.

7.8 If a key decision needs to be taken and is not included in the current Forward Plan, the Senior Manager will inform the Chief Executive and the Clerk as soon after the need to make the decision becomes apparent. The Clerk will send the Members of the Cabinet Scrutiny Committee written notice of the matter about which the decision is to be made and make a copy of that written notice available for public inspection. That notice may be separate from or accompany the record of decision required by Procedure Rule 7.21. The decision may not be made until five clear days after that notice has been sent.

7.9 If the Cabinet Scrutiny Committee considers that a decision taken should have been treated as a key decision, it may require the Leader to report to the Council within a specified reasonable time details of the decision, the reasons for it, who made it and why he considers it was not a key decision.

### **Meetings**

7.10 Procedure Rules 7.11-7.18 apply to all meetings of the Council, the Policy Overview and Scrutiny Committee Suite, Joint or Area Committees, Ordinary and Corporate Governance Committees and meetings of the Cabinet at which key decisions are likely to be made or discussed with officers (except staff officers to the political group leaders) within 28 days of the decision being made.

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#### Rights to attend meetings

7.11 Members of the public and the media may attend all meetings, subject only to the exceptions in these rules.

#### Notice of meeting

7.12 The Clerk will give at least five clear days notice of any meeting by posting details of the meeting at Sessions House, County Hall, Maidstone. Shorter notice shall only be given in exceptional circumstances such as a second meeting of the Council to consider a revised budget under Procedure Rule 8.3(11).

#### Access to agenda and reports before the meeting

7.13 The Clerk will make copies of the agenda and reports available for public inspection at Sessions House at least five clear days before the meeting. If an item is later added to the agenda, the revised agenda will be open to public inspection from the time the item was added to the agenda. Where reports are prepared after the

agenda has been sent out, the Clerk shall make such reports available for public inspection as soon as the report is sent to Members.

7.14 The Clerk may withhold reports from public inspection if he considers they contain exempt or confidential information. Such reports will be marked "Not for publication" and the exemption category of information indicated.

#### Exclusion of the Media and Public from Meetings

7.15 The media and the public must be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information will be disclosed.

7.16 The media and the public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information will be disclosed.

7.17 The decision to exclude the media and the public must be made by a resolution of the Council, Committee or Cabinet which must (in the case of exempt information) state the reasons for the exclusion (by reference to the relevant statutory category) and must be recorded in the minutes of the meeting.

7.18 The Leader will decide whether meetings of Cabinet relating to matters that are not key decisions will be held in public or private.

#### ***Publication of reports to Cabinet Members***

7.19 Where a decision of any sort is to be made by a Cabinet Member and an officer prepares a report for the Member about that decision, a copy of the report shall be sent to the Clerk at the same time as it is sent to the Cabinet Member.

7.20 On receipt of the report, the Clerk shall:

(1) send a copy of the report to the Chairman and spokesmen on the Cabinet Scrutiny Committee

(2) inform all other Members of the Cabinet Scrutiny Committee that the report is available

(3) make a copy of the report available for public inspection (unless it contains exempt or confidential information).

7.21 Where an individual Cabinet Member receives a report which **they** intend to take into account in making any decision, then **they** may not make the decision until at least five clear days after the report has been made available by the Clerk for public inspection.

#### ***Publication of records of decisions by Cabinet and Cabinet Members***

7.22 A record must be made of every decision of the Cabinet or a Cabinet Member. The record must contain:

(1) the decision

(2) the reasons for it

(3) any alternative options considered and rejected at the meeting or at the time the decision was made

(4) any conflict of interest declared (whether by the deciding Member or otherwise)

(5) any note of dispensation in respect of such interest.

7.23 The record must be sent to the Clerk by:

(1) the Chief Executive (or his nominee as proper officer) in the case of a Cabinet decision

(2) an officer instructed to do so by the deciding Cabinet Member.

7.24 The Clerk shall:

(1) send a copy of the record to the Chairman and spokesmen of the Cabinet Scrutiny Committee

(2) inform all other Members of the Cabinet Scrutiny Committee that the record is available

(3) make a copy of the record available for public inspection (unless it contains exempt or confidential information).

### ***Access to minutes and records of decisions***

7.25 The Clerk will retain and make available for public inspection for six years after a meeting, or the taking of a decision, copies of the following:

(1) the minutes of the meeting and/or records of decisions taken, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information

(2) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record

(3) the agenda

(4) reports relating to items when the meeting was open to the public.

### ***Supply of copies***

7.26 Following a request by any person and on payment by them of a reasonable charge to meet copying and clerical costs, the Council will supply copies of any agendas, reports, minutes and records of decisions which are open to public inspection.

### ***List of background documents***

7.27 The author of any report will set out in the report a list of background documents relating to the subject matter of the report which in his opinion:

(1) disclose any facts or matters on which the report, or an important part of the report, is based and

(2) which have been relied on to a material extent in preparing the report (not including published works or those which disclose exempt or confidential information as defined above and, in respect of Cabinet reports, the advice of a political advisor).

### ***Public inspection of background documents***

7.28 The Chief Executive and Senior Managers are responsible for ensuring that one copy of each background document is retained and made available for public inspection for six years after the date of any meeting or decision.

### ***Summary of public's rights***

7.29 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

7.30 A summary of the public's rights to attend meetings and to inspect and copy documents will be retained and made available to the public at the designated office.

### ***Member Information System***

7.31 The Clerk shall maintain a system for informing all Members of the business and decisions of the Council, its Committees, Cabinet and Cabinet Members.

### ***Rights to Inspect Documents***

7.32 Members have rights under the Local Government Acts to inspect and be provided with copies of most documents held by officers, the Leader or the Cabinet. They also have a right at common law to inspect documents that contain information they need to know for the discharge of their duties as Members of the Council. These rights will be interpreted and applied in accordance with a presumption in favour of openness and with advice issued by the Standards Committee.

### ***Confidential and Exempt Information***

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

7.34 Exempt information means information falling within one or more of the following seven categories:

#### PART 1 DESCRIPTIONS OF EXEMPT INFORMATION

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising

between the authority of a Minister of the Crown and employees of, or office holders under, the authority.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## PART 2 QUALIFICATIONS

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under –
  - (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 1993.
9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
10. Information which:
  - (a) falls within any of paragraphs 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## PART 3 INTERPRETATION

11. (1) “employee” means a person employed under a contract of service;  
“financial or business affairs” includes contemplated, as well as past or current, activities;  
“labour relations matter” means –



(a) any of the matters specified in paragraphs (a) to (g) of section 218 (1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

(b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

“office-holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

“registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

(2) Any reference to “the authority” is a reference to the principal council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference –

(a) in the case of a principal council, to any committee or sub-committee of the council; and

(b) in the case of a committee, to:

(i) any constituent principal council;

(ii) any other principal council by which appointments are made to the committee or whose functions the committee discharges; and

(iii) any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and

(c) in the case of a sub-committee, to:

(i) the committee, or any of the committees, of which it is a sub-committee; and

(ii) any principal council which falls within paragraph (b) above in relation to that committee.

## **Appendix 4 Part 8: Decision Making Procedure Rules**

### ***The framework for Cabinet decisions***

8.1 The Council approves the Budget and Policy Framework as set out in Appendix 3. Once a budget or a policy or strategy within the Policy Framework is in place, it is the responsibility of the Leader to ensure its implementation.

### ***Process for developing the Policy Framework***

8.2 The process for proposing or amending a policy or strategy within the Policy Framework is:

(1) The Leader will ensure a timetable is published for the adoption or change of any policy or strategy that forms part of the Policy Framework, and arrangements for consultation on those proposals. In the case of the plans and strategies requiring Council debate and approval, publication will be to the Members of the Cabinet Scrutiny Committee; in all other cases publication will be to the Members of the relevant Policy Overview [and Scrutiny](#) Committee.

(2) Before commenting to the Leader, Cabinet or Cabinet Member on the topic and proposals, the Cabinet Scrutiny Committee or the relevant Policy Overview [and Scrutiny](#) Committee (either itself or through a Select Committee) may:

- (a) take evidence from Cabinet Members and officers
- (b) commission research within budgeted resources
- (c) consult Kent organisations and electors or other organisations and persons.

(3) Having considered any report by the Cabinet Scrutiny Committee or a Policy Overview [and Scrutiny](#) Committee, the Leader, Cabinet or Cabinet Member shall agree proposals for submission to the Council or the Policy Overview [and Scrutiny](#) Committee. The submission shall state how any recommendations from the Cabinet Scrutiny or Policy Overview [and Scrutiny](#) Committee have been taken into account.

(4) A Policy Overview [and Scrutiny](#) Committee in considering a submission may:

- (a) endorse the proposals as submitted
- (b) amend the proposals with the consent of the Leader or Cabinet Member
- (c) recommend that the Council reject the proposals or amend them without the consent of the Leader or Cabinet Member.

(5) If a Policy Overview [and Scrutiny](#) Committee endorses proposals or amends them with the consent of the Leader or Cabinet Member, it will report that action to the Council for ratification.

(6) If a Policy Overview [and Scrutiny](#) Committee decides to recommend the Council to reject the proposals or amend them without the consent of the Leader or Cabinet Member, the procedure in Rules (7)-(12), below, shall apply.

(7) The Council will consider proposals for those plans and strategies that require its approval under the Policy Framework and any proposals referred to it by a Policy Overview [and Scrutiny](#) Committee under Rule (4)(c), above, and may:

- (a) adopt them
- (b) amend them
- (c) refer them back to the Leader for further consideration
- (d) substitute its own proposals in their place.

(8) In considering the matter, the Council shall have before it the report from the Leader, Cabinet or Cabinet Member and any report from the relevant Policy Overview [and Scrutiny](#) Committee, including a report of any minority views expressed in that Committee's debate.

(9) The Council's decision will be published and a copy shall be given by the Clerk to the Leader. The notice of decision shall be dated and shall state either that:

- (a) the decision shall be effective immediately (if the Council accepts the proposals without amendment or if the Leader has consented to any amendments during or following the debate) or
- (b) (if the proposals are not accepted without amendments to which the Leader has consented) the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader objects to it in that period.

(10) The Leader may object to the decision of the Council by giving written notice to that effect to the Chief Executive and the Monitoring Officer prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. The proposals will then be reconsidered by the Council at its next meeting. The Council shall at that second meeting make its final decision on the matter on the basis of a simple majority. The decision shall be published and shall take effect immediately.

(11) In approving any part of the Policy Framework, the Council may also specify the extent to which the decisions may be taken by the Leader or Cabinet at variance from the Policy Framework.

(12) The Chief Executive and Senior Managers may amend the text of approved documents to update information, reflect changes in the law or other matters not affecting the substance of the policy or strategy subject to prior notification of such changes to the Leader, any relevant Cabinet Member and the Chairman and spokesmen of the relevant Policy Overview [and Scrutiny](#) Committee.

### ***Process for developing the Budget***

8.3 The process for proposing the Budget, Council Tax level, Capital Programme and Borrowing Policy is:

(1) the Leader will publish to all Council Members each year a review of the issues relating to the Budget for the next financial year;

(2) The Policy Overview and Scrutiny Committee Suite will consider matters within the published review of issues relating to the Budget for the next financial year which fall within their remit and make recommendations to the Leader;

(3) the Leader will publish a draft Budget no later than three weeks before the Budget meeting of the Council;

(4) the Leader will ensure external consultation is carried out;

(5) the Cabinet Scrutiny Committee and the Scrutiny Board may consider the draft Budget, question the Leader and such Members of the Cabinet and officers as it wishes, and comment to the Cabinet;

(6) as part of each Policy Overview and Scrutiny Committee's consideration of the draft Budget, it should assess whether adequate resources have been allocated to take account of the endorsed recommendations of its own Select Committees. If it does not believe that these recommendations have been correctly taken into account, then it should recommend to the Leader, and Council appropriate changes to the draft Budget;

(7) the Leader will consider any report from the Policy Overview and Scrutiny Committee Suite before reporting to Cabinet and making a final recommendation to the Council. He will also report to Council on how he has taken into account any recommendations from the Policy Overview and Scrutiny Committee Suite;

(8) the Council will consider the Leader's proposals and may:

- (a) adopt them
- (b) amend them
- (c) refer them back to the Leader for further consideration
- (d) substitute its own proposals in their place.

(9) In considering the matter, the Council shall have before it the report from the Leader or the Cabinet, any report from the Policy Overview and Scrutiny Committee Suite, and a report of any minority views expressed in those Committees' debates.

(10) the Council's decision will be published and a copy shall be given by the Head of Democratic Services and Local Leadership to the Leader no later than the day following the Council meeting. The notice of decision shall be dated and shall state that either:

- (a) the decision shall be effective immediately (if the Council accepts the proposals without amendment or if the Leader has consented to any amendments during or following the debate) or
- (b) (if the proposals are not accepted without amendments to which the Leader has consented) the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader objects to it in that period.

**Deleted:** the Cabinet Scrutiny Committee may refer issues arising from the report for consideration by a Policy Overview Committee;

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(3) the Leader will ensure external consultation is carried out;¶

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(11) the Leader may object to the decision of the Council by giving written notice to that effect to the Chief Executive and the Monitoring Officer prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection together with any changes proposed by the Leader and the reasons for those changes. The proposals will then be reconsidered by the Council at a meeting to be held on the sixth working day after the original meeting. The Council shall at that second meeting make its final decision on the matter on the basis of a simple majority. The decision shall be published and shall take effect immediately.

### ***Decisions at variance from the Budget, Policy Framework or Resource Management Rules***

8.4 The Leader, the Cabinet, its committees, Cabinet Members and any officers, Joint Committees or bodies discharging executive functions under joint arrangements may only take decisions which are not in accordance with:

(1) the Budget and Policy Framework

(2) any specification by the Council on the permissible extent of variance from the Budget or Policy Framework

(3) the provisions of the Resource Management Responsibilities Statement (Appendix 5) and other Resource Management Rules, including Financial Regulations and procedures

(4) the provisions of the other Resource Management Rules

by complying with the following procedure.

8.5 It is the responsibility of the Chief Executive or relevant Senior Manager to advise whether a proposed decision is not in accordance with the matters listed in 8.4, above. In any case of doubt, advice shall be sought from the Monitoring Officer and/or the Chief Finance Officer whose decision will be final.

8.6 The procedure to be followed for such decision is:

(1) If the decision is one that would otherwise be taken by an officer it shall instead be referred to the Leader, Cabinet or relevant Cabinet Member.

(2) The Leader may refer the matter with his recommendation to the Council to decide.

(3) Unless the Leader refers the matter to the Council, the proposed decision shall be referred to the Cabinet Scrutiny Committee, which shall (after any questioning and debate in accordance with the Procedure Rules) resolve by a majority vote:

(a) to make no comments

(b) to express comments to the Leader but not require reconsideration of the decision

(c) to require implementation of the decision to be postponed pending reconsideration of the matter by the Leader (or whoever else took the decision) in the light of the Committee's comments

(d) to refer the matter to the full Council.

(4) If the Leader or the Committee refers the matter to the full Council, it shall be considered at the next meeting of the Council when the Council may:

- (a) agree the decision be taken
- (b) amend the Budget or Policy Framework to reflect the decision
- (c) reject the proposed decision
- (d) ask the Leader to reconsider the matter.

(5) In the event of a decision being referred back to the Leader by either the Cabinet Scrutiny Committee or the full Council, the Leader (or other decision taker) shall reconsider the matter on the basis of a report setting out the comments expressed and confirm, rescind or amend the decision in the light of those comments. The written record of that reconsidered decision will be published and sent to all Members of the Cabinet Scrutiny Committee. The reconsidered decision will then take effect and may be implemented with immediate effect.

8.7 A decision will not take effect until the process set out in [Rules](#) (1)-(5) above has been completed.

### ***Decisions in accordance with the Budget and Policy Framework***

8.8 Decisions taken by the Leader, [Cabinet](#), Cabinet Members [or](#) Cabinet committees ~~are open to scrutiny by the Cabinet Scrutiny Committee.~~

**Deleted:** officers or bodies discharging executive functions under joint arrangements

### ***Cabinet Decisions***

8.9 Scrutiny of decisions taken by the Cabinet collectively will be subject to the following process:

(1) Meetings of the Cabinet Scrutiny Committee will normally take place within eight working days of the meetings of Cabinet.

(2) A copy of the agenda and all papers submitted to the meeting of the Cabinet will be sent at the time of publication to all Members of the Cabinet Scrutiny Committee.

(3) The Chairman and spokesmen on the Cabinet Scrutiny Committee shall agree:

- (a) which matters the Committee is to scrutinise
- (b) the amount of time to be allowed for questioning and debate on each of these items
- (c) which Members of the Cabinet and officers it requires to attend and answer questions
- (d) which other witnesses it will ask to attend

(These agreements should be based on the principle of fair shares between political groups in selecting the items to be discussed).

(4) The record required by Procedure Rule 7.22 of all decisions taken by the Cabinet and selected for scrutiny shall be sent to all Members of the Cabinet Scrutiny Committee before its meeting.

(5) The Cabinet Scrutiny Committee will meet, question Cabinet Members and officers, debate the issues identified by the Chairman and spokesmen and resolve by a majority vote to either:

- (a) make no comments
- (b) express comments but not require reconsideration of the decision
- (c) require implementation of the decision to be postponed pending reconsideration of the matter in the light of the Committee's comments by whoever took the decision or
- (d) require implementation of the decision to be postponed pending consideration of the matter by the full Council.

(6) If the Cabinet Scrutiny Committee refers a decision to the full Council, it shall be considered at the next meeting of the Council when the Council may either:

- (a) agree the decision be taken
- (b) express comments but not require reconsideration of the decision or
- (c) require implementation of the decision to be postponed pending reconsideration by the Cabinet of the matter, taking into account the Council's comments.

(7) In the event of a decision being referred back for reconsideration by either the Cabinet Scrutiny Committee or the full Council, the Cabinet shall reconsider it on the basis of a report setting out the comments expressed and confirm, rescind or amend the decision in the light of those comments. A written statement of that reconsidered decision will be published and sent to all Members of the Cabinet Scrutiny Committee.

(8) Decisions taken by the Cabinet may not be implemented until after the meeting of the Cabinet Scrutiny Committee. If the Committee requires implementation of the decision to be postponed or refers it to Council, it may not be implemented until the processes set out in [Rules](#) (6) and (7) above have been completed.

(9) Nothing in the above rules prevents a Member of the Cabinet Scrutiny Committee from exercising their legal right to propose discussion and/or postponement (under Rule 8.9(5)(c) or (d)) of any decision taken by the [Leader, the Cabinet or a Cabinet Member](#). The agenda for the meeting of the Cabinet Scrutiny Committee shall include an item for this purpose.

### ***Decisions by the Leader, Cabinet Members or Cabinet Committees***

8.10 The record of any decision taken by the Leader, an individual Cabinet Member or a Committee of the Cabinet will be published and publication notified to the Chairman, spokesmen and Members of the Cabinet Scrutiny Committee in accordance with Procedure Rules 7.22-24.

8.11 Any Member of the Cabinet Scrutiny Committee may request, within five clear days of being sent a copy or notified of a record of such a decision, that the decision be scrutinised by the Cabinet Scrutiny Committee. The Chairman and spokesmen of that Committee shall consider the request and agree to either:

(1) include the item for substantive discussion and/or questioning at the next Cabinet Scrutiny Committee meeting, or

(2) refer consideration of the request to the full Cabinet Scrutiny Committee.

8.12 If the request is agreed for substantive discussion and/or questioning at the next Cabinet Scrutiny Committee meeting under Procedure Rule 8.11(1):

(1) the same procedures shall apply as to a decision taken by Cabinet, except that the reconsideration shall be by the Leader, the individual Cabinet Member or Committee that took the decision

(2) the decision may not be implemented until the request has been disposed of by its withdrawal, rejection by the Cabinet Scrutiny Committee or other completion of the scrutiny process, unless the Chairman and spokesmen of the Cabinet Scrutiny Committee agree it may proceed.

8.13 If consideration of the request is referred to the full Cabinet Scrutiny Committee under Procedure Rule 8.11(2), the notified decision may be implemented in advance of the Cabinet Scrutiny Committee meeting.

### **Rules for Urgent Decisions**

8.14 If a decision has to be taken or implemented for reasons of urgency before the procedures set out above have been completed, it may be taken and/or implemented provided that the Chairman and spokesmen on the Cabinet Scrutiny Committee have been consulted (unless the circumstances render this impractical) and:

(1) the Chief Executive or relevant Senior Manager; and

(2) (in the case of a key decision that ought to be included in the Forward Plan) the Chairman of the Cabinet Scrutiny Committee

agree that the making of the decision is urgent and cannot reasonably be deferred.

8.15 If the Chairman of the Cabinet Scrutiny Committee is unable to act, the Chairman or Vice-Chairman of the Council may be consulted and agree instead.

8.16 The reasons why it was not practical to comply with the relevant procedures and the agreement and any comments of the Chief Executive, relevant Senior Manager and Chairman and spokesmen of the Cabinet Scrutiny Committee must be included in the published written statement of the decision.

8.17 The Leader shall report quarterly to the Council giving details (including particulars of the matters in respect of which decisions were made) of any key decision which was taken as an urgent matter during the previous three months.



## Decisions by Officers and Council Committees

8.18 The Scrutiny Board may resolve (or the Chairman and spokesmen may agree) to consider any decision taken by an officer or by a Committee exercising functions delegated to it by the Council. It (or they) may request, but not require, that implementation of any such decision be postponed. The agenda for each meeting of the Scrutiny Board shall include an item for this purpose. Following such consideration, the Scrutiny Board may:

- (1) comment to the Chief Executive and the relevant Senior Manager
- (2) report to the Council
- (3) refer any issues arising from its debate for consideration by a Policy Overview and Scrutiny Committee or the Cabinet.

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## Decision Making Procedure Rules – Virement

### Revenue

8.19 Transfers between revenue budget headings can take place as follows, provided they do not involve new policy or policy change and do not involve an increasing commitment in future years that cannot be contained within existing approved budget allocations:

- (a) Virement within a portfolio for which a Cabinet Member is responsible:
  - (i) Up to £200,000: the relevant Senior Manager in consultation with the relevant Cabinet Member and the Chief Finance Officer;
  - (ii) Between £200,000 and £1m: the relevant Cabinet Member in consultation with the Cabinet Member for Finance;
  - (iii) Above £1m: the Leader or Cabinet.
- (b) Virement between portfolios:
  - (i) Up to £200,000: the relevant Senior Managers in consultation with the relevant Cabinet Members and the Chief Finance Officer;
  - (ii) Between £200,000 and £1m: the relevant Cabinet Members in consultation with the Cabinet Member for Finance;
  - (iii) Above £1m: the Leader or Cabinet.

### Capital

8.20 Resources may be vired from one capital project or heading to another as follows, provided that such transfers do not result in an overall increased commitment of capital resources and do not involve new policy or policy change:

- (i) Up to £50,000: the relevant Senior Manager;

- (ii) Between £50,000 and £200,000: the relevant Senior Manager in consultation with the relevant Cabinet Member and the Chief Finance Officer;
- (iii) Between £200,000 and £1m: the relevant Cabinet Member in consultation with the Cabinet Member for Finance; and
- (iv) Above £1m - the Leader or Cabinet.

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 -----Page Break-----  
 Appendix 4 Part 9:  
 Best Value Procedure¶  
 ¶  
 Review Programme¶  
 ¶  
 The Council and the Leader are responsible for ensuring Best Value throughout the authority.¶  
 ¶  
 The Council's Best Value Performance Plan is known as the *Annual Plan*.¶  
 Annual Plan¶  
 ¶  
 9.3 The Leader submits a draft Annual Plan to the Council each year. Any performance targets not agreed at that Council meeting are determined by the Leader. The final text of the Plan shall reflect the decisions of the Council and the Leader and updates to performance and factual information will be settled by the Chief Executive after discussion by the Governance & Audit Committee.¶  
 ¶  
 9.4 The Leader or responsible Cabinet Member will report annually to the relevant Policy Overview Committee on the performance of the Council's services in relation to the policy objectives and performance targets set in the Plan and seek its views on any changes to be incorporated in the next Plan.¶  
 ¶  
 9.5 The Governance & Audit Committee is responsible on behalf of the Council for ensuring all Best Value processes comply with legal and audit requirements.

## **Appendix 5: Resource Management Responsibilities Statement (including Property Management Protocol and Contracts and Tenders Standing Orders)**

### **Introduction**

1.1 This Appendix sets out the responsibilities for bodies and office holders within the Council structure for ensuring that the Council's resources are used in accordance with the principles of sound financial management, proper exercise of responsibility and accountability.

1.2 Financial Regulations, the Anti-Fraud Strategy and Codes of Practice giving effect to these principles are prepared and maintained by the Chief Finance Officer and Chief Executive and endorsed by the Leader and Governance & Audit Committee.

1.3 **The full Council** is responsible:

- (a) directly and through the Governance & Audit Committee, for setting the Policy Framework
- (b) for approving and monitoring compliance with the authority's overall framework of accountability and control as set out in the Constitution
- (c) directly and through the Cabinet Scrutiny Committee, for monitoring compliance with agreed policy, including the revenue and capital budgets
- (d) for approving procedures for recording and reporting decisions taken. This includes key and other decisions taken or delegated by the Leader and decisions taken by the Council and its committees or delegated by them to officers. These delegations and details of who has responsibility for which decisions are set out in the Constitution
- (e) for agreeing the annual Budget and Council Tax
- (d) for determining and keeping under review how much money the Council can afford to borrow for capital expenditure
- (f) for setting and revising the prudential indicators for capital finance
- (g) for setting the limits for virement or other budget changes through the decision making procedure rules
- (h) for setting the limits defining key financial decisions
- (i) for determining any expenditure proposed by the Leader or the Cabinet that is outside the limits referred to in (e) above and
- (j) for approving the standing orders for contracts and tenders included in this statement

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1.4 **The Leader** is responsible for:

(a) proposing the Budget, Council Tax and prudential indicators to the Council

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(b) approving revenue, capital and treasury management strategies

(b) determining which executive functions are exercised by himself, the Cabinet collectively, other individual Cabinet Members or officers and

(d) ensuring that all executive decisions are taken in accordance with the Council's agreed principles of decision making, including due consultation and the taking of professional advice from officers

1.5 **Individual Cabinet Members** are responsible, within their allocated responsibility area and approved budget for:

(a) taking decisions in accordance with the framework of responsibilities delegated to them from the Leader

(b) consulting with the Leader in relation to any proposed decisions as the Leader may direct

(c) complying with Financial Regulations in force as agreed by or on behalf of the County Council

(d) taking decisions which are otherwise delegated to officers but which are:

(i) not in accord with the Policy Framework or budget agreed by the Council or management and business plans within their portfolio

(ii) withdrawn from the delegation to Senior Managers

(e) taking account of legal and financial liabilities when taking decision including due consultation with and the taking of advice from officers

(f) processing decisions in accordance with the decision making and reporting framework set out in the Constitution

1.6 **The Cabinet Scrutiny Committee** is responsible for scrutinising decisions and proposals by the Leader, Cabinet, Cabinet Members, in relation to compliance with Council agreed policy and budget.

Deleted: , Chief Executive and Senior Managers

[1.7 The Scrutiny Board is responsible for scrutinising decisions and proposals by the Chief Executive and Senior Managers in relation to compliance with Council agreed policy and budget.](#)

1.8 **The Governance & Audit Committee** is responsible for:

(a) monitoring the Council's compliance with its own published standards and controls and with other standards and considering any proposals for changes to Financial Regulations and the Code of Practice on Contracts and Tenders

(b) liaising with the Audit Commission over the appointment of the Council's external auditor

(c) discussing with the external auditor and Cabinet the basis of the annual audit, including the overall level and composition of the fee and the content of performance work

(d) receiving all reports by the external auditor including all performance reports and the Annual Management Letter

- (e) overseeing the Internal Audit activity of the Council
- (f) ~~considering and responding to reports from the external auditor and Audit Commission Inspectorate~~
- (g) monitoring the response of the Cabinet and Council Committees to audit reviews and investigations and the implementation of agreed recommendations
- (h) overseeing the operation of the Council's complaints procedures, including the response of the Cabinet or a Council Committee to any report by the Local Government Ombudsman
- (i) approving the annual accounts on behalf of the Council
- (j) approving the writing-off of debts from the Council's accounts (except those agreed by the Chief Finance Officer as provided for in the Financial Regulations)
- (k) monitoring the operation of borrowing and investment policies and Treasury Management activity and
- (l) agreeing the risk management policy with the Cabinet and monitoring insurance arrangements

**Deleted:** advising the Council on the Annual Plan proposed by the Leader in relation to statutory requirements and guidance; and

1.9 **The Monitoring Officer** is responsible:

- (a) after consulting with the Head of Paid Service and the Chief Finance Officer, for reporting 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, 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
- (b) for ensuring that records of executive decisions, including the reasons for those decisions and relevant officer reports and background papers, are made publicly available
- (c) for advising whether decisions of the executive are in accordance with the Budget and Policy Framework. Actions that may be 'contrary to the Budget' include:
  - (i) initiating a new policy for which no budget exists
  - (ii) committing expenditure in future years above the approved budgeted level
  - (iii) effecting intra and inter-portfolio transfers above virement limits and
  - (iv) causing the total expenditure financed from Council Tax, grants and corporately held reserves to increase beyond that provided for in the approved budget
- (d) for providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members

1.10 **The Chief Executive** is responsible for:

- (a) overall corporate management and operational responsibility (including, as Head of Paid Service, overall management responsibility for all staff)
- (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, a system of record keeping for all the local authority's decisions (executive or otherwise)
- (d) reporting to the Council on the manner in which the discharge by the authority of its functions is co-ordinated
- (e) the setting of standards for the management of property and information technology resources and the management of staff and
- (f) arrangements for internal control and for inclusion in the annual accounts of the statement of internal control

Deleted: <#>(e) preparing the Annual Plan for submission by the Leader¶¶ <#>¶

1.11 **The Chief Finance Officer** has statutory duties in relation to the financial administration and stewardship of the authority. These statutory responsibilities cannot be overridden. The statutory duties arise from:

- (a) Section 151 of the Local Government Act 1972
- (b) The Local Government Finance Act 1988
- (c) The Local Government and Housing Act 1989
- (d) The Local Government Acts 2000 and 2003
- (e) The Accounts and Audit Regulations 2003
- (f) The Local Government Pension Scheme Regulations 1974 and 1997
- (g) The Local Government Pension Scheme Regulations (Management and Investment of Funds) 1998
- (h) The Local Authorities Goods and Services Acts 1970.

1.12 **The Chief Finance Officer** is responsible for:

- (a) after consulting with the Chief Executive and the Monitoring Officer, reporting 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
- (b) the proper administration of the financial affairs of the Council
- (c) maintaining an adequate and effective internal audit
- (d) contributing to the corporate management of the Council, in particular through the provision of professional financial advice

- (e) providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members and supporting and advising Members and officers in their respective roles and
- (f) providing financial information about the Council to Members of the Council, the media, members of the public and the community

and in particular for

- (g) setting financial management standards, including financial procedures, and monitoring their compliance
- (h) advising on the corporate financial position and on the key financial controls necessary to secure sound financial and risk management
- (i) providing financial information to support the proper financial planning of the authority, to inform policy development and to assist Members and officers in undertaking their financial responsibilities
- (j) preparing the revenue budget and reporting to the Council, when considering the Budget and Council Tax, on the robustness of the estimates and the adequacy of reserves
- (k) monitoring income and expenditure against the budget and taking action if overspends or shortfalls in income emerge
- (l) preparing the capital programme and ensuring effective forward planning and sound financial management in its compilation
- (m) treasury management
- (n) making recommendations to the Leader and Council on the prudential indicators and advising on all other matters required to be considered by the Prudential Code for Capital Finance
- (o) the Council's banking arrangements and
- (p) issuing advice and guidance to underpin the Financial Regulations that Members, officers and others acting on behalf of the authority are required to follow

1.13 The Chief Finance Officer, in accordance with Section 114 of the 1988 Act will nominate a properly qualified member of staff to deputise for him as Chief Finance Officer should he be unable to personally perform the duties under Section 114.

1.14 **The Leader, Cabinet Scrutiny and Governance & Audit Committees, Chief Executive, Chief Finance Officer and Monitoring Officer** all have a right of access to obtain all the information they consider necessary to discharge the responsibilities set out above.

1.15 **The Chief Executive and Senior Managers** are responsible for:

- (a) ensuring that the Leader or relevant Cabinet Member is advised of the financial implications of all proposals for changes in services or the development of new services and that the financial implications have been agreed by the Chief Finance Officer

- (b) promoting the financial management standards set by the Chief Finance Officer in their Directorates and monitoring adherence to standards and practices, liaising as necessary with the Chief Finance Officer
- (c) the signing of contracts on behalf of the Council provided that the expenditure incurred has the necessary budget approval
- (d) promoting sound financial practices in relation to standards, performance and development of staff in their Directorates
- (e) consulting with the Chief Finance Officer and seeking his approval regarding any matters which are liable to materially affect the Council's finances, before any commitments are incurred
- (f) ensuring that all staff in their Directorates are aware of the existence and content of the authority's Financial Regulations and any related procedures and other internal regulatory documents appertaining to or amplifying them and that they comply with them; they must also ensure that all of these documents are readily available for reference within their Directorates
- (g) managing service delivery within the agreed revenue and capital budgets and other relevant strategies and plans
- (h) developing performance, corporate and service targets
- (i) ensuring that budget estimates reflecting agreed service plans are prepared in line with issued guidance
- (j) ensuring that financial management arrangements and practice are agreed with the Chief Finance Officer, are legal and consistent with best practice and Council policy
- (k) consulting with the Chief Finance Officer on the financial implications of matters relating to policy development and
- (l) putting in place a scheme of financial delegation setting out arrangements for the discharge of the Senior Manager responsibilities contained within Financial Regulations

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### Principles of Decision Making

1.16 All Members and officers taking decisions whether on behalf of the Council or the Leader must act in accordance with the Council's agreed principles of decision making (Article 12.2) and take account of legal and financial liabilities and risk management issues which may arise from the decision.



### **Contracts and Tenders Standing Orders**

1. It is the responsibility of the Chief Executive and Senior Managers to ensure that all purchases of goods and services comply with:
  - (a) legal requirements
  - (b) EU Directives
  - (c) the Council's Financial Regulations
  - (d) the Code contained in 'Spending The Council's Money' (as approved by the Governance & Audit Committee)
  - (e) standards for the management of property, information technology resources and staff and
  - (f) any conditions attached by the Leader or the Council to the exercise of powers delegated by them

#### **Authority**

2. (a) All transactions must fall within the powers delegated to the Chief Executive or Senior Manager or have been approved by a decision (in accordance with the Council's Constitution) of the Cabinet, the Leader, an authorised Cabinet Member, the Council or one of its committees or sub-committees.
  - (b) No contract, agreement or other document shall be signed or sealed unless it gives effect to:
    - (i) a decision or resolution (in accordance with the Council's Constitution) of the Leader, the Cabinet, an authorised Cabinet Member or one of its committees or sub committees or
    - (ii) a decision by an officer exercising delegated powers

3. (a) Budgetary provision must exist before any contract can be entered into. This provision should be explicit in a budget approved by resolution of the Council. Where budgetary approval exists for a specific item further Member approval is not generally required.

(b) Where there is no specific budget line, the Chief Executive and Senior Managers may approve expenditure up to £100,000, provided the expenditure can be met within budget. Above £100,000 a formal decision by the Leader, the Cabinet or an authorised Cabinet Member is required in accordance with the Council's Constitution.

#### **Thresholds**

4. (a) The financial values (exclusive of Value Added Tax) at which processes become mandatory are:
  - (i) £8,000 to £49,999 – at least three written quotations must be sought from appropriate sources
  - (ii) £50,000 and above – the competitive tender process, as defined in 'Spending the Council's Money', must be followed

However both the overall obligations of the Code and the statutory requirement to achieve value for money apply to all transactions and don't just apply from the above amounts and, as such a competitive tender process may be appropriate for procurements below £50,000.

(b) In addition European Union Directives, enacted in UK Law, set limits for public contracts above which specific procedures are required to be followed. The procedures cover the advertising of contracts, the rejection of suppliers, technical specifications, evaluation, selection and award criteria. All procurements for goods, services and works above the financial thresholds are covered by the legislation but not all procurements for services, social care for example, are subject to the full process. The current levels at which these apply are for goods and services, £139,893 and for works, £3,497,313.

(c) There must be no attempt to avoid any of these limits by deliberately manipulating the requirement or frequency of ordering.

(d) The 'financial values' here refers to:

(i) the total amount payable over the contract period, i.e. the Council's total liability under the contract, and not the budget available in the current year or

(ii) the reasonable expectation of the cost of the consequence of the decision or

(iii) the 'net benefit' to the contractor

whichever is the greater.

#### **The award**

5. The Chief Executive, Senior Managers and the Director of Law and Governance may sign documents on behalf of the Council or authorise officers to do so. This authority may be given by inclusion in the nominated officers' terms of appointment, by specific resolution or as part of a system implementing delegation arrangements within a directorate.

6. Where a contract for a Consultant is estimated to cost £20,000 or more details of the proposed award must be forwarded to the relevant Cabinet Member prior to the appropriate officer making the award. In this context a Consultant is defined as a named individual (i.e. the Council states it wants individual x) taken on to perform a particular, temporary, and defined, task.

7. (a) Any contract with a value in excess of £1m must be made in writing and either:

(i) affixed with the common seal of the Council and be attested by at least one authorised officer or

(ii) signed by at least two authorised officers

8. The common seal of the Council shall be affixed to any document or agreement if the Director of Law and Governance considers it appropriate for the purpose of transacting the Council's business or safeguarding its interests.

9. The seal may be fixed and witnessed only by the Director of Law and Governance or officers authorised in writing to do so.

10. The Director of Law and Governance shall ensure a register is maintained of all documents and agreements which are sealed including the name of the person who witnessed the affixing of the seal.

After the award

11. (a) For contracts of £50,000 or more where:

(i) quality issues as well as price, have been taken into account such that it's more advantageous to accept a tender(s) other than the lowest or

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(ii) acceptance of the most favourable tender(s) means that the approved budget will be exceeded or

(iii) a non-competitive process was used to determine the contractor\*

the approved Award Report must be sent to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the [Scrutiny Board](#).

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\* Contracts awarded without competition of adult and children's services required by law under the National Assistance Act 1948 and the Children Act 1989 are exempt from this reporting requirement.

(b) Where multiple firms are awarded contracts the rationale for the awards must be reported where any of the contractors has tendered a higher price than any of the unsuccessful firms.

(c) Being a named individual a 'Consultant' must, by definition, have been sourced via a non-competitive process. All contracts for a Consultant for £20,000 or more must be reported, as a non-competitive procurement, to the Head of Democratic Services within 14 days of the contract being awarded so that s/he may notify Members of the [Scrutiny Board](#).

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## ***Property Management Protocol***

### **Introduction**

1. This Protocol provides a framework of principles, minimum requirements, levels of authority and delegations to ensure that KCC property is managed effectively to achieve maximum value for money.

### **Overarching principles**

2. A set of overarching principles govern the operation of this Protocol. These are:

(1) All property owned or leased by KCC is held corporately (including KCC-owned schools).

(2) The Director of Property (in consultation with the Cabinet Member for Finance) is responsible for ensuring that the occupation of all KCC property by Directorates is in accordance with best management practice and in the interests of the Council as a whole, with the authority to direct the use, disposal or acquisition of any land or property within the Council's budgetary framework and decision-making process.

(3) Directorates have discretion to manage the property they occupy in order to promote effective service delivery. However, this discretion operates subject to the corporate responsibilities of the Director of Property, who (in consultation with the Cabinet Member for Finance) has the authority to intervene in property matters to protect KCC's overall interests.

(4) Resolution of disputes on property matters is through the Cabinet Member for Finance and then, if necessary, the Leader.

(5) All property transactions should be referred to the Director of Property who will consult with the Cabinet Member for Finance and seek the comments of all interested parties, including other relevant Cabinet Members, Directorates and Local Members, before the decision is taken to proceed. All decisions must be taken in accordance with the delegations set out in this Protocol and the decision making procedures set out in the County Council's Constitution.

(6) This Protocol is organised in sections to reflect the lifecycle of property (acquisition – management in use – disposal) with additional requirements to support specific initiatives and exceptional circumstances.

## **ACQUISITIONS**

3. Objective: To ensure that land and property requirements are appropriately identified and appraised; and that all acquisitions have the necessary authority and funding, including an assessment of the impact on revenue of funding from borrowing.

4. All acquisitions (freehold and leasehold) must be authorised by the Director of Property (following consultation with the Cabinet Member for Finance, the Director of Finance, other relevant Cabinet Members, Directorates and Local Members) either in accordance with the delegations set out in paragraph 33, below, or the decision making procedures set out in the Council's Constitution.

### **Non-Highways Acquisitions**

5. For all non-highways acquisitions, the relevant Directorate will provide the Director of Property with:

- (1) A definition of the service requirement giving rise to the proposed acquisition
- (2) A full financial appraisal of options for meeting service delivery requirements (developed as appropriate with support from the Property Group and in accordance with the Project Appraisal Handbook)
- (3) An evaluation of the potential (if any) for joint use

6. The Cabinet Member for Finance will be consulted on all proposed acquisitions and kept informed of their progress and will determine if s/he or an officer will give approval for the acquisition. The Cabinet Member for Finance may at any stage direct that a decision be referred to him/her.

7. Where the Cabinet Member for Finance has determined that s/he will take the decision on a proposed acquisition, the matter will be dealt with in accordance with the appropriate provisions of this Protocol and decision making procedures set out in the Council's Constitution. Local Members and [Members of](#) the Cabinet Scrutiny Committee will be sent a copy of the officer report at the same time as the Cabinet Member for Finance, so that they may comment to the Cabinet Member for Finance if they so wish.

8. Subject to paragraph 12 below, the use of compulsory powers for acquisitions must be agreed by both the Cabinet Member for Finance and any other relevant Cabinet Member.

### **Highways Acquisitions**

9. The Managing Director of Environment & Regeneration will, in the case of all highway acquisitions, seek Local Member views as part of the consultation process for highways and traffic schemes.

10. Highways scheme design and cost (including land acquisition) shall be approved by the Cabinet Member of Environment, Highways & Waste and the Managing Director of Environment & Regeneration (or officer authorised by him/her), after considering the views of the Project Advisory Group (PAG).

11. Highways acquisitions may be made by the Director of Property in consultation with the Cabinet Member for Finance provided the scheme is in an approved programme or falls within blight policies.

12. All other highways acquisitions (i.e. land not incorporated in the highway) will be referred by the Director of Property to the Cabinet Member for Finance, who will determine if s/he or an officer will give approval for the acquisition. Once the principle of acquisition of land is agreed, any decision whether or not to use compulsory powers will be decided by the Cabinet Member for Environment, Highways & Waste in accordance with the terms of this Protocol and the decision making procedures set out in the Constitution.

### **MANAGEMENT & USE**

13. Objective: To ensure that property is used efficiently, effectively and economically with due regard to legislative requirements; and that when it is no longer required for operational purposes it is formally declared surplus, at which point its management reverts to the Director of Property, and the budgetary implications of this are identified and reported to the Cabinet Member for Finance.

14. The occupation and use of property by a Directorate is subject to the authority of the Director of Property (in consultation with the Cabinet Member for Finance) to approve all material changes to property, including change of use, appropriations, granting/taking of interests, reversion to operational use, alterations or additions. Such changes must be reported to the Director of Finance for correct accounting treatment and apportionment of charges.

### **Premises Management**

15. The Director of Property has the authority to undertake reviews of the property portfolio, or parts of it, to determine if it is optimised in terms of its utilisation, cost and value and within this to challenge the retention or use of existing properties occupied by Directorates.

### **Building works**

16. Major capital works for properties should be subject to a formal project appraisal and should be consistent with existing financial approval and procurement processes.

### **Health & Safety**

17. Staff are required to ensure that in respect of all property matters all obligations under health and safety legislation and KCC health and safety policies are followed.

## DISPOSALS

18. Objective: To ensure that land and property surplus to operational need is either reallocated to meet alternative needs or sold in line with statutory requirements and/or KCC policy.

19. Directorates will notify the Director of Property of:

- (1) Any property (or part) that is:
  - (a) Vacant
  - (b) Held against a future operational need
  - (c) Not used for the principal purpose for which it is held
  - (d) Likely to be surplus to requirements (with estimated time-scale)
- (2) Any operational issues associated with such property (e.g. longer term requirements)
- (3) Any statutory/process issues relevant to its disposal (e.g. established consultation processes, reference to the Secretary of State, etc)
- (4) The recipient of the capital receipt and its intended use, as agreed with the Cabinet Member for Finance and the Director of Finance
- (5) Any other issues which need to be considered prior to disposal

20. The Director of Property may identify any property (or part) that s/he considers is, or could be made, surplus to operational requirements.

21. The Director of Property will consult with the Cabinet Member for Finance on all disposals and inform him/her of the comments of Local Members. The Cabinet Member for Finance will determine whether s/he or an officer will give approval for disposal in accordance with this Protocol and the decision making procedures set out in the Council's Constitution.

### Treatment of Capital Receipts (Rules and Processes)

22. Capital receipts from disposals are deemed to be 'Earmarked Capital Receipts' or 'General Receipts'.

- (1) Earmarked Capital Receipts – are proceeds from the sale of an identified (named) site (or number of sites) to be used for the funding of a specific scheme (or number of schemes); where the schemes are intrinsically linked
- (2) General Receipts are where receipts are not intrinsically linked (generally non-operational and surplus land and property), and they are applied to the overall capital programme, including reducing the impact of revenue and reinvestment through the Enterprise Fund.
- (3) All receipts are agreed through PAG with no assumption on application to particular schemes

23. Use of capital receipts are subject to the following rules:

- (1) Overspending on schemes dependent on receipts must be contained within the portfolio

- (2) Capital schemes dependent on receipts are included in the Capital Programme only after full vetting and valuation signed off by the Director of Property prior to consideration by PAG
  - (a) All dependencies, assumptions and risks to be clearly identified by the project sponsor leading to prudent valuation adopted in project sign-off
  - (c) Values cannot be guaranteed – dependent on market conditions and uncertainties of planning consents and Local Development Framework (LDF) allocations
  - (d) Scheme assumptions re quantum, timing and phasing of receipts to be explicit. Receipts cannot be “counted” until sales complete
  - (e) Monitoring will be undertaken by PAG with Property using a traffic light system to assess the level of risk around the receipts
  - (f) Market risk receipts emerging to be contained by the portfolio budget

24. The process for planning for the realisation use of capital receipts will take a medium term approach (3 years minimum) to allow:

- (1) Property to be able to work on projects in good time prior to consideration by PAG. Larger, complex schemes can need 12-24 months lead-in
- (2) Property to agree strategy for disposal including timescale, planning, marketing, viewing arrangements, temporary occupation, minimising holding costs, surplus declarations etc as core components of project justification to PAG
- (3) Directorates must deliver vacant possession when required by project plan
- (4) Risk analysis to be included as part of project plan

## **SPECIAL PROVISIONS**

### **Kings Hill**

25. All decisions relating to the acquisition, management and disposal of land or property at Kings Hill shall be dealt with in accordance with this Protocol and the decision making procedures set out in the Council’s Constitution by the Cabinet Member for [Corporate Support Services & Performance Management](#) and the Managing Director of Environment & Regeneration.

**Deleted:** Policy and Performance

### **Enterprise Fund**

26. All transactions (acquisitions and disposals) undertaken through the Property Group ‘Enterprise Fund’ will be supported by a business case containing as a minimum:

- (1) Details of the proposal
- (2) The rationale for making the investment (against the agreed investment criteria for the Enterprise Fund, which may be varied from time to time)
- (3) Specific objectives to be met

- (4) The cost or income to KCC (revenue and capital)
- (5) The opportunities to be gained
- (6) Any return on investment

27. All transactions coming within the Enterprise Fund balancing limit of £10m may be authorised jointly by the Director of Property and Director of Finance in consultation with the Cabinet Member for Finance, the Chief Executive and the Leader (subject to the delegations contained in paragraph 33).

28. All transactions which cause the Enterprise Fund to exceed its balancing limit of £10m will, following consultation with the Chief Executive and the Leader, be recommended by the Director of Property and Director of Finance for decision by the Cabinet Member for Finance.

### **Urgent Decisions**

29. In exceptional circumstances, where an urgent decision is required on property matters, this will be taken by the Director of Property in accordance with the provisions of this Protocol and only after consultation with the Cabinet Member for Finance, the Director of Finance and the Director of Law & Governance. If the matter is outside the delegations set out in paragraph 36, below, then the matter can only be authorised by the Cabinet Member for Finance in accordance with the procedures for the taking of urgent decisions set out in the Council's Constitution.

30. Any decisions made under the 'Urgent Decision' arrangements will be reported to the relevant Senior Manager, Cabinet Members and Local Members.

### **Financial Regulations**

31. All of the protocols set out in Financial Regulations and Schemes of Delegation must be adhered to, except where this Property Management Protocol specifically provides for alternative levels of authorisation. No transaction should be approved unless specific budgetary provision is identified, except where the purchase is approved under the authority given in Paragraph 28 above.

### **Reporting**

32. The Director of Property will prepare each month a schedule of acquisitions and disposals dealt with by the Cabinet Member for Finance or by him/herself, and send this to Democratic Services for publication.

### **Delegation to Officers**

33. Subject to the consultation provisions set out in this Protocol, the Director of Property is authorised to:

- Determine and settle the acquisition or disposal of any land or property, or an interest in land or property where the consideration (including any associated works) does not exceed **£1,000,000** in any single transaction.
- Determine and settle the terms of a lease (taken or granted) for any land or property, not exceeding a period of 20 years or where the consideration does not exceed **£100,000** per annum in any single transaction.
- As provided by arrangements made under Appendix 2 Part 4 of the Constitution for the Leader to discharge executive functions, the Chief



Executive may exercise any power delegated under this protocol to the Director of Property; and the Director of Property may delegate his/her powers in writing to more junior officers.

### **Supporting Mechanisms**

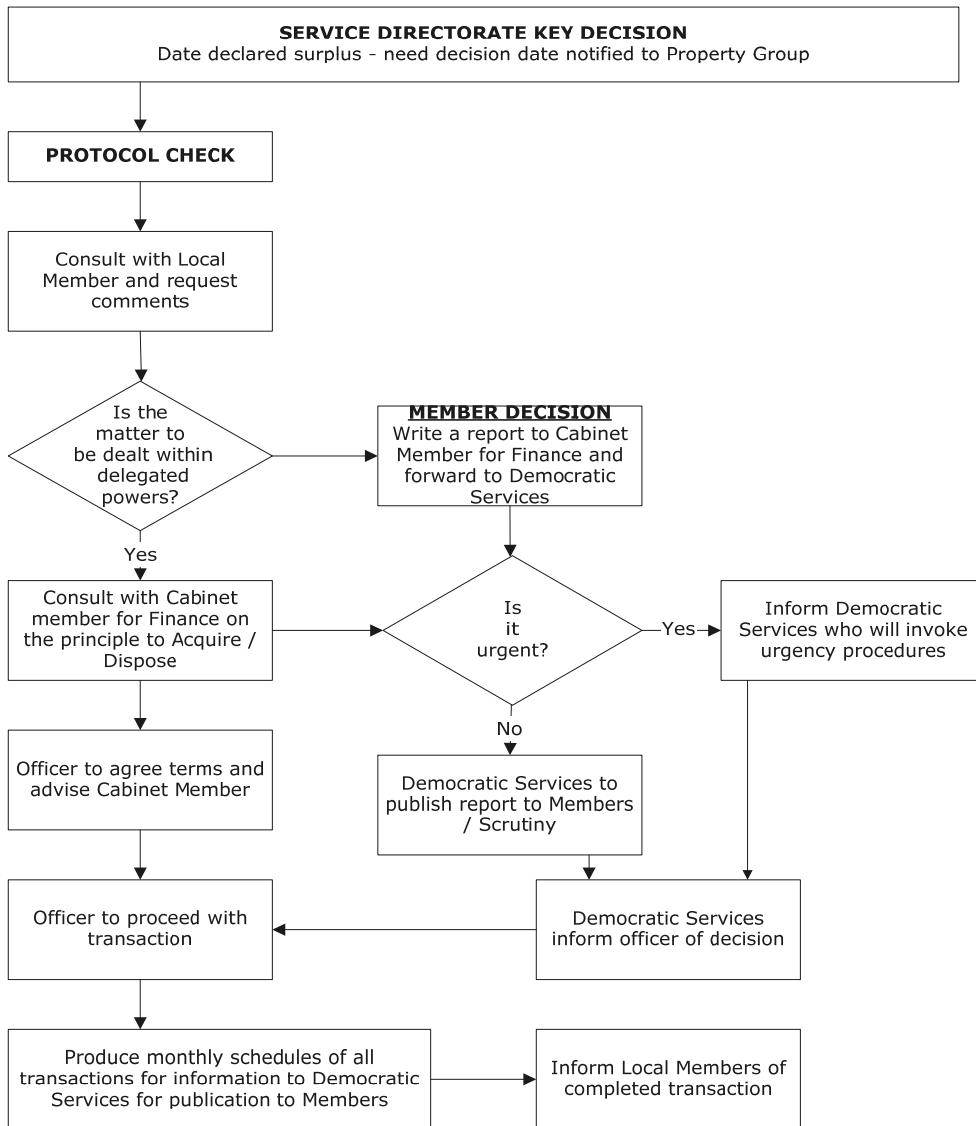
34 Whilst having no Constitutional or decision-making status, the management of property will be exercised through a variety of mechanisms which amplify and support this protocol. The key mechanisms and their purpose are summarised below:

- **Property Board** chaired by the Chief Executive provides a forum to discuss and agree the strategic direction for property management and key property related initiatives. It provides a mechanism to assess whether this protocol is working in practice and to identify and resolve issues with regard to corporate and service responsibilities.
- **Project Advisory Group (PAG)** considers capital projects and significant changes to capital projects and ensures that proper planning and processes have been followed and risk assessments undertaken in line with the Council's Constitution, the project appraisal handbook and associated financial procedures. It makes recommendations to the Leader for schemes to be included in KCC's capital programme.
- **Property Group Business Plan** prepared in accordance with KCC's planning guidelines identifies the main priorities of the Property Group and includes as an annex a schedule of properties for disposal. This provides delegated authority to proceed with disposals in line with the provisions of this protocol.
- **Medium Term Financial Plan** sets out KCCs spending priorities and/or financial allocations over the medium term. All capital schemes are subject to the appraisal and decision making processes around the Capital Programme and the Medium Term Financial Plan.

### **Information to the Council and Scrutiny**

35. The Director of Property will prepare each month a schedule of property transactions dealt with by the Cabinet Member for Finance or him/herself, and send this to Head of Democratic Services for publication.

36. Transactions proposed to be authorised by the Cabinet Member for Finance are subject to the normal processes of publication and scrutiny for Cabinet Member decisions.



## **Appendix 6: Ethical Behaviour Codes and Protocols**

### **Appendix 6 Part 1: Code of Member Conduct**

(adopted by the Council on 21 June 2007)

#### **Part 1**

#### **General provisions**

##### **Introduction and interpretation**

1. (1) This Code applies to **you** as a member of the County Council.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (attached as an Appendix).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:  
"meeting" means any meeting of:
  - (a) the County Council;
  - (b) the executive (Cabinet) of the County Council;
  - (c) any of the County Council's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed member.

##### **Scope**

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:
  - (a) conduct the business of the County Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of the County Council,and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official

capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

- (5) Where you act as a representative of the County Council:
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with the County Council's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General obligations**

**3.** (1) You must treat others with respect.

(2) You must not:

- (a) do anything which may cause the County Council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be:
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the County Council.

**4.** You must not:

(1) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (a) you have the consent of a person authorised to give it;
- (b) you are required by law to do so;
- (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) the disclosure is:
  - (i) reasonable and in the public interest; and

- (ii) made in good faith and in compliance with the reasonable requirements of the County Council; or

(2) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the County Council into disrepute.

6. You:

(1) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(2) must, when using or authorising the use by others of the resources of the County Council:

(a) act in accordance with the County Council's reasonable requirements;

(b) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(3) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

(a) the County Council's chief finance officer; or

(b) the County Council's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the County Council.

## **Part 2**

### **Interests**

#### **Personal interests**

8. (1) You have a personal interest in any business of the County Council where either:

(a) it relates to or is likely to affect:

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the County Council;

(ii) any body:

(aa) exercising functions of a public nature;

- (bb) directed to charitable purposes; or
- (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) any employment or business carried on by you;
- (iv) any person or body who employs or has appointed you;
- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- (vi) any person or body who has a place of business or land in the County Council's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between the County Council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- (ix) any land in the County Council's area in which you have a beneficial interest;
- (x) any land where the landlord is the County Council and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
- (xi) any land in the County Council's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division affected by the decision.

(2) In sub-paragraph (1)(b), a relevant person is:

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of the County Council and you attend a meeting of the County Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of the County Council which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the County Council of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in the County Council's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of the County Council and you have made an executive decision (i.e. as a Cabinet Member) in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

### **Prejudicial interest generally**

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of the County Council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the County Council where that business:

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of the County Council in respect of:
  - (i) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (ii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iii) an allowance, payment or indemnity given to members;
  - (iv) any ceremonial honour given to members; and
  - (v) setting council tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial interests arising in relation to overview and scrutiny committees**

**11.** You also have a prejudicial interest in any business before an overview and scrutiny committee of the County Council (or of a sub-committee of such a committee) where:

- (1) that business relates to a decision made (whether implemented or not) or action taken by the County Council's executive or another of the County Council's committees, sub-committees, joint committees or joint sub-committees; and
- (2) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

**12.** (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of the County Council:

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held:
  - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
  - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from the County Council's standards committee;

- (b) you must not exercise executive functions in relation to that business; and



(c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of the County Council, you may attend a meeting (including a meeting of an overview and scrutiny committee of the Council or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### **Part 3**

#### **Registration of Members' Interests**

##### **Registration of members' interests**

13. (1) Subject to paragraph 14, you must, within 28 days of:

- (a) this Code being adopted by or applied to the County Council; or
- (b) your election or appointment to office (where that is later),

register in the County Council's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to the County Council's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to the County Council's monitoring officer.

##### **Sensitive information**

14. (1) Where you consider that the information relating to any of your personal interests is sensitive information, and the County Council's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify the County Council's monitoring officer asking that the information be included in the County Council's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

## ***The General Principles Governing the Conduct of Members***

*(The Relevant Authorities (General Principles) Order 2001)*

### *Selflessness*

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

### *Honesty and Integrity*

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### *Objectivity*

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### *Accountability*

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### *Openness*

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### *Personal Judgement*

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

### *Respect for Others*

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### *Duty to Uphold the Law*

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

### *Stewardship*

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

### *Leadership*

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

## ***Role Description – All Members***

***(as representatives elected by their division)***

Responsible to: Kent County Council and the people of Kent.

Role purpose: To represent the views of their local community and the people of Kent generally within and outside the Council.

1. To represent the individual constituents within their Divisions, undertaking casework on their behalf and serving all equally.
2. To liaise with Cabinet Members, other Council Members, officers and other service providers in ensuring that local community needs are considered and identified.
3. To encourage and promote two-way communication within the local community about the decisions of Council, information about Council services and Council procedures.
4. To represent the views, aspirations and concerns of the people of Kent as a whole, providing the focus for local democracy.
5. To participate in full Council meetings to:
  - determine the strategic priorities and objectives of the Council;
  - approve the annual budget and capital programme and the Council's Policy framework;
  - approve the scheme of remuneration for Members;
  - appoint and remove the Leader of the Council;
  - appoint the Chief Executive;
  - approve the Constitution and any amendment to it; and
  - approve any other matters which by law can only be determined by the Council or one referred to Council.
6. To hold the Leader and Cabinet to account through scrutiny.
7. To participate as a member of the Cabinet, committee or advisory panel to which they are appointed.
8. If appointed, to represent the Council on outside bodies.
9. To monitor the effectiveness of service delivery and the appropriateness of policy across the County.
10. To ensure the probity of Council financial and other transactions (including through audit and standards processes).
11. To develop and maintain a working knowledge of the Council's services, management arrangements, powers/duties and constraints and to develop good working relationships with the relevant officers of the Council.
12. To lead by example and uphold the highest standards of conduct in public life and comply with the Code of Conduct and the Council's Constitution
13. To undertake such training and development as the Council, the Standards Committee or the Member's own Group may recommend from time to time.

## **Appendix 6 Part 2: Officers Code of Conduct**

### **INTRODUCTION**

The public expects the highest standards of conduct and service from all employees of KCC. This Code lays down guidelines for the conduct of KCC employees which maintain standards and protects employees from misunderstanding or criticism. It refers to statements and requirements contained within schemes of Conditions of Service, KCC Financial Regulations, Management Handbook and other documents. Copies of these are available through your line manager.

This Code forms part of all KCC employees' conditions of service. It is the employee's responsibility to read and apply the standards set out in this and related documents including professional codes, policies and guidance. Any employee deliberately or knowingly acting outside the standards will be subject to disciplinary action.

#### **A. *Standards of Service***

1. You will provide appropriate advice to Councillors, work colleagues and the public with impartiality.
2. You will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of management any irregularity in the provision of service.
3. In accordance with financial procedures, if an irregularity occurs or is suspected which may involve financial loss, you must report it immediately to the Chief Internal Auditor.
4. As a KCC employee you are expected to behave at all times in a manner that does not discriminate against your colleagues, service users, partners, contractors or members of the public on any grounds.
5. Complaints against KCC should be investigated in accordance with directorate or corporate complaints procedures.

#### **B. *Harassment***

1. Harassment, intimidation, unfair discrimination or victimisation, by or against employees will not be tolerated.
2. You have a duty to ensure the standard of conduct for yourself and for colleagues respects the dignity of others and does not cause offence.
3. You should act in such ways as to avoid all forms of unacceptable behaviour in relation to other employees, clients and customers of KCC.

#### **C. *Disclosure of Information***

1. Many employees are in a position to obtain information which is highly confidential, politically and/or commercially sensitive, or is personal information protected by the Data Protection Act.

2. You must not use any such information for a personal reason or benefit or pass it on to others who might use it in such a way. This includes information about the work of KCC, its employees or members of the public.
3. Inappropriate disclosure of information or a breach of these rules in any way will render you liable to disciplinary action and could lead to criminal prosecution.
4. In addition, you must not misuse your position by requesting or gaining information unnecessary to carrying out your work.
5. KCC is committed to the highest possible standard of openness, honesty and accountability. If you have any serious concerns about any aspect of KCC's work you should raise your concerns in accordance with the Whistleblowing Procedure.

**D. Political Neutrality**

1. Employees serve the Council as a whole. It follows they must serve **all** elected Members and not just those of the controlling group and must ensure the individual rights of all elected Members are respected.
2. You may be in a post in which you advise political groups. If you do, you must act with political neutrality. Whilst you may have your own political opinions, you must avoid carrying out your duties in a way which reveals your political affiliation.
3. All officers earning above a set salary (aligned to NJC spinal column point 44) and other officers who regularly advise Members are politically restricted by law. Advice on this can be obtained from KCC Secretariat which also holds a list of restricted posts.
4. You must seek legal advice if you wish to stand for election as a Councillor for KCC or any other local authority as it could impact upon your employment. Whilst it is not legally possible to continue to work for KCC if you are elected as a KCC Councillor you may be able to serve public office for other organisations, including other councils. You should obtain advice from the political party for which you are standing to ensure there is no conflict of interest and your political alliance does not compromise your working life.
5. If you are involved in politics in your private time, you must not carry out any political activity which might lead the public to think you are acting in your capacity as a KCC employee. It is particularly important, if you are a Member with another council, to keep your two roles separate and not use confidential information obtained in one capacity in the other.

**E. Relationships**

1. **Elected Members**  
Mutual respect between employees and Members is essential to good local government. Close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees and Members and should therefore be avoided.
2. **The local community and service users**  
You should always remember your responsibilities to the community you serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by KCC policies.

3. **Media**

If you are not authorised to deal with representatives of the media, you should refer any enquiries you receive to your line manager or to a media relations officer.

If you have specific authority to deal with media enquiries, you should only reply to requests for information or questions which relate to the facts of a situation.

If an expression of opinion or official statement of policy is needed, you must speak to your Head of Department.

Every assistance should be given to Members who need information to deal with questions from the media. You should refer to the Communication & Media Centre Manager for further advice if you are unsure of the protocols.

If you speak as a private individual directly to the press, or at a public meeting or other situation where your remarks may be reported to the press, ensure nothing you say might lead the public to think you are acting in your capacity as a KCC employee.

If you ever speak on behalf of a recognised trade union you must make it clear that the views you are expressing are those of the trade union you represent and not KCC's.

4. **Contractors/Consultants**

All relationships of a business or private nature with internal or external contractors or consultants, or potential contractors or consultants, should be made known to an appropriate senior manager as they have the potential to seriously compromise KCC decisions.

Orders and contracts must be awarded on merit, by fair competition against other tenders. No part of the local community should be discriminated against when considering contracts and tenders.

**F. Staff Appointments and Other Employment Matters**

1. If you are involved in appointing staff, you must ensure decisions to appoint are made on the basis of merit. It would be unlawful to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post.
2. KCC has a detailed process for the appointment of staff that must be followed scrupulously by all employees involved in appointments at all times.
3. To avoid any possible accusation of bias, you should not be involved in an appointment if you are related to an applicant or have a close personal relationship with them outside work.
4. Similarly, you should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.
5. If your post is exempt from the Rehabilitation of Offenders Act and subject to a CRB Disclosure, you are obliged to tell your manager of any convictions, warnings, cautions, reprimands etc., no matter how minor, you may receive from the Police whilst a KCC employee. All staff are expected to disclose any

conviction, warning, caution or reprimand that has the potential to impact on their job.

6. If you line manage staff, you may give an employer's reference on behalf of KCC for a member of staff or an ex-member of staff, unless otherwise informed. You owe a legal duty of care to ensure the reference is based on fact. You are strongly advised to follow the detailed guidelines on employer's references available on KNet.

#### **G. *Outside Commitments***

1. You must be clear about your contractual obligations and should not take additional or 'outside' employment (paid or unpaid) which conflicts with KCC's interests. Your conditions of service may require you to obtain written consent to take any additional employment inside or outside KCC.
2. Where you are permitted to take outside employment, either within your conditions of service or by way of written consent, no outside work of any sort should be undertaken on KCC premises.
3. Use of facilities such as telephones, computers, etc is forbidden and correspondence and incoming phone calls related to outside work are not allowed.
4. These provisions do not apply to public appointments (e.g. as a magistrate).
5. You may, in a professional capacity whilst undertaking additional or outside work, publish books and articles, give lectures or speak on radio or television and may illustrate these by reference to KCC's activities or policies, but your Senior Manager should be consulted before doing so. You must be clear that any views you express are your own and not necessarily those of KCC.
6. You may retain lecturing fees under the following conditions only:
  - \* Officers who lecture in their own time for outside bodies may retain the whole of any fee payable.
  - \* Officers who are permitted to lecture to outside bodies in KCC's time may retain half of any fee payable.
  - \* Fees will not be paid to officers who lecture on any of KCC's internal courses, whether in their own time or not.

#### **H. *Personal Interests***

1. You must declare annually to an appropriate senior manager any financial and non-financial interests or commitments, which may conflict with KCC's interests.
2. Membership of, or activity on behalf of, a recognised trade union or professional society does not constitute such an interest. KCC encourages you to take an active part in the life of your community. This code does not seek to discourage such involvement. If there is any doubt, advice should be sought from the line manager or Legal and Democratic Services.
3. You should declare to an appropriate senior manager, membership of any organisation, lodge, chapter, society, trust or regular gathering or meeting which is not open to members of the public who are not members of that lodge, chapter, society or trust or requires secrecy about its rules, membership or conduct.

4. In addition to the above, you should advise an appropriate senior manager of your membership of any such organisation where in a specific instance such membership constitutes (or can be perceived as) a conflict of interest.
5. A register of financial and non-financial interest is maintained by each Directorate. Personnel & Development maintain a register for senior managers at Senior Manager level, who should ensure appropriate entries are made and the nature of any potential or perceived conflict of interest is recorded in the register.
6. KCC Financial Regulations specify that employees who have a direct or indirect financial interest in a contract shall not be supplied with, or given access to, any tender documents, contracts or other information relating to them, without the authority of the Senior Manager.
7. Employees must advise a senior manager if they are declared bankrupt or are involved as a Director of a company which is wound up or put into voluntary liquidation if it may impact upon the employee's role and duties. Such information will be treated in the strictest confidence.
8. Intellectual Property Rights are relevant to patents, copyright, database rights, registered and unregistered design rights, trademarks, utility models, plant variety rights and other intellectual property, applications for registration of any of the same, confidential information and know how, whether in all cases registered or unregistered.
9. Where an employee makes or creates any Intellectual Property Rights that may be of benefit to KCC in the course of their normal duties, their manager should be informed in writing and, unless an alternative agreement is reached with the Senior Manager, KCC is generally considered the 'owner' so far as the law allows.

#### ***I. Equality Issues***

You should ensure that policies relating to equality issues as agreed by KCC are complied with, in addition to the requirements of the law. All members of the local community, customers, clients, job applicants and employees have a right to be treated with fairness and equity.

#### ***J. Separation of Roles during Tendering***

1. If you are involved in the tendering process and dealing with contractors, you must be clear about the separation of client and contractor roles within KCC. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
2. If you have access to confidential information on tenders or costs for either internal or external contractors, you must not disclose that information to any unauthorised party or organisation.
3. You should ensure no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

#### ***K. Working With Voluntary and Other Organisations***



KCC encourages working in partnership with voluntary organisations. Where the partnership takes the form of a company, trust or charity, guidelines are given within the Companies' Framework held by Legal & Democratic Services.

#### **L. Gifts and Hospitality**

1. You should not accept significant personal gifts from contractors, clients or outside suppliers as this could compromise you personally and KCC. It is a serious criminal offence to receive or give any gift, loan, fee, reward or advantage to anyone in your capacity as a KCC employee. Minor articles, e.g. diaries, calendars, office items and the like, will not be regarded as a gift. If there is any doubt, a gift should be refused.
2. If you receive unsolicited gifts, they must be returned with a polite refusal letter to the sender. You should also inform your manager, so it can be clearly recorded in the Directorate/Service Unit Register of Hospitality/Gifts.
3. You may not accept legacies from clients or others who may have benefited from your services delivered on behalf of KCC. If you are named as a beneficiary, you should immediately inform your manager.
4. You should only accept offers of hospitality if there is a genuine need to impart information or represent KCC in the community and where you are satisfied that any decisions are not and will not be compromised. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where KCC should be seen to be represented. They should be properly authorised by your line manager and recorded in advance of the event in the Directorate's Hospitality/Gifts Register.
5. KCC should meet the costs of all visits to reference sites, supplier's premises etc. to avoid jeopardising the integrity of any subsequent decisions.
6. When hospitality has to be refused, the invitation should still be recorded in the Directorate's Register of Hospitality/Gifts.
7. Many supermarkets, petrol stations and high street stores offer loyalty cards for customers as an incentive to purchase from them. There are various types of loyalty cards, which offer a variety of rewards or bonuses, and it is likely you will have at least one of these cards for your personal use. You should not use your personal loyalty cards when purchasing goods or services on behalf of KCC or its clients. The use of such cards may compromise your professional integrity, particularly if the retail outlet or supplier was chosen because they offer you additional reward and not because it provided the greatest benefit and cost effectiveness to KCC or its clients.
8. Likewise, many credit card companies offer loyalty rewards. The use of personal credit cards to purchase goods or services on behalf of KCC or its clients should be avoided unless no other means of expenditure is available.
9. However, should any loyalty rewards be received whilst undertaking KCC business where there is no means of these being transferred to KCC, then they can be regarded as the property of the individual employee, e.g. frequent traveller programmes, hotel loyalty awards, etc.

### **M. Sponsorship - Giving and Receiving**

1. Where an outside organisation wishes to sponsor a KCC activity, whether by invitation, tender, negotiation or voluntarily or in response to an approach by KCC to potential sponsors, you should:
  - a. refer, at the earliest possible stage, to the Sponsorship Policy & Guidance generally and the section on procurement in particular
  - b. follow the basic conventions concerning the acceptance of gifts or hospitality and record these arrangements in the Directorate's Register of Hospitality & Gifts.
2. Where the value of sponsorship arrangements exceeds the relevant threshold in the Public Contracts Regulations 2006, (the Regulations), or involve payment in kind by the sponsor they must be advertised and tendered in line with the Regulations.
3. Where KCC wishes to sponsor an event or service, neither you nor your partner, spouse, close friend or relative must benefit from such sponsorship. Similarly, where KCC, through sponsorship, grant aid, financial or other means, gives support in the community, you should ensure impartial advice is given and there is no conflict of interest involved.
4. Enquiries about seeking or accepting sponsorship for KCC should be directed to the Kent External Funding Team.

### **N. Health and Safety at Work**

1. You must, by law, take reasonable care for your own health and safety and that of other people who may be affected by anything you do at work. The use of illegal drugs or misuse of other drugs or alcohol to the extent it affects health, work performance, attendance, conduct or relationships at work is not acceptable. For further information see KCC's Drugs & Alcohol Policy.
2. KCC has a comprehensive policy on Health and Safety which contains all you need to know about compliance with legislation, standards and KCC procedures in connection with health, safety and welfare at work.

### **O. Equipment and Materials**

1. KCC's telephone, computer systems, other equipment and materials (including headed paper) are the property of KCC and are provided for employees' business purposes and for interaction with the public in the delivery of services.
2. Some personal use of the KCC's electronic communication facilities and devices including phone, internet and email is permitted, provided it is within the scope of KCC's Electronic Communications Use Policy (ECUP) and Responsible User Guidance (RUG).
3. No software can be used unless there is proof of legal registration to KCC under the Copyright, Designs and Patents Act. No personal software may be used on KCC equipment. It is a criminal offence to knowingly use or make unauthorised copies of KCC registered software

**P. Use of Financial Resources**

1. You must ensure you use public funds entrusted to you in a responsible and lawful manner. They must be fully approved and used for the purpose for which they are intended.
2. You should ensure value for money to the local community and avoid legal challenge to KCC.
3. KCC's Financial Regulations and Anti Fraud & Corruption Statement of Policy must be adhered to at all times.

**RELATED PROCEDURES, POLICIES, GUIDELINES AND SUPPORT**

**The following can be found in the people management handbook, the 'Blue Book' (Kent Scheme Terms and Conditions of Employment) and on KNet.**

- \* Drugs & Alcohol Policy
- \* Equality & Diversity Policy
- \* Stress Management Policy
- \* KCC's Financial Regulations
- \* Anti-Fraud & Corruption Statement of Policy
- \* Electronic Communications Use Policy (ECUP)
- \* Responsible User Guidance (RUG)
- \* Whistleblowing Policy
- \* Virus Protection Policy
- \* Smoking Policy
- \* Managers' Guidance on Employment References
- \* Health & Safety at Work Policy and Guidance
- \* Health & Safety Framework
- \* Harassment Procedure
- \* Guidance on Foreign Travel
- \* Spending the Council's Money

The public expects the highest standards of conduct and service from all employees of KCC. This Code lays down guidelines for the conduct of KCC employees that maintain standards and protect employees from misunderstanding or criticism. It refers to statements and requirements contained within schemes of Conditions of Service, KCC Financial Regulations, Management Handbook and other documents. Copies of these are available through your line manager. This Code forms part of all KCC employees' conditions of service. It is your responsibility to read and apply the standards set out in this and related documents including professional codes, policies and guidance. Any employee deliberately or knowingly acting outside the standards will be subject to disciplinary action.

## Appendix 7: Members' Allowances Scheme

For the period 8 June 2009 to the election of the Council in May 2013

*Adopted by the Council on 25 June 2009, as recommended by the Independent  
Remuneration Panel*

**BASIC ALLOWANCE** - £13,000 per annum (inclusive of an element for routine subsistence expenditure on KCC duties).

### SPECIAL RESPONSIBILITY ALLOWANCES

	%	£
<b>Executive</b>		
Leader	100	44,300
Cabinet Members (9)	65	28,795
Deputy Cabinet Members (12)	30	13,290
<b>Council</b>		
Chairman	33	14,600
Vice-Chairman	17.5	7,750
Planning Applications Committee Chairman	22	9,750
Other Committee Chairmen (13) <sup>(a)</sup>	17.5	7,750
Conservative Spokesperson Cabinet Scrutiny Committee	17.5	7,750
Select Committee Chairmen (for period of review)	17.5	7,750
<b>Opposition</b>		
Leader of largest Opposition Group	50	22,150
Deputy Leader of largest Opposition Group	22	9,750

Notes:

- (a) Other Committee Chairmen: Governance & Audit, Health Overview & Scrutiny, Policy Overview (x8), Regulation, Selection & Member Services, Superannuation Fund.
- (b) No Member to receive more than one Special Responsibility Allowance.
- (c) No other allowance to be payable.

### TRAVEL EXPENSES

Travel by private vehicles will be reimbursed at the rates set for tax allowance purposes by the Inland Revenue for business travel. Currently these are 40p per mile for the first 10,000 miles and 25p a mile thereafter.

Parking fees, public transport fares and any hotel expenses will be reimbursed at cost, but only on production of a valid ticket or receipt - the cheapest available fare for the time of travel should normally be purchased.

Taxi fares will only be reimbursed on production of a valid receipt and if use of public transport or the Member's own car is impracticable

Travel expenses will be reimbursed for any journey on council duties between premises as agreed for tax purposes (normally excluding journeys to constituents' homes).

Air travel and rail travel other than to/from London or within Kent should be booked through officers to enable use of discounting arrangements.

Travel expenses will only be reimbursed if claimed within four months.

Journeys undertaken in accordance with the following descriptions are allowed to be claimed for:

- (a) attendance at KCC premises to undertake KCC business, including attendance at Council, Cabinet and Committees, etc (including group meetings) and to undertake general Member responsibilities;
- (b) representing KCC at external meetings, including Parish and Town Councils and those of voluntary organisations where the member is there on behalf of KCC;
- (c) attendance at events organised by KCC and/or where invitations have been issued by County Officers or Members (including Chairman's events and other corporate events); and
- (d) attendance at meetings/events where the Member is an official KCC representative (as determined by the Selection and Member Services Committee) or requested by the Leader or the relevant Cabinet Member.

#### **SUBSISTENCE EXPENSES**

These are not normally reimbursed. Hotel accommodation should be booked through officers. Any other reasonably unavoidable costs related to overnight stays, excluding normal subsistence, will be reimbursed on production of a receipt.

#### **DEPENDENTS' CARERS' ALLOWANCE**

Members with care responsibilities in respect of dependent children under 16 or dependent adults certified by a doctor or social worker as needing attendance will be reimbursed, on production of valid receipts, for actual payments to a carer while the Member is on Council duties, up to a maximum of £6 per hour for each dependent child or adult. Money paid to a member of the claimant Member's household will not be reimbursed.

#### **PENSIONS**

Members are not eligible for admission to the superannuation scheme.

#### **CO-OPTED MEMBERS**

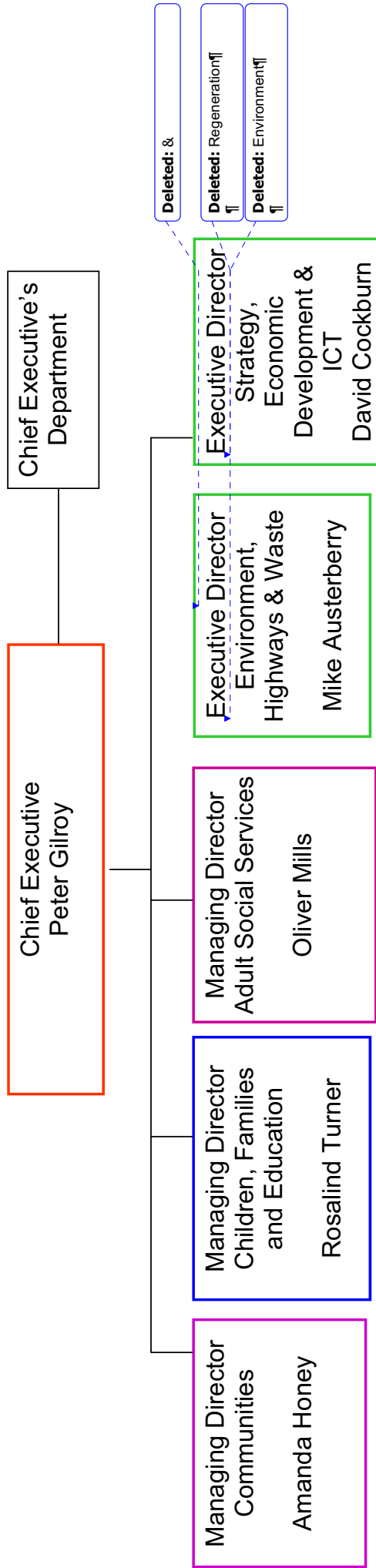
An allowance is payable to the Independent Chairman of the Standards Committee of £1,000 per annum and the daily rate for the remaining co-opted Members of the Standards Committee is payable at £200 per day.

#### **NO OTHER ALLOWANCES ARE PAYABLE**

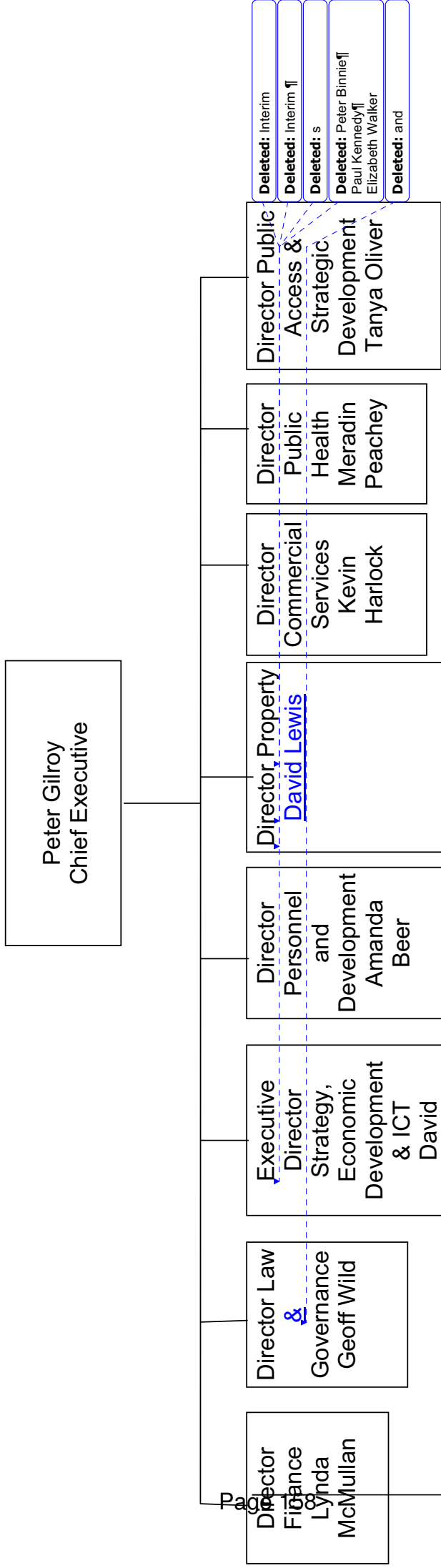
## **Appendix 8: Management Structure**

1. All Officers are responsible for the day-to-day managerial and operational decisions within the Council and provide support to all Members in their several roles, including the Cabinet, [Cabinet Scrutiny and Policy Overview and Scrutiny](#).
2. The Chief Executive is the statutory Head of Paid Service and responsible for securing and managing the professional body of staff.
3. The roles of the Chief Executive and Chief Officers are:
  - (a) to support and advise the Council, Cabinet, Policy Overview and Scrutiny Committees and other Committees on policy and service delivery in order that Members' decisions are well informed
  - (b) to ensure that the policies and decisions of the Council and Cabinet are formulated and delivered effectively and efficiently
  - (c) to provide strong managerial leadership and direction, foster cross-Directorate working and implement organisational improvement
  - (d) to set high standards and drive up the performance, effectiveness and reputation of the authority as measured by BVPIs, public feedback and inspection
  - (e) to work with outside bodies and access additional funds and resources in order to support the Council's programmes of work
  - (f) to recruit, develop, motivate and inspire staff
4. The overall structure of the organisation down to third tier level is shown on the chart and is approved by the County Council on the advice of the Chief Executive and the Leader.
5. The following officers have been designated to act in each of the following offices:
  - (a) Head of Paid Service - the Chief Executive
  - (b) Monitoring Officer - the Director of Law & Governance
  - (c) Chief Finance Officer - the Director of Finance

**KENT COUNTY COUNCIL – SENIOR MANAGEMENT**  
 As at 25 June 2009

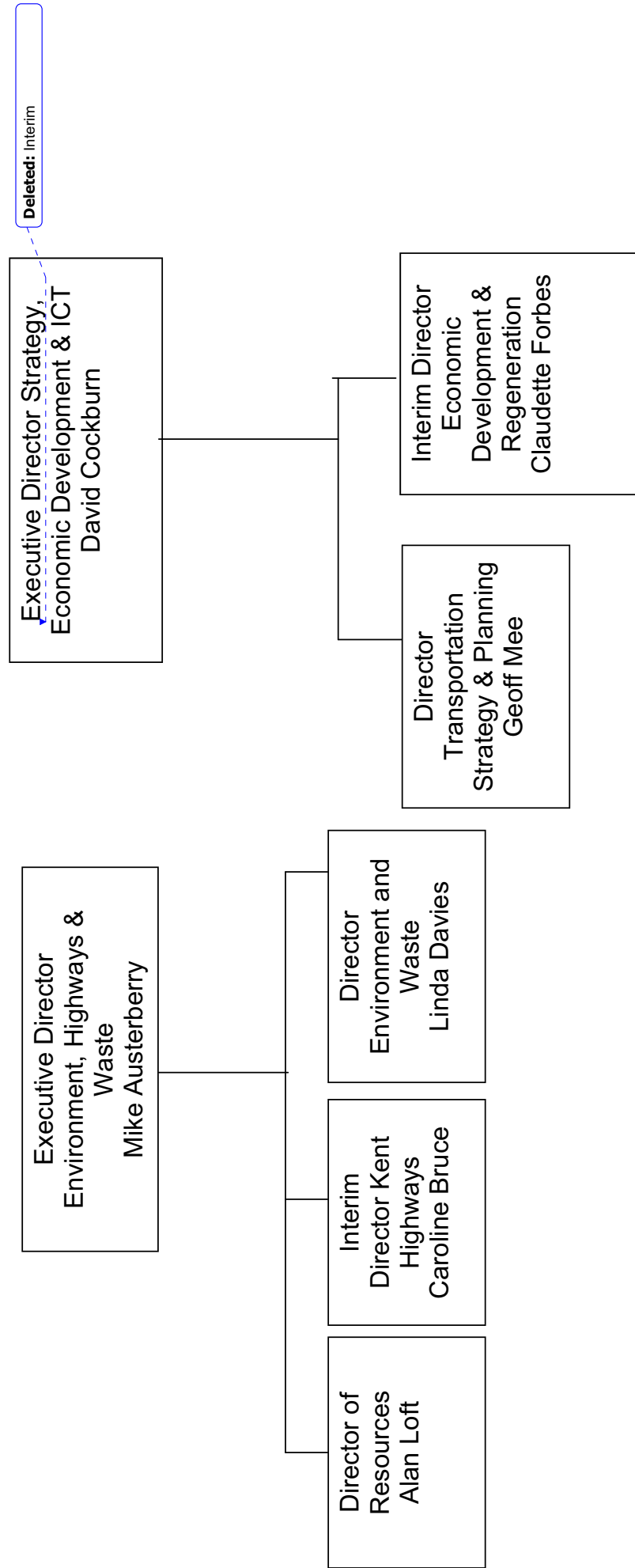


# Chief Executive's Department



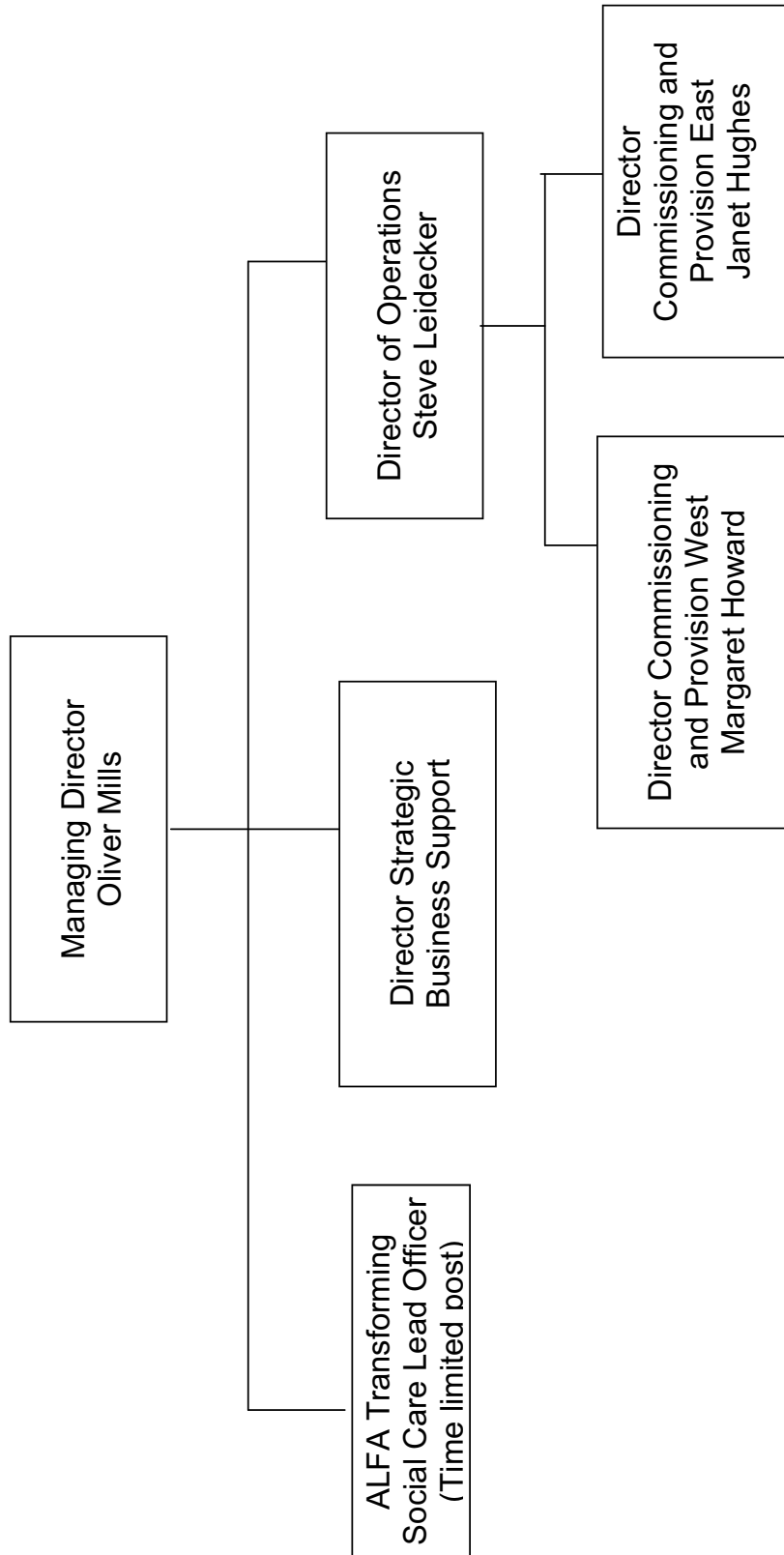


## Environment & Regeneration

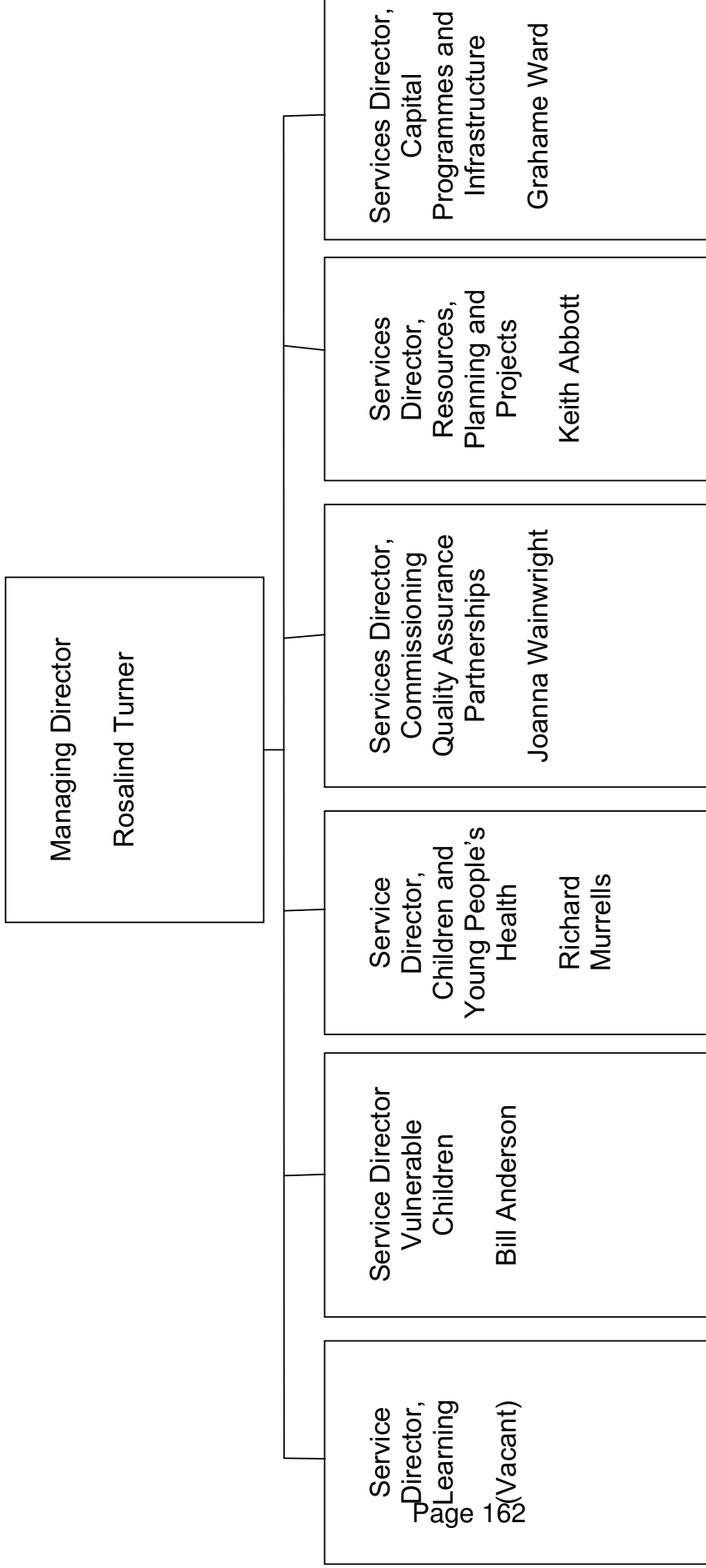




Adult Social Services



# Children, Families and Education



## **Appendix 9: Member Details**

A list of the names and addresses of current elected and co-opted Members is set out below.

All the Members listed have signed an undertaking to comply with the Code of Member Conduct set out in Appendix 6. They have also registered the interests required by that Code in a form agreed by the Standards Committee, supplied to and held by the Monitoring Officer.

Members are asked to review their entries in the register each year, at the same time as they are asked to declare any potential related party transactions to the external auditor. In addition, the Monitoring Officer records any changes registered during the year.

The Monitoring Officer maintains each Member's registered interests and receipts of gifts and hospitality in an updated electronic file. Individual entries may be inspected by a member of the public on application to the Monitoring Officer. A copy of the electronic file will be emailed on request to an inquirer.

Members complete an annual report. These are published by the Standards Committee and may be inspected on request to the monitoring Officer.

The Members' Allowances Scheme is at Appendix 7. Details of the amounts paid in allowances and expenses each year are reported to the Selection & Member Services Committee.

### **Elected Members of the Council**

Mrs A D Allen  
43 Leyton Cross Road  
Wilmington  
Dartford  
Kent  
DA2 7AW

Mr M J Angell  
Magpie House  
Magpie Hall Road  
Kingsnorth  
Ashford  
Kent TN26 1HF

Mr R Bayford  
Dunollie  
Second Avenue  
Kingsgate  
Broadstairs, Kent  
CT10 3LL

Mr A H T Bowles  
27 Highfield Close  
Canterbury  
Kent  
CT2 9DX

Mr D L Brazier  
Lower Slides  
North Ash Road  
New Ash Green  
Longfield  
Kent DA3 8JE

Mr R Brookbank  
36 Godsel Road  
Swanley  
Kent  
BR8 8EZ

Mr J R Bullock MBE  
Walsynghams  
Old Town Hill  
Lamberhurst  
Kent  
TN3 8EN

Mr R B Burgess  
3 Gilbert Road  
Ramsgate  
Kent  
CT11 7QR

Mr C J Capon  
Cambridge Villa  
16 Seabrook Road  
Hythe  
Kent  
CT21 5NA

Miss S J Carey  
North House  
116A North Road  
Hythe  
Kent  
CT21 5DY

Mr A R Chell  
14 Sheppey Road  
Maidstone  
Kent  
ME15 9SL

Mrs Penny Cole  
New Blossom  
Woodland Avenue  
Hartley  
Longfield, Kent  
DA3 7DB

Mr B R Cope  
6 East Cliff  
Dover  
Kent  
CT16 1LX

Mr J Cubitt  
144 Darnley Road  
Gravesend  
Kent  
DA11 0SN

Mr M C Dance  
Santa Christina  
76 St Marys Grove  
Seasalter  
Whitstable  
Kent CT5 4AB

Mr K A Ferrin, MBE  
Heather Bank  
Woodgate Lane  
Maidstone Road  
Borden  
Sittingbourne  
Kent ME9 7QB

Mr G K Gibbens  
Lychgate  
The Terrace  
Canterbury  
Kent  
CT2 7AJ

Mr P B Carter  
Langley Park House  
Sutton Road  
Langley  
Maidstone  
ME17 3NQ

Mr I S Chittenden  
2 Blakeney Close  
Maidstone  
Kent  
ME14 4QF

Mr N Collor  
114 Maison Dieu Road  
Dover  
Kent  
CT16 1RR

Mr H Craske  
6 Pepper Hill  
Painters Ash  
Northfleet, Kent  
DA11 8EY

Mrs V J Dagger  
Martins  
Reeds Lane  
Shipbourne  
Tonbridge, Kent  
TN11 9RR

Mr J A Davies  
Tile Hatch  
Bishops Down Park Road  
Tunbridge Wells  
Kent  
TN4 8XS

Mr R Frayne  
10 Lorne Road  
Dover  
Kent  
CT16 2AA

Mr R W Gough  
Treetops  
East Hill Road  
Knatts Valley  
Sevenoaks  
TN14 6YB

Mr N J D Chard  
42 High Street  
Sevenoaks  
Kent  
TN13 1JG

Mr L Christie  
Members Desk  
Sessions House  
County Hall  
Maidstone  
ME14 1XQ

Mr G Cooke  
Hillside  
Broad Street Hill  
Hollingbourne  
Maidstone, Kent  
ME17 1QY

Mr A D Crowther  
Yondar-Anelise  
25 The Leas  
Minster-on-Sea  
Isle of Sheppey  
ME12 2NL

Mr D S Daley  
Romney  
9 Frinstead Walk  
Allington  
Maidstone, Kent  
ME16 0NN

Mrs T Dean  
49 Offham Road  
West Malling  
Kent  
ME19 6RB

Mr T Gates  
Abbey Green House  
62A Abbey Street  
Faversham  
Kent  
ME13 7BN

Mrs E Green  
27 La Belle  
Alliance Square  
Ramsgate  
Kent  
CT11 8HZ

Mr M J Harrison  
4 Tower Hill  
Whitstable  
Kent  
CT5 2BW

Mr W A Hayton  
12 Cecilia Road  
Ramsgate  
Kent  
CT11 7DY

Mr C Hibberd  
Sea Tower  
Spencer Road  
Birchington  
Kent  
CT7 9EY

Mr P M Hill, OBE  
Milcian House  
Woodchurch Road  
Tenterden  
Kent  
TN30 7AD

Mr D A Hirst  
Palm Tree Farm  
Upper Hardes  
Canterbury  
Kent  
CT4 6EJ

Mrs S V Hohler  
Court Lodge Farm  
Stansted  
Sevenoaks  
Kent  
TN15 7PG

Mr P Homewood  
Morningside  
33 Old Chatham Road  
Blue Bell Hill  
Aylesford, Kent  
ME20 7EZ

Mr G A Horne, MBE  
44 Royal Avenue  
Tonbridge  
Kent  
TN9 2DB

Mr E E C Hotson  
White Willows  
High Street  
Staplehurst  
Tonbridge, Kent  
TN12 0BL

Mr M Jarvis  
4 Pine Tree Close  
Birchington  
Kent  
CT7 9DT

Mr A J King, MBE  
Philpotts Gate  
Slip Mill Road  
Hawkhurst  
Kent  
TN18 4JT

Mr R E King  
Iden Farm Cottage  
Iden Lane  
Egerton  
Nr Ashford  
Kent TN27 9AR

Mr J Kirby  
38 Goodwin Road  
Ramsgate  
Kent  
CT11 0JJ

Mr J Kite  
Sherwood  
New Barn Road  
Longfield  
Kent  
DA3 7LG

Mr S J G Koowaree  
28 Tadworth Road  
Ashford  
Kent  
TN24 9LA

Mr P W A Lake  
"Yeomans"  
Walters Green Road  
Penshurst  
Tonbridge  
Kent  
TN11 8HD

Mrs J Law  
Tree Corner  
29 Alexandra Road  
Whitstable  
Kent  
CT5 4LR

Mr R Lees  
51 Caspian Way  
Swanscombe  
Kent  
DA10 0LD

Mr J F London  
18 Knole Way  
Sevenoaks  
Kent  
TN13 3RS

Mr R L H Long, TD  
12 Stacey Road  
Tonbridge  
Kent  
TN10 3AR

Mr K G Lynes  
5 The Down  
Lamberhurst  
Tunbridge Wells  
Kent  
TN3 8EX

Mr S Manion  
The Dell  
206 Mongeham Road  
Great Mongeham  
Deal, Kent  
CT14 9LP

Mr R F Manning  
Bramley Dial  
Cranbrook Road  
Benenden  
Cranbrook, Kent  
TN17 4ET

Mr R A Marsh  
Swale Reach House  
Wraik Hill  
Whitstable, Kent  
CT5 3BY

Mr M J Northey  
82 Barton Road  
Canterbury  
Kent  
CT1 1YH

Mr J Ozog  
51 Dartford Road  
Dartford  
Kent  
DA1 3EG

Mr R J Parry  
Highfield House  
Burntwood Road  
Sevenoaks  
Kent  
TN13 1PT

Mr R A Pascoe  
Seaview  
Crete Road East  
Folkestone  
Kent  
CT18 7EG

Mr T Prater  
98a Sandgate High Street  
Sandgate  
Kent  
CT20 3BY

Mr K Pugh  
4 Lynmouth Drive  
Minster-on-Sea  
Sheerness, Kent  
ME12 2HS

Mr W Richardson  
Mizpah  
Battery Road  
Lydd-on-Sea  
Romney Marsh, Kent  
TN29 9NJ

Mr L B Ridings  
3 Strand Street  
Sandwich  
Kent  
CT13 9DZ

Mr M Robertson  
16 Ernest Drive  
Maidstone  
Kent  
ME16 0QS

Mrs J Rook  
2 Wesleyan House  
Union Road  
Deal  
Kent  
CT14 6EA

Mr A Sandhu  
21 York Road  
Dartford  
Kent  
DA1 1SQ

Mr J E Scholes  
14 Claremont Gardens  
Tunbridge Wells  
Kent  
TN2 5DD

Mr J D Simmonds  
43 Downs Avenue  
Whitstable  
Kent  
CT5 1RR

Mr C Smith  
43 Knowsley Way  
Hildenborough  
Tonbridge  
Kent  
TN11 9LQ

Mr K Smith  
37 Admiralty Mews  
The Strand  
Walmer  
Kent  
CT14 7AZ

Mr M V Snelling  
5 Dormers Drive  
Meopham  
Gravesend  
Kent  
DA13 0ES

Mrs P A V Stockell  
Farthing Green Barn  
Farthing Green  
New Barn Road  
Hawkensbury  
Staplehurst  
Kent TN12 0EE

Mr B Sweetland  
52 Downs Road  
Istead Rise  
Gravesend  
Kent  
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Folkestone  
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CT20 2JQ

Mrs E M Tweed  
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Ashford  
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Mr M J Vye  
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Bridge  
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Mr J Wedgbury  
27 Primrose Drive  
Park Farm  
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Ashford, Kent  
TN23 3NP

Mr C T Wells  
3 Foreland Heights  
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CT10 3FU

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7 Rooks View  
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Kent  
ME9 8GB

Mrs J Whittle  
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Sutton Street  
Bearsted  
Nr Maidstone, Kent  
ME14 4HP

Mr A Willicombe  
61 Chegworth Gardens  
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Kent  
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## **Members outside the Body of the Council**

### **Cabinet Scrutiny Committee**

Mr N Genders  
Director of Education  
Canterbury Diocesan  
Board of Education  
Diocesan House  
Lady Wotton's Green  
Canterbury, Kent  
CT1 1NQ

Mr P Hawthorne  
Field View  
The Courtyard  
Manston Court Road  
Manston  
Kent  
CT12 5EY

The Rev Canon J L Smith  
Director of Education  
Rochester Diocesan Board  
of Education  
Diocesan Office  
St Nicholas Church  
Boley Hill  
Rochester, Kent  
ME1 1SL

Dr D A Wadman  
Archdiocese of Southwark  
St Edward's House  
St Paul's Wood Hill  
St Paul's Cray  
Orpington, Kent  
BR5 2SR

Mr P Myers  
2 Lakeside Close  
Bough Beech  
Edenbridge  
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Mr Owen Poole  
16 Vale Road  
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### **Children, Families & Education [Policy Overview and Scrutiny Committees](#)**

**Deleted: Policy Overview  
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CT12 5EY

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Ms R Oliver  
Headteacher  
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Comprehensive School  
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### **Member Remuneration Panel**

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Mrs F Leathers  
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Mrs E R Tullberg JP DL  
The Old Vicarage  
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### **Standards Committee**

Mrs N Ahmed OBE DL  
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St Leonard's Street  
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ME19 6PD

Mr P A Gammon  
Lees Cottage  
The Lees  
Boughton Aluph  
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TN25 4HX

Miss R MacCrone  
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ME3 9BZ

Mr J Burden  
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Istead Rise  
Northfleet, Kent  
DA13 9HA

Mr P N H Clokie  
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Kent  
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Mrs M Cox  
10 Crabble Mill  
Lower Road  
River  
Dover  
CT17 0UY

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5 Yew Close  
GodintonPark  
Ashford  
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Social Services  
(Finance Section)  
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Maidstone  
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Mrs J de Rochefort  
Quality Manager  
IS Group, Room S1  
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Maidstone ME14 1AE

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## Appendix 10: Code of Corporate Governance

### Corporate Governance Arrangements

1. Corporate Governance is defined as the leadership, direction and control of the organisation to ensure it achieves its agreed aims and objectives and in so doing serves the public's best interests with integrity. In 2004 the Council adopted A Code of Corporate Governance based on that set out in the CIPFA/SOLACE document "A Keystone for Community Governance".

2. In 2004 the Independent Commission on Good Governance in Public Services was established and supported by the Office for Public Management (OPM), the Chartered Institute of Public Finance and Accountancy (CIPFA), in partnership with the Joseph Rowntree Foundation. The role of the Commission was to develop a common code and set of principles for good governance across public services. This code was published in January 2005 and is incorporated within the Council's Code of Corporate Governance.

3. The Code presents six principles of good governance that are common to all public service organisations and are intended to help all those with an interest in public governance to assess good practice.

4. The following table identifies the key elements of each of these six principles, those that the Council has adopted and, where appropriate, the key documents/processes that ensure the overall arrangements made by the Council for assuring its corporate governance meets current best practice. The main document is the Constitution itself.

5. These arrangements are reviewed annually, the review and any consequent necessary action being reported to and agreed by the Audit Committee. Audit Committee approval to the latest version of the Council's Code of Corporate Governance was given on 1 March 2006 and endorsed by the Council on 23 March 2006.

CODE OF CORPORATE GOVERNANCE THE COUNCIL'S COMMITMENT	DOCUMENTS/PROCESSES IN PLACE TO SUPPORT COMPLIANCE:
<p><b>1. Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users</b></p> <p>1.1 Being clear about the organisation's purpose and its intended outcomes for citizens and service users</p>	<p>There is a clear statement of the organisation's purpose, which is used as a basis for planning</p> <ul style="list-style-type: none"> <li>• Vision for Kent</li> <li>• The <a href="#">Towards 2010</a> document</li> <li>• <a href="#">Local Area Agreements</a></li> <li>• Public Service Agreement 2</li> <li>• Directorate Business Plans</li> </ul>

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<p>2.2 Being clear about the responsibilities of non-executives and the executive Members, and making sure that those responsibilities are carried out</p> <p>2.3 Being clear about relationships between the Members of the Council and the public</p>	<p>The Council is clear on its decision accountability process and sets out a clear statement of the respective roles of its Cabinet Members and members of the Council:</p> <ul style="list-style-type: none"> <li>• Decision Making Process</li> <li>• The Constitution</li> </ul> <p>The role of the Leader of the Council and the Chief Executive are separate and laid out within the Constitution:</p> <ul style="list-style-type: none"> <li>• The Constitution</li> </ul> <p>The Council engages effectively with the public and service users to understand their views and used this information to inform decision making:</p> <ul style="list-style-type: none"> <li>• Consultation Strategy</li> </ul>
<p><b>3. Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour</b></p> <p>3.1 Putting organisational values into practice</p> <p>3.2 Individual Members of the Council behaving in ways that uphold and exemplify effective governance</p>	<p>The Council takes the lead in establishing and promoting values for the organisation and its staff. These values are over and above legal requirements (for example, anti-discrimination, equal opportunities and freedom of information legislation) and build on the Good Governance principles. They reflect public expectations about the conduct and behaviour of individuals and groups who control public services:</p> <ul style="list-style-type: none"> <li>• Constitution – Members' Code of Conduct</li> <li>• Equalities Policy – Cabinet endorsed</li> <li>• Freedom of Information – KCC policy to allow information to be accessible</li> <li>• Standards Committee</li> </ul> <p>Members live up to approved guides to ethical conduct and demonstrate through their behaviour that they are focusing on their responsibilities to the organisation and its stakeholders:</p> <ul style="list-style-type: none"> <li>• Constitution – Members' Code of Conduct</li> <li>• Standards Committee</li> </ul>

<p><b>4. Good governance means taking informed, transparent decisions and managing risk</b></p> <p>4.1 Being rigorous and transparent about how decisions are taken</p> <p>4.2 Having and using good quality information, advice and support</p> <p>4.3 Making sure that an effective risk management system is in operation</p>	<p>The Council has a formal statement that specifies the types of decisions that are delegated to the executive and those that are reserved for the full Council:</p> <ul style="list-style-type: none"> <li>• Constitution</li> <li>• Decision Making Process</li> </ul> <p>The Council states clear objectives for making their decisions. In their public record of decisions and in explaining them to stakeholders, the Council is explicit about the criteria, rationale and considerations on which decisions are based, and, in due course, about the impact and consequences of decisions.</p> <p>Information and professional advice on legal and financial matters is available and used:</p> <ul style="list-style-type: none"> <li>• Decision Making Process</li> <li>• Delegations Procedure</li> <li>• Financial Regulations Procedure</li> </ul> <p>The Council operates an effective system of risk management. This includes:</p> <ul style="list-style-type: none"> <li>• Identifying key strategic, operational and financial risks</li> <li>• Assessing the possible effects that the identified risks could have on the organisation</li> <li>• Assessing risks arising from partnership arrangements that could have an impact upon the organisation or its responsibilities to the community</li> <li>• Agreeing on and implementing appropriate responses to the identified risks</li> <li>• Putting in place a framework of assurance from different sources, to show that risk management processes, including responses, are working effectively</li> <li>• Reporting publicly on the effectiveness of the risk management system including a plan to tackle any significant issues</li> <li>• Making it clear that Cabinet carries</li> </ul>
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	<p>ultimate responsibility for the risk management system</p> <ul style="list-style-type: none"> <li>• Risk Management Strategy</li> <li>• Risk registers</li> <li>• Annual Statement of Internal Control</li> <li>• External and Internal Audit review of Risk Management</li> </ul>
<p><b>5. Good governance means developing the capacity and capability of the governing body to be effective</b></p> <p>5.1 Making sure that elected Members have the skills, knowledge and experience they need to perform well</p> <p>5.2 Developing the capability of all members with governance responsibilities and evaluating their performance, as individuals and as a group</p>	<p>The Council is committed to developing the skills that it has decided its Members need, so that they can carry out their roles more effectively:</p> <ul style="list-style-type: none"> <li>• Member Training Plan</li> <li>• Member Induction Programme</li> </ul> <p>Individual Members are held to account for their contribution through regular performance reviews:</p> <ul style="list-style-type: none"> <li>• Annual Reports</li> </ul> <p>The Council regularly reviews its performance, assesses its ways of working and achievements and agrees an action plan:</p> <ul style="list-style-type: none"> <li>• Next 4 Years</li> <li>• Comprehensive Performance Assessment</li> </ul>
<p><b>6. Good governance means engaging stakeholders and making accountability real</b></p> <p>6.1 Understanding formal and informal accountability relationships</p>	<p>The Council has made it clear, to itself and to staff, to whom it is accountable and for what. It has assessed the extent to which each relationship serves its purpose, including whether any relationships need to be strengthened and whether any dominate to the detriment of serving the purpose of the organisation and being accountable to other stakeholders.</p>
<p>6.2 Taking an active and planned approach to dialogue with and accountability to the public</p>	<p>The Council as a whole seeks and welcomes feedback, and ensure that it responds quickly and responsibly to comment.</p> <p>Complaints are a vital and necessary part of feedback, and there is clear leadership</p>



<p>6.3 Taking an active and planned approach to responsibility to staff</p>	<p>on handling and resolving them, and ensuring the lessons learnt are used to improve the service:</p> <ul style="list-style-type: none"> <li>• Consultation Strategy</li> <li>• Complaints Procedure</li> </ul> <p>The Council has a clear policy on when and how it consults and involves staff and their representatives in decision making. It has a system in place to protect the rights of staff and has a Whistle Blowing policy.</p> <p>Each year the Council publishes the organisation's purpose, strategy, plans and financial statements, as well as information about the organisation's outcomes, achievements and the satisfaction of service users in the previous period:</p> <ul style="list-style-type: none"> <li>• Annual accounts</li> </ul>
<p>6.4 Engaging effectively with institutional stakeholders</p>	<p>The Council takes the lead in forming and maintaining relationships with the leaders of other organisations as a foundation for effective working relationships at operational levels.</p> <ul style="list-style-type: none"> <li>• Kent Partnership</li> <li>• Public Service Board</li> </ul>

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## A

Access to Information, 5, 6, 17, 58, 78, 80, 84, 96, 97  
Acting up, 50  
Agenda, 41, 59, 60, 62, 63, 65, 68, 72, 77, 94, 97, 99, 107, 108, 110  
Allowances, 1, 4, 6, 20, 28, 30, 49, 54  
Amendment, 62, 63, 65, 66, 67, 72, 73, 104, 105  
Annual Management Letter, 29, 113  
Annual Meeting, 7, 60, 67, 71  
Annual Report, 4  
Audit, 4, 113, 114, 115

## B

Boards, 21, 45, 70  
Borrowing Policy, 60, 104  
Budget, 2, 4, 7, 11, 12, 19, 41, 59, 60, 65, 103, 104, 105, 106, 107, 113, 114, 116  
Business plans, 41, 42, 113

## C

Cabinet, 1, 2, 4, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 28, 29, 38, 39, 40, 41, 42, 43, 47, 48, 58, 60, 61, 62, 67, 68, 70, 74, 76, 78, 80, 94, 95, 96, 97, 98, 99, 100, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 118, 119, 128, 136, 146, 147, 163, 164  
Cabinet Committees, 14, 107, 108  
Cabinet Member, 2, 14, 19, 21, 22, 23, 38, 39, 40, 41, 42, 43, 44, 46, 51, 61, 62, 74, 77, 78, 94, 95, 96, 98, 99, 100, 103, 104, 106, 107, 108, 109, 110, 111, 113, 116, 118, 120, 121, 122, 123, 124, 125, 126, 132, 136, 145, 146, 163  
Cabinet Scrutiny, 2, 8, 20, 21, 22, 58, 60, 71, 74, 77, 94, 97, 98, 99, 103, 105, 106, 107, 108, 109, 110, 112, 113, 116, 145, 147, 158, 162  
Capital Programme, 60, 104, 116  
Chairman, 1, 7, 8, 15, 28, 31, 47, 59, 60, 61, 62, 63, 64, 65, 66, 67, 69, 71, 72, 73, 74, 77, 78, 80, 98, 99, 104, 107, 108, 109, 110  
Chief Executive, 2, 10, 15, 19, 20, 25, 26, 28, 31, 40, 41, 46, 47, 48, 49, 50, 51, 54, 55, 77, 79, 80, 85, 96, 97, 99, 100, 104, 106, 109, 110, 112, 113, 115, 116, 118, 119, 125, 126, 136, 147, 163  
Chief Finance Officer, 2, 10, 11, 12, 26, 28, 29, 48, 50, 51, 52, 55, 94, 106, 110, 111, 112, 114, 115, 116, 117, 121, 122, 123, 125, 147  
Chief Officers, 2, 10, 24, 46, 47, 48, 50, 74, 77, 118, 125, 140, 141  
Code of Conduct, 5, 7, 13, 30, 128, 137  
Code of Corporate Governance, 14, 161

Code of Practice on Contracts and Tenders, 29, 113  
Comment on individual officer, 64, 69, 78, 80, 85, 94, 95  
Common Seal, 14  
Community Leadership, 1, 3  
Community Strategy, 1  
Conduct, 1, 11, 30, 69  
Confidential, 5, 6, 78, 80, 84, 97, 98, 99, 100  
Conflict of interest, 99  
Contracts And Tenders Standing Orders, 112  
Co-opted Member, 30, 79  
Corporate Governance, 29, 70, 97, 161  
Corporate Services, 24  
Council Tax, 1, 3, 7, 19, 60, 104, 112, 113, 114, 116  
Crime and Disorder, 24

## D

Decision Making, 13, 14, 58, 103, 117  
Deputy Cabinet Member, 41, 42, 74, 77, 78, 145  
Deputy Leader, 41, 94  
Director of Adult Social Services, 10, 12, 24  
Director of Children's Services, 10, 12, 13  
Director of Personnel & Development, 46, 47, 49, 50, 51, 52, 54, 55  
Director of Property, 120, 121, 122, 123, 124, 125, 126  
Disabled Members, 6  
Dispensation, 30, 99

## E

Economy, 1, 3  
Education, 21, 23, 24, 27, 30, 45  
Election, 4, 16, 36, 38, 53, 60, 67, 71  
Electoral and Boundary Review Committee, 25  
Environment, 1, 3  
Equality, 135  
Exclusion of press and public, 73, 78, 84, 94, 98, 99  
Executive, 1, 2, 8, 10, 11, 13, 16, 17, 18, 21, 23, 38, 40, 44, 80, 94, 96, 106, 113, 114, 115, 125, 128, 132, 133, 162, 163, 164  
Exempt, 5, 6, 63, 78, 80, 84, 97, 98, 99, 100  
External auditor, 6, 11, 29, 113, 114, 115

## F

Fair shares, 107  
Financial Regulations, 14, 29, 31, 41, 42, 106, 112, 113, 114, 116, 117  
Fire, 53, 61  
Forward Plan, 2, 6, 96, 97, 109

## G

Governance & Audit, 5, 14, 29, 60, 62, 112, 113, 116  
Group Leaders, 47, 50, 60, 62, 97

## H

Head of Democratic Services, 120, 126  
Head of Paid Service, 2, 10, 11, 36, 47, 48, 94, 114, 115, 147  
Health, 8, 13, 22, 23, 25, 39, 40, 60, 80, 82, 83, 85, 86, 122, 143, 144, 145

## I

Impartiality, 135  
Independent Members, 30  
Informal Member Groups, 75

## J

Joint Committees, 9, 44, 70, 82, 106

## K

Kent and Essex Sea Fisheries Committee, 45  
Key decisions, 2, 6, 41, 96, 97, 98, 109  
Key financial decisions, 20, 60, 112

## L

Leader, 1, 2, 4, 6, 7, 8, 9, 10, 11, 14, 15, 16, 18, 19, 20, 21, 22, 23, 26, 28, 32, 37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 48, 58, 60, 61, 62, 63, 65, 66, 67, 68, 72, 74, 78, 80, 94, 95, 96, 97, 98, 100, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 121, 125, 126, 136, 145, 146, 147, 163  
Leader of the Opposition, 2, 19, 62, 68, 77  
Libraries, 15  
Local Government Act 2000, 1, 8, 16, 18, 21, 30, 37, 38  
Local Member, 4, 5, 27, 31, 43, 77, 121, 123, 125

## M

Managing Director of Environment & Regeneration, 122, 124  
Media, 6, 12, 15, 65, 69, 78, 80, 84, 97, 98, 116  
Member Development, 5  
Minority reports, 74, 95, 109  
Monitoring Officer, 2, 10, 11, 12, 15, 25, 26, 30, 31, 36, 40, 42, 45, 47, 48, 49, 59, 94, 95, 97, 104, 106, 114, 115, 116, 119, 120, 125, 147  
Motion, 63, 64, 65, 66, 67, 68, 72, 73, 78

## N

Non-executive, 1, 4, 8, 29, 44

## O

Ombudsman, 7, 29, 114

## P

Panels, 2, 26, 28, 70  
Partnership, 1, 3, 9, 11, 17, 44, 82  
Personal interest, 69  
Personnel Committee, 10, 19, 20, 26, 46, 47, 48, 49, 54, 71  
Personnel Management Rules, 10, 18, 20, 26, 46  
Planning, 1, 3, 4, 5, 7, 26, 27, 32, 33, 35, 37, 43, 60, 62, 71, 73  
Police, 37, 45, 61  
Policy Framework, 2, 7, 11, 12, 16, 20, 41, 56, 75, 103, 104, 106, 107, 112, 113, 114, 116  
Policy Overview and Scrutiny, 58, 74, 97  
Policy Overview and Scrutiny, 2, 8, 10, 17, 21, 22, 23, 24, 25, 60, 74, 79, 80, 103, 104, 105, 110, 147, 158, 162  
Policy Overview and Scrutiny, 70  
Political group, 19, 44, 46, 49, 50, 59, 60, 62, 65, 68, 69, 70, 71, 79, 97, 107, 135, 138  
Prejudicial interest, 69  
Proper officers, 26, 37  
Public Relations Protocol, 76  
Publication Scheme, 6

## Q

Quorum, 16, 46, 59, 60, 71, 94

## R

Register of Members' Interests, 4  
Regulation Committee, 27  
Remuneration Panel, 6, 28, 30  
Resource Management Responsibilities Statement, 14, 19, 31, 41, 106, 112  
Resource Management Rules, 17, 31, 41, 42, 106  
Returning Officer, 26  
Risk management, 29, 114, 116, 117, 164

## S

School Organisation Committee, 28, 45  
Scrutiny, 4, 17, 83, 107  
Scrutiny Board, 8, 17, 22, 25, 74, 79, 110, 113, 120, 121  
Select Committee, 2, 22, 23, 25, 58, 60, 70, 71, 74, 75, 76, 79, 80, 82, 83, 85, 103, 105, 145  
Selection Committee, 19, 27, 30, 37, 48  
Social Services, 28, 82

Spokesmen, 79, 98, 99, 104, 107, 108, 109, 110  
Standards, 30, 40, 80, 100  
Standards Board, 7, 11  
Standards Committee, 1, 5, 7, 9, 11, 19, 28, 29, 30, 47, 48, 67  
Standing orders, 17, 36, 37, 112  
Strategic Directors, 31, 40, 41, 42, 46, 48, 50, 51, 52, 53, 54, 55, 77, 96, 97, 100, 104, 106, 109, 110, 111, 113, 116, 117, 147  
Strategic Statement, 1  
Sub-Committees, 14, 22, 25, 26, 27, 31, 46, 59, 69, 70, 83  
Substitutes, 71  
Superannuation Fund Committee, 28

## **T**

Topic Review, 79, 80

Transcripts, 78

## **U**

Urgent Decision, 31, 42, 60, 72, 94, 109, 125

## **V**

Vice-Chairman, 1, 7, 60, 61, 71, 74, 109  
Virement, 19, 110, 112, 114  
Vision for Kent, 1, 39, 161  
vote, 2, 6, 9, 42, 60, 63, 64, 66, 67, 69, 72, 73, 79, 95, 106, 108

## **W**

Well-being, 1, 9, 12, 13, 81, 131  
Whip, 69

The Council appoints the Cabinet Scrutiny Committee from among the non-executive Members to perform the role and functions set out in Part 2 of Appendix 2.

### 6.2 Powers of the Cabinet Scrutiny Committee

The Cabinet Scrutiny Committee has the power to:

- (1) require the Leader, Cabinet Members and officers to attend before it and answer questions
- (2) question and gather evidence from any person (with their consent).

### 6.3 The Cabinet Scrutiny Committee shall:

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

## ***Article 7 – Policy Overview Committees***

### 7.1 Policy Overview Committees

### 7.2 Powers of Policy Overview Committees

Each Policy Overview Committee has the power to:

- assist and advise the Council, the Leader and the Cabinet in the development of the Policy Framework
- review the performance of the Council in relation to its policy objectives and performance targets
- (3) require the Leader, Cabinet Members and officers to attend before it and answer questions
- (4) review or scrutinise the performance of other public bodies in Kent, invite reports from them and request them to address the Committee about their activities and performance
- (5) question and gather evidence from any person (with their consent)
- (6) conduct research, community and other consultation about service performance, policy issues and possible options

(7) recommend to the Policy Overview Co-ordinating Committee the appointment of Select Committees (with the legal status of Sub-Committees) to conduct reviews with the same powers as the main Committee

make reports and recommendations to the Council, the Leader, the Cabinet or any other Council Committee arising from the exercise of the preceding terms of reference or affecting Kent or its inhabitants within their allocated areas of responsibility.

### 7.3

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### 8.2 Form and composition

The Cabinet consists of the Leader of the Council together with at least two, but not more than nine, other Members.

### 8.3 Leader

The Leader must be a Member of the Council elected to the position of Leader by the full Council. The Leader holds office until the next election of all Members of the Council unless he:

- (1) resigns from the office
- (2) is suspended from being a Member under Part III of the Local Government Act 2000 (although he may resume office at the end of the period of suspension)
- (3) ceases to be a Member
- (4) is removed from office by resolution of the Council in accordance with the Procedure Rules set out in Appendix 4.

### 8.4 Other Cabinet Members

Other Cabinet Members must be Members of the Council appointed to the Cabinet by the Leader. They hold office until the next election of all Members of the Council unless they:

- (1) resign from office
- (2) are suspended from being Members under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)
- (3) cease to be Members
- (4) are removed from office by the Leader or by the Council in accordance with the Procedure Rules set out in Appendix 4.

### 8.5 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 Appendix 4.

## 8.6 Responsibility for functions

The Leader determines which individual Members of the Cabinet, committees of the Cabinet, officers or joint or other bodies are responsible for the exercise of particular executive functions; those responsibilities are set out in Appendix 2.

## 11.2 Joint arrangements and Committees

(1) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions that are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of Joint Committees with those other local authorities.

(2) The Leader may establish joint arrangements with one or more local authorities and/or their executives to exercise functions that are executive functions. Such arrangements may involve the appointment of Joint Committees with those other local authorities.

(3) Details of any joint arrangements, including any delegations to Joint Committees, are set out in Appendix 2.

## 11.3 Form, composition and function of Joint Committees

(1) Except as set out below, the Leader may only appoint Cabinet Members to Joint Committees and such appointments need not reflect the political composition of the Council as a whole.

(2) In the circumstances set out below:

- (a) the Leader may appoint non-executive Members to a Joint Committee
- (b) the Council may disregard the requirement for such appointments to be proportionate to political group numbers.

(3) The circumstances are:

- (a) the Joint Committee has functions relating to a part of the area of the Council that is smaller than two-fifths of the Council by area or population, or
- (b) the Joint Committee is with a single district council and relates to executive functions of the County Council.

In both of these cases the political balance requirements in the Local Government and Housing Act 1989 do not apply and any Member for an electoral division which is wholly or partly contained within the area may be appointed.

(4) A Cabinet Member may serve on such a Joint Committee if otherwise eligible to do so as a Member of the Council

## 11.4 Procedure Rules

Joint Committees will follow Procedure Rules set out in the resolution appointing them.

#### 11.5 Partnership

The Leader may enter into partnership agreements with other persons and organisations, subject to the consent of the Council if the agreement involves the transfer or delegation of any discretionary decision making.

#### 11.6 Contracting out

The Leader may contract out to other persons or organisations functions that 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, subject to the consent of the Council if the contract involves the transfer or delegation of the Council's discretionary decision making.

Page 17: [5] Deleted

Geoff Wild

21/10/09 12:34:00

#### (a) Cabinet Scrutiny Committee

(i) This Committee is responsible for the review or scrutiny of decisions made by the Executive, including the power to recommend that decisions be reconsidered, either by the Executive or by the Council, under section 21(3) of the 2000 Act.

(ii) This Committee has the power under section 21(2)(c) of the 2000 Act to review or scrutinise the discharge of any functions that are not the responsibility of the Executive (see Article 6).

(iii) When exercising its powers in relation to education functions, this Committee will include persons nominated by the Diocesan Boards of Education of the Canterbury and Rochester Dioceses of the Church of England and the Roman Catholic bishop whose diocese includes Kent (paragraph 7 of Schedule 1 to the 2000 Act), as well as persons elected as representatives of parent governors at schools maintained by the Council as the local education authority for Kent (paragraph 9 of Schedule 1 to the 2000 Act). These arrangements are detailed in Appendix 2.

#### (b) Policy Overview Committees

(i) These committees make reports or recommendations to the Council or the Executive on the discharge of functions or matters affecting its area or inhabitants (see Article 7).

(ii) The Policy Overview Committee whose terms of reference involve education functions, includes persons nominated by the Diocesan Boards of Education of the Canterbury and Rochester Dioceses of the Church of England and the Roman Catholic bishop whose diocese includes Kent (paragraph 7 of Schedule 1 to the 2000 Act), as well as persons elected as representatives of parent governors at schools maintained by the Council as the local education authority for Kent (paragraph 9 of Schedule 1 to the 2000 Act). These arrangements are detailed in Appendix 2.



(iii) The Procedure Rules include provision (in Part 8) regulating how the Cabinet Scrutiny and Policy Overview Committees exercise these powers.

(iv) The work of the Policy Overview Committees is co-ordinated by the Policy Overview Co-Ordinating Committee.

<b>Page 37: [6] Deleted</b>		<b>Geoff Wild</b>	<b>25/11/09 12:55:00</b>
16. The conducting of best value reviews.	The provisions of any order for the time being having effect under section 5 of the Local Government Act 1999.		

<b>Page 56: [7] Deleted</b>		<b>Geoff Wild</b>	<b>25/11/09 13:16:00</b>
<b>Name of Plan</b>			
Annual Plan			
Next Four Years			
Vision for Kent (Community Strategy)			

**Requiring Committee approval and Council ratification**

<b>Adult Social Services Policy Overview Committee Name of Plan</b>	<b>Statutory</b>	<b>Duration of Plan</b>	<b>Next Plan Due</b>	<b>Notes</b>
Active Lives	No	10 year vision from 2007	Due for revision in 2010/11	Policy Document revised in 2006/07
Adult Social Services Framework	No	3 yearly with an annual review	May 2009	Document re integrated services
Better Care, Higher Standards	Yes	Reviewed every two years	2010	Charter of standards rather than plan
Mental Health National Service Framework Local Implementation Plan	Yes	3 yearly		Reviewed annually
Supporting People	Yes	5 yearly updated annually	April 2010	
Workforce Strategy	No	Annual		Social Care personnel document
A new Ambition for Old Age: Next Steps in Implementation of the Older People National Framework	Yes	Reviewed in 3 years	April 2009	

Page Break

<b>Children's Services Policy Overview Committee Name of Plan</b>	<b>Statutory</b>	<b>Duration of Plan</b>	<b>Next Plan Due</b>	<b>Notes</b>
Accessibility Strategy	Yes	3 years 2007-2010	March 2010	Reviewed annually
Children's & Young People Plan	Yes	3 years 2006-2009 (to be refreshed October 2008)	2011	Multi-agency plan under the Children Act 2004
SEN Policy & Action Plan	Yes	4 Years reviewed annually	Sept 2011	SEN Code of Practice

<b>Communities Policy Overview Committee Name of Plan</b>	<b>Statutory</b>	<b>Duration of Plan</b>	<b>Next Plan Due</b>	<b>Notes</b>
Adult Education Service Strategic Plan 2008-2011	No	3 years	2008	New plan currently being drafted
The Strategic Framework for Sport in Kent 2008-2012	No	4 years, 2008-2012	2012	Monitored by a Kent & Medway Sports Board, involving partner organisations
Kent Strategy for the 2012 Games	No	2007-2012	2012	Plan is phased. 2 <sup>nd</sup> phase is 2008-2012, 3 <sup>rd</sup> phase is 2012 itself, 4 <sup>th</sup> phase is beyond 2012
Children & Young People's Plan	Yes	Three years, 2006/09, being refreshed in September 2008	2011	Multi-agency plan under the Children Act 2004
Community Safety Framework	No	3 yearly	April 2008	Currently being drafted
Cultural Strategy for Kent	No	TBC	July 2009	New document
Youth Justice Self-Assessment and Improvement Plan	Yes	Annual	Autumn 2008	New Youth Justice Planning Framework 2008/09

<b>Environment &amp; Regeneration Policy Overview Committee Name of Plan</b>	<b>Statutory</b>	<b>Duration of Plan</b>	<b>Next Plan Due</b>	<b>Notes</b>
Environment Strategy	No	10 years	Before 2013	
Kent Prospects	No	2007-12	2012	Biennial progress reports produced
Local Transport Plan 2	Yes	5 years,	March	Delivery report 2008: draft

		2006/11	2011	to be produced by July 2008 and final to be agreed with GOSE by December 2008
The Joint Municipal Waste Management Strategy	Yes	20 years	2027	Most recent JMWSMS was 2006
Kent Minerals Local plan (to be replaced by Minerals Development Framework)	Yes	Approx 10 years	N/a	Adopted 1996
Kent Waste Local Plan (to be replaced by Waste Local Development Framework by 2007)	Yes	Approx 10 years	N/a	Adopted 1998
Minerals and Waste Development Framework	Yes	2006/2026	Current	In preparation. Timetable to be approved by KCC and GOSE in April/May 2008, for adoption in 2010. Subject to quinquennial reviews

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