

Part 3
Responsibility for Functions

Responsibility for Functions

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 under statute. It is maintained by the Solicitor to the Council and Monitoring Officer and includes the descriptions of functions and powers exercisable by the Council and the **Executive**. The list of functions not to be the responsibility of the **Executive**; the terms of reference and delegations by the Council to Council Committees and the list of delegations to Officers including Proper and Authorised Officers and Designated Posts. It is amended to reflect decisions made by the Council and the Leader.

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Appendix 1

Functions Exercised by the Council

Functions Exercised by the Council

1. The Full Council takes the following decisions itself:-

1.1 The Constitution

Adopts and agrees changes to:-

- (a) The Articles of the Constitution.
- (b) The Procedure Rules as contained in Part 4 of this Constitution.
- (c) The Codes and Protocols as contained in Part 5 of this Constitution.

Statutory Officer Reports

Considers reports in relation to non-executive functions from:-

- (d) the Monitoring Officer
- (e) the Chief Finance (Section 151) Officer.

1.2 Appointments and Disciplinary Action

- (a) Elects the Mayor and Deputy Mayor.
- (b) Elects the **Leader** of the Council.
- (c) Appoints the Chairs and Vice-Chairs of the Council's Committees and Sub-Committees annually.
- (d) Confirms or rejects recommendations by the Independent Members Interview Panel (or any other Panel set up for the purpose) for the appointment of the Independent Person and to make such appointments.
- (e) Where necessary, considers recommendations from the Hearing Panel of the Standards Committee regarding sanctions for Code of Conduct breaches.
- (f) Approves the absence of a Member from meetings of the Council for more than six months.
- (g) Confirms or rejects the recommendation of the Appointments Committee on the appointment of the Chief Executive (Head

of Paid Service), the Chief Finance (Section 151) Officer, the Monitoring Officer.

- (h) Confirms or rejects the recommendations of the Investigation and Disciplinary Committee (having taken into account the views of the Panel established for the purpose of Schedule 3) in respect of the dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151) confirmed by a vote in favour of at least two-thirds of the Membership of the Council.

1.3 **Committees**

Determines the number of Committees, their terms of reference, the total number of places on them and the allocation of those places to Political Groups in accordance with the political balance calculation.

1.4 **Finance**

- (a) Agrees the Council's annual budget.
- (b) Setting of the Council Tax base.
- (c) Setting of the Council Tax.
- (d) Sets the limits defining key financial decisions.
- (e) Sets the limits for virement or other budget changes and the level below which the Council's balances must not fall.
- (f) Determines any expenditure proposed by the **Executive** which is outside the limits referred to in (d) and (e) above.
- (g) Agrees the Members Allowance Scheme as set out in Part 6 of this Constitution.
- (h) Agrees the Treasury Management Plan.
- (i) Makes arrangements for the proper administration of financial affairs.
- (j) Issues relating to local government pensions.

1.5 **Policy Framework**

- (a) Determines and approves the plans and strategies which comprise the policy framework as contained in Article 4 of this Constitution and any changes, proposed to them.

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- (b) Determines any proposed action by the **Executive** which is at variance with any plan or strategy contained in the policy framework.
- (c) Takes decisions in respect of functions which are not the responsibility of the **Executive** and which have not been delegated by the Council to a Committee, Sub-Committee or Officer.

1.6 **Elections**

- (a) Appoints the Electoral Registration Officer and Deputy Electoral Registration Officer.
- (b) Appoints the Returning Officer and Deputy Returning Officer for Local Government Elections.
- (c) Divides the Parliamentary Constituency into Polling Districts.

1.7 **Name and Status of Areas and Individuals**

- (a) Approves any change of name of the Council.
- (b) Approves any change of name of a Parish Council area.
- (c) Confers the Title of Honorary Alderman or admits an individual to be an Honorary Freeman.

1.8 **Employees**

- (a) Agrees the overall management structure proposed by the Chief Executive as contained in Part 7 of this Constitution.
- (b) Determines the terms and conditions on which staff will be appointed, hold office and the procedures for their dismissal.
- (c) Appointment of Officers for particular purposes ie "Proper Officers".

1.9 **Other Functions**

- (a) Makes, amends, revokes, re-enacts or enforces by-laws.

- (b) Promotes or opposes local or personal Bills in Parliament.
- (c) Power to resolve not to issue a Casino Premises Licence.
- (d) Functions in relation to the Council's Licensing Policy. This includes the adoption of statements of principles in relation to Family Entertainment Centre Gaming Machine Permits or Prize Gaming Permits.
- (e) Deals with any other matter reserved to the Full Council by Statute.

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Appendix 2

Functions and Powers of the Executive

Introduction

The role of the **Executive** is set out in Article 7. The procedure for decision-making is set out in the Executive Procedure Rules at **Part 4**.

The Leader

Main Role

To be the Leader of the Council and the senior executive member with responsibility for carrying out and/or organising the carrying out of the **executive functions** of the Council.

To provide visible political leadership to residents of the Borough, stakeholders and partners in the overall co-ordination of Council policies, strategies and service delivery.

To Chair the Ashford Strategic Delivery Board and lead the economic development of the Borough.

To be accountable for financial stability.

Lead the development of European, national, regional and local policies and strategic partnerships.

To ensure the written constitution is kept up to date and at all times reflects the current position accurately.

Promote the objectives of the Council's Corporate Plan.

To use the good offices of the Leadership to uphold the Constitution and ensure adherence, especially in terms of member observance of standards and behaviour.

Duties and Responsibilities

The **Leader** may determine to exercise any of the Council's **executive functions** personally, or may arrange for the exercise of those functions by:

- The **Cabinet**;
- An individual **Cabinet Member**;
- A **Committee** of the Cabinet;
- An Officer of the Council;
- An Area Committee; or
- Executive Joint Arrangements**.

The Leader may make such a determination, and give written notice of the same, at any time, in accordance with the Executive Procedure Rules at **Part 4**.

To determine the size of the Cabinet and appoint between two and nine Members of the Council to the Cabinet.

To allocate areas of responsibility i.e., Portfolios to them and be able to remove them from the Cabinet at any time.

To chair the Cabinet.

To appoint Lead Members as appropriate to assist in the discharge of the business of the Council.

To appoint **Committees** and Sub-Committees of the Cabinet and to determine their powers.

To establish **executive Joint Arrangements** and to determine their scope

To determine the scheme of delegation for the discharge of the **executive functions** of the Council and report to the Council all appointments and changes to the Cabinet.

To appoint one of the Members of the Cabinet to be his/her Deputy and carry out the functions of the **Leader** in periods of their absence or where the Leader is otherwise unable to act, to hold office until the end of the term of office of the Leader (unless the person resigns as Deputy Leader, ceases to be a Councillor or removed from office by the Leader).

To exercise leadership by ensuring the adherence to the approved Constitution and Codes of Good Conduct and to act as appropriate in cases of serious breaches. In particular the **Leader** in appropriate cases will instigate discussions with the relevant other Group Leader in the event that there is either a prima facie case of serious misconduct or a finding of such misconduct following an investigation in accordance with the Constitution against a member of that political group (or where a member to whom that political group has gifted a seat or seats in the case of an ungrouped councillor). Such discussions may cover the possible removal of a relevant councillor in that group (or who has been gifted a seat by that group) from membership of committees, sub-committees, task groups, forums or panels etc. either pending or following the outcome of an investigation.

To represent and act as an ambassador for the Council and to lead in developing strategic partnerships with agencies, residents of the Borough and stakeholders in relation to the delivery of strategic objectives and the provision of services to residents of the Borough.

To have overall responsibility for:-

Developing and promoting new policies together with advancing new strategies as necessary;

Development, monitoring and implementation of the Corporate Plan and performance targets relating to the objectives;

Capital and Revenue budgets, ethical standards and probity and financial monitoring;

Communicating the Council's values, vision and objectives to all members of the Council's staff, residents of the Borough, partners and stakeholders;

Ensuring that the Emergency Planning is well structured and subject to regular review and testing;

The formulation of and participation in partnerships;

Ensuring that systems exist to appraise the performance of senior managers;

Liaison with the relevant Portfolio Holder and Management Team with regards to complaints;

Interacting with all departments of the Council and appropriate agencies and external bodies to ensure Communication is being used effectively and to make recommendations for improvements;

Taking up corporate or personal membership of any appropriate body or organisation whose objectives are considered to be beneficial to the Council's own activities and as approved by the Proper Officer of the Council;

Submitting proposals to the Cabinet on annual budget allocations; Co-ordination of the implementation of policies and strategies, especially in relation to crosscutting issues, to achieve a corporate approach.

The Deputy Leader –

Main Role:

To carry out the functions of the **Leader** in periods of their absence or where the Leader is otherwise unable to act.

Co-ordinating the activities of the Council which contribute towards achieving the corporate plan objectives.

To Chair the Cabinet meetings in the absence of the **Leader** and where the Leader may have a conflict of interest.

To work closely with the **Leader** and other relevant agencies to ensure that the organisation and structure are subject to review from time to time.

To undertake any specific duties as directed by the **Leader** from time to time.

To work closely with Cabinet Colleagues and Senior Officers across the Portfolios on matters that may transcend any particular Portfolio, in order to effectively discharge and deliver the responsibilities as appropriate for this Portfolio.

More information on the make-up of the Executive (Cabinet) and the individual Portfolios and Portfolio Holders can be found here -

<https://ashford.moderngov.co.uk/ieListMeetings.aspx?CIId=136&Year=0>

The Cabinet

Under the arrangements approved by the Leader, the **Cabinet** will ordinarily carry out all of the **executive functions** as described in this Appendix 2 unless the **Leader** decides to discharge them personally or allocate them to an individual **Cabinet Member**, a Committee of the Cabinet, Officers, an Area Committee or under **executive Joint Arrangements**. The Leader may make such a determination, and give written notice of the same, at any time, in accordance with the Executive Procedure Rules at **Part 4**.

The Cabinet may discharge these functions itself, through a Cabinet Committee or by delegation to an Officer, or to an Area Committee, but not to an individual **Cabinet Member**. In addition, the Cabinet may appoint such advisory groups, including any Member, as it considers appropriate to provide advice to it.

Duties and Responsibilities:-

To be responsible for any executive functions which involve a recommendation to the Council including budget and policy proposals.

To be responsible for making **key decisions** on any matter determined in the Schedule of Key Decisions and included in the budget.

To receive and respond to:

reports to the **Cabinet** from the Overview and Scrutiny Committee, the Monitoring Officer and the Chief Finance (Section 151) Officer; and

recommendations from Council.

Quorum

The quorum for a meeting of the Cabinet shall be one quarter of the total number of Members of the Cabinet (including the **Leader**) or three including the Leader, whichever is the larger.

For a Committee of the Cabinet the quorum shall be three.

(Part 4 Rules of Procedure –Executive Procedure Rules refer).

General Responsibilities: All Cabinet Members

1. To identify and encourage public participation and consultation ensuring effective communication of Council policies and strategies (as contained in the Corporate Plan and other plans) to all Members of the Council, staff, residents of the Borough, partners and stakeholders.
2. To promote the objectives of the Council as contained in the Corporate Plan.
3. To encourage external organisations to work in partnership with the Council.
4. To develop new policies consistent with the overall strategic approach of the Council.
5. To encourage an inclusive approach to the development of new or revised policies ensuring that other sections of the Council's structure and individual Members are able to contribute.
6. To establish targets and monitor performance in relation to the Council's policies and strategies.
7. To speak on behalf of the Council.
8. To represent the Council, on relevant external bodies to which they are appointed by the Council or Selection and Constitutional Review Committee.
9. To request or commission research or other studies on matters of policy or service provision whether external or via other parts of the Council's political management structure, subject to consultation with the **Leader** see below.
10. To refer to the **Cabinet** any matters with corporate implications.
11. To prepare responses to consultation papers issued by the Government and other organisations in relation to those functions within the purview of the **Executive**.
12. To give guidance on budget priorities.
13. To develop proposals for the effective use of land and property in partnership with other stakeholders where appropriate.
14. To receive representations from Councillors acting in their capacity as Ward Members in relation to the provision of services to residents within their area.
15. The appointed Deputy Leader will be able to act on behalf of the Leader in relation to the above duties and responsibilities when he or she is absent or unable to act. (Minute No. 532(v)/5/10 and Minute No. 342/12/10)

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Committees of the Cabinet

The **Leader** or the **Cabinet** may delegate any of its functions to a Committee of the Cabinet. Committees of the Cabinet shall report to the Cabinet. Decision-making Committees of the Cabinet may only include **Cabinet Members**. The Leader or the Cabinet may change them, abolish them, or create further ones, at its own discretion.

Trading and Enterprise Board (Committee of the Cabinet) **(To be known as the TEB)**

Membership:

- (a) 4 Members of the Cabinet (as appointed by the Leader and reported to Council).
- (b) 1 Member of the Council from outside the Cabinet (as appointed by the Leader and reported to the Council), to act in the capacity of “Observer”.

The TEB will appoint its own Chair and Vice Chair. Other members of the Cabinet (who are not Directors of the Trading Companies) may attend and vote as substitutes in the event that an appointed member of the TEB is unable to attend. Notice of substitution shall be given at the commencement of the meeting.

Restrictions on Membership

As the TEB discharges **executive functions**, only members of the Cabinet can be members of the TEB with voting rights, although other **Cabinet Members** and non-Cabinet members can be invited to attend, without voting rights.

Meetings

The TEB shall meet on a basis agreed by itself and all meetings shall be held open to the public with full access to information as set out in the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 as amended unless any exemptions are applicable.

Functions and Responsibilities

The TEB shall have delegated authority to carry out the following functions on behalf of the Cabinet, namely:

- a) To monitor and report regularly on high level performance and report on areas of concern to the **Cabinet**;
- b) To receive and consider Business Plans from each Trading Company including any information on profit and loss accounts;

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- c) To receive and consider any variations from the approved Business Plans;
- d) To receive and consider reports on new business initiatives. It is proposed that the Council as shareholder should require each company to submit to the TEB a business plan for each new area of activity and to obtain the TEB's approval for every new contract outside the approved Business Plans, which the company proposes to enter with an annual value in excess of £25,000 (these values to be subject to review by the TEB);
- e) To receive and consider periodic reports on the performance of key areas of business and main areas of business of each company. Such reports will initially be required quarterly in respect of each business area or contract which has been approved or exceeds the values set in paragraph d) above, but these values are to be subject to review by the Committee;
- f) To review any significant identified risks of the Companies on behalf of the **Cabinet** for the purposes of managing those risks;
- g) To receive and consider annual budget and capital spending plans for each company;
- h) To recommend to **Cabinet** whether or not to approve any applications from the Trading Companies for:
 - (i) consents to acquire or dispose of land outside the approved Business Plan
 - (ii) consents to enter into third party loan agreements
 - (iii) the transfer of Council assets including land
 - (iv) the granting of loans from the Council
 - (v) approval of the Business Plans and variations;
- i) To receive and consider quarterly budget monitoring reports from each company ;
- j) To assist each company in the exploration of other trading opportunities with a view to achieving greater efficiency;
- k) To be responsible for ensuring that the Council's investment and or assets that may be transferred to or used by the established Trading Companies are properly protected and used for the purposes approved of by the **Cabinet**;

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- l) To ensure formal directions of the Council or **Cabinet** are brought forward to the Trading Companies and agree the basis of implementation by the company; including making changes to the governance arrangements for the Trading Companies;
- m) To appoint and remove the Directors of the Companies (subject to the approval of the **Leader**)
- n) To act as the Council's (in its capacity as shareholder) nominated body to give all consents and approvals, including those that may be given under the Shareholder Agreement, subject to the approval of the **Cabinet** in respect of those matters set out in (h) above.
- o) To nominate a member of the TEB (subject to the approval of the **Leader**) to act as the representative of the Council at Shareholder meetings of the Trading Companies.

Reporting Lines

The TEB shall report and make formal recommendations to the **Cabinet** as appropriate, in accordance with its functions described above.

Public and Member Questions

Public and Member questions can be asked at meetings of the TEB in accordance with the requirements set out in the Scheme of Public Participation. Only questions which relate to matters which are the responsibility of the Committee, as set out in General Procedure Rule 9 can be asked.

Questions relating to the work of the TEB can also be asked at meetings of the Cabinet and Full Council.

Overview and Scrutiny Committee have the ability to review and scrutinise the activities of the TEB and that of any established Trading Companies wholly owned by the Council.

Attendance and meetings of the Trading and Enterprise Board

Meetings of the TEB shall be conducted in accordance with the Executive Procedure Rules as set out in **Part 4**.

Quorum

The quorum of a meeting of the TEB shall be three.

If there is no quorum at the published start time for the meeting, a period of no more than 10 minutes will be allowed, and if there remains no quorum at the expiry of this period, the meeting will be deferred to a future date to be agreed.

Terms of Reference and Membership of Groups Constituted by the Leader or Cabinet to Assist in its Work

The **Leader** or the **Cabinet** may establish non decision-making groups, including advisory committees, the membership of which need not be limited to **Cabinet Members**. The Leader or the Cabinet may change them, abolish them, or create further ones, at its own discretion

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Community Grants Panel

Membership: 7 Members including relevant Cabinet Member and 2 external representatives*

Terms of Reference

1. To consider recommendations from the Head of Policy and Performance on the allocation of revenue, capital, change/emergency grants, loans and non-domestic discretionary rate relief over £1,000 and up to £10,000, in line with the Council's Policy for Funding and Support of Voluntary and Community Organisations.

Each application to be assessed by the Panel in terms of the Council's funding priorities, budget position, the stated benefits of the project, its social value, value for money and taking account of the recommendation of the Head of Policy and Performance

The Head of Policy and Performance has delegated powers to determine grants up to £1,000 subject to an assessment of the application against assessment criteria and the usual consultation with Ward Members and partner funders; any disagreements arising should result in the relevant application being referred to the next meeting of the Community Grants Panel for decision.

2. To consider recommendations from the Corporate Policy Team on the allocation of Community Services Grants, in line with the Council's Policy for Funding and Support of Voluntary and Community Organisations and Guidance for Applicants.

Each application to be assessed by the Panel in terms of

- the Council's funding priorities and budget position
- the direct benefits and any wider/social benefits of the project or service
- value for money and
- the views and recommendations of the Corporate Funding Team.

The Cabinet has power to determine such allocations as part of the Council's annual budget setting process.

Quorum = 2 Members

Notes

1. All applications submitted for the panel's consideration will have already been judged to meet the following eligibility criteria (and any additional entry criteria for the specific scheme) in order to pass through the gateway.

Eligibility Criteria for Single Grants Gateway

- Not-for-profit organisations with either charitable status OR a constitution with a formally appointed management committee OR a parish council (not NNDR). No individuals, public sector or private business.
- Non-political.
- Operating in Ashford borough and/or serving borough residents in accordance with the Council's Corporate Funding Priorities.
- Service or project open to any resident in the borough (unless clear, non-financial justification for targeting or prioritising client group).
- Not for projects already started or completed, or to replace funds already spent.
- Not for mainstream public services e.g. health, education provision; or religious instruction.
- Bank or Building Society account in the organisation's name.
- Accounts either audited or signed by Chair or Treasurer OR if new organisation less than a year old, 12 month cash flow forecast and balance sheet to date signed by Chair or Treasurer.
- No more than 12 months' running costs in unrestricted/free reserves.
- Must have relevant safeguards, insurances and policies in place i.e. public liability insurance, health and safety, child protection policy.

*The external representatives shall be: -

- 1 from Active Ashford Board or its successor organisation, and
- The Chair of the Ashford Branch of the Kent Association of Local Councils (KALC)

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3. Only Members or substitute Members, and Council Officers are permitted to attend meetings (except meetings to consider Community Services Grants), together with appropriate Ward Members and applicants, with the consent of the Chair.
4. For revenue, capital, change/emergency grants and loans to meet three times per financial year; or at the discretion of the Chair.
5. For Community Services Grants, to meet once per financial year in September to endorse applications recommended by the Corporate Policy Team for the tri-annual round closing in June; or at the discretion of the Chair.

Amended by Minute Number: 439/5/18

Economic Regeneration and Investment Advisory Committee (To be known as ERIAC)

Membership

ERIAC will consist of 5 Members as follows:

- (a) 4 Members of the **Cabinet** (as appointed by the **Leader** and reported to Council).
- (b) 1 Member of the Council from outside the Cabinet (as appointed by the Leader and reported to Council).

A quorum will be 3 Members. Each Member will have the ability to appoint Substitutes as necessary. Notice of Substitution shall be given at the commencement of the Meeting. It is the responsibility of the Member appointing the Substitute to ensure that the Substitute is fully briefed on those matters to be discussed at the Meeting they are to attend.

Meetings

ERIAC Meetings will be convened as necessary following identification of suitable investment opportunities or as regularly as needed to understand, or aid, the progress of development opportunities that assist and support the Council's strategic objectives.

The views of ERIAC may be required at short notice and where a quorum cannot be arranged in the timescale required, the views of ERIAC Members will be sought by email. Timescales for responses will be set out in the originating email.

Background

ERIAC has been set up in order to drive investment and increase the Council's financial self-sufficiency. The Board will advise on the implementation of the Council's agreed Commercial and Investment Strategies by appraising individual investment decisions and development schemes. It is anticipated that as a result of the activities undertaken by ERIAC the following outcomes will occur: -

- That the Council may acquire and hold properties for the rental income stream they produce. Where development opportunities become apparent these will be sold, or developed on a case by case basis.

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- That the Council may dispose of properties held for the rental income stream they produce in order that the capital receipt resulting can be reinvested in purchasing alternative investment properties, unless the Council deems development by the Council the best option to achieve the Council's objectives.
- That the Council identify and take advantage of opportunities for the development and disposal of Council land and property assets. The aim will be to assist the Council's budget position through increased income revenue, whilst providing effective budget management of the Council's assets to deliver the best possible value for money.

Terms of Reference

1. ERIAC will consider, review and provide an opinion on property and investment opportunities (the purchase or development of properties or sites for investment purposes). Its decisions are given effect under the Council's Constitution by the Assistant Director of Environment, Property and Recreation acting under delegated authority with an annual budget allocation of £2m. This amount is approved as part of the Annual Capital Budget report to Full Council. Investments should meet the following criteria:
 - (a) The investment provides a regular income with the net initial yield exceeding a minimum level of which the Deputy Chief Executive is agreeable, taking into account the prevailing 25 year PWLB fixed maturity rate, after taking into account all likely costs associated with the acquisition or development.
 - (b) That the purchases or development will be from the retail, industrial, commercial, green technology and any other conventional business sectors; and
2. ERIAC will consider, review and provide an opinion on investment properties proposed for disposal or development as advised by the Assistant Director of Environment, Property and Recreation.
3. ERIAC will also consider, review and provide an opinion on the Council's land and property assets for both development and, in certain circumstances, disposal. This will involve receiving briefings concerning residential and commercial development opportunities and needs within the Borough. This will include understanding known, or expected developments by others which may affect timelines of Council proposals.
4. Depending on the site, its extent and the proposals, consideration shall be given as to whether any of the following are required: -

- Intrusive site surveys
- Title indemnity insurance
- Detailed build cost
- Pre-application information where no planning permission

A detailed due diligence, technical and legal matters checklist is also available on request.

5. Minutes of ERIAC Meetings will be taken by an Officer from Member Services and be referred to the next available Cabinet meeting for information/decision.
6. ERIAC will consider and review reports on the commercial property and investment assets of the Council not less than twice a year and any reports of a similar nature that are requested by Cabinet or the Overview and Scrutiny Committee.

Joint Consultative Committee

**Membership: 6 Members*, 6 Employee
Representatives and 2 Ashford Branch
Unison Officials**

Terms of Reference

To consider and advise the Cabinet or other group of the Council as appropriate upon:-

1. Consultation over new Personnel policies and proposals that materially alter any existing policy.
2. Consultation over service specific proposals that have staffing implications of a material nature but where the issue is not exclusively concerned with staffing matters.
3. Consultation over material organisational structural change(s) or any material amendments to staff terms and conditions of service.
4. All early retirement proposals that require Council's approval to grant added years.
5. Consultation over non-staffing specific corporate issues such as the Corporate Strategy and the Budget.

Matters not normally to be referred to the Executive: -

6. Consultation over minor amendments to Personnel policies. (Views to be referred to the Assistant Director of HR, Customer Services, Communications and Digitalisation).
7. Consultation over any matter referred from a Joint Working Group on operational-wide or administrative matters of service/directorate operational or administrative matters of greater significance. (Views to be referred to the Assistant Director of HR, Customer Services, Communications and Digitalisation).
8. Discussion of Information Items eg., Best Value Performance Indicators relating to staffing issues, policy implementation reports, matters arising from staff surveys not requiring **executive decisions**, etc. (Views to be referred to the Assistant Director of HR, Customer Services, Communications and Digitalisation or Management Team as appropriate).

9. Matters raised for debate by the staff-side.
(Views to be referred to Management Team, but if decisions are required following discussions, the JCC will agree whether reports should be produced for the **Executive** or other Committee as appropriate).

Notes

- *1 To include the Leader and/or appropriate **Cabinet Member**. The Employer's representatives must be drawn from both the **Cabinet** and non- Cabinet Members of the Council. The Employer's representation shall not exceed or be less than the number of representatives of the Employees' Side. The Employers must not be represented in negotiations whether directly or indirectly by members or officials of UNISON or by members who are also employed by another Local Authority.
2. A procedure note is available for inspection from the Proper Officer detailing the manner in which the Consultative Committee is constituted, the role of both Sides' representatives and the procedure for dealing with items placed before it.
3. Appointed representatives of both sides may send substitutes to attend meetings.
4. Although a Chair's report of proceedings of the Consultative Committee is prepared by the Proper Officer, this is not usually reported to the **Cabinet** or other appropriate Committees of the Council. Instead, outcomes from the Committee are incorporated by report authors, in the reports submitted to the Cabinet or other appropriate Committees.

Quorum:

One quarter of the total membership.

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Local Plan and Planning Policy Task Group

To consider and advise the **Cabinet** upon emerging ideas and policies at appropriate stages during the preparation of the Local Plan and other planning policy documents.

Member Training Panel

Membership: 8 Members*

Terms of Reference

1. To receive reports from Council Officers on, and provide input to, the development and review of the initial Members induction process.
2. To receive reports from Council Officers and make suggestions on ongoing Member training needs.
3. To monitor expenditure on the Council's Member Training Budget.
4. To produce an Annual Report to the **Cabinet** at the end of each Municipal Year summarising activity on all of the above issues.

Delegations

1. The Head of Policy and Performance has a delegation to consider ad-hoc requests which would result in expenditure from the Member Training budget of over £100. This is in consultation with the Chair and Vice-Chair of the Panel (*Minute No 264/11/03 refers*). Requests under £100 can be determined by Officers.

Notes

1. * Membership loosely based on the Political Balance of the Council.
2. Public attendance pursuant to the Access to Information Procedure Rules as contained in Part 4 of this Constitution will only be permitted if agreed in advance of the meeting with the Chair of the Panel.
3. The views of the Panel are to be reported via a Chair's report, which will be prepared by the Proper Officer, to the next available meeting of the Cabinet.
4. The Panel meet AT LEAST once a year (preferably in the spring) to review the past municipal year and look ahead to the forthcoming year.

Quorum

One quarter of the Members of the Panel.

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Functions Not to be the Responsibility of the Executive

Functions Not to be the Responsibility of the Executive

This table is for information only and contains the functions set out in Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as at 4 April 2014

(1) Function	(2) Provision of Act or Statutory Instrument
A. Functions relating to town and country planning and development control	
1 – 4.	Sections 1 – 4 have been deleted by the Local Authority (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005 (No. 929).
5. Power to determine application for planning permission	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c. 8).
6. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
7. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.
8. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.
9. 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.
10. 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).
11. 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).

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(1) Function	(2) Provision of Act or Statutory Instrument
12. Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
13. 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.
14. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
15. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 (S.I. 1992/666).
16. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.
17. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
18. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.
18A. Power to issue a temporary stop notice.	Section 171E of the Town and Country Planning Act 1990.
19. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.
20. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.
21. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.
22. 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 (c. 34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.
23. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
24. Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1) of, the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9).

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(1) Function	(2) Provision of Act or Statutory Instrument
25.	Section 25 was repealed in 2013
26. Duties relating to applications for listed building consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) and regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519) and paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01.
27. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of, the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9).
28. Power to issue enforcement notice in relation to demolition of listed building in conservation area.	Section 38 of, the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9).
29. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of, the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9).
30. Power to apply for an injunction in relation to a listed building.	Section 44A of, the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9).
30A. Power to authorise stopping up or diversion of highway.	Section 247 of the Town and Country Planning Act 1990 (c. 8).
31. Power to execute urgent works.	Section 54 of, the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9).
B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)	
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c. 62).
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c. 49).

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(1) Function	(2) Provision of Act or Statutory Instrument
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c. 89), as extended by Section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and Section 15 of the Transport Act 1985 (c. 67); and Sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57); (b) as to private hire vehicles, Sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6. Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c. 2) ^a as saved for certain purposes by article 3(3)(c) of the Gambling Act Order.
7. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 ^a as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act Order.
8. Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 ^b as saved for certain purposes by article 3(3)(e) of the Gambling Act Order.
9. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 (c. 65) ^a as saved for certain purposes by article 4(2)(l) and (m) of the Gambling Act Order.
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 (c. 32) ^a as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order.
11. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 ^a as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order.
12. Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985 (c. 13).

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^a To which there are amendments not relevant to these Regulations
^b Schedule 5ZA was inserted by S.I. 1995/3231, article 5(6)

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(1) Function	(2) Provision of Act or Statutory Instrument
13. Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968 (c. 54) ³ .
14. Power to issue entertainments licences	Section 12 of the Children and Young Persons Act 1933 (c. 12), Section 52 of, and Schedule 12 to, the London Government Act 1963 (c. 33), Section 79 of the Licensing Act 1964 (c. 26), Sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 (c. 19) and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).
14A. Any function of a licensing authority	Licensing Act 2003 (c. 17) and any regulations or orders made under that Act..
14AA. Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the 2005 Act.
14AB. Functions relating to exchange of information.	Section 30 of the 2005 Act.
14AC. Functions relating to occasional use notices.	Section 39 of the 2005 Act.
14AZA Powers and functions relating to late night levy requirements.	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (c. 13) and any regulations made under that Chapter.
14B. Power to resolve not to issue a Casino Premises Licence	Section 166 of the 2005 Act.
14C Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.	Section 304 of the 2005 Act.
14CA. Power to make order disapplying Section 279 or 282(1) of the 2005 Act in relation to specified premises.	Section 284 of the 2005 Act.
14D. Power to institute criminal proceedings.	Section 346 of the 2005 Act.
14E. Power to exchange information.	Section 350 of the 2005 Act.
14F. Functions relating to the determination of fees for premises licences.	The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (S.I. 2007/479).

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³ Amended by the Local Government Act 1972, section 204(6) and the Local Government, Planning and Land Act 1980, section 1(6), Schedule 6 paragraph 11 and Schedule 34, Pt VI

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(1) Function	(2) Provision of Act or Statutory Instrument
14G. Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the 2005 Act.
15. Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, Section 2 and Schedule 3.
16. Power to license performances of hypnotism.	The Hypnotism Act 1952 (c. 46).
17. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
18. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c. 53) ⁴ .
19. Power to register door staff.	Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 (c. 33) and Part V of the London Local Authorities Act 1995 (c. x).
20. Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 (c. vii) and Section 6 of the London Local Authorities Act 1994 (c. xii).
21. Power to license night cafes and take-away food shops.	Section 2 of the Late Night Refreshment Houses Act 1969 (c. 53) ⁵ , Part II of the London Local Authorities Act 1990 and Section 5 of the London Local Authorities Act 1994.
(1) Function	(2) Provision of Act or Statutory Instrument
22. Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (c. 66) ⁶ .
23. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c. 32); Sections 2 to 16 of the Game Licensing Act 1860 (c. 90), Section 4 of the Customs and Inland Revenue Act 1883 (c. 10), Sections 12(3) and 27 of the Local Government Act 1874 (c. 73), and Section 213 of the Local Government Act 1972 (c. 70).
24. Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c. 16).

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- ⁴ Amended by the Local Government Act 1974 (c. 7), Schedule 6, paragraph 1, section 18 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) and section 186 of the Local Government, Planning and Land Act 1980 (c. 65). Section 94(8) was substituted by the Deregulation (Public Health Acts Amendment Act) Order 1997 (S.I. 1997/1187)
- ⁵ Amended by the Local Government Act 1972, section 204(9) and the London Local Authorities Act 1990 (c. vii), section 20
- ⁶ Section 5 was amended by the Local Government, Planning and Land Act 1980, Schedule 6, paragraph 13(1)

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(1) Function	(2) Provision of Act or Statutory Instrument
25. Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964 (c. 69).
26. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975 (c. 52) ⁷ .
27. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c. 27).
28. Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971 (c. 40).
29. Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 (c. 60) and Section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11).
30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 ⁸
31. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925 (c. 38). ⁹
32. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981 (c. 37). ¹⁰
33. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c. 38).
34. Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).
35. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933 (c. 33), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c. 37).
36. Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 (c. 76) and the Marriages (Approved Premises) Regulations 1995 (S. I. 1995/510). ¹¹

⁷ Amended by the Fire Safety and Safety of Places of Sport Act 1987 (c. 27). See, in particular, Part II of, and Schedule 2 to, that Act

⁸ Section 1 was amended by the Local Government, Planning and Land Act 1980, section 1 (6), Schedule 6, Schedule 34, paragraph 15 and by the Protection of Animals (Amendment) Act 1988, section

⁹ Amended by the Local Government Act 1974 sections 35(1) and (2) and 42, Schedule 6, paragraph 2(1) and schedule 8

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¹⁰ Amended by the Local Government, Planning and Land Act 1980, Schedule 6,
paragraph 6, and by section 3 of the Protection of Animals (Amendment) Act 1988
¹¹ Section 46A was inserted by section 1 of the Marriage Act 1994 (c. 34)

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(1) Function	(2) Provision of Act or Statutory Instrument
37. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to - (a) an exchange of lands effected by an order under Section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).
(b) an order under Section 147 of the Inclosure Act 1845 (c. 8 & 9 Vict. c. 118).	
38. Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471) ¹² .
39. Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c. 31) and Section 2 of the House to House Collections Act 1939 (c. 44) ¹³ .
40. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).
41. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c. 22).
42. Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957 (c. 16).
43. Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).
44. Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.
45. Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.
46. Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).
46A. Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related powers.	Sections 115E, 115F and 115K of the Highways Act 1980.
47. Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980 (c. 66).

¹² Amended by S.I. 1968/658

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¹³ Amended by section 22 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30)

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(1) Function	(2) Provision of Act or Statutory Instrument
47A. Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.	Section 115G of the Highways Act 1980.
48. Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.
49. Power to authorise erection of stiles etc. on footpaths or bridleways.	Section 147 of the Highways Act 1980.
50. Power to license works in relation to buildings etc. which obstruct the highway.	Section 169 of the Highways Act 1980.
51. Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.
52. Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.
53. Power to restrict the placing of rails, beams etc. over highways.	Section 178 of the Highways Act 1980.
54. Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980 ¹⁴ .
55. 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.
56. Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c. 35).
57. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082) ¹⁵ .
58. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).
59. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086) ¹⁶ .
60. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).
61. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763) ¹⁷ .

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- ¹⁴ Amended by section 22 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30)
- ¹⁵ Amended by regulation 2 of the Meat Products (Hygiene) (Amendment) Regulations 1999 (S.I. 1999/683)
- ¹⁶ Amended by S.I. 1996/1699
- ¹⁷ Schedule 1A was inserted by S.I. 2000/930

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(1) Function	(2) Provision of Act or Statutory Instrument
62. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).
63. Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
64. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
65. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
66. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
67. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).
68. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.
69. Power to issue near beer licence.	Section 16 to 19 and 21 of the London Local Authorities Act 1995 (c. x.) and, to the extent that it does not have effect by virtue of Regulation 2(3), Section 25 of that Act.
70. Power to register premises or stalls for the sale of goods by way of competitive bidding.	Section 28 of the Greater London Council (General Powers) Act 1984 (c. xxvii).
71. Power to register motor salvage operators.	Part I of the Vehicles (Crime) Act 2001 (c. 3).
72. Functions relating to the registration of common land and town or village greens.	Part 1 of the Commons Act 2006 (c.26) and the Commons Registration (England) Regulations 2008 (S.I. 2008/1961). ¹⁸
C. Functions relating to health and safety at work	

¹⁸ As to the commencement of Part 1 of the Commons Act 2006 see in relation to England generally, the Commons Act 2006 (Commencement No. 3, Transitional Provisions and Savings) (England) Order 2007/2584), and in

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relation to the pilot areas, the Commons Act 2006 (Commencement No. 4 and Savings) (England) Order 2008 (S.I. 2008/1960)

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(1) Function	(2) Provision of Act or Statutory Instrument
<p>Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.</p>	<p>Part I of the Health and Safety at Work etc. Act 1974 (c. 37)¹⁹.</p>
D. Functions relating to elections	
<p>1. Duty to appoint an electoral registration Officer.</p>	<p>Section 8(2) of the Representation of the People Act 1983 (c. 2)²⁰.</p>
<p>2. Power to assign Officers in relation to requisitions of the registration officer.</p>	<p>Section 52(4) of the Representation of the People Act 1983.</p>
<p>3. Functions in relation to parishes and parish councils.</p>	<p>Part II of the Local Government and Rating Act 1997 (c. 29) and subordinate legislation under that Part.</p>
<p>4. Power to dissolve small parish councils.</p>	<p>Section 10 of the Local Government Act 1972.</p>
<p>5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.</p>	<p>Section 11 of the Local Government Act 1972.</p>
<p>6. Duty to appoint Returning Officer for local government elections.</p>	<p>Section 35 of the Representation of the People Act 1983.</p>
<p>7. Duty to provide assistance at European Parliamentary elections.</p>	<p>Section 6(7) and (8) of the European Parliamentary Elections Act 2002 (c. 24).</p>
<p>8. Duty to divide constituency into polling districts.</p>	<p>Sections 18A to 18E of, and Schedule A1 to, the Representation of the People Act 1983.</p>
<p>9. Power to divide electoral divisions into polling districts at local government elections.</p>	<p>Section 31 of the Representation of the People Act 1983.</p>
<p>10. Powers in respect of holding of elections.</p>	<p>Section 39(4) of the Representation of the People Act 1983.</p>
<p>11. Power to pay expenses properly incurred by electoral registration officers.</p>	<p>Section 54 of the Representation of the People Act 1983.</p>
<p>12. Power to fill vacancies in the event of insufficient nominations.</p>	<p>Section 21 of the Representation of the People Act 1985.</p>

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¹⁹ For the definition of "the relevant statutory provisions" see section 53(1) of the Health and Safety at Work etc. Act 1974. See *also* the definitions of "the existing statutory provisions" and "health and safety regulations" in section 53(1) and, as to "health and safety regulations", section 15(1) of that Act which was substituted by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraph 5

²⁰ Subsection (4) of section 52 was substituted by the Representation of the People Act 1985 (c. 50), Schedule 4

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(1) Function	(2) Provision of Act or Statutory Instrument
13. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
14. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
15. Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972.
16.	Section 16 has been deleted by the Local Authorities (Functions and Responsibilities) (England) (Amendment No. 4) Regulations 2007 (No. 2593).
17. 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 (c. 2).
18. Duty to consult on change of scheme for elections.	Sections 33(2), 38(2) and 40(2) of the 2007 Act.
19. Duties relating to publicity.	Sections 35, 41 and 52 of the 2007 Act.
20. Duties relating to notice to Electoral Commission.	Sections 36 and 42 of the 2007 Act.
21. Power to alter years of ordinary elections of parish councillors.	Section 53 of the 2007 Act.
22. Functions relating to change of name of electoral area.	Section 59 of the 2007 Act.
E. Functions relating to name and status of areas and individuals	
1. Power to change the name of a county, district or London borough.	Section 74 of the Local Government Act 1972.
2. Power to change the name of a parish.	Section 75 of the Local Government Act 1972.
3. Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
4. Power to petition for a charter to confer borough status.	Section 245b of the Local Government Act 1972.
EA. Functions relating to changing governance arrangements	EA was deleted by the Local Authorities (Functions and Responsibilities) (England) (Amendment No. 3) Regulations 2008 (No. 2787)
EB. Functions relating to community governance	

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(1) Function	(2) Provision of Act or Statutory Instrument
1. Duties relating to community governance reviews.	Section 79 of the 2007 Act.
2. Functions relating to community governance petitions.	Sections 80, 83 to 85 of the 2007 Act.
3. Functions relating to terms of reference of review.	Sections 81(4) to (6).
4. Power to undertake a community governance review.	Section 82 of the 2007 Act.
5. Functions relating to making of recommendations.	Sections 87 to 92 of the 2007 Act.
6. Duties when undertaking review.	Sections 93 to 95 of the 2007 Act.
7. Duty to publicise outcome of review.	Section 96 of the 2007 Act.
8. Duty to send two copies of order to Secretary of State and Electoral Commission.	Section 98(1) of the 2007 Act.
9. Power to make agreements about incidental matters.	Section 99 of the 2007 Act.
F. Power to make, amend, revoke, re-enact or enforce byelaws	Any provision of any enactment (including a local Act), whenever passed, and Section 14 of the Interpretation Act 1978 (c. 30) ²¹ .
FA. Functions relating to smoke free premises, etc	
1. Duty to enforce Chapter 1 and regulations made under it.	Section 10(3) of the 2006 Act.
2. Power to authorise officers.	Section 10(5) of, and paragraph 1 of Schedule 2 to, the 2006 Act.
3. Functions relating to fixed penalty notices.	Paragraphs 13, 15 and 16 of Schedule 1 to the 2006 Act. Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 (S.I. 2006/760).
4. Power to transfer enforcement functions to another enforcement authority.	Smoke-free (Premises and Enforcement) Regulations 2006 (S.I. 2006/3368).
G. Power to promote or oppose local or personal Bills.	Section 239 of the Local Government Act 1972.
H. Functions relating to pensions etc.	
1. Functions relating to local government pensions, etc.	Regulations under Section 7, 12 or 24 of the Superannuation Act 1972 (c. 11) ²² .

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²¹ Section 14 of the Interpretation Act 1978 is applied to byelaws made under section 235 of the Local Government Act 1972 by section 22(1) of, and paragraph 3 of Part I of Schedule 2 to, the Interpretation Act 1978

²² As to Section 7 see also Section 99 of the Local Government Act 2000 (c. 22). Section 12 of the Superannuation Act 1972 is amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7)

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(1) Function	(2) Provision of Act or Statutory Instrument
2. Functions under the Fire-fighters' Pension Scheme relating to pensions, etc. as respects persons employed by Fire and Rescue Authorities pursuant to Section 1 of the Fire and Rescue Services Act 2004.	Sections 34 and 36 of the Fire and Rescue Services Act 2004 (c. 21).
I. Miscellaneous functions	
Part I: functions relating to public rights of way²³	
1. Power to create footpath, bridleway or restricted byway by agreement.	Section 25 of the Highways Act 1980 (c. 60).
2. Power to create footpaths, bridleways and restricted byways.	Section 26 of the Highways Act 1980.
3. Duty to keep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980.
4. Power to stop up footpaths, bridleways and restricted byways.	Section 118 of the Highways Act 1980.
5. Power to determine application for public path extinguishment order.	Sections 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, bridleways and restricted byways.	Section 119 of the Highways Act 1980.
9. Power to make a public path diversion order.	Sections 119ZA 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 to applications under Sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980.

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²³ Section 31A of the Highways Act 1980 was inserted by the Countryside and Rights of Way Act 2000 (c. 37), Schedule 6. Sections 118A and 119A of the Highways Act 1980 were inserted by the Transport and Works Act 1992 (c. 42), Section 47 and Schedule 2. Sections 118ZA, 118B, 119ZA, 119B, 119D, 121B and 121C of the Highways Act 1980 were inserted by the Countryside and Rights of Way Act 2000, Schedule 6. Section 135 of the Highways Act 1980 was substituted by the Rights of Way Act 1990 (c. 24). Sections 135A and 135B of the Highways Act were inserted by the Countryside and Rights of Way Act 2000, Schedule 6. Sections 53A, 53B and 57A of the Wildlife and Countryside Act 1981 (c. 69) were inserted by the Countryside and Rights of Way Act 2000, Schedule 5, paragraphs 2 and 8

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(1) Function	(2) Provision of Act or Statutory Instrument
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.
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, bridleway and restricted byway.	Section 135 of the Highways Act 1980.
20. Power temporarily to divert footpath, bridleway or restricted byway.	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 (c. 67).
24. Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981 (c. 69).
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 (c. 38).
30. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981 (c. 68).

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(1) Function	(2) Provision of Act or Statutory Instrument
30A. Power to authorise stopping up or diversion of highway.	Section 247 of the Town and Country Planning Act 1990 (c.8)
31. Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway.	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 (c. 37).
34. Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.
Part II: other miscellaneous functions	
35. Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c. 38).
36. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972 (c. 70).
37. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).	Section 112 of the Local Government Act 1972.
38. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.
39. Duty to make arrangements for proper administration of financial affairs etc.	Section 151 of the Local Government Act 1972.
40. Power to appoint Officers for particular purposes (appointment of "Proper Officers").	Section 270(3) of the Local Government Act 1972.
41. Power to make limestone pavement order.	Section 34(2) of the Wildlife and Countryside Act 1981 (c. 69).
42. Power to make closing order with respect to take-away food shops.	Section 4 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).
43. Duty to designate Officer as the head of the authority's paid service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989 (c. 42).
44. Duty to designate Officer as the Monitoring Officer, and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989.
44A. Duty to provide staff, etc to person nominated by Monitoring Officer	Sections 82A(4) and (5) of the Local Government Act 2000

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(1) Function	(2) Provision of Act or Statutory Instrument
44B. Powers relating to Overview and Scrutiny Committees (voting rights of co-opted members).	Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000
45. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).	The Accounts and Audit Regulations 1996 (S.I. 1996/590).
46. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).
47. Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892).
47A Powers relating to complaints about high hedges	Part 8 of the Anti-Social Behaviour Act 2003
48. Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.
49. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	Section 13(2) of the Criminal Justice and Police Act 2001 (c. 16).
50. Power to make or revoke an order designating a locality as an alcohol disorder zone.	Section 16 of the Violent Crime Reduction Act 2006 (c.38) ²⁴ .
51. Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Act 2006.
52. Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Section 45(2)(a) of the Commons Act 2006.
53. Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	Section 45(2)(b) of the Commons Act 2006.

²⁴ Section 50 was inserted by the Local Authorities (Alcohol Disorder Zones) Regulations 2008 (No. 1430)

Appendix 4

Council Committees

Terms of Reference and Delegations

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Appeals Committee

Membership 15 Members*

Terms of Reference

1. To hear and determine appeals against decisions which relate to any licensing or registration function. Note this precludes decisions taken in respect of refusal of applications for Sex Shops Licences. (Minute No. 184/09/03 refers) and appeals against decisions taken on taxi licencing (Minute No. 151/09/18 refers).
2. To hear and determine appeals under the Council's Grievance, Disciplinary and Managing Redundancy procedures from all categories of employees (save in the case of dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151) which is subject to a separate procedure under the 2001 Regulations).
3. To hear and determine appeals made against a decision:-
 - (i) pursuant to Part VII of the Housing Act 1996 (Homelessness) where the Act provides for a right to a review of that decision;
 - (ii) that the applicant had intentionally worsened their housing circumstances and were not being awarded housing need points;
 - (iii) to take possession proceedings (Minute No. 197/9/08);
 - (iv) in respect of any decision taken regarding a housing application provided the applicant has undergone a Stage 1 Review (Minute No. 299/12/08);
 - (v) in respect of Officer decisions to refuse disabled adaptation works to Council homes (Minute No. 273/12/14).
4. To hear and determine any appeal against the non-allocation of National Non-Domestic Rate relief.
5. To hear and determine any appeal made against a decision relating to the award of Discretionary Rate Relief.
6. To hear and determine any appeal against decisions made pursuant to the Discretionary Housing Payments policy framework, including determination of disputes which arise from decisions to recover amounts considered to have been overpaid.
7. To exclude any appeal in relation to rejection of Expressions of Interest (EOI) (Minute No. 392 (xv)/04/14 refers).

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8. Where the Director of Health and Wellbeing proposes to refuse the application or revoke or vary the licence and the applicant or licensee has asked (within any deadline given) for the determination to be made by the Appeals Committee:
 - (i) to determine applications under the Scrap Metal Dealers Act 2013
 - (ii) to revoke or vary a licence under section 4

Notes

- *1. The Committee will normally sit with three Members subject to the note at (2) below.
2. When determining appeals under the Council's grievance or disciplinary procedures:-

members of the Joint Consultative Committee, or the UNISON Trade Union must not be appointed to membership of this Committee. Additionally, a member of the Committee should not adjudicate if the appellant employee (or former employee) is working or last worked in a Directorate, the functions/activities of which are monitored substantially by a Committee or Sub-Committee upon which that Member also serves. Also, if there is any other reason or circumstances which might reasonably give rise to claims of bias or unfairness by the appellant, the matter should be raised with the Solicitor to the Council and Monitoring Officer at the earliest possible stage.
3. Attention is drawn to the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001, as amended, with regard to disciplinary matters affecting the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (Section 151).
4. Members who represent wards in which premises, the subject of an appeal against the non-allocation of NNDR are situated, will not be chosen to adjudicate.
5. **Cabinet Members** are not eligible to serve on this Committee.
6. The Council has resolved to adopt a convention that the requirements of the Local Government (Committees and Political Groups) Regulations 1990 will not apply to the membership of this Committee i.e Political Balance.

Appointments Committee

Membership **5 Members ***

Terms of Reference

To exercise the powers of the Council upon:-

The determination of the duties associated with any proposed appointment of a Chief Executive (Head of Paid Service), Director or Assistant Director posts which are to be advertised externally, including any qualifications or qualities to be sought in the successful appointee. The remuneration package and conditions of employment and method of recruitment.

The shortlisting and interview of suitably qualified applicants for the posts referred to above.

To appoint successful applicants for the posts referred to above except for the Chief Executive (Head of Paid Service) and the Director and/or Head of Service posts which are also to be the Council's Chief Finance (Section 151) Officer or the Monitoring Officer.

To advise the Council upon:-

The appointment of a Chief Executive (Head of Paid Service), Director and/or Head of Service, posts which are also to be the Council's Chief Finance (Section 151) Officer or the Monitoring Officer.

Notes

- * At least one Member of the **Cabinet** must be appointed to membership of this Committee.
- * Please refer to the procedure as set out in Part 4 Appendix 1 Rules of Procedure – General Procedure Rules – Procedural Decisions not contained within the General Procedure rules re the Appointment and Dismissal of staff.

Quorum:

One quarter of the total membership.

Audit Committee

Membership 8 Members

The purpose of an Audit Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Authority's financial and non-financial performance to the extent that it affects the Authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process (Minute No. 408/12/06 refers).

Terms of Reference

To consider/monitor or advise the Council as appropriate upon:-

Audit Activity

1. The Head of Internal Audit's Annual Report and Opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's Corporate Governance arrangements.
2. The summary of internal audit reports issued in the previous period.
3. Reports on the management and performance of the Audit Partnership Agreement.
4. Reports from the Head of Internal Audit on agreed recommendations not implemented within a reasonable timescale.
5. The External Auditor's Annual Management Letter and relevant reports.
6. Any detailed responses to the External Auditor's Annual Letter.
7. Specific reports as agreed with the External Auditor.
8. The scope and depth of external audit work and to ensure it gives value for money.
9. Liaison with the Audit Commission on the appointment of the Council's External Auditor.
10. The commissioning of work from internal and external audit.

Regulatory Framework/Risk Management

11. An overview of the Council's Constitution in respect of Contract Procedure Rules and Financial Regulations.
12. The effective development and operation of financial management, risk management and those elements of corporate governance within the remit of the Audit Committee.
13. Council policies on "raising concerns at work" ie whistle-blowing in the context of the Anti-Fraud and Anti-Corruption Strategy and the Council's complaints process.
14. To recommend the Authority's Annual Governance Statement for approval to the **Cabinet** (Minute No. 531/5/10).
15. The Council's compliance with its own and other published financial standards and controls.
16. The External Auditor's report on issues arising from the Audit of the Accounts.
17. The ability to refer matters to the Overview and Scrutiny Committee for their consideration (Minute No. 62/6/09).
Note: The Overview and Scrutiny Committee has a similar provision to refer matters to the Audit Committee.

Delegations

To exercise the powers and duties of the Council relative to:-

18. The approval of the Annual Statement of Accounts in line with the statutory requirements including those relating to the publishing deadlines. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the Audit that need to be brought to the attention of the Council.

Quorum:

One quarter of the total membership.

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Audit Committee

- Notes:** 1. The Committee has been given the ability to appoint one or more Co-opted Non-Voting Independent Members if it so wishes.
(Minute No. 477/5/11 refers)

Investigation & Disciplinary Committee

Membership 15 Members*

Terms of Reference

1. To screen potential disciplinary/dismissal issues in relation to the Head of Paid Service, Chief Finance Officer or the Monitoring Officer and decide whether they require investigation and whether the relevant Officer should be suspended.
2. To organise any investigation, including the appointment of an external Independent Investigator where required.
3. To receive the report of the Investigator and to consider what, if any, disciplinary action is appropriate, after hearing the views of the relevant Officer, and to report its recommendations.
4. Where dismissal is its recommendation, to refer the matter to the Panel established for the purpose of Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) for its views, which the Investigation & Disciplinary Committee will then refer to the Council along with its own report so the Council can decide whether to approve the proposal to dismiss.
5. Where the authority approves dismissal, to action the dismissal by issuing the notice of dismissal.
6. Where the Investigation & Disciplinary Committee decides that action short of dismissal, or no further action, is appropriate to put that in place without referral to the Panel or the Council.

Notes

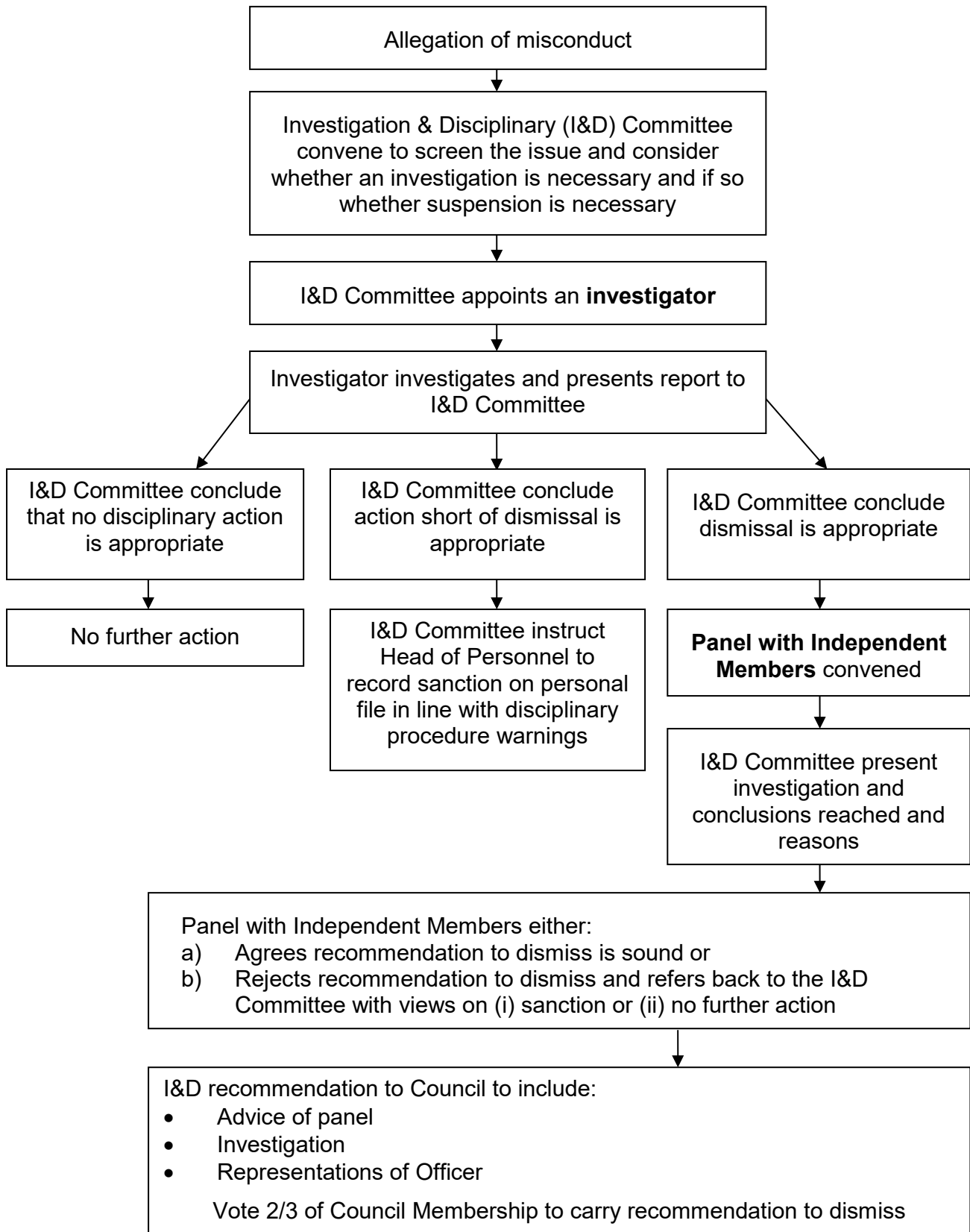
- * 1. The Committee will sit as a 3 member Committee subject to the notes below.
2. The Membership of the whole Committee will be 15 Members including at least one member of the **Cabinet**, Group Leaders, the Chair of Overview & Scrutiny and the Chair of the Audit Committee.

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Investigation & Disciplinary Committee

3. No Councillor should sit on a 3 member Committee if in the opinion of the Solicitor to the Council and Monitoring Officer any reason or circumstance might reasonably give rise to the appearance of bias or claims of unfairness by the relevant Officer.
4. The Council has resolved that the requirements of the Local Government (Committee and Political Groups) Regulations will not apply to membership of this Committee or to the constitution of the 3 member Committees.
5. When a decision to dismiss a statutory officer is taken by the Council, the executive objections procedure still applies to any such dismissal decision. This means that members of the **Cabinet** will have an opportunity to object to a dismissal through the **Leader**. If there are no objections or the dismissor is satisfied that any objection is not material or well-founded then the dismissal may proceed.

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Terms of Reference of Council Committees and Delegations –
Investigation & Disciplinary Committee



Disciplinary Action against Head of Paid Service, Chief Finance Officer or Monitoring Officer Procedure Note

1. Where, in the opinion of the Assistant Director of HR, Customer Services, Communications and Digitalisation, there is material evidence of possible misconduct or lack of capability on the part of one of the statutory officers and formal stages of disciplinary action should be commenced, s/he will refer the matter to the Investigation & Disciplinary Committee to decide whether the matter should be investigated and whether the relevant officer should be suspended. Where it is reasonably practicable to do so, the views of the relevant officer on the evidence will be provided to the Committee.
2. When an investigation has been carried out, the Committee will hold a meeting to receive the report and recommendations of the Investigator and consider what action, if any, is appropriate.
3. The relevant officer will be invited to attend this meeting to put forward views and may be accompanied by a colleague or trade union representative.
4. If the Committee recommend action short of dismissal then it may make that decision itself without referring the matter to the Panel (see below) or the Council.
5. If the Committee recommends dismissal, the Committee will refer the matter to the Panel established under the Local Authorities (Standing Order) (England) Regulations 2001 for its views, advice or recommendations.
6. Where the Panel recommends and/or the Investigation & Disciplinary Committee recommends dismissal is appropriate, the matter will be referred to the full Council to decide whether to approve the proposal to dismiss. The full Council must take into account the advice of the Panel, the conclusion of any investigation and any representations from the relevant officer.
7. Prior to the meeting the relevant officer should be provided with a copy of all material being made available to the Council and will be permitted to make representations at the meeting and to be accompanied by a colleague or trade union representative. The relevant officer should provide a written summary of the representations s/he proposes to make in advance of the meeting.
8. The full Council meeting will take place no sooner than 21 days after appointment of the Panel established under the 2001 Regulations.
9. Any decisions to dismiss by full Council can only be made if at least two thirds of the membership of the Council vote for such a dismissal.

Licensing Committee

Membership: 13 Members

Terms of Reference

1. To advise and recommend the Council upon on the setting of fees for applications under the Gambling Act 2005.
2. To advise and recommend the Council upon on adoption of a statement of principles under the Gambling Act 2005, and a statement of policy under the Licensing Act 2003
3. To determine applications under the provisions of the Licensing Act 2003 and Gambling Act 2005.

Delegations

4. To delegate the decision making for applications under the Licensing Act 2003 and Gambling Act 2005 to the Licensing Sub-Committee as set out in the terms of reference of the Licensing Sub-Committee

Notes

1. The attendance at a relevant Licensing Act training session is a prerequisite to membership of the Committee, including substitute Members.
2. Members should undertake training/refreshers training at least once every four years to remain 'eligible' to sit on this committee.

Quorum:

One quarter of the total membership.

Licensing Sub Committee

Membership **3 Members***

Terms of Reference

To consider and determine:

1. Applications under the following provisions of the Licensing Act 2003:

	Provision under which a hearing is held	Circumstances under which a hearing is held
a.	Section 18(3)(a) (determination of application for premises licence)	If representations made
b.	Section 20 (mandatory conditions: exhibition of films) If referred by officer for determination	
c.	Section 31(3)(a) (determination of application for a provisional statement)	If representations made
d.	Section 35(3)(a) (determination of application to vary premises licence)	If representations made
e.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor)	If police representation made
f.	Section 44(5)(a) (determination of application for transfer of premises licences)	If police representation made
g.	Section 48(3)(a) (cancellation of interim authority notice following police objection)	All cases
h.	Section 52(2) (determination of application for review of premises licence)	All cases
i.	Section 72(3)(a) (determination of application for club premises certificate)	If representations made
j.	Section 85(3) (determination of application to vary club premises certificate)	If representations made

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Terms of Reference of Council Committees and Delegations –
Licensing Sub-Committee

	Provision under which a hearing is held	Circumstances under which a hearing is held
k.	Section 88(2) (determination of application for review of club premises certificate)	All cases
l.	Section 105(2)(a) (counter notice following police objection to temporary event notice)	All cases
m.	Section 120(7)(a) (determination of application for grant of personal licence)	If police representation made
n.	Section 121(6)(a) (determination of application for the renewal of personal licence)	If police representation made
o.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence)	All cases
p.	Section 167(5)(a) (review of premises licence following closure order)	All cases
q.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)	If police representation made
r.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)	If police representation made
s.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)	If police representation made
t.	Section 25A (Determination of application for the alternative licence condition to be included in the licence instead of the conditions in Section 19(2) and (3))	If police representation made

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 Licensing Sub-Committee

	Provision under which a hearing is held	Circumstances under which a hearing is held
u.	Section 41D (Determination of application by community premises to disapply the mandatory conditions for alcohol on a premises)	If police representation made
v.	Section 52A (Determination of application for a review: supply of alcohol from community premises)	If police representation made
w.	Section 53A (Determination of application for expedited reviews)	If police representation made
x.	Section 53B (Determination of application for interim steps)	If police representation made
y.	Section 53C (Determination of application for a review of premises licence following review notice)	If police representation made

2. Applications under the following provisions of the Gambling Act 2005:

	Matter to be dealt with and relevant provision	Circumstances under which a hearing is held
a.	Application for Premises Licence (Section 162)	If representations made and not withdrawn
b.	Application for variation to a Premises Licence (Section 187)	If representations made and not withdrawn
c.	Application for transfer of a Premises Licence (Section 188)	If representations received from the Commission
d.	Application for a provisional statement (Section 204)	If representations made and not withdrawn
e.	Review of a Premises Licence (Section 201)	All cases
f.	Application for Club Gaming Permit or Club Machine Permit (Sections 271 274 and Schedule 12)	If objections have been made and not withdrawn; or if intention to refuse the application

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	Matter to be dealt with and relevant provision	Circumstances under which a hearing is held
g.	Cancellation of Club Gaming Permit or Club Machine Permit (Sections 271 274) and Schedule 12)	All cases
h.	Decision to give a counter notice to a Temporary Use Notice (Section 224)	All cases
i.	Application for licensed premises Gaming Machine Permit (Section 283)	If intention to refuse the application, either wholly or in part
j.	Cancellation or variation of a licensed premises Gaming Machine Permit (Section 284)	All cases
k.	Application for a Family Entertainment Centre Gaming Machine Permit (Section 247)	If intention to refuse the application
l.	Application for a Prize Gaming Permit (Section 289)	If intention to refuse the application
m.	Consideration of objections to a Temporary Use Notice and decision whether to give a counter-notice (Section 224)	If notices of objection have been given and not withdrawn (unless all parties agree that a hearing is unnecessary)

Notes:

- * 1. Three Members per meeting shall be drawn on an ad-hoc basis from the membership of the Licensing Committee. The meeting will still be quorate in the event of one Member having to leave the meeting.
2. In determining applications under the above provisions the Sub-Committee shall have regard to any guidance given by the Licensing Committee in relation thereto.
3. Provisions under which hearings under the Licensing Act 2003 may be heard and the period of time within which hearings must be commenced are set out in the relevant regulations.

Overview and Scrutiny Committee

Membership **12 Members**

Terms of Reference

To discharge the functions conferred by Section 9F of the Local Government Act 2000 or Regulations made under that Section.

To perform the overview and scrutiny role in relation to matters within the responsibilities of the **Cabinet Members** for:-

- The **Leader** – Prosperity and Resource
- The Deputy Leader – Climate, Environment and Transport
- Homes and Homelessness
- Economic Growth and Investment
- Planning, Housing Delivery and Communications
- Performance and Direction
- People and Services
- Recreation and Public Spaces
- Communities and Health

Including cross cutting issues and issues relating to external authorities and agencies and their services.

Within their terms of reference, the Overview and Scrutiny Committee may:

1. Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
2. Make reports and/or recommendations to the Full Council and/or the **Executive** and/or any **Joint Committee** or Area Committee in connection with the discharge of any functions (the decision making power remains with the original decision taker);
3. Consider any matter affecting the area or its inhabitants; and
4. Exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the **Executive**, or **key decisions** made by Officers, by an Area Committee, or under **executive Joint Arrangements**.

Also within the remit of this Committee will be:-

- Monitoring of the Corporate Delivery Plan;

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Licensing Sub-Committee

- Setting performance targets and monitoring performance indicators;
- The scrutiny of the draft Capital and Revenue Budget;
- Councillor Call for Action (Minute No. 546/5/09).
- Crime and Disorder Issues raised under the Police and Justice Act 2006 and the operation and effectiveness of the Crime and Disorder Reduction Partnership and Community Safety Partnership Strategy (Minute No. 546/5/09).
- The ability to refer matters to the Audit Committee for their consideration (Minute No. 105/7/09)
Note: The Audit Committee has a similar provision to refer matters to the Overview and Scrutiny Committee
- Considering petitions requiring Officers to be held to account and reviewing the Council's response to all petitions

More detail is provided in **Article 6**.

Quorum:

One quarter of the total membership.

(Minute No. 56/6/08).

Planning Committee

Membership* 14 Members & 1 Non Voting Ex Officio

Terms of Reference

To carry out the following functions:-

1. The Town and Country Planning and Development Control functions specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 from time to time.
2. The functions of the Council under the Channel Tunnel Rail Link Act.
3. The Council's response to consultation documents which relate to a function or duty within the terms of reference of this Committee.
4. To authorise the issue of notices, directions, orders or other documents under the legislation within the Terms of Reference including:-
 - (a) Enforcement Notices.
 - (b) Stop Notices.
 - (c) Building Preservation Notices.
 - (d) Repairs Notices
 - (e) Discontinuance Orders.
 - (f) Notices under Section 215 of the Town and Country Planning Act 1990.
 - (g) Completion Notices.
 - (h) Notices in relation to dangerous trees.

- (i) Tree Preservation Orders, including confirmation thereof where objections have been received.
 - (j) Hazardous Substances Contravention Notices.
5. To enter into and otherwise approve planning obligations under section 106 of the Town and Country Planning Act 1990 and to vary or relax or discharge planning obligations and agreements under section 52 of the Town and Country Planning Act 1971.
6. To determine all cases under the High Hedges Legislation (Part 8 of the Anti Social Behaviour Act 2003) referred to the Committee by the relevant Officer (Minute No. 71/6/05 refers).
7. To respond on the Council's behalf to the Kent County Council on any consultation made under Article 24 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and directions made thereunder.
8. To respond on the Council's behalf to any consultation of a Planning nature including those made under the Planning Act 2008 (as amended) and any directions made thereunder. (Minute No 444/5/15 refers).
9. To exercise the Council's functions:
- (a) under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015
 - (b) in relation to advertisement control (for example under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and section chapter III of part VIII of the Town and Country Planning Act 1990)
 - (c) of revocation and modification under sections 97 to 99 of the Town and Country Planning Act 1990.
- (Minute No 325/3/17 refers).

Notes

1. Where the Committee is minded to determine an application in a manner which is contrary to the Development Plan, it must specifically address the issue of "other material considerations" and the resultant Minute clearly record which material considerations Members considered outweighed the Development Plan in that particular case.

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2. The attendance at a Planning Training Session is a pre-requisite to membership of the Committee, including substitute members. Members should undertake training/refresher training at least once every four years to remain 'eligible' to sit on this Committee.
3. In cases where Members propose to make a decision contrary to officers' advice, officers may **request** deferral (which would remain at the discretion of the Committee) but only in the following exceptional circumstances where the complexity of the case demands:
 - In order to formulate proper summary reasons and/or appropriate conditions and/or planning obligations in relation to a grant of permission.
 - In order to formulate effective full reasons in relation to a refusal of permission in the light of members' views at the meeting.

Requests would be made only in exceptional circumstances where the issues arising are so complex that officers consider the Council's interests are best served by a deferral to allow time to prepare such.

In such cases the "first" Committee would make a resolution that it is minded to grant/refuse whilst the "second" Committee would make the formal decision and give reasons and agree conditions etc. This is necessary as a matter of law to avoid the situation of one Committee formulating reasons etc for a decision taken by a different Committee which would be legally problematic.
(Minute No. 72/6/08 refers).
4. The non voting Ex Officio member shall be the Portfolio Holder for Planning who will not have voting rights or be permitted to substitute into a voting position.

Quorum:

Half of the total membership (seven voting members).

Guidance Note

Member Site Visits Prior to Determination of Planning Applications

1. Background

In determining planning applications the Council is acting in a quasi-judicial capacity and as a matter of law it must act fairly throughout the determination process and observe the rules of natural justice at all times. In recognition of this position, the Council has adopted a procedure for all site visits made prior to the determination of a planning application. The procedure, set out below, takes account of the Council's obligations under the Human Rights Act to ensure equal treatment as between applicants and objectors throughout the decision-making process.

2. Site Visit Procedure

- (a) The normal practice will be for Officers to obtain an applicant/landowner's agreement to a Members' site visit taking place on his/her land. Other persons invited to attend will be a Parish Council representative and the Ward Member (if not a Member of the Committee). In addition relevant Council Officers will attend. Neighbours will be contacted and informed of the arrangements only where it is thought likely that Members will wish to enter their land as well in order to assess the impact of a particular proposal.
- (b) Since objectors do not have any right to attend a site visit held on private land neither the applicant nor his/her agent will be invited to take an active part in the Members' site visit. Similarly if Members enter the property of an objector, that objector will not be invited to take any part in the site visit.
- (c) Site visit arrangements will be confirmed in writing to all interested parties. Letters of confirmation will make it clear that representations on merits will not be permitted at the site visit and that the purpose of the site visit will be simply to enable Members to familiarise themselves with relevant features of the site and surroundings.
- (d) Whilst neighbours, objectors and amenity society representatives will not be invited to site visits, where such persons nonetheless attend the site then, subject to the

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landowner's consent, such persons may be allowed to remain but the limited scope of the site visit – and the fact that neither applicant nor objectors will be permitted to take any active part in the site visit – should be explained as necessary.

- (e) During site visits there must be no separate discussions taking place between Officers or Members and either applicants or objectors etc.
- (f) The site visit will proceed on the basis that the Officer report adequately describes the proposal and the issues of policy/amenity/safety involved. The Officer report will normally have been submitted to the previous meeting of the Committee and a copy of it will be sent to all parties with the letter confirming the site visit arrangements.
- (g) Members may seek clarification, where necessary, of geographical or other relevant features of the site or surroundings by way of questions of Officers. There should, however, be no discussion of or representations on the merits of proposals or objections thereto. The proper forum for any such discussion is the Committee meeting itself.
- (h) In the event that Members consider new issues have arisen from a site visit then the proper course will normally be to request Officers to seek any necessary clarification from the relevant parties and in this respect it would be helpful if interested parties could be available to provide any such clarification to Officers between the site meeting and the Committee meeting. Exceptionally, it may be necessary to defer a discussion at the Committee meeting and request a further report from the relevant Officer upon those issues. Otherwise, the Chair at the formal Committee meeting itself will invite discussion and debate in the light of the Officers' report and site visit.

Regulatory Committee

Membership 13 Members

Terms of Reference

1. Except in the case of the Licensing Act 2003 and Gambling Act 2005 functions assigned to the Licensing Committee, to discharge all of the functions of the council as licensing/regulatory authority as prescribed by relevant acts which include;
 - a) The issue, renewal, transfer, suspension, and revocation of hackney carriage, private hire vehicle, driver and operator licenses;
 - b) The discharge of relevant functions relating to the licensing of sex establishments; and
 - c) The discharge of all other functions relating to licensing and regulation in so far as they are the responsibility of the borough council.
2. To advise and recommend the Council upon the setting of fees and charges in relation to the licensing and registration functions as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and the Local Authorities (Functions and Responsibilities) (England) (Amendments) Regulations 2001 as listed in Part B of Appendix 3 to Part 3 of the Council's Constitution and the setting of application fees under paragraph 6 (1) of schedule 1 to the Scrap Metal Dealers Act 2013
3. To advise and recommend the Council upon the setting of Licensing Policies, with the exception of those made under the Licensing Act 2003 and the Gambling Act 2005.
4. Issues arising from functions relating to Health and Safety under any "relevant statutory provisions" within the meaning of Part 1 of the Health and Safety at Work Act 1974 to the extent that those functions are not discharged otherwise than in the Council's capacity as an employer.

5. Issues arising from the functions relating to the Health Act 2006 and Smoke-Free Regulations.

Delegations

6. To delegate the decision making for applications and functions within the remit of the Regulatory Committee to the Regulatory Sub-Committee

Notes

1. The attendance at a relevant ‘taxi and private hire licensing’ training session is a prerequisite to membership of the Committee, including substitute Members.
2. Members should undertake training/refresher training at least once every four years to remain ‘eligible’ to sit on this Committee.

Quorum:

One quarter of the total membership.

Regulatory Sub-Committee

Membership **3 Members***

Terms of Reference

1. To consider and determine applications and the pursuit of functions in relation to those referred to the Sub-Committee under the delegations made by the Regulatory Committee. This includes, but is not limited to the following matters;
 - a) Local Government (Miscellaneous Provisions) Act 1982 - Determination of application for the grant/renewal/transfer/variation or revocation of a sex shop, sex cinema or sexual entertainment venue licence
 - b) Town Police Clauses Act 1847, Public Health Act 1875 and Local Government (Miscellaneous Provisions) Act 1976 - to exercise the Council's powers and duties in relation to the licensing of hackney carriages and private hire vehicles, including the licensing of vehicles, drivers and operators, the control of numbers of hackney carriages, and the licensing of private hire operators where the matter has been referred by the delegated officer.

Notes:

- *
 1. Three Members per meeting shall be drawn on an ad-hoc basis from the membership of the Regulatory Committee. The meeting will still be quorate in the event of one Member having to leave the meeting.
 2. In determining applications under the above provisions the Sub-Committee shall have regard to any guidance given by the Regulatory Committee in relation thereto.

Selection and Constitutional Review Committee

Membership **12 Members**

Terms of Reference

To consider and advise the Council upon:-

1. Suggested revisions to the Council's Constitution as referred to it by the Proper Officer.
2. At the meeting held immediately prior to the Annual Meeting of the Council in any year:-
 - (a) With the exception of the Overview and Scrutiny Committee and the Standards Committee, to recommend to the Council which other Committees (including Committees etc dealing with **Joint Arrangements** and Area Forums etc) should be reconstituted to carry out the functions of the Council.
 - (b) To consider the appropriateness of the terms of reference of existing Committees and the numbers of Members to be appointed to each Committee to be (re)constituted and whether in view of the nature of the terms of reference of the Committees to be (re)constituted the provisions of the Local Government (Committees and Political Groups) Regulations 1990 are to apply to their membership.
 - (c) The appointment of Committee and Sub-Committee Chairs and Vice Chairs (for those Committees undertaking Council functions including Committees etc dealing with **Joint Arrangements** and Area Forums etc).
 - (d) The nomination for the offices of Mayor and Deputy Mayor for the following year.
3. To consider the recommendations of the Electoral Registration Officer, the Returning Officer or any Task Group, Working Group etc established to consider issues associated with Electoral arrangements within the Borough and to make a recommendation thereon to the Council (Minute No. 345/11/05 refers).

To exercise the powers and duties of the Council relative to:

- *4. The appointment of representatives to serve on other organisations/ outside bodies.

Quorum:

One quarter of the total membership.

Note

All Members of the Authority are eligible to be appointed to represent the Council on any other organisation or outside body unless legislation relative to such appointment specifies that the representative must be a Member of the **Cabinet**, or not, as the case may be.

- * This delegation shall not apply in respect of the meeting convened by the Solicitor to the Council and Monitoring Officer immediately following ordinary Borough Council Elections. The nominations arising from the meeting will be recommended to the Annual Council Meeting.

Standards Committee

Membership **8 Members - broadly reflecting the current political balance (should include at least one Cabinet member and the Chair and Vice chair of O&S) plus 2 non-voting Parish Council Representatives**

Terms of Reference

To discharge the functions of the Council relating to Standards as follows, including those contained in Part 1, Chapter 7 of the Localism Act 2011 (other than those which are reserved to Council by law):

1. To promote and maintain high standards of conduct by Members and Co-opted Members of the Borough Council and to make recommendations to Council on improving standards.
2. To advise and assist Town and Parish Councils and Town and Parish Councillors to observe their respective codes of conduct and to maintain high standards of conduct and to make recommendations to Town and Parish Councils on improving standards.
3. To advise the Borough Council on the adoption of or revisions to its Code of Conduct.
4. To advise, train or arrange to train Members, Co-opted Members and Town and Parish Councillors on matters relating to the Code of Conduct.
5. To monitor and assess the operation and effectiveness of the Code of Conduct and to review and manage the Arrangements for dealing with Code of Conduct Complaints.
6. To advise on local ethical governance protocols and procedures.
7. To monitor and review the procedures for the Register of Members' Interests and declaring gifts and hospitality.
8. To receive periodic reports from the Monitoring Officer on the number and nature of complaints received and action taken as a result in consultation with the Independent Person.
9. To receive an annual report on the Borough Council's ethical governance arrangements.

10. To grant dispensations pursuant to S33(2) of the Localism Act 2011 where:
 - (iii) without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
 - (iv) that the authority considers that the dispensation is in the interests of persons living in its area; or
 - (v) where the Committee considers that it is otherwise appropriate to grant a dispensation.
11. Oversight of the Constitution in relation to ethical matters and overview of complaints handling and Ombudsman investigations where probity issues are raised.
12. Determination of written complaints to any Statutory Officer about alleged breaches of Local Protocols adopted by the Council.
13. The consideration of applications received from any officers of the Authority for exemption from political restriction under Section 1 and 2 of the Local Government Act 1989 in respect of the post held by that Officer and can direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of the Act.

Notes

- (i) The procedure rules applying to Committee meetings also apply to meetings of the Standards Committee except where otherwise required in order to comply with adopted procedures or statutory requirements.
- (ii) The Access to Information Procedure Rules apply to meetings of the Committee but not to Hearing Panels.

Quorum:

One quarter of the total membership.

Arrangements For Dealing With Code Of Conduct Complaints Under The Localism Act 2011

1. Context

- 1.1 These Arrangements are made under section 28 of the Localism Act 2011. They set out the process that the Borough Council has adopted for dealing with complaints that an elected or co-opted member or parish/town councillor has failed to comply with the Code of Conduct.

2. Interpretation

- 2.1 'Borough Council' means the Ashford Borough Council.
- 2.2 'Code of Conduct' means the Code of Conduct, which the Borough Council has adopted under section 27(2) of the Localism Act 2011.
- 2.3 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.
- 2.4 'Disclosable Pecuniary Interest' means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time) as set out in Annex 2 to the Code of Conduct.
- 2.5 'Hearing Panel' means the panel appointed by the Borough Council to determine the outcome of any complaint alleging a breach of the Code of Conduct by a Subject Member in accordance with these Arrangements.
- 2.6 'Independent Person' means a person or persons appointed by the Borough Council under section 28(7) of the Localism Act 2011:
- (a) whose views must be sought and taken into account by the Borough Council before a decision is made on any complaint alleging a breach of the Code of Conduct by a Subject Member;
 - (b) who may be consulted by the Subject Member about the complaint.
- 2.7 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another senior officer of the Borough Council, an officer of another authority or an external investigator.

- 2.8 'Monitoring Officer' is a senior officer of the Borough Council who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the arrangements for dealing with any complaint alleging a breach of the Code of Conduct by a Subject Member. It includes any other officer of the Borough Council nominated by the Monitoring Officer to act on their behalf.
- 2.9 'Parish Council' means the relevant parish/town council within the Borough of Ashford.
- 2.10 'Parties' means the Complainant, Subject Member and the Investigating Officer, as appropriate.
- 2.11 'Subject Member' means an elected member or co-opted member of the Borough Council or Parish Council against whom a complaint has been made alleging a breach of the Code of Conduct.

3. Appointment of Independent Person

- 3.1 The Borough Council will appoint the Independent Person (and any substitute) in accordance with the requirements of section 27 of the Localism Act 2011 upon such terms as to remuneration and expenses as may be determined by the Borough Council from time to time.
- 3.2 The Independent Person (and any substitute) will be treated as if they were a member of the Borough Council for the purposes of the Borough Council's arrangements for indemnifying and insuring its Members.

4. Making a complaint

- 4.1 A complaint alleging a breach of the Code of Conduct by a Subject Member must be made in writing and addressed to the Monitoring Officer using the Complaint Form. Complainants who find difficulty in making their complaint in writing (e.g. because of a disability), will be offered assistance.
- 4.2 The Subject Member will normally be informed of the identity of the Complainant and details of the complaint made against them, but the Complainant's identity and/or details of their complaint may be withheld at the Complainant's request if it appears to the Monitoring Officer that there are sound reasons for granting such a request (refer to paragraph 5 of Annex 1 to these Arrangements).
- 4.3 The Monitoring Officer will normally acknowledge receipt of a complaint within 15 working days of receiving it. At the same time (and subject to para. 4.2 above), the Monitoring Officer will send a copy of the

complaint to the Subject Member in accordance with paragraph 2 of Annex 1 to these Arrangements.

5. Criminal conduct

5.1 In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:

- (a) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you become, or are re-elected or re-appointed, a Member or Co-opted Member of the Authority;
- (b) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you become aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
- (c) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- (d) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you disclose it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- (e) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
- (f) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

5.2 Where a complaint against a Subject Member relates to conduct of a criminal nature referred to above, the Monitoring Officer will deal with the complaint in accordance with paragraph 4(4) of Annex 1 to these Arrangements.

6. Anonymous complaints

6.1 Complainants must provide their full name and address. An anonymous complaint will only be accepted by the Monitoring Officer in consultation with the Independent Person, providing it is accompanied by corroborating evidence that indicates to the Monitoring Officer that it is in the public interest to accept the complaint.

7. Role of Independent Person

- 7.1 The Independent Person must be consulted and have their views taken into account before the Authority makes a finding as to whether a Member has failed to comply with the Code or decides on action to be taken in respect of that Member. At any other stage of the complaints process under these Arrangements, the Independent Person may be consulted by the Monitoring Officer and/or the Subject Member.

8. Preliminary tests

- 8.1 The Monitoring Officer will, in consultation with the Independent Person, put the complaint through a number of preliminary tests, in accordance with paragraph 1 of Annex 1 to these Arrangements.
- 8.2 In the event that the Independent Person is unavailable or unable to act, the time limits specified in paragraph 1 of Annex 1 to these Arrangements will be extended.

9. Informal resolution

- 9.1 The Monitoring Officer, in consultation with the Independent Person, may consider that the complaint can be resolved informally at any stage in accordance with paragraph 6 of Annex 1 to these Arrangements (whether without the need for an investigation or before or after an investigation has been commenced or concluded).

10. Investigation

- 10.1 If the Monitoring Officer, in consultation with the Independent Person, decides that the complaint merits formal investigation, they will, normally within 30 working days of receiving it, appoint an Investigating Officer to undertake the investigation, and inform the Parties of the appointment.
- 10.2 The Investigating Officer will investigate the complaint in accordance with Annex 2 to these Arrangements.

11. Hearing

- 11.1 If the Monitoring Officer, in consultation with the Independent Person, considers that informal resolution is not appropriate or is unlikely to be achieved, then they will convene a meeting of the Hearing Panel to determine the outcome of the complaint in accordance with Annex 3 to these Arrangements.

12. Sanctions

- 12.1 Where a Subject Member has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more sanctions in accordance with paragraph 4 of Annex 3 to these Arrangements.

13. Appeal

- 13.1 There is no right of appeal for the Complainant or the Subject Member against decisions of either the Monitoring Officer or the Hearing Panel.

14. Revision of these Arrangements

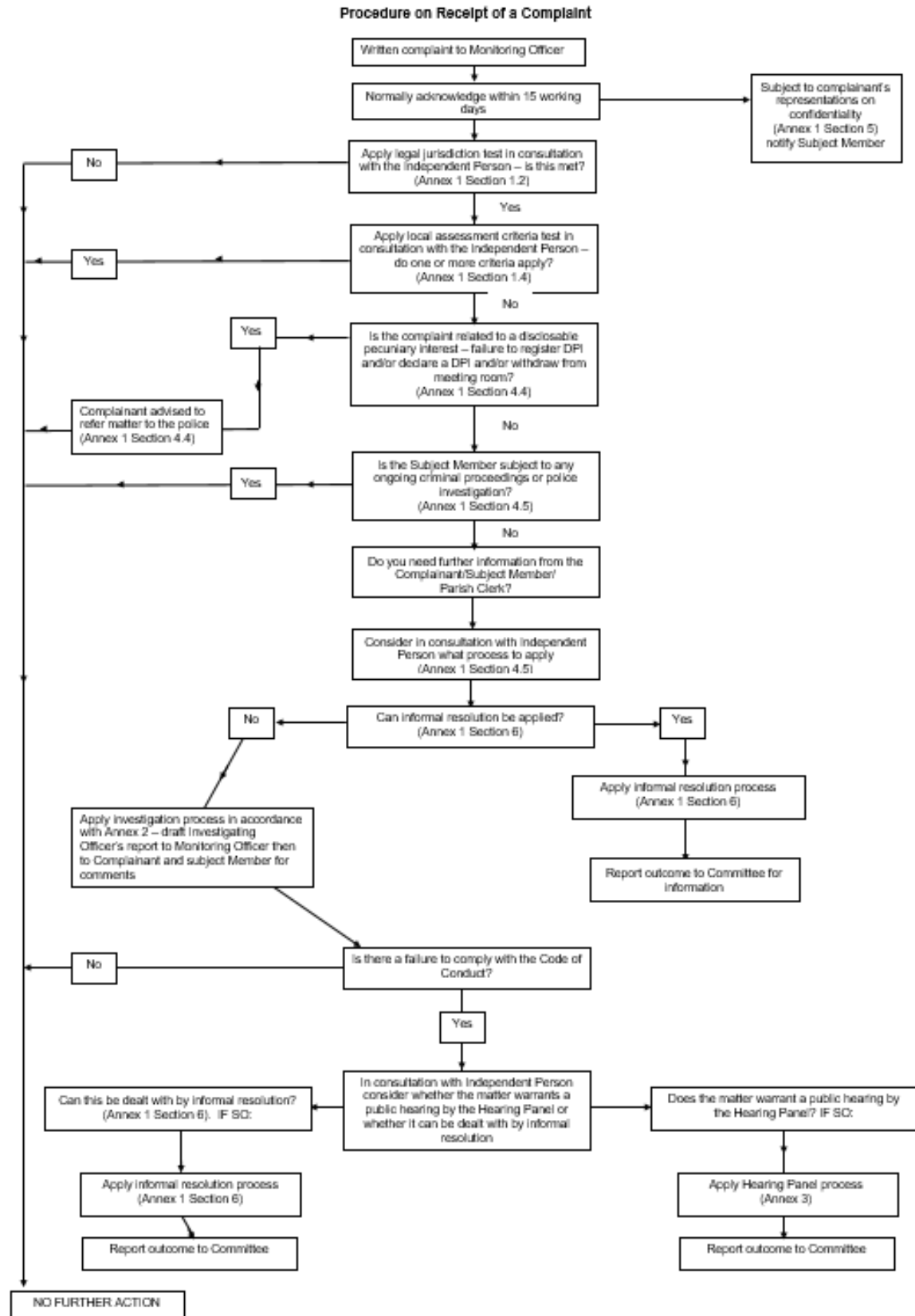
- 14.1 The Borough Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer and the Hearing Panel the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter.

15. Flowchart

- 15.1 The flowchart attached summarises the various steps taken and procedural stages following receipt of a complaint. In the event that there is a conflict between the flowchart and the text of these Arrangements, the latter will prevail.

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Annex 1

Procedure on Receipt of a Complaint

1. Preliminary tests

1.1 The complaint will be assessed by the Monitoring Officer alone or in consultation with the Independent Person against the legal jurisdiction test in paragraph 1.2 and, if applicable, the local assessment criteria test in paragraph 1.4 below.

1.2 Legal jurisdiction criteria test:

- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
- (b) Was the person complained of a member of the Borough Council or Parish Council at the time of the alleged conduct?
- (c) Was the person complained of acting in an official capacity at the time of the alleged conduct?
- (d) Did the alleged conduct occur when the person complained of was acting as a member of another authority?
- (e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?
- (f) The complaint is about dissatisfaction with the Borough Council's or Parish Council's decisions, policies and priorities, etc.

1.3 If the complaint fails one or more of the jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, normally within 30 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

1.4 Local assessment criteria test:

If the complaint satisfies the jurisdiction test, the Monitoring Officer will then apply the following local assessment criteria test:

- (a) The complaint is a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;

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- (b) The complaint is anonymous, unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;
 - (c) No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;
 - (d) The complaint is malicious, trivial, politically motivated or ‘tit-for-tat’;
 - (e) The Complainant is unreasonably persistent, malicious and/or vexatious;
 - (f) The alleged misconduct happened more than 3 months ago;
 - (g) The complaint is relatively minor and/or dealing with the complaint would have a disproportionate effect on both public money and officers’ and Members’ time;
 - (h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action;
 - (i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;
 - (j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
 - (k) The complaint is about a deceased person;
 - (l) The complaint is about a person who is no longer a Borough Councillor or Parish Councillor or Co-opted Member.
- 1.5 If one or more of the local assessment criteria applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, normally within 30 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer’s decision.
- 2. Notification of complaint to Subject Member**
- 2.1 Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member [and, if applicable, the Parish Clerk] of the complaint.
- 2.2 The Monitoring Officer may invite the Subject Member [and, if applicable, the Parish Clerk] to submit initial views on the complaint

which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below).

3. Asking for additional information

- 3.1 The Monitoring Officer may ask the Complainant and the Subject Member [and, if applicable, the Parish Clerk] for additional information before deciding how to deal with the complaint.

4. What process to apply - informal resolution or investigation and/or no action?

- 4.1 The Monitoring Officer may at any stage (whether without the need for an investigation or before or after the commencement or conclusion of an investigation) seek to resolve the complaint informally in accordance with paragraph 6 below. Where the Subject Member or the Monitoring Officer make a reasonable offer of informal resolution, but the Complainant is not willing to accept this offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.
- 4.2 The Monitoring Officer in consultation with the Independent Person may refer the complaint for investigation when:
- (a) it is serious enough, if proven, to justify the range of sanctions available to the Standards Committee (see paragraph 4 of Annex 3 to these Arrangements);
 - (b) the Subject Member's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Borough (or Parish) Council and there is no other avenue left to deal with it short of investigation. In considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred.
- 4.3 Where the complaint is referred for investigation, the Monitoring Officer will appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Annex 2 to these Arrangements.
- 4.4 If the complaint identifies potential criminal conduct or potential breach of other regulations by the Subject Member or any other person, the Complainant will be advised by the Monitoring Officer to report the complaint to the police or other prosecuting or regulatory authority. Alternatively the Monitoring Officer will consider the complaint against the legal jurisdiction criteria test and if the complaint passes that test he may pass the complaint to the police. Where a complainant has been advised to refer a matter to the police or the Monitoring Officer has referred the matter to the police the complaints process under these Arrangements will be suspended, pending a decision/action by the

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police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and, in consultation with the Independent Person, will apply the local assessment criteria test in paragraph 1.4 above.

- 4.5 The Monitoring Officer in consultation with the Independent Person, will take no action on the complaint when one or more of the following apply:
- (a) on-going criminal proceedings or a police investigation into the Subject Member's conduct or where the complaint is suspended in accordance with paragraph 4.4 above;
 - (b) investigation cannot be proceeded with, without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings;
 - (c) the investigation might prejudice another investigation or court proceedings;
 - (d) genuine long term (3 months or more) unavailability of a key party;
 - (e) serious illness of a key party.
- 4.6 Within 60 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Member [and, if applicable, the Parish Clerk] of their decision and reasons for applying one of the following processes in the format of the Decision Notice template (appended to this in Annex 2):
- (a) not to refer the complaint for investigation; or
 - (b) to refer the complaint for investigation; or
 - (c) to apply the informal resolution process either before or after an investigation; or
 - (d) to refer the complaint to the relevant political group leader for action.
- 4.7 There is no right of appeal against the Monitoring Officer's decision. However, in the event that the Complainant submits additional relevant information, the Monitoring Officer will consider and decide if the matter warrants further consideration under these Arrangements, in which case it shall be treated as a fresh complaint.

5. Confidentiality

5.1 If the Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer in consultation with the Independent Person when they initially assess the complaint (see paragraph 1 above).

5.2 As a matter of fairness and natural justice, the Subject Member will usually be told who the Complainant is and will also receive details of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity confidential or not disclose details of the complaint to the Subject Member during the early stages of an investigation. The Monitoring Officer may withhold the Complainant's identity and/or details of the complaint if they are satisfied that there are reasonable grounds for believing that the Complainant or any other person (e.g. a witness):

- (a) is either vulnerable or at risk of threat, harm or reprisal;
- (b) may suffer intimidation or be victimised or harassed;
- (c) works closely with the Subject Member and are afraid of the consequences, e.g. fear of losing their job;
- (d) suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this);
- (e) may receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing Borough or Parish Council service provision or any tender/contract they may have with or are about to submit to the Borough or Parish Council.

OR where early disclosure of the complaint:

- (a) may lead to evidence being compromised or destroyed; or
- (b) may impede or prejudice the investigation; or
- (c) would not be in the public interest.

5.3 Relevant public interest factors favouring disclosure (not an exhaustive list) include:

- (a) to facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others;

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- (b) to raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern;
 - (c) justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Member when it may not be in the public interest to disclose it to the world at large;
 - (d) bringing out in the open serious concerns about the behaviour/conduct of an individual.
- 5.4 The Monitoring Officer, in consultation with the Independent Person, will balance whether the public interest in accepting the complaint outweighs the Complainant's wish to have their identity (or that of another person) withheld from the Subject Member. If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision, with reasons, by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.
- 6. Informal resolution**
- 6.1 The Monitoring Officer may, after consultation with the Independent Person, seek to resolve a complaint informally at any stage in the process, whether without the need for an investigation or before or after an investigation has been commenced or concluded. In so doing, the Monitoring Officer will consult with the Complainant and the Subject Member to seek to agree what they consider to be a fair resolution, which will help to ensure higher standards of conduct for the future.
- 6.2 Informal resolution may be the simplest and most cost effective way of resolving the complaint and may be appropriate where:
- (a) The Subject Member appears to have a poor understanding of the Code of Conduct and/or related Borough or Parish Council procedures; or
 - (b) There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or
 - (c) The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to lead to further misconduct or allegations of misconduct; or
 - (d) The conduct complained of appears common to a number of members of the Borough or Parish Council, demonstrating a lack of awareness, experience or recognition of the particular

provisions of the Code of Conduct and/or other Borough or Parish Council procedures, etc; or

- (e) The conduct complained of appears to the Monitoring Officer not to require a formal sanction; or
- (f) The complaint appears to reveal a lack of guidance, protocols and procedures within the Borough or Parish Council; or
- (g) The Complainant and the Subject Member are amenable to engaging in an informal resolution; or
- (h) The complaint consists of allegations and retaliatory allegations between councillors; or
- (i) The complaint consists of allegations about how formal meetings are conducted; or
- (j) The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.

6.3 Informal resolution may consist of one or more of the following actions, which do not have to be limited to the Subject Member, but may extend to other councillors including the whole Borough or Parish Council where it may be useful to address systemic behaviour:

- (a) training;
- (b) conciliation/mediation;
- (c) mentoring;
- (d) apology;
- (e) instituting changes to the Borough (or Parish) Council's procedures;
- (f) conflict management;
- (g) development of the Borough (or Parish) Council's protocols;
- (h) other remedial action by the Borough (or Parish) Council;
- (i) other steps (other than investigation) if it appears appropriate to the Monitoring Officer in consultation with the Independent Person.

6.4 If the Subject Member is agreeable to and complies with the informal resolution process, the Monitoring Officer will report the matter to the Standards Committee [and, if applicable, the Parish Council] for information, but will take no further action against the Subject Member.

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- 6.5 Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer will report the matter to the Standards Committee.
- 6.6 If the Complainant or Subject Councillor do not agree the precise details of the Informal Resolution eg the actual wording of an apology, the Monitoring Officer shall still be entitled to resolve the Complaint by Informal Resolution.

Annex 2

Procedure for Investigating the Complaint

1. Preliminaries

- 1.1 The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under the Data Protection Act 1998, Equalities Act 2010, the Human Rights Act 1998 and other relevant legislation.
- 1.2 The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.
- 1.3 The Subject Member and the Complainant will be advised that the investigation is for fact finding purposes only.
- 1.4 Witnesses will be identified at the investigation stage and their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.5 The Investigating Officer will not make recommendations on sanctions.
- 1.6 Within 20 working days of being appointed, the Investigating Officer will notify the Subject Member and the Complainant of their appointment and:
 - (a) provide details of the complaint to the Subject Member;
 - (b) detail the procedure to be followed in respect of the investigation and the relevant timescales for responses and concluding the investigation;
 - (c) detail the sections of the Code of Conduct that appear to be relevant to the complaint;
 - (d) request contact details of any potential witnesses;
 - (e) require that confidentiality is maintained and that details of the complaint not be disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.

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- 1.7 It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.
- 1.8 The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the Monitoring Officer or Hearing Panel.

2. The draft report

- 2.1 On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT') to the Monitoring Officer for review.
- 2.2 Following review by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be clearly labelled 'CONFIDENTIAL' and will detail:
- (a) the relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
 - (b) a summary of the complaint;
 - (c) the Subject Member's response to the complaint;
 - (d) relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation;
 - (e) a list of any documents relevant to the matter;
 - (f) a list of those persons/organisations who have been interviewed;
 - (g) a statement of the Investigating Officer's draft findings of fact and reasons;
 - (h) the Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct;
 - (i) that the Investigating Officer will present a final report once they have considered any comments received on the draft.
- 2.3 Once the Investigating Officer has received any responses from the Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled 'FINAL'.

3. Consideration of Investigating Officer's final report

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- 3.1 The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person.
- 3.2 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is no evidence of a failure to comply with the Code of Conduct; they will inform the Parties in writing that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.
- 3.3 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:
 - (a) take no action or
 - (b) seek informal resolution or
 - (c) refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in Annex 3 to these Arrangements.

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Example template – Decision Notice

Example Template - Decision Notice (of The Monitoring Officer): e.g. Referral For Investigation

Parties should take care when passing on information that is in the notice or about the notice. For example, some details such as names and addresses may be confidential or private in nature, or may be personal information.

Complaint No:

Complaint

On [insert date], the Monitoring Officer considered a complaint from [insert name of complainant] concerning the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Decision

Having consulted and taken into account the views of the Independent Person, the Monitoring Officer decided to refer the complaint for investigation.

Potential breaches of the Code of Conduct identified

At this stage, the Monitoring Officer is not required to decide if the Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed [insert name] as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

[detail relevant Code of Conduct paragraphs]

Notification of decision

This decision notice is sent to the:

- Complainant
- Member against whom the complaint was made
- [Clerk to the relevant Parish or Town Council]
- Kent County Council's Monitoring Officer (*applicable only where the Subject Member is serving at both Borough and County level*)

What happens now

The complaint will now be investigated under the Borough Council's Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011.

Appeal

There is no right of appeal against the Monitoring Officer's decision.

Additional Help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please contact our Customer Services: email: customer.care@ashford.gov.uk, telephone 01233 331111 or call in to one of our offices – either the Civic Centre or the Ashford or Tenterden Gateway.

Signed:

Date

Print name:

Monitoring Officer of the Ashford Borough Council

The Monitoring Officer

Legal and Democratic Services
Ashford Borough Council
Civic Centre
Tannery Lane
Ashford Kent
TN23 1PL

Annex 3

Hearing Panel Procedure

1. **Rules of procedure**
 - 1.1 The Hearing Panel consists of 3 voting elected Members drawn from the Standards Committee, one of whom shall be elected as Chair.
[Where the Subject Member is a Parish Councillor, one of the appointed Parish Council representatives on the Standards Committee may be present (in an advisory capacity with no voting rights) during the hearing.]
 - 1.2 The quorum for a meeting of the Hearing Panel is 3 comprising 3 elected Members.
 - 1.3 The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may instead submit their views on the complaint to the Hearing Panel in writing.
 - 1.4 The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Hearing Panel. The hearing will be held in public no earlier than 20 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) will be applied to exclude the public and press from meetings of the Hearing Panel where it is likely that confidential or exempt information will be disclosed.
 - 1.5 Once a hearing has started, the Borough Council's Rules of Substitution do not apply to the Hearing Panel's proceedings.
 - 1.6 All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chair having a second or casting vote.
 - 1.7 Where the Subject Member fails to attend the Hearing Panel and where the [Hearing Panel] is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve

in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously.¹

2. Right to be accompanied by a representative

The Subject Member may choose to be accompanied and/or represented at the Hearing Panel by a fellow councillor, friend or colleague.

3. The conduct of the hearing

3.1 Subject to paragraph 3.2 below, the order of business will be as follows:

- (a) elect a Chair;
- (b) apologies for absence;
- (c) declarations of interests;
- (d) in the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.11 above);
- (e) introduction by the Chair, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative;
- (f) to receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
- (g) to determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

3.2 The Chair may exercise his/her discretion and amend the order of business, where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

3.3 The Hearing Panel may adjourn the hearing at any time.

3.4 Presentation of the complaint

- (a) The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points will be permitted;

¹ Jank v Standards Board for England & Adjudication Panel for England (2007)

- (b) The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer;
- (c) The Hearing Panel may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer.

3.5 Presentation of the Subject Member's case

- (a) The Subject Member or their representative presents their case and calls their witnesses;
- (b) The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member;
- (c) The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

3.6 Summing up

- (a) The Investigating Officer sums up the complaint;
- (b) The Subject Member or their representative sums up their case.

3.7 Views/Submissions of the Independent Person

The Chair will invite the Independent Person to express their view on whether or not they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct.

3.8 Deliberations of the Hearing Panel

Deliberation in private

- (a) The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct.
- (b) The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and from whom.

3.9 Announcing decision on facts found

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- (a) The Hearing Panel will reconvene the hearing in public and the Chair will announce whether or not on the facts found, the Panel considers that there has been a breach of the Code of Conduct
- (b) Where the Hearing Panel finds that there has been a breach of the Code of Conduct, the Chair will invite the Independent Person, the Subject Member and the Monitoring Officer to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take.
- (c) When deciding whether to apply one or more sanctions, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:
 - (i) What was the Subject Member's intention and did they know that they were failing to follow the Borough (or Parish) Council's Code of Conduct?
 - (ii) Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
 - (iii) Has there been a breach of trust?
 - (iv) Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
 - (v) What was the result/impact of failing to follow the Borough (or Parish) Council's Code of Conduct?
 - (vi) How serious was the incident?
 - (vii) Does the Subject Member accept that they were at fault?
 - (viii) Did the Subject Member apologise to the relevant persons?
 - (ix) Has the Subject Member previously been reprimanded or warned for similar misconduct?
 - (x) Has the Subject Member previously breached the Borough (or Parish) Council's Code of Conduct?
 - (xi) Is there likely to be a repetition of the incident?
- (d) Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the

application of sanctions, the Hearing Panel will adjourn and deliberate in private.

- (e) If evidence presented to the Hearing Panel highlights other potential breaches of the Borough (or Parish) Council's Code of Conduct, then the Chair will outline the Hearing Panel's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.

Formal Announcement of Decision

- 3.10
- (a) Where the complaint has a number of aspects, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.
 - (b) The Hearing Panel will make its decision on the balance of probabilities, based on the evidence before it during the hearing.
 - (c) Having taken into account the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the Chair will announce:
 - (i) the Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision;
 - (ii) the sanctions (if any) to be applied;
 - (iii) the recommendations (if any) to be made to the Borough (Parish) Council or Monitoring Officer;
 - (iv) that there is no right of appeal against the Panel's decision and/or recommendations.

4. Range of possible sanctions

- 4.1 Subject to paragraph 4.4 below, where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/recommended:
- (a) That the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
 - (b) Recommending to the Subject Member's Group Leader (or Parish Council), or in the case of a ungrouped Subject Member, to the Borough Council that they be removed from committees or sub-committees of the Council;

- (c) Recommending to the Leader that the Subject Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
 - (d) Instructing the Monitoring Officer (or recommendation to the Parish Council) to arrange training for the Subject Member;
 - (e) Recommending to the Borough (or Parish) Council that the Subject Member be removed from one or more outside appointments to which they have been appointed or nominated by the Council;
 - (f) Recommending to the Borough (or Parish) Council that it withdraws facilities provided to the Subject Member by the Council, such as a computer, website and/or email and internet access;
 - (g) Recommending to the Borough (or Parish) Council the exclusion of the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council committee and sub-committee meetings;
 - (h) Reporting the Panel's findings to the Borough (or Parish) Council for information;
 - (i) Instructing the Monitoring Officer to apply the informal resolution process;
 - (j) Sending a formal letter to the Subject Member;
 - (k) Recommending to the Borough (or Parish) Council to issue a press release or other form of publicity;
 - (l) Publishing its findings in respect of the Subject Member's conduct in such manner as the Panel considers appropriate.
- 4.2 The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.
- 4.3 The Hearing Panel may specify that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

5. Publication and notification of the Hearing Panel's decision and recommendations

- 5.1 Within 20 working days of the Hearing Panel's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Hearing Panel's decision and recommendations and reasons for the decision and recommendations on the Borough Council's website.

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- 5.2 Within 20 working days of the announcement of the Hearing Panel's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, in the format of the Decision Notice template below to:
- (a) the Subject Member;
 - (b) the Complainant;
 - (c) (the Clerk to the Parish Council)
 - (d) Kent County Council's Standards Committee (*applicable only where the Subject Member is serving at both Borough and County level*);
 - (e) Borough Council's Standards Committee (*applicable only where the Subject Member is serving at both Borough and County level*).
- 5.3 The Monitoring Officer will report the Hearing Panel's decision and recommendations to a meeting of the Standards Committee for information.

Template - Decision Notice of Hearing Panel

Complaint No: xxxx

On [insert date], the Hearing Panel of the [insert name] Council considered a report of an investigation into the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]

The Hearing Panel also made the following recommendation(s)

[Detail recommendations]

Sanctions applied

The breach of the [insert authority name] Code of Conduct warrants a [detail sanctions applied].

Appeal

There is no right of appeal against the Hearing Panel's decision.

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Notification of decision

This decision notice is sent to the:

- Councillor [name of councillor]
- Complainant
- [Clerk to the xxxx Parish/Town Council];
- Kent County Council's Monitoring Officer *[applicable only where the Councillor is serving at both Borough and County level]*

Additional help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please contact our Customer Services: email: customer.care@ashford.gov.uk, telephone 01233 331111 or call in to one of our offices – either the Civic Centre or the Ashford or Tenterden Gateway.

Signed:

Date

Print name:

Chair of the Hearing Panel

Ashford Borough Council address

Joint Transportation Board

Membership 14 Members: - 7 Ashford Borough Council Members* 7 Kent County Council Members and up to 3 Representatives of the Ashford Area Committee of the Kent Association of Local Councils (Non Voting)#

Terms of Reference

1. The Joint Transportation Board (JTB) is an advisory forum. The role of the JTB is to advise the member Councils on highways and transportation works scheduled and completed. The JTB will consider:
 - (a) capital and revenue funded works programmes;
 - (b) traffic regulation orders;
 - (c) street management proposals.and will provide advice on these matters to the relevant Executive as appropriate.
2. The Joint Transportation Board may advise and recommend in relation to:
 - a. strategic parking and waiting restriction issues
 - b. petitions received in relation to parking and waiting restrictions
 - c. council street lighting schemes on highways
 - d. local transport strategy
3. The JTB shall be a forum for consultation between KCC and the Council on policies, plans and strategies related to highways road traffic and public transport.
4. The JTB shall review the progress and out-turn of works and business performance indicators.

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5. The JTB shall receive reports on highways and transportation needs within the district.

Notes

- *1. The Borough Council's representatives are to be appointed by the **Cabinet**.
- +2. All KCC Members for electoral divisions within the Ashford Borough.
- #3. The Ashford Area Committee of the KALC may also appoint substitutes to attend in the absence of the nominated representatives. The Parish Council representatives (and substitutes) may speak but not vote nor propose a motion nor an amendment.

Chair

The Chair and Vice Chair shall alternate on an annual basis between a KCC local member (who is a JTB Member) and a Council local member (who is a JTB Member).

Membership

- 6.1 JTB membership shall comprise all KCC – local members with an equal number of Council – local members appointed by the Council. JTB Members will have voting rights. The Council may appoint substitutes for its JTB Members.
- 6.2 The JTB shall agree a number of parish/town council representatives, not less than one and no greater than three from within the Council's administrative area. Parish/town council representatives shall be nominated by the area committee of the Kent Association of Parish Councils or other representative body for parish/town councils within the Council's administrative area if this provides a more complete representation. Substitute members may also be nominated.
- 6.3 Any JTB Member may request of the Chair to provide an item to be considered for inclusion on the JTB agenda. Any Council – local member may attend and speak at the meeting of the JTB but may not vote nor propose a motion or an amendment.

- 6.4 The Chair of any parish/town council within the administrative area of the Council (or a parish/town councillor of that parish/town council nominated by him/her) may attend any meeting to speak with the permission of the Chair on any item on the agenda of particular reference to that parish/town council.

Meetings

- 7.1 The JTB shall generally meet four times a year on dates and at times and venues to be specified by the Council in accordance with its normal constitutional arrangements in consultation with KCC.
- 7.2 Six weeks prior to each JTB meeting the Chair, Vice-Chair and relevant officers from the Authorities will discuss and set the agenda for the forthcoming meeting. The final decision on agenda items shall be determined by the Chair in consultation with the Vice Chair. Agenda items will be split between Part A (recommendations for decision by KCC), Part B (recommendations for decisions by the Council) and 'for information' reports.
- 7.3 The quorum for a JTB meeting shall be four comprising at least two voting KCC local – members and two Council – local members who are also JTB Members.
- 7.4 Subject to the procedural rules in paragraphs 6, 7.2 and 7.3 above taking precedence, the Council's procedural rules and Public Participation Scheme shall apply to JTB meetings as if they were Council committees.
- 7.5 The JTB will be clerked by an officer of the Council. Officers of the authorities shall be expected to attend JTB meetings to present the reports.
- 7.6 The access to information principles shall be applied to the JTB as if it were a Council committee.
- 7.7 The clerk shall produce minutes of the meeting, a copy of which shall be sent to KCC's Cabinet Member for Highways and Transport.

Overview and Scrutiny

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- 8.1 The Authorities' Overview and Scrutiny Committees or equivalent may invite the JTB Chair or Vice Chair to attend their meetings to make representations, answer questions or give evidence. This is without prejudice to any ability of the Overview and Scrutiny Committees or equivalent of the Authorities to compel attendance of executive members officers under Section 21 of the Local Government Act 2000.

Executive Action

- 9.1 JTB advice/views shall be submitted to the Authorities' **Cabinet** in accordance with Authorities' constitutional arrangements.

Petition Discussions

- 10.1 Where a petition is agreed as being appropriate for discussion at the JTB, it shall be received at the meeting of the JTB. No further discussion shall take place on the petition until the next meeting of the JTB.
- 10.2 The lead petitioner shall be invited to submit a written statement of up to 500 words which should be sent to the Council to arrive by 5pm one week prior to the next JTB meeting. At that meeting, the lead petitioner shall be invited to speak for no more than three minutes.
- 10.3 The JTB shall not debate a petition on the same decision/issue as one debated in the previous 12 months.

Appendix 5

Scheme of Delegations to Officers including Proper and Authorised Officers and Designated Posts

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Business Manager	
Head of Environment and Land Management	
Corporate Director (Finance and Economy)	
Head of Corporate Policy, Economic Development and Communications	
Proper and Authorised Officers and Designated Posts	

Notes on Methodology

- 1.1 The Local Government Act 2000 and associated Regulations divides local authority functions between those which:
- cannot be the responsibility of an Authority's Executive (**non-executive functions**);
 - may be the responsibility of an Authority's Executive (**local choice functions**); and
 - are to be the responsibility of an Authority's Executive (**executive functions**).

The Act also provides that a limited number of functions must be discharged by the full Council.

- 1.2 **Executive functions** are discharged by the **Executive**. Under the arrangements approved by the **Leader**, the **Cabinet** will ordinarily carry out all of the **executive functions** unless the **Leader** decides to discharge them personally or allocate them to an individual **Cabinet Member**, a **Committee** of the Cabinet, Officers, an Area Committee or under **executive Joint Arrangements**. The **Leader** may make such a determination, and give written notice of the same, at any time in accordance with the Executive Procedure Rules at **Part 4**.
- 1.3 **Non-executive functions** of the Council cannot be exercised by the **Executive**. Where not explicitly reserved to the full Council, non-executive functions may be discharged by **Committees**, Sub-Committees and Officers of an Authority or by the **Cabinet** of another authority or **Joint Committees** formed with other authorities.
- 1.4 Delegations allocated to Officers are therefore expressed as being '**Executive Functions**' or '**Non-Executive Functions**'. Some actions required can, however, stem from either 'Executive' or 'Non-Executive' functions. To prevent unnecessary duplication in delegations in the following schedule a third category of delegation has been listed as 'Powers Relating to Functions that can be Executive, Non-Executive, or Incidental to either, or Administrative'. These cover a range of activities.
- 1.5 Those that are either Executive or Non-Executive are powers that cannot be categorised, as say, 'Executive' or 'Non-Executive' without knowing the nature of the action to which the power relates in any particular case and so have to be described in this way.

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Some powers are incidental to the discharge of a function, some are purely administrative. All are delegations, however.

1.6 **Non-Executive functions** are specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and all consequential Amendment Regulations. Any function that is not therefore specified has been assumed to be an executive function.

1.7 This Scheme of Delegated Powers was approved as part of the Council's Constitution at the meeting of the Executive held on the 12th December 2002 and at the meeting of the Council held on the 20th February 2003. Additional delegated powers when added to the Scheme will refer to the appropriate authority.

General Advice and Guidance on the Interpretation of Delegations and the Procedures to be Followed by Officers Exercising Delegated Powers

NB: These Notes Form Part Of The Scheme Of Delegations

Recording of Decisions taken under Delegated Powers

- 2.1 Each Officer exercising delegated powers shall be responsible for recording decisions taken.
- 2.2 Any Member may request that decisions taken by Officers under delegated powers can be the subject of a report to the **Cabinet**, Regulatory Committee (except the Planning Committee) or the Standards Committee.
- 2.3 Any such consideration by the **Cabinet** , Regulatory Committee or the Standards Committee, shall not make invalid any action taken as a result of the exercise of the delegation.

Scrutiny of Key Decisions taken under Delegated Powers (For Definition see Article 13.03 of The Constitution)

- 2.4 All **key decisions** determined pursuant to this Scheme of Delegation will be recorded, published and made available for inspection by Members of the Council and the public, subject to the rules of procedure about exempt and confidential information set out in **Part 4** of this Constitution.
- 2.5 **Key decisions** taken by Officers under delegated powers can be the subject of scrutiny by the Scrutiny Committee. Key decisions of Officers will follow the same procedure in respect of 'posting out' and 'call in'.
- 2.6 Any such scrutiny will not make any action taken as a result of the decision invalid. However, the Scrutiny Committee will be able to recommend a different course of action that would then be considered by the **Executive**.

'General Advice'

- 2.7 All delegations in this document are subject to the provisions of the Council's Procedure Rules, Financial Procedure Rules, Contract Procedure Rules and the delegations contained therein.

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- 2.8 All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
- 2.9 The exercise of a delegated power, duty or function shall be subject to;
- (a) the Council's policy framework and/or budget;
 - (b) any special procedure and/or protocol;
 - (c) the requirements of the Constitution and corporate standards; and
 - (d) the requirements of the Principles of Decision-Making at Article 13 and the provisions of the Access to Information Procedure Rules at **Part 4** of this Constitution;
 - (e) the Council's Procedure Rules, Financial Procedural Rules, Contract Procedure Rules, the Constitution and corporate standards.
- 2.10 Except where otherwise expressly provided either within this scheme of delegation or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.
- 2.11 In exercising delegated powers, the delegate or other authorised Officer shall:
- (a) take account of the requirements of corporate standards or any special procedures which apply and shall take all legal, financial and other professional advice as required for the prudent exercise of the powers.
 - (b) shall exercise the delegation so as to promote the efficient, effective and economic running of that service, directorate and the Council, and in furtherance of the Council's provisions and Best Value;
 - (c) shall, where and when appropriate, report back to the appropriate delegating body on the exercise of delegated powers.
- 2.12 Any reference to any Act of Parliament includes reference to regulations, subordinate and EU legislation upon which either UK

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legislation is based, or from which powers, duties and functions of the Council are derived and shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.

- 2.13 The exercise of delegated powers will in all cases be subject to any necessary consents by or on behalf of the Council, the **Executive**, or other Committee of the Council and to such statutory, ministerial or other consents and guidance as are necessary.
- 2.14 Where a power or duty is delegated to an Officer and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the Officer has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.
- 2.15 Functions, matters, powers, authorisations, delegations, duties and responsibilities, etc within this Scheme of Delegation, shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified. They shall also include the ability to amend, replace, waive or relax any requirement, withdraw, etc. any notice, order, etc. where such an ability is available.
- 2.16 Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
- 2.17 Delegations to Officers are subject to:
- (a) the right of the delegating body to decide any matter in a particular case.
 - (b) any restrictions, conditions or directions of the delegating body.
- 2.18 If a matter is delegated to an Officer, but that delegation cannot be implemented, the facts should be reported to the delegating body. If an Officer is not available or is unwilling to deal with a matter, the matter may be referred instead to the Head of Service, Chief Executive or delegating body.

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- 2.19 Any reference to a Committee or Sub-Committee shall be deemed to include reference to a successor Committee or Sub-Committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee or Sub-Committee.
- 2.20 Before any Officer exercises any delegation he shall be satisfied that he has consulted with any other appropriate Officer or Member of the Council. In cases of urgency rendering it impossible to consult, the Officer shall record that fact and be able to exercise the delegation without such requirement being fulfilled.
- 2.21 Where the exercise of powers is subject to prior consultation with another Officer, that Officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation for each proposal.
- 2.22 Before exercising delegated powers, particularly on matters involving the reputation of the Council, Officers should consider the advisability of consulting the Chief Executive, Director or appropriate Head of Service and/or the appropriate **Cabinet Member**.
- 2.23 Before any delegation is exercised on matters of particular significance to a Parish Council area or Borough Ward or Wards, the delegatee should consult, where practical, the relevant Parish Council or Ward Councillor(s).
- 2.24 Where any delegation requires the Officer to exercise the delegation following consultation with any Member, the decision is vested with the delegatee who shall be responsible and accountable for the decision. The delegatee is required to bring independent judgement to bear on the decision and the decision must not consist of the Officer adding his/her approval to what the Member has decided. If the Member consulted disagrees with the delegatee, the matter should be referred to the Chief Executive if it cannot be resolved by the delegatee's Head of Service or Director.
- 2.25 Delegations to any Officer are subject to the overriding proviso that the Chief Executive may:-
- (a) direct the Officer concerned not to exercise the delegation but to report to the delegating body for instructions.
 - (b) direct the Officer concerned that on any particular matter the delegatee's Strategic Manager himself will exercise a reserve power to take the decision, in which case the person

exercising the delegation shall take the decision in his own name and the provision in procedure note 2.26 will not apply in so far as that note provides that the Officer exercising the delegation does so in the name of the Officer who received the original delegation.

- 2.26 An Officer to whom a power, duty or function is delegated may authorise in writing another Officer to exercise that power, duty or function. The Officer authorised by the other should act in the name of the Officer who received the original delegation. No authorisation may be given if the statute or law prohibits it. There can be no additional sub-delegation.
- 2.27 Any mis-categorisation of a delegation as being Executive, non-Executive or anything else shall not invalidate the delegation.
- 2.28 The compilation of a Register of Delegated Powers is a statutory requirement. The Register is maintained by the Head of Legal and Democracy and delegations are added to it as they are made by delegating bodies. Officers should take care to inform themselves of any subsequent changes to the Register before solely relying on this document.
- 2.29 The Corporate Director (Law and Governance) shall have the power to amend this Scheme to reflect reorganisations, changes in job titles and vacancies, where the changes result in the redistribution of existing delegations and not the creation of new ones.
- 2.30 Any post specifically referred to in this Scheme shall be deemed to include any successor post or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded. Any power contained within this Scheme in anticipation of any reorganisation may be exercised in accordance with the preceding Scheme to the date of that reorganisation.
- 2.31 Where an Officer has delegated authority to discharge functions by virtue of any other provision of the Constitution or a specific decision of the Council, the **Cabinet**, a Committee or Sub-Committee of the Council, whether made before or after the adoption of this Scheme, the absence of that delegation from this Scheme shall not be treated as preventing the exercise of that delegation, provided such delegation has not been superseded or revoked. The facts should be reported to the Head of Legal and Democracy forthwith.

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- 2.32 Advice on procedures, and matters to be taken into account in exercising delegations should be sought from the Head of Legal and Democracy.
- 2.33 All matters of interpretation of this document shall be determined by the Head of Legal and Democracy.
- 2.34 All enquiries about this Scheme should be made to the Head of Legal and Democracy.

General Delegations

- 3.1 In the absence of the Chief Executive, the functions of the Chief Executive and the Head of Paid Service will be the responsibility of Directors, Head of Service or Service Manager authorised for that purpose by the Chief Executive.
- 3.2 To deal with all Personnel and Development issues affecting their Departments, Directorates or Service Areas provided such action accords with the Council's budget, Personnel policies and such decisions do not create an ongoing commitment. So far as Heads of Service are concerned, the Chief Executive or Director for that service shall have power to appraise, develop and manage those Heads of Service but not recruit or dismiss.
- NB: For the avoidance of doubt the appointment of the Chief Executive, Directors and Heads of Service shall be made by the Appointments Committee and not through this Scheme of Delegation.**
- 3.3 To take any action in respect of lost or uncollected property found on any Council owned or managed buildings or premises under the powers contained in Section 41 of the Local Government (Miscellaneous Provisions) Act 1982.
- 3.4 To make payments up to a maximum of £2,500 in respect of justified complaints identified through the Council's complaints procedure subject to details of all such payments being reported to the Standards Committee.
- 3.5 The Chief Executive, Directors and Heads of Service are authorised to respond to any consultation submitted by Central Government Departments and/or others in accordance with the agreed procedure for dealing with such consultations.
- 3.6 The Chief Executive, Directors and Heads of Service are authorised to serve notices to obtain information as to activities on land pursuant to Section 171C and interests in land pursuant to Section 330 of the Town and Country Planning Act 1990.
- 3.7 The Chief Executive, Directors and Heads of Service are authorised to obtain particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.8 For the purposes of the Council's Covert Surveillance Policy (Regulation of Investigatory Powers) (RIPA) Act 2000, the Head of Community Safety and Wellbeing, Joint Development Control

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Managers/Head of Development Management and Strategic Sites and the Revenues and Benefits Manager, together with all more senior staff, ranks and positions employed by the Authority be authorised for the purpose of surveillance and covert intelligence gathering where considered appropriate for the effective discharge of investigatory duties vested in the Council, to authorise named staff to perform such duties. All such authorisations to be in accordance with the current RIPA Toolkit and/or Guidance Notes.

- 3.9 In respect of services where charges apply or may apply in circumstances where services are obliged through regulations to achieve cost recovery or where other market led factors influence the service and its charging structure, the relevant Head of Service has the discretion to determine appropriate service fees and charges after consulting with the Head of Finance and IT and the relevant **Cabinet Member**.
- 3.10 Heads of Service have power in relation to land operated by their Service (in the case of non-operational land by the Head of Housing) to:
- (i) enter into Planning Obligations under Section 106 of the Town and Country Planning Act 1990 where the Council is a person interested in land. (Minute No. 306/12/10 refers).
 - (ii) in order to give effect to any planning obligation given to the Council, Heads of Service have power to acquire land and any other interest in land that is to be operated or managed by their Service.
- 3.11 The relevant Head of Service, in consultation with the Head of Legal and Democracy and relevant **Cabinet Member**, is authorised to decide on the rejection of an Expression of Interest (EOI) on either of the first two grounds set out in Schedule 1 of the Community Right to Challenge (Fire and Rescue Authorities and Rejections of Expressions of Interest (England) Regulations 2012). (Minute No. 42(d)/6/12 refers)
- 3.12 The relevant Head of Service, in consultation with the Head of Legal and Democracy, to refuse to consider an Expression of Interest submitted outside of the Council's published time frames for the acceptance of the submission of an Expression of Interest. (Minute No. 392 (xiv)/04/14 refers)

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- 3.13 The relevant Head of Service, in consultation with the Head of Legal and Democracy and relevant **Cabinet Member**, to decide whether to accept, reject or modify an Expression of Interest (Minute No. 392 (iv) (viii) (xii)/04/14 refers).
- 3.14 The Chief Executive, Corporate Directors and Heads of Service to exercise all functions of the Council under and in connection with the Anti-Social Behaviour, Crime and Policing Act 2014, (including any Orders or regulations made thereunder).
- 3.15 The relevant Head of Service, in consultation with the relevant Corporate Director and the Head of Legal and Democracy and the Head of HR and Customer Services, to decide whether to designate a post as Safety Critical within their Service under the Council's Alcohol, Drugs and Substance Misuse Policy (Minute No. 123/9/16 refers).
- 3.16 The Chief Executive, Directors and Heads of Service are authorised to enter into contracts and any other contractual obligations in connection with (a) in the case of the Chief Executive, the Council's functions, (b) in the case of the Directors, the functions carried out by that directorate and (c) in the case of Heads of Service, the functions carried out by that service.

Chief Executive

Executive Function

- 4.1 To make decisions required to expedite the procurement of the regeneration and refurbishment works on the Stanhope Estate.
- 4.2 To declare that land is no longer required for the purpose for which it is held and to appropriate it for another purpose, save that if an objection is made to the advertisement of Notice of Intention to appropriate land and not withdrawn, the delegation shall not operate and the **Cabinet** shall consider the objections and decide whether or not to make the declaration.
- 4.3 In connection with the Council's determination of a Community Nomination to undertake an Internal Listing Review, if requested. (Substitute Corporate Director (Law and Governance))
Note: the delegation to determine a Community Nomination is to the Head of Legal and Democracy.
- 4.4 In consultation with the **Leader** and the Head of Legal and Democracy, to amend the Property Acquisition Investment and Disposal Strategy.

Non-Executive Functions

- 4.5 To prepare:-
- (a) a statement specifying the duties associated with any proposed appointment to a Deputy Chief Executive post (other than Chief Executive) including any qualifications or qualities sought from the successful appointee.
 - (b) any shortlist of suitably qualified applicants for any Deputy Chief Executive post (other than Chief Executive).

NB: Subject to the provisions of the Constitution in all cases.

Powers Relating to Functions that can be Executive, Non-Executive, Incidental to Either or Administrative

- 4.6 In consultation with the **Leader** or Deputy Leader to refer matters to a Participative Group. Such commissioning to be noted at the next meeting of the **Cabinet**.

- 4.7 Following consultations with the Head of HR and Customer Services to approve staff termination costs (redundancy payments and payments in lieu of notice and other compensation) associated with reductions in staffing, which are supported by the Joint Consultative Committee and the relevant **Cabinet Member**. NOTE: This delegation does not cover the approval of pension fund compensation costs relating to any early retirement cases on the grounds of redundancy or efficiency as these must be approved by the full Council. Information relating to the use of this delegation must be included in the Budget Monitoring Reports to the **Cabinet**. (Minute No. 378(xiii)/2/11).
- 4.8 Following consultation with the **Leader** (or Deputy Leader in his absence) to determine which flags are displayed on the Civic Centre flagpoles. (Minute No. 227/12/12).
- 4.9 Following consultation with the **Leader** and the Ashford Borough Council Civic Honours and Awards Board to consider and determine recipients of the Honourary Ambassador of Ashford Award.

Civil Emergencies and/or Urgent Matters

- 4.10 To be responsible for the Council's compliance with its civil protection duties under the Civil Contingencies Act 2004 and to make decisions in relation to the Council's response to emergencies thereunder and to authorise other Officers to make such decisions.
- 4.11 Where action needs to be taken on any urgent matter between meetings of the **Cabinet**, or any **Committee** or Sub-Committee of the Cabinet or the Council:
- 4.11.1 To take urgent **Key Decisions** in place of the **Executive** in accordance with the Executive Procedure Rules at Part 4; and
- 4.11.2 To take urgent **non-executive decisions** in consultation with the Chair of the Committee or Sub-Committee having the matter within its terms of reference.
- The Principles of Decision-Making at Article 13 shall be followed.
- 4.12 In the event that all members of the **Cabinet** are removed from office, to exercise all **executive functions** in consultation with the Mayor of the Council until a new Cabinet has been appointed.

Corporate Director (Law and Governance) and Monitoring Officer

To exercise all of the delegations to the Head of Legal and Democracy, Head of Community Safety and Wellbeing and Head of HR and Customer Services.

Executive Functions

- 5.1 In connection with the Council's determination of a Community Nomination, to act as substitute for the Chief Executive in terms of undertaking an Internal Listing Review.

Delegations as Monitoring Officer

- 5.2 To grant dispensations to Members pursuant to section 33(2) of the Localism Act 2011 and paragraph 8 of the adopted Code of Conduct to speak only or to speak and vote where:
- I. so many members of the decision-making body have disclosable pecuniary interests in a matter that it would impede the transaction of the business; or
 - II. without a dispensation, no member of the executive would be able to participate on a particular item of business.
- 5.3 To receive complaints relating to alleged breaches of the adopted Code of Conduct and to process complaints in accordance with the adopted Arrangements for dealing with Code of Conduct Complaints.
- 5.4 To reject petitions submitted under the Council's Petition Scheme which are considered vexatious, abusive or otherwise inappropriate.
- 5.5 To update the Council's Good Practice Protocol for Councillors dealing with Planning Matters as required.
- 5.6 To undertake any other Proper Officer provisions under the Constitution or under any Statute not dealt with elsewhere.

Head of Legal and Democracy

Executive Functions

- 6.1 To take proceedings to obtain orders or injunctions under Section 222 of the Local Government Act 1972 or any other legislation which empowers the Council to seek orders or injunctions.
- 6.2 To take all necessary steps to ensure compliance with the provisions of the Housing Act 1985 and in particular to serve any notices in connection with the exercise of tenants' rights to purchase.
- 6.3 To exercise the Council's discretion under Section 180 of the Housing Act 1985 to accept statutory declarations from tenants claiming qualifying periods as public sector tenants other than with the Council provided that the affidavit is supported by corroborative evidence.
- 6.4 To sell at market value any small plot of land adjoining a Council dwelling which has been or is being purchased by the tenant subject to the proviso that in the event of objection being received from consultees on any individual request it be referred to the **Cabinet** for determination.
- 6.5 To grant a waiver to any commercial lending institution of the Council's right to recover grant monies where monies have been paid for an improvement, intermediate repair or special grant contemporaneously with the grant of a mortgage by that institution.
- 6.6 To determine any application for postponement of the Council's statutory charge for the repayment of discount on the sale of a Council house.
- 6.7 To determine any application for postponement of the Council's Second Charge under the Tenants Cash Incentive Scheme.
- 6.8 To determine all applications to waive the Council's right to recover discount with the presumption against waiver. Any cases where the Head of Legal and Democracy is minded to agree a waiver to be reported to the **Cabinet** for decision.
- 6.9 To decide whether or not to enter agreements under the Public Health Acts and Open Spaces Acts and thereafter enter such agreements.
- 6.10 To allow non-commercial organisations to display the Coat of Arms of the Borough upon such terms and conditions as he considers appropriate.

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- 6.11 To grant a discount to any charitable organisation and/or negotiate charges for lettings of more than one day in respect of the hire of the Council Chamber or any Committee Room if this would result in the hire of a room which might otherwise not have been used.
- 6.12 To maintain the register of community assets and the register of unsuccessful applications, and to serve all necessary notices in connection with the Community Right to Bid process.
- 6.13 To execute and complete all necessary documentation to give effect to any land transaction that is in accordance with the Property Acquisition Investment and Disposal Strategy or where the principle of the transaction has been separately approved by the Council or the **Cabinet**.
- 6.14 In connection with the Community Right to Bid:
- (i) To act in all matters relating to any appeal to the First-Tier Tribunal against an Internal Listing Review and an Internal Compensation Review.
 - (ii) To act in all matters required for the entry and removal of any entry at the Land Registry and on the Land Charges Register required as a consequence of the inclusion or removal of land or property from the List of Assets of Community Value.
 - (iii) To sign and issue a Certificate of Compliance on the lawful disposal of land or property that is included on the List of Assets of Community Value.
 - (iv) To act in any manner required in relation to the Community Right to Bid under the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.
(Principal Solicitor, Strategic Development to substitute)
(Minute No 76/07/14 refers)
 - (v) To determine a Community Nomination. (Principal Solicitor, Strategic Development to substitute)
 - (vi) To carry out and determine Internal Compensation Reviews
(Principal Solicitor, Strategic Development to substitute)

- Notes: 1. The delegation to carry out an Internal Listing Review is to the Chief Executive
2. The delegation to determine Compensation Claims is to the Head of Finance.

3. The delegation to carry out and determine Internal Compensation Reviews is to the Corporate Director (Finance and Economy).

6.15 The preparation and updating of the list referred to in the Freedom of Information Act 2000 – Publication Scheme including the addition of further classes of information and lists of changes where appropriate.

Non-Executive Functions

6.16 To issue all notices and make all orders.

6.17 To act on Trust Management matters on behalf of the Trustees (Ashford Borough Council Members) of the Dr Wilks Memorial Hall Trust and in connection therewith to:

- (a) act as Clerk to the Trustees.
- (b) to submit via the Information Digest each year the proposed Annual Return to the Charity Commissioners showing the financial position for the immediate past year.
- (c) to approve the use of balances upon the account of the Dr Wilks Memorial Hall Trust, such balances to be used for the landlord obligations associated with the lease of those premises to the Ashford Museum Society.

6.18 In the year of ordinary elections to the Borough Council to give effect to the wishes of Group Leaders as to the appointment of Members to serve on the Selection and Constitutional Review Committee to be held prior to the Annual Meeting of the Council.

6.19 To adjust sums payable to the Leaders of Groups upon the Council dependent upon the number of Councillors in each Group.

Powers Relating to Functions that can be Executive, Non-Executive, Incidental to Either or Administrative

6.20 To institute, conduct, defend or settle any criminal proceedings in respect of any offence which is being or has been committed under any provision of any statute, statutory instrument, byelaw or Regulation made thereunder which the Council has a power, function, duty or discretion to enforce subject in major cases to a cost estimate being prepared and reported to the **Cabinet** or other Committee of the Council.

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- 6.21 To institute, conduct, defend or settle any civil proceedings including arbitrations and tribunals subject in the case of major Planning Inquiries to a cost estimate being prepared and reported to the **Cabinet** or other appropriate Committee and/or to Management Team as necessary and in cases involving the institution or settlement of any High Court proceedings to a report being made as soon as possible to the **Cabinet** or other appropriate Committee of the Council.
- 6.22 To defend any criminal proceedings brought against the Council, or any Officer where that Officer is or was acting in the course of his employment by the Council.
- 6.23 To seek Counsel's opinion and to instruct Counsel (or any other expert) in connection with any matter where in his/her opinion it is expedient to do so.
- 6.24 To take all necessary steps to prepare and present the case for the Council before any Court, Inquiry, Tribunal or other forum, such action to include where necessary the retainer of any witness or prospective witness not on the staff of the Council.
- 6.25 The following Officers be authorised to sign or where appropriate to seal in conjunction with the Mayor and Deputy Mayor of the Council (or in their absence the Leader or the Deputy Leader) any document required to implement or give effect to any decision taken by or in the name of the Council:-

Chief Executive
Corporate Director (Law and Governance)
Head of Legal and Democracy
or another practising solicitor employed as such.

NOTE: There is no requirement for a Member to attest the sealing of Tree Preservation Orders, however, any two officers from the above list are authorised to seal them. (Minute No. 102/7/18 refers).

- 6.26 To authorise at his discretion any unadmitted Member of staff to appear in the County Court in accordance with Section 60 of the County Courts Act 1984 and the Magistrates Court in accordance with Section 223 of the Local Government Act 1972.
- 6.27 To serve any notice or do any other thing pursuant to the functions of the Council whether or not the same shall have been delegated to the Chief Executive, Deputy Chief Executive, Director or Head of Service where such action has been previously approved by the

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Delegations to Head of Legal and Democracy

Council or any of the above Officers acting pursuant to their delegated powers.

- 6.28 To accept service of all notices/proceedings on the Council where he considers it appropriate.
- 6.29 To approve settlement of any small claim not exceeding £2,500 (exclusive of all fees) arising from the exercise of statutory powers by the Council (e.g. removal expenses of occupiers of compulsorily acquired property).
- 6.30 To serve any notice upon the owner and occupier of land whenever entry is required for the purpose of exercising statutory powers and functions and entry is authorised by him or the Chief Executive, Director or Head of Service acting pursuant to their delegated powers.
- 6.31 To give a reward for information leading to the conviction of any person for criminal damage to Council property or property for which the Council is responsible under **joint arrangements**.
- 6.32 To decide whether any report to the Council or any Committee or Sub-Committee is not to be disclosed and to arrange for it to be marked 'Not for Publication by virtue of the relevant paragraph of Part 1 of Schedule 12A of the Local Government Act 1972', or when Confidential Information in breach of the obligation of confidence within the meaning of Section 100A(2) would be disclosed.
- 6.33 To take all such action and to direct other staff to take such action to ensure full compliance with the Local Government (Access to Information) Act 1985, The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and The Local Authorities (Access to Meetings and Documents) (Period of Notice) (England) Order 2002 and the Local Government (Access to Information) Variation Order 2006.
- 6.34 To maintain the deposited list of politically restricted posts in accordance with Section 2 of the Local Government and Housing Act 1989 after consultation with the Chief Executive.
- 6.35 In connection with seminars or presentations to the **Cabinet** or other Committees or Sub-Committees of the Council, or, dependent upon the subject matter and purpose of the seminar or presentation at an informal meeting, to determine whether all Members of the Council are to be invited to attend.

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Delegations to Head of Legal and Democracy

- 6.36 To approve, in consultation with the Chair and Vice-Chair of the Members Training Panel, requests for training courses which exceed £100. (Minute No. 264/11/03 refers).

Head of HR and Customer Services

Executive Functions

Nil

Non-Executive Functions

- 7.1 To grant leave of absence for duties covered by the appropriate Employment Protection legislation where in his opinion it is feasible to do so. Employees elected or nominated to serve as Members of the bodies referred to in the legislation, to be granted a maximum of 9 days per annum (66.6 hours) paid leave of absence in connection with such duties as are defined in the Act.
- 7.2 To enter into interim/temporary local agreements with the Trade Union/Workforce to cover pay, conditions of service, bonus schemes and working practices, subject to a report being submitted to the next meeting of the **Cabinet**, which will make a recommendation to the Council.
- 7.3 To approve:-
- (i) car loans in accordance with the terms of the Council's Car Loan Scheme.
 - (ii) essential car user allowances.
 - (iii) the allocation of lease cars or contract hire cars to employees in accordance with the Council's agreed policy.
- 7.4 To waive the demand for repayments of relocation, training expenses and penalty clauses for lease/contract hire vehicles in situations where potential redundancies or ill-health/compulsory retirement situations have been identified.
- 7.5 To agree contract hire terms with additional contract hire companies in respect of cars for staff as circumstances require, in order to maintain the effectiveness of the scheme.
- 7.6 To agree contract terms with contract hire companies for the provision of second user vehicles.
- 7.7 To require any employee to keep a vehicle for an additional fourth year if there are financial benefits to the Council.

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Delegations to Head of HR and Customer Services

- 7.8 In exceptional circumstances only to authorise a car purchase loan within the terms of the scheme to a non-essential user.
- 7.9 To approve the provision of Council housing to newly appointed staff.

Powers Relating to Functions that can be Executive, Non-Executive, Incidental to Either or Administrative

Nil

Head of Finance and IT

To exercise all of the delegations to the Revenues and Benefits Manager.

Executive Functions

- 8.1 To exercise appropriate delegations as contained within the Council's Financial Procedure Rules and the Council's Treasury Management Policy.
- 8.2 To accept any loan to the Council upon such terms and rates of interest as are considered appropriate.
- 8.3 To negotiate the issue of negotiable bonds and to take any other steps which may be necessary in connection with any such issue.
- 8.4 To execute any form of indemnity worded in accordance with the requirements of the Committee of London Clearing Bankers, the Committee of Scottish Clearing Bankers and the Irish Banks Standing Committee and addressed to:
 - (a) the Bank of England, the London Clearing Banks, the Scottish Clearing Banks and the Irish Banks, as listed in the indemnity.
 - (b) all other Banks to whom sorting code numbers have been allocated and whose customer accounts may receive direct debits.
- 8.5 To negotiate the issue of Bonds up to the maximum amount approved by Central Government and to take any other steps which may be necessary in connection with the issue and in particular:-
 - (a) to incur expenditure on fees and expenses payable to the brokers acting for the Council and to the bankers acting as such and as registrar.
 - (b) to give such administrative instructions to the bankers about the proceeds of the issue as considered necessary.
 - (c) to supply such information and sign such documents as considered necessary to obtain permission for the Bonds to be dealt with.
- 8.6 In accordance, where appropriate with Council policy, to decide, waive the priority, determine any application, transfer any mortgage, serve relevant notices, vary and/or sign any certificate, discharge the functions and duties imposed on the Council, under any statute or regulation in respect of the following:-

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Delegations to Head of Finance and IT

- (a) To decide where a previous tenant requests the Council to re-purchase, with a presumption against re-purchase in Housing Act 1985 (as amended by Housing Act 1988) cases, (any cases where special circumstances exist to be brought before the Executive for decision).
 - (b) To waive the priority relating to the repayment of discount on a sale of a sold Council house or flat.
 - (c) To determine applications for an advance under the Housing Acts for the purchase, improvement, conversion or repair of a dwelling.
 - (d) Transfer of any mortgage or to lease mortgaged property or to sell off part of mortgaged property.
 - (e) Vary interest rate on loans made for the purchase and improvement of dwellings where so directed by the Secretary of State.
 - (f) To sign any certificate or application relating to Housing Association Grant submitted by or on behalf of the Council.
- 8.7 To grant an interest free loan to any existing tenant of the Ellingham Industrial Estate provided he/she is satisfied that a new job is or new jobs are likely to result.
- 8.8 In connection with the Community Right to Bid:
To determine compensation claims
(Accountancy Manager to substitute) Minute No. 76/07/14 refers).
- 8.9 To transfer garage sites from the General Fund back to the HRA, in respect of those sites approved by **Cabinet** for development.
Minute No. 343/02/15 refers.
Note: Head of Housing has similar delegation

Revenues and Benefits Manager

- 9.1 In accordance with the Council's Discretionary Rate Relief Policy adopted in April 2013 (Minute No. 387/3/13 refers) or as a consequence of some other requirement of central government to determine applications (under Sections 47 – as amended by the Localism Act 2011 – 48 and 49 of the Local Government Finance Act 1988) for a business rate reduction (discretionary relief or business rate discount) or an application for remission of business rates, after consulting with the relevant **Cabinet Member** and the Head of Finance and IT.
- 9.2 To take all necessary action for the recovery of outstanding rates.
- 9.3 To make objections to proposals for alterations in the Valuation List and submit appeals to the Local Valuation Court.
- 9.4 To agree amendments to the Valuation List made pursuant to the General Rate Act 1967.
- 9.5 To validate any application submitted pursuant to the General Rate Act 1967 and when appropriate to enter into correspondence with the Valuation Officer regarding the apportionment of rateable values.
- 9.6 To serve any Notices pursuant to the General Rate Act 1967 upon any tenant or lodger so as to require the payment of rent direct to the rating authority until any rates outstanding from an owner are discharged.
- 9.7 The following Officers be authorised to take legal proceedings for recovery of rates pursuant to the provisions of Sections 96-107 of the General Rate Act 1967:

Post	Officer
Revenues and Benefits Manager	- Peter Budden
Senior Recovery Officer	- Nicola Stevens
Senior Revenues and Benefits Officer	- Andrew Carney
Senior Revenues and Benefits Officer	- Vikki Baker

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 Delegations to Revenues and Benefits Manager

Post	Officer
Recovery Officer	- Emma Trigg
Recovery Officer	- Joanne Wood

- 9.8 To grant rate relief pursuant to the General Rate Act 1967 in accordance with the Council's policy.
- 9.9 To administer the system of personal, standard and collective community charges established by the Local Government Finance Act 1988 and any Orders or Regulations made there under and in connection therewith to exercise the powers, duties and functions of the Council:-
- (a) to authenticate, sign and/or serve any document, form, notice, bill or statement.
 - (b) to take any action or institute any proceedings or process for the recovery of any sum due from any person (including any sum due as a penalty).
 - (c) to require information from any person or to supply information to any person.
 - (d) to deal with any appeals at the Valuation and Community Charge Tribunal and to do any other thing required in order to exercise the powers, duties and functions referred to above.
- 9.10 The following Officers be authorised to prosecute or appear in any recovery proceedings in the Magistrates Court for non payment of the National Non-Domestic Rate and Community Charge pursuant to Section 223 of the Local Government Act 1972:-

Post	Officer
Revenues and Benefits Manager	- Peter Budden
Senior Recovery Officer	- Nicola Stevens
Senior Revenues and Benefits Officer	- Andrew Carney
Senior Revenue and Benefits Officer	- Vikki Baker
Recovery Officer	- Emma Trigg
Recovery Officer	- Joanne Wood

- 9.11 To administer the system of Council Tax established by the Local Government Finance Act 1992 and any Orders or Regulations made there under and in connection therewith to exercise the powers, duties and functions of the Council:-

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Delegations to Revenues and Benefits Manager

- (a) to maintain the Valuation List.
- (b) to exercise any discretion exercisable by the Council either generally or in respect of applications for relief under Sections 43, 45 and 47 of the Local Government Finance Act 1988.
- (c) to authenticate, sign and/or serve any document, form, notice, bill or statement.
- (d) to impose any penalty upon any person.
- (e) to take any action or institute any proceedings or process for the recovery of any sum due from any person (including any sum due as a penalty).
- (f) to require information from any person or to supply information to any person.
- (g) to approve the grant of Council Tax Benefits in compliance with any relevant statutory provision.
- (h) to deal with any appeals at the Valuation Tribunal and to do any other thing required in order to exercise powers, duties and functions referred to above.
- (i) to estimate the balance on the Collection Fund each year in accordance with the prescribed rules, and notify the major precepting authority as required.

9.12 The following Officers be authorised to prosecute or appear in any recovery proceedings in the Magistrates Court for non payment of the National Non-Domestic Rate and Council Tax pursuant to Section 223 of the Local Government Act 1972:-

Post	Officer
Revenues and Benefits Manager	- Peter Budden
Corporate Fraud Manager	- Debbie Dansey
Senior Recovery Officer	- Nicola Stevens
Senior Revenues and Benefits Officer	- Andrew Carney
Senior Revenues and Benefits Officer	- Vikki Baker
Recovery Officer	- Emma Trigg
Recovery Officer	- Joanne Wood

9.13 To determine the rural areas to comprise 'settlements', publicise details pursuant to the Local Government and Rating Act 1997 and to prepare definitions of their boundaries and illustrate on maps to be made available for public inspection.

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Delegations to Revenues and Benefits Manager

- 9.14 To determine any application for Housing Benefit and Allowances in accordance with the provisions of the Social Security Contributions and Benefits Act 1992 and Social Security Administration Act 1992 and to exercise all other administrative discretions arising under that Act.
- 9.15 In connection with the recovery of Housing and Council Tax Benefits Overpayments valued less than £500 in cases suspected to be as a result of fraud to pursue prosecution when in his opinion it would be right to do so in order to address persistent offenders responsible for frauds involving relatively small amounts, or in recognition that the Police might seek to include a small Benefit fraud within the catalogue of other crimes they propose to charge a suspect with.
- 9.16 In those cases where he is satisfied that the volume of cases referred for prosecution would at any time exceed the co-operation of the DWP (including the DWP Prosecution Branch) and/or the Police, to determine not to prosecute in those cases where an individual Benefit fraud amounts to £500 or more.
- 9.17 To determine whether the welfare issues as defined by the Benefits Agency are sufficient to secure automatic exemption from prosecution with the notable exception of claimants already in prison and those suffering from terminal illness or severe mental disorder (for which medical evidence is required).
- 9.18 Within the Council's policy relating to Discretionary Housing Payments (DHP) to:
- (In consultation with the Head of Finance and IT)
- (a) determine the level and duration of each DHP case.
 - (b) ensure that wherever possible central government's contribution is fully and legitimately appropriated so as to maximise the award of DHPs.
 - (c) adopt a liberal interpretation of what constitutes a claim, in line with the DWP's expectations.
 - (d) develop proactive procedures for promoting claims for DHPs and informing benefit claimants of the DHP arrangements.
 - (e) seek the co-operation of the local DWP to display DHP promotional material and make available a simple DHP claim form to those people visiting the DWP offices.

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Delegations to Revenues and Benefits Manager

- (f) exercise discretion in deciding who can claim a DHP.
- (g) extend the 28 calendar day period for the supply of information from the time a claim is made, where it is considered that individual cases merit an extension.
- (h) exercise discretion in deciding who can be paid a DHP.
- (i) vary (by extending or shortening) the period of any award where it is considered that individual cases merit a variation from the usual period of award.
- (j) vary, on a case by case basis, the period for the payment of DHPs where it is considered to be in the Council's or the claimant's interest to do so.
- (k) determine the most appropriate method(s) of DHP payments to be adopted.
- (l) vary the payment cycle policies, on a case by case basis, where it is considered to be in the Council's or the claimant's interest to do so.
- (m) vary the backdating policy, on a case by case basis, where it is considered to be in the Council's or the claimant's interest to do so.
- (n) provide all necessary papers to support the decision made in determining an application in the event of an appeal being made against the decision to the Council's Appeals Committee.
- (o) determine whether DHP payments should be stopped.
- (p) determine whether any DHP payments should be recovered.
- (q) make adjustments to the DHPs policy framework as a result of amending legislation or guidance.

The Corporate Director (Finance and Economy) is delegated the authority to grant a discretionary discount of 50% for long term empty properties in exceptional cases where the removal of a discount can be demonstrated by the occupier to cause hardship.

(In consultation with the Head of Finance and IT).

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Delegations to Revenues and Benefits Manager

Non-Executive Functions

Nil

Powers Relating To Functions That Can Be Executive, Non-Executive, Incidental To Either Or Administrative

Nil

Head of Community Safety and Wellbeing or Corporate Director (Safety and Wellbeing)

Executive Functions

- 10.1 In accordance, where appropriate, with Council policy to vary charges for, serve or affix notices to, register and maintain appropriate registers, exercise the client functions, collect or store and discharge the functions and duties imposed on the Council, under any statute or regulation in respect of the following:-
- (a) abandoned vehicles on a highway or elsewhere in the open air and subsequently arrangements for the storage and disposal of such vehicles.
- 10.2 To take any action, make any Order or publish proposals for any Order or variation thereof in relation to the creation, control and management or operation of off-street and on-street parking places.
- 10.3 The management of all aspects of the Council's on and off-street parking areas including those provided for residents and the disabled and to enforce or cancel Penalty Charge Notices incurred by motorists in any of the Council's on or off-street car parking areas where the reason given in any request for a waiver is considered reasonable.
- NB: This delegation includes the use of the Bailiffs but excludes the use of vehicle clamps and removals.**
- 10.4 To act as the Council's representative on the Ashford Health and Wellbeing Partnership and the East Kent Health Improvement Partnership, subject to consultation with the **Cabinet Member** for Community Safety and Wellbeing.

Non-Executive Functions

- 10.5 In accordance, where appropriate, with Council policy to determine any application for a licence under the Licensing Act 2003, attach conditions or state grounds for refusal, to register and maintain appropriate registers, exercise the powers conferred by, take any action considered necessary, institute proceedings, enforce the provisions of, discharge the functions and duties imposed on the Council under any statute or regulation in respect of the following:-

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Delegations to Head of Community Safety and Wellbeing

Matter to be dealt with	Circumstances under which decision may be made
Application for grant of renewal of personal licence	If no representation made
Application for premises licence or club premises certificate	If no representation made
Application for provisional statement	If no representation made
Application to vary premises licence and/or club premises certificate	If no representation made
Application to vary designated premises supervisor	If no police representation made
Request to be removed as designated premises supervisor	In all cases
Application to transfer premises licences	If no police representation made
Applications to interim authorities	If no police representation made
Decision upon whether a representation is irrelevant, frivolous, vexatious etc	In all cases
Application for conversion of existing premises licence or club certificate	If no police representation made
*Application for a Minor Variation of a Premises Licence	All cases including if representation is made
*Application for a Minor Variation of a Club Premises Certificate	All cases including if representation is made
*Application by community premises to disapply the mandatory conditions for alcohol on the premises	If no police objection made

Note:

- (i) * = added by virtue of Minute No. 407/2/10
- (ii) **The granting of the above delegations is without prejudice to Officers referring an application to a Sub-Committee or to a Sub-Committee referring an application to the full Committee, if considered appropriate by the Licensing Officer or Sub-Committee in the circumstances of any particular case and where permitted by legislation.**

10.6 In accordance, where appropriate, with Council policy to determine any application for a Licence, Permit or Notice under the Gambling Act 2005, to attach conditions or to state grounds for refusal, to

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Delegations to Head of Community Safety and Wellbeing

receive notifications, to register and maintain appropriate registers, to exercise the powers conferred, to take any action considered necessary, to institute proceedings, to enforce the provisions of, to discharge the functions and duties imposed on the Council, under the Act or any regulations thereunder in respect of the following (Minute No 603/04/07 refers):

Matter to be dealt with	Circumstances in which decision may be made
Application for Premises Licence	Where no representations received or representations have been withdrawn
Application to vary a Premises Licence	Where no representations received or representations have been withdrawn
Application to transfer a Premises Licence	Where no representations received or representations have been withdrawn
Application for a provisional statement	Where no representations received or representations have been withdrawn
Application for a Club Gaming Permit or Club Machine Permit	Where no objections made or objections have been withdrawn
Application for other Permits	All cases
Cancellation of licensed premises Gaming Machine Permits	All cases
Application for Temporary Use Notice	Where no notices of objection have been given or notices of objection have been withdrawn

The granting of the above delegations is without prejudice to officers referring an application to a Sub-Committee or to a Sub-Committee referring an application to the full Committee, if considered appropriate by the Licensing Officer or Sub-Committee in the circumstances of any particular case and where permitted by legislation.

Officers will submit an annual summary report upon the exercise of their delegated powers via the Councils' Information Digest.

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Delegations to Head of Community Safety and Wellbeing

- 10.7 To exercise, in all cases, the powers in Sections 19 to 28 of the Criminal Justice and Police Act 2001. (Minute No. 407/2/10 refers).
- 10.8 To allow for the determination of suitable restrictions on the admission of children to the showing of a film under the Licensing Act 2003 where a request is made to classify a film, or to reclassify a film previously classified by the British Board of Film Classification. Where the Officer is not minded to determine, to refer to the Licensing Sub-Committee for a hearing to determine a suitable age restriction. (Minute No. 258/1/17 refers).

Community Safety and Wellbeing Managers

Executive Functions

- 11.1 In accordance, where appropriate, with Council policy to serve or issue any statutory notice or direction and to take subsequent steps to achieve the purpose of the notice, issue any caution, determine applications for and grant, exercise the powers conferred by, make arrangements for, instruct or appoint appropriate persons, take any action considered necessary, detain, examine or seize, institute proceedings, enter premises, enforce the provisions of, act as an inspector for, examine and test, register and maintain appropriate registers, vary licence conditions, recover the cost for action taken or award grants, discharge the functions and duties imposed on the Council, under any statute or regulation in respect of the following:-
- (a) the control of air pollution.
 - (b) the examination, testing and repair of drains, sewers, water closets, waste pipes and soil pipes, cesspools and septic tanks.
 - (c) connection of a house to a public sewer by agreement with the owner and to recover the costs with interest over a mutually agreed period or the making of a maturity loan to a person to enable him to effect such works.
 - (d) infectious diseases and the prevention of the spread of infection.
 - (e) control of noise on construction sites.
 - (f) removal of obstructions from private sewers.
 - (g) remedy stopped up drains.
 - (h) reduction of emission of dust arising from building or demolition operations.
 - (i) prevention of damage by pests.
 - (j) shops and Sunday trading.
 - (k) burning of crop residues.
 - (l) defective drains believed to be prejudicial to health or a nuisance.

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Delegations to Community Safety and Wellbeing Managers

- (m) contaminated land.
- (n) abatement of statutory nuisances.
- (o) Sexual entertainment venues (Minute No. 333/1/11 refers).
- (p) The regulation of emissions from certain industrial processes falling within Schedule 1 of the Pollution Prevention and Control (England and Wales) Regulations 2000.

11.2 In accordance, where appropriate, with Council policy to determine any application for a licence or permit, agree terms, issue consent, attach conditions or state grounds for refusal, revocation or suspension, to register and maintain appropriate registers, to agree schemes, exercise the powers conferred by, take any action considered necessary, institute proceedings, enforce the provisions of, discharge the functions and duties imposed on the Council, under any statute or regulation in respect of the following:-

- (a) house-to-house collections.
- (b) street collections.

11.3 In accordance, where appropriate, with Council policy to serve or issue any statutory notice or direction and to take subsequent steps to achieve the purpose of the notice, issue any caution, determine applications for and grant, exercise the powers conferred by, make arrangements for, instruct or appoint appropriate persons, take any action considered necessary, detain, examine or seize, institute proceedings, enter premises, enforce the provisions of, act as an inspector for, examine and test, register and maintain appropriate registers, vary licence conditions, recover the cost for action taken or award grants, discharge the functions and duties imposed on the Council, under any statute or regulation in respect of the following:-

- (a) animals and animal establishments.
- (b) sanitary facilities at places of entertainment.
- (c) food safety and food information.
- (d) cosmetic piercing, semi permanent skin colouring, tattooing, acupuncture and electrolysis (Minute No. 415/2/05 refers).
- (e) hairdressers.

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Delegations to Community Safety and Wellbeing Managers

- 11.4 In accordance, where appropriate, with Council policy to determine any application for a licence or authorise, permit, agree terms, issue consent, attach conditions or state grounds for refusal, revocation or suspension, to register and maintain appropriate registers, to agree schemes, exercise the powers conferred by, take any action considered necessary, institute proceedings, enforce the provisions of, discharge the functions and duties imposed on the Council under any statute or regulation in respect of the following:-
- (a) track betting.
 - (b) gaming machines.
 - (c) theatre licences.
 - (d) lotteries and prize bingo.
 - (e) cinemas.
 - (f) street trading.
 - (g) hackney carriage vehicles.
 - (h) hackney carriage vehicle drivers.
 - (i) private hire operators.
 - (j) private hire vehicles.
 - (k) private hire vehicle drivers.
 - (l) mini-buses.
 - (m) sex shops and sex cinemas.
 - (n) sexual entertainment venues (Minute No. 333/1/11 refers).
 - (o) hypnotism and demonstrations of hypnotism
- 11.5 To exercise all functions under the Scrap Metal Dealers Act 2013 and any order or regulations made thereunder with the exception of:
- 1. Instituting, conducting, defending or settling any criminal proceedings (other than proceedings for a warrant for entry)
 - 2. Instituting, conducting, defending or settling any civil proceedings
 - 3. Setting the application fees under paragraph 6 (1) of schedule 1

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Delegations to Officers, Proper and Authorised Officers and Designated Posts Delegations to Community Safety and Wellbeing Managers

4. Refusing applications or revoking or varying a licence under section 4 in the event that the applicant or licensee has asked (within any deadline given) for the determination to be made by the Appeals Committee

- 11.6 To exercise all functions of the Council under and in connection with the Anti-Social Behaviour, Crime & Policing Act 2014, including any orders or regulations thereunder but excluding making Public Spaces Protection Orders. (Minute No. 117/09/14 (i) (a) refers).

- 11.7 To authorise necessary road closures and other related traffic alterations pursuant to the provisions of the Town Police Clauses Act 1847 and the Road Traffic Act 1984.

- 11.8 Where an excavation is accessible to the public from a highway or a place of public resort and is in his opinion a danger to the public by reason of it not being enclosed or being inadequately enclosed to:-
 - (a) serve notice on the owner or occupier of the land in question where known; and
 - (b) carry out such works as appear to be necessary to remove the danger (whether or not the owner or occupier of the land in question is known).

Powers Relating to Functions that can be Executive, Non-Executive, Incidental to Either or Administrative

- 11.9 In accordance, where appropriate, with Council policy to serve or issue any statutory notice or direction and to take subsequent steps to achieve the purpose of the notice, issue any caution, determine applications for and grant, exercise the powers conferred by, make arrangements for, instruct or appoint appropriate persons, take any action considered necessary, detain, examine or seize, institute proceedings, enter premises, enforce the provisions of, act as an inspector for, examine and test, register and maintain appropriate registers, vary licence conditions, recover the cost for action taken or award grants, set and vary conditions, determine any application for a licence, attach conditions or state grounds of refusal, discharge the functions and duties imposed on the Council, under any statute or regulation in respect of the following:-
 - (a) protection of members of the public from the risk of danger or prejudicial to health or to abate a nuisance.
 - (b) securing certain empty properties
 - (c) health and safety at work.

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Delegations to Community Safety and Wellbeing Managers

- (d) Functions relating to the Health Act 2006 and Smoke-Free Regulations.
- (e) Pavement Licencing

Head of Culture

Executive Functions

- 12.1 In accordance, where appropriate, with Council policy to manage, allocate or hire, approve, negotiate, enable, grant, deal, make arrangements for, adopt or enter agreements, register and maintain appropriate registers under any statute or regulation in respect of the following services and facilities:-
- (a) contractor function of the Council in relation to the Stour Centre, Julie Rose Memorial Athletics Stadium and grounds maintenance.
 - (b) sports pitches and other facilities (including the approval of the loan or hire of equipment).
 - (c) community centres and the client side of the Stour Leisure Centre and Tenterden Leisure Centre contracts.
 - (d) grants to voluntary organisations and funds for minor works projects to Village Halls.
 - (e) agreements to secure grant aid, sponsorship or donations in support of leisure facilities and services.
 - (f) sports, arts and recreational development services.
 - (g) parks, public open space, recreational land and grounds, play areas and conservation sites or other leisure facility pursuant to the provisions of Planning Obligations.
 - (h) administration of the Single Grants Gateway.
 - (i) Tourism, Twinning and Heritage Services.
 - (j) Child Protection and Safeguarding.
 - (k) Youth Facilities and Services.
- 12.2 Crime and Disorder Act 1998 insofar as it involves the work of the Ashford Local Responsible Authority and compliance by the Council in relation to its duties under the Act (Sect 17).

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Delegations to Head of Culture

- 12.3 To serve any Notice under Section 25 of the Land Drainage Act 1991 and to take such steps subsequent to the service of such a Notice as are necessary to achieve the purpose of the Notice.
- 12.4 To carry out any site investigation where he considers it necessary whether upon the commencement of negotiations for acquisition or otherwise.
- 12.5 To apply for planning permission for the development of any land or property and to make any other application under planning legislation.
- Note: The Head of Corporate Property and Projects also has the delegations 12.3 to 12.5.**

Non-Executive Functions

- 12.6 In accordance, where appropriate, with Council policy to manage, allocate or hire, approve, negotiate, enable, grant, deal, make arrangements for, adopt or enter agreements, register and maintain appropriate registers under any statute or regulation in respect of the following services and facilities:-
- (a) Public Footpaths for which the Council is responsible including the erection of signposts and signs, stile kits and the laying of sleepers.
- 12.7 To approve footpath and bridleway extinguishment Orders submitted by the Kent County Council.
- 12.8 To confirm any footpath or bridleway Stopping-Up, Diversion or Creation Order and to take consequent actions as required in order to enable development to be carried out in accordance with any planning permission where any such Order has been unopposed.
- NB: Pursuant to an agreement with the Kent County Council Orders for the Stopping-Up, Diversion or Creation of Footpaths under the Highways Acts are to be made by that Authority.**
Note: 12.8 and 12.9 (Minute No. 297/2/16).

Powers Relating to Functions that can be Executive, Non-Executive, Incidental to Either or Administrative

Nil

Head of Corporate Property and Projects

Executive Functions

- 13.1 To serve any Notice under Section 25 of the Land Drainage Act 1991 and to take such steps subsequent to the service of such a Notice as are necessary to achieve the purpose of the Notice.
- 13.2 To carry out any site investigation where he considers it necessary whether upon the commencement of negotiations for acquisition or otherwise. **Note: Head of Culture has similar delegation.**
- 13.3 To apply for planning permission for the development of any land or property and to make any other application under planning legislation. **Note: Head of Culture has similar delegation.**
- 13.4 To apply for planning permission for the development of any land or property and to make any other application under planning legislation in connection with the Council's housing programme. **Note: Head of Housing has similar delegation.**
- 13.5 To authorise the grant of easements over Council land at market value or other value as deemed appropriate where there is a community benefit, and the grant is authorised by the General Disposal Consents under the Local Government Act 1972 in force at the time. **Note: Head of Housing has similar delegation.**
- 13.6 To approve any letting of property for a period of up to seven years at market rent to which statutory security of tenure will not apply. **Note: Head of Housing has similar delegation.**
- 13.7 To retain agents to advise upon terms for sales, leases, purchases, easements, compensation claims and similar matters or otherwise in connection therewith. **Note: Head of Housing has similar delegation**
- 13.8 To exercise all functions of the Council as landlord of commercial property.
- 13.9 To enter into any other land transaction in accordance with the Property Acquisition Investment and Disposal Strategy or where the principle of the transaction has been separately approved by the Council or the **Cabinet**.

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Delegations to Head of Corporate Property and Projects

- 13.10 To negotiate the terms of new leases and (subject to consultation with the Leader, **Cabinet Member** , Head of Finance and the Head of Legal and Democracy for leases over £100,000 over a four year period) to authorise completion of such new leases.
- 13.11 To negotiate the terms of, and accept, early surrenders of leases.
- 13.12 To negotiate and agree rent payable on rent reviews of existing leases.
- 13.13 To grant yearly licences for pedestrian and vehicular access to private property over Council owned land.
Note: Head of Housing has similar delegation.
- 13.14 To authorise the grant of wayleaves to other statutory undertakers where Council-owned land is affected.
- 13.15 To negotiate the terms of, and authorise the granting of, landlords licences and consents and variations under existing leases.
- 13.16 To negotiate the terms of, and authorise, releases of restrictive covenants affecting non-Council owned land where the Council has a right to enforce the covenant.
- 13.17 To dispose of any small plot of land (up to an area of approximately 0.2 hectares) at market value upon the advice of a suitably qualified valuer and upon such terms and conditions as he considers appropriate. **Note: Head of Housing has similar delegation.**
- 13.18 To carry out any site investigation where he considers it necessary whether upon the commencement of negotiations for acquisition or otherwise.
- 13.19 To prepare, publish (including publication on the Council's website) and maintain the Council's Contracts Register which will include details of the time frames when Expressions of Interest may be submitted in relation to a service covered by a Council contract. (Minute No. 392 (xiii)/04/14 refers).
- 13.20 To make Public Spaces Protection Orders.
Note: Director of Place and Space and Head of Housing has similar delegation (Minute No. 117/09/14 (i) (c) refers).
- 13.21 To transfer garage sites from the General Fund back to the HRA, in respect of those sites approved by **Cabinet** for development. Minute No. 343/02/15 refers.
Note: Head of Finance and IT has similar delegation.

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Delegations to Head of Corporate Property and Projects

Non-Executive Functions

Nil

Powers Relating To Functions That Can Be Executive, Non-Executive, Incidental To Either Or Administrative

Nil

Head of Housing

Executive Functions

- 14.1 In accordance, where appropriate, with Council policy or Code of Practice, to grant or refuse, or otherwise, determine applications or to apply, approve or to approve revisions to, make, register and maintain appropriate registers, to admit or delete an applicant, to accept, authorise, issue, allocate, settle, exercise, let, offer, execute or decide not to enforce, send or to dispose under any statute or regulation in respect of the following:-
- (a) the Housing Register and to determine all applications for admittance to the Register; and to approve the allocation of any tenancy in accordance with the Housing Allocation Points Scheme.
 - (b) to admit or delete an applicant to/from the Housing Register.
 - (c) special cases on an exceptional basis under Part VI (Allocations) of the Housing Act 1996.
 - (d) urgent and unavoidable repairs to Council dwellings where the costs exceed £2,000.
 - (e) Notice of Seeking Possession or authorisation of Injunction proceedings in respect of a dwelling let under a secure tenancy.
 - (f) Notice to Quit in respect of any property (including garages).
 - (g) to authorise proceedings to obtain an Order for Possession of any property and to arrange for representation of the Council at any County Court hearing for such an Order in respect of rent arrears only by a Housing Officer approved for that purpose by the Head of Legal and Democracy.
 - (h) to apply for and authorise the execution of “non-suspended” Possession Orders where the tenant(s) have failed to comply with the terms thereof.
 - (i) to determine Homeless Applications under Part VII of the Housing Act 1996 (as amended by Homelessness Act 2002).
 - (j) use of temporary housing accommodation for the homeless.

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Delegations to Head of Housing

- (k) warrant for distress for any amount of outstanding rent subject to all other means of collection having been exhausted.
- (l) payments to the Council's Bailiff from rent collected on the authority of a warrant for distress.
- (m) permanent housing to families falling within the priority groups of homelessness who have previously been in temporary accommodation provided by the Council.
- (n) housing for "Key Workers".
- (o) to settle any claims for compensation or reimbursement of expense made by tenants subject to the claimant's right to appeal to the Appeals Committee against the decision.
- (p) applications for re-housing.
- (q) determine applications from tenants for a transfer where such a request is necessary even where arrears of rent are owed to the Council provided the applicant is making reasonable and regular payments towards clearing the arrears.
- (r) to allow tenants to transfer to suitable accommodation where they owe money to the Council, other than rent.
- (s) allocation of a tenancy when necessary by reason of orders made or undertakings accepted.
- (t) secure Tenant Rights to Repair Scheme.
- (u) to make offers of shared ownership schemes.
- (v) to settle compensation in respect of the replacement of central heating provided by the tenant.
- (w) to determine the future of individual garage sites in the ownership of the HRA.
- (x) to let Sheltered Housing units to applicants over the age of 50.
- (y) acceptance of lowest tender or quotation for the execution of any works whose cost is to be met by the Council's insurers,

subject to the insurers having previously authorised the acceptance of the tender or quotation concerned.

- (z) where Bed and Breakfast accommodation has to be used as a temporary measure for a family that has become homeless through no fault of its own, to levy a charge in accordance with Council policy.
- (aa) to decide not to enforce the minimum 12 month rental period in respect of dispersed alarm systems where circumstances would make this unreasonable and to make refunds of quarterly rental paid in advance on termination of an agreement by the hirer where in view of the circumstances this would be reasonable and to install communication alarm systems without requiring quarterly pre-payment in appropriate cases.
- (bb) to offer available mobility accommodation when an applicant's need for such accommodation is both well supported and documented.
- (cc) to convert or combine properties where either a particular size or type of property is required or where the property cannot be let without such a conversion eg bedsits.
- (dd) disposal of unviable property.
- (ee) management of the Chilmington Caravan Site, Great Chart and to authorise any legal proceedings in respect of that site as necessary.
- (ff) to dispose of furniture and effects left behind by tenants following repossession of their property to the best advantage of the Council upon the expiry of the time specified in the appropriate Notice.
- (gg) provision of separate service pipe to an existing house of a type suitable for improvement and served by a shared water service pipe where it is considered necessary or desirable.
- (hh) restoration of water, gas or electricity supplies.

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Delegations to Head of Housing

- (ii) to recommend that uncollectable Housing Benefit overpayments be written off to the Housing Revenue Account to be recovered in instalments through the Integrated Housing System, with instalments recovered being credited to the Housing Revenue System.
 - (jj) To issue notices and Civil Penalties under the Housing Act 2004 (as amended by the Housing and Planning Act 2016) and to take all necessary steps under legislation, including deciding on the level of penalty and dealing with representations.
- 14.2 To exercise any of the Council's duties and powers under the relevant statutory provisions in connection with improving the standard of the private sector housing stock in the Borough, including individual dwellings and houses in multiple occupation (HMOs). This includes:
 - (a) To undertake the administration and management of mandatory disabled facilities grants.
 - (b) To undertake the administration and management of "housing assistance" (as defined).
 - (c) To enter into nomination agreements ancillary to the provision of "housing assistance" to landlords.
 - (d) To enter into partnership agreements with third parties for the supply of goods and services in connection with mandatory disabled facilities grants and "housing assistance".
 - (e) To promote energy efficiency in domestic premises and report to Central Government as required on progress.
 - (f) To issue licences for moveable dwellings and camping sites and to enforce the license conditions imposed.
 - (g) To provide such statistical data as required from time to time on relevant activities related to the Private Sector Housing function.
 - (h) To deal with unauthorised traveller/gypsy encampments on Council owned land.
 - (i) To approve or reject applications for HMO licences, to vary or revoke HMO licences, and to apply such conditions as are

deemed appropriate to HMO licences. Also to take any appropriate action to enforce license conditions and other relevant matters.

- (j) To serve notices etc., and to take any necessary subsequent action, under the relevant statutory provisions (together with any relevant Statutory Instruments, Orders, or Rules made there-under) as listed.
- 14.3 To apply for planning permission for the development of any land or property and to make any other application under planning legislation in connection with the Council's housing programme.
Note: Head of Corporate Property and Projects has similar delegation.
- 14.4 To accept any tender for works in the approved Housing Maintenance Programme provided that:
- (a) the tender represents good value for money;
 - (b) sufficient savings have been made elsewhere in the Programme of Works to meet the additional cost.
- 14.5 To negotiate continuation contracts for works of a very similar nature and to the extent necessary for this delegation, Contract Procedure Rule 3.2 to be waived.
- 14.6 To investigate and enter into industry standard forms of contract for works of an on-going maintenance nature, subject to the requirements of Contract Procedure Rule 7.1.
- 14.7 To determine any application for permission where required under any mortgage to the making by the mortgagers of any alteration to the property.
- 14.8 To support non-RSL preferred partners as notified by the Housing Corporation on sites where the non-RSL partner would be developing the affordable housing units. (Minute No. 238/9/05).
- 14.9 After consulting with the Head of Finance and IT, the Head of Housing to determine whether to purchase a property, subject to the availability of sufficient funding and within the relevant annual financial limit most recently approved by the **Cabinet** (i.e. £5 million for 2019/20, and £15 million for 2020/21 – 2024/25 inclusive) and to consideration of the Housing Revenue Account Business Plan and the impact upon the Council's Right to Buy pooling liability. If the relevant annual financial limit approved by the Cabinet would be

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Delegations to Head of Housing

exceeded by a proposed purchase, this delegation shall still apply but the Head of Housing shall further consult with **Cabinet Members** for Housing and Finance and IT before making the determination (Minute No. 179/10/19 refers).

- 14.10 In consultation with the Head of Finance and IT and the **Cabinet Member** for Housing, to bid for and/or purchase land suitable for housing development, up to a value of £5 million, subject to the availability of sufficient funding (Minute No 179(vii)/10/19 refers).
- 14.11 In terms of the Discretionary Loans Policy for Major Works service charges, the Head of Housing, in consultation with the Head of Finance and IT and the Head of Legal and Democracy, be authorised to offer any one, or a combination of loans/measures to fit the personal circumstances of the leaseholder as set out in the Policy and subject to its terms and conditions.
- 14.12 To authorise the grant of easements over Council land at market value or other value as deemed appropriate where there is a community benefit, and the grant is authorised by the General Disposal Consents under the Local Government Act 1972 in force at the time.
Note: Head of Corporate Property and Projects has similar delegation.
- 14.13 To approve any letting of property for a period of up to three years at market rent, or other rent as deemed appropriate where there is a community benefit.
- 14.14 To approve any letting of property for a period of up to seven years at market rent to which statutory security of tenure will not apply.
Note: Head of Corporate Property and Projects has similar delegation.
- 14.15 To retain agents to advise upon terms for sales, leases, purchases, easements, compensation claims and similar matters or otherwise in connection therewith.
Note: Head of Corporate Property and Projects has similar delegation.
- 14.16 To grant yearly licences for pedestrian and vehicular access to private property over Council owned land.
Note: Head of Corporate Property and Projects has similar delegation.
- 14.17 To dispose of any small plot of land (up to an area of approximately 0.2 hectares) at market value upon the advice of a suitably qualified

valuer and upon such terms and conditions as he considers appropriate.

Note: Head of Corporate Property and Projects has similar delegation.

- 14.18 To exercise all functions of the Council under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014.
- 14.19 To exercise all functions of the Council under and in connection with the Caravan Sites and Control of Development Act 1960, Caravan Sites Act 1968, the Mobile Homes Act 2013 and any orders or regulations made thereunder. (Minute No. 123/09/14(ii) refers).
- 14.20 To authorise injunction proceedings under Section 2(1)(b) or (c) of the Anti-Social Behaviour, Crime and Policing Act 2014. (Minute No. 117/09/14 (i)(b) refers).
- 14.21 To make Public Spaces Protection Orders.
Note: Director of Place and Space and Head of Corporate Property and Projects has similar delegation. (Minute No. 117/09/14 (i)(c) refers).
- 14.22 To vary and release (in whole or in part) covenants under section 609 of the Housing Act 1985.

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Delegations to Director of Place and Space

Director of Place and Space

To exercise all of the delegations to the Head of Planning and Development, Head of Culture, and Head of Environment and Land Management. Note: The following temporary arrangements are in place for the time being – the Head of Environment and Land Management reports to the Director of Finance and Economy and the Head of Culture reports to the Chief Executive.

Executive Functions

- 15.1 To make Public Space Protection Orders. **Note: Head of Housing and Head of Corporate Property and Projects have similar delegation (Minute No. 117/09/14).**

Non-Executive Functions

Nil

Powers Relating to Functions that can be Executive, Non-Executive, Incidental to Either or Administrative

Nil

Head of Planning and Development

To exercise all of the delegations to the Team Leader Building Control, Business Manager and Spatial Planning Manger.

To exercise during the vacancy in the post of Strategic Development and Delivery Manager all of the delegations to that post-holder.

Executive Functions

- 16.1 To exercise all functions of the Council in relation to neighbourhood planning under the Town and Country Planning Act 1990 (as amended), the Planning and Compulsory Purchase Act 2004 (as amended), and any regulations made under either, save for
- (i) deciding whether or not to make a development order, which shall be a decision of the **Cabinet** ;
 - (ii) deciding whether or not to make a development plan following a referendum, which shall be a decision of the Full Council, and
 - (iii) matters related to referendums where they are the responsibility of the Proper Officer.
- 16.2 To exercise all functions of the Council under the Conservation of Habitats and Species Regulations 2010 (as amended), the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended) and section 19(5) of the Planning and Compulsory Purchase Act 2004 (as amended).
- 16.3 To exercise the functions of the local planning authority in relation to proposals for preservation and enhancement of conservation areas. (Minute No. 297/2/16).
- 16.4 In consultation with the **Cabinet Member** for Planning and Development, to increase planning fees in line with statutory fee increases.
(Minute No. 215(i)/11/17 refers).

Non-Executive Functions

Nil

Powers Relating to Functions that can be Executive, Non-Executive, Incidental to Either or Administrative

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Delegations to Head of Planning and Development

Spatial Planning Manager

Executive Functions

- 17.1 In consultation with the **Cabinet Member** for Planning and Development, to update and publish the Policies Map to reflect the adoption of the Ashford Local Plan 2030 and any other relevant matters that in his opinion should be shown on it.
- 17.2 In consultation with the **Cabinet Member** for Planning and Development to amend, where relevant, a village envelope boundary to account for the construction of new development that has taken place.

Non Executive Functions

Nil

Powers relating to Functions that can be Executive, Non Executive, Incidental to either or Administrative

Nil

Strategic Development and Delivery Manager/Development Management Manager^a

Executive Functions

Nil

Non-Executive Functions

- 18.1 To determine applications for lawful use or development certificates save that the **Cabinet Member** may request in writing that the determination of an application be elevated to the Planning Committee. In this event the delegation to the Strategic Development and Delivery Manager/Development Management Manager to determine the application shall be suspended in relation to that application, unless the Cabinet Member revokes his request in writing.
- 18.2 The determination of all applications and/or notifications (including applications for non material amendments and the discharge of conditions*) made under the Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), the Planning and Compulsory Purchase Act 2004 (as amended) or any Orders or Regulations made thereunder with the exception of:-
- (a) applications for planning permission for the provision of dwellinghouses where:
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectare or more and it is not known whether the development falls within paragraph (a) (i).
 - (b) applications for planning permission for the provision of a building or buildings of 1000 sq metres floor space or more where the proposed use of that building or one of them is for retail or hotel purposes.
 - (c) applications for planning permission for the provision of a building or buildings of 1000 sq metres floor space or more for commercial / employment use where it is proposed to refuse the application.

^a During the vacancy in this post, this post holder's delegations can be exercised by the Head of Planning & Development.

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- (d) applications for planning permission for the provision of a building or buildings of 1000 sq metres floor space or more where:
 - (i) the proposed use of that building or one of them is for any commercial/employment purpose other than retail or hotel,
 - (ii) it is proposed to approve the application, but
 - (iii) 6 or more of the Planning Committee Members have requested that the determination of the application should be elevated to the Planning Committee in accordance with the procedure in note (iv) below.
- (e) applications for planning permission for the provision of a building or buildings where the floor space to be created by the development is 10,000 sq metres or more.
- (f) applications submitted by or on behalf of a Member of the Council or member of staff or his or her partner.
- (g) applications which, in the opinion of the Strategic Development and Delivery Manager/Development Management Manager, are sensitive and should be determined by the Planning Committee.
- (h) applications submitted, promoted or sponsored by or on behalf of the Borough Council.
- (i) applications for reserved matters approval for the appearance, layout and scale of building(s) or dwellings referred to in paragraphs (a) to (e) where 6 or more of the Planning Committee Members have requested that the determination of the application should be elevated to the Planning Committee in accordance with the procedure in note (iv) below.

The exceptions listed above shall not include applications for non material amendments to permissions or consents and all applications to discharge conditions imposed on any permission or consent (see paragraph 18.2A below)*.

18.2A To determine all applications for non-material amendments to permissions or consents and all applications to discharge conditions

imposed on any permission or consent made under the Town and Country Planning Act 1990 (as amended), the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), the Planning and Compulsory Purchase Act 2004 or any Orders or Regulations made thereunder. (*Minute No. 476/5/11 refers).

- NB: (i) In parished areas, if the Parish Council and the Ward Member together or the Ward Member acting alone consider that the application raises issues of significant local importance they or he/she may request in writing that determination of an application be elevated to the Planning Committee. If a Ward Member is aware he will be unable to make such requests (e.g. due to planned long-term absence), he may lodge with the Proper Officer authorisation for another Member to make such requests during the Ward Member's absence. In this event the delegation to the Strategic Development and Delivery Manager/Development Management Manager to determine the application be suspended in relation to that application.**
- (ii) In unparished areas, if the Ward Member considers the application raises issues of significant local importance he/she may request in writing that the determination of an application be elevated to the Planning Committee. If a Ward Member is aware he will be unable to make such requests (e.g. due to planned long-term absence), he may lodge with the Proper Officer authorisation for another Member to make such requests during the Ward Member's absence. In this event the delegation to the Strategic Development and Delivery Manager/Development Management Manager to determine the application be suspended in relation to that application. (Minute No. 123/7/05 refers).**
- (iii) Irrespective of the area, the Cabinet Member may request in writing that the determination of the application be elevated to the Planning Committee. In this event the delegation to the Strategic Development and Delivery Manager/Development Management Manager to determine the application shall be suspended in relation to that application unless the Cabinet Member revokes his request in writing.**
- (iv) The Strategic Development and Delivery Manager/Development Management Manager shall not exercise their authority to approve an application for the provision of a building or buildings of 1000 sq metres floor space or more where the proposed use of that building or one of them is for any**

**commercial/employment purpose other than retail or hotel
unless**

- (i) a delegated officer report on the application has been emailed to members of the Planning Committee, and**
- (ii) less than 6 members of the Planning Committee have requested by email that the determination of the application be elevated to the Planning Committee in accordance with the procedure below.**

A member of the Planning Committee may only make such a request if

- (i) he has first considered the delegated officer report on the application which has been emailed to him and**
- (ii) emailed his request to the Strategic Development and Delivery Manager/Development Management Manager by 5 pm on the third working day after the report was emailed to him (e.g. email sent on Monday – deadline for response 5 pm on the following Thursday).**

- 18.2B To make minor amendments or corrections (of a clerical, grammatical or editorial nature only) to the wording of conditions, obligations, reasons, informatives, etc.
- 18.3 To determine any request for approval or respond to any consultation submitted by the Concessionaires or Railtrack pursuant to the provisions of the Channel Tunnel Act 1987 where such request or consultation falls within the Terms of Reference of the Planning Committee and:
- (a) the application concerned attracts no objection as a result of neighbour/Parish Council or other consultation and
 - (b) is one which the Strategic Development and Delivery Manager/Development Management Manager considers should be approved and
 - (c) is one which the appropriate Ward Member has not asked to be referred to the Planning Committee for determination.
- 18.4 To determine any request or application for approval under Schedule 6 of the Channel Tunnel Rail Link Act 1990.

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Delegations to Strategic Development and Delivery Manager/Development
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- 18.5 To make all decisions pursuant to the Heritage Agreements entered into for the purpose of the Channel Tunnel Rail Link Act 1990, except in relation to the approval of sites for the relocation of listed buildings.
- 18.6 To make decisions or respond to consultations in relation to restoration schemes submitted for approval under the provisions of the Channel Tunnel Rail Link Act 1990.
- 18.7 To respond on the Council's behalf to consultations by the Kent County Council on any application or request for approval or other matter under the Channel Tunnel Rail Link Act 1990.
- 18.8 To agree any other scheme, plan or code submitted for approval under the Channel Tunnel Rail Link planning regime or to respond to consultations on the Council's behalf in respect thereof and to take any other action on the Council's behalf in relation to planning or heritage matters under the Channel Tunnel Rail Link Act 1990.
- 18.9 To exercise all functions of the Local Planning Authority:
- (a) under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 or 2017 (as amended);
 - (b) under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended);
 - (c) under the Hedgerow Regulations 1997 (as amended);
 - (d) under Part VII of the Town and Country Planning Act 1990 (as amended) and Chapter IV of the Planning (Listed Buildings and Conservation areas) Act 1990 (as amended). Save that the **Cabinet Member** may request in writing that the determination in respect of a particular matter (other than under section 191 or 192) be elevated to the Planning Committee. In this event the delegation to the Strategic Development and Delivery Manager/Development Management Manager to make the determination shall be suspended in relation to that matter unless the Cabinet Member revokes his request in writing;
 - (e) under Part VIII of the Town and Country Planning Act 1990 (as amended) and regulations made thereunder, except for confirming tree preservation orders where objections have been received and save that the **Cabinet Member** may

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request in writing that the determination in respect of a particular matter under Chapter II of Part VIII be elevated to the Planning Committee. In this event the delegation to the Strategic Development and Delivery Manager/Development Management Manager to make the determination shall be suspended in relation to that matter, unless the Cabinet Member revokes his request in writing;

- (f) under Part 8 of the Planning Act 2008;
 - (g) under Part 8 of the Anti-social Behaviour Act 2003 (as amended). Any cases considered to be exceptional be referred to the Planning Committee for decision;
 - (h) under the Conservation of Habitats and Species Regulations 2010 (as amended) as they apply to planning permissions;
 - (i) in respect of heritage partnership agreements, listed building consent orders, repairs notices and the execution of urgent works and the recovery of those costs under the Planning (Listed Buildings and Conservation Areas) Act 1990 and any regulations made thereunder;
 - (j) in connection with any appeals.
 - (k) under the Planning (Hazardous Substances) Act 1990 and regulations made thereunder (Minute No. 297/2/16).
 - (l) under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 18.10 To respond to any application for a Goods Vehicle Operators' Licence.
- 18.11 To decline to determine applications and to dispose of applications undetermined under all available powers.
- 18.12 To take all such emergency action as in his opinion may be required to deal with any dangerous tree.
- 18.13 To respond to consultation or notifications by the Forestry Authority.
- 18.14 Subject to the **Cabinet Member** not having requested in writing that the response be made by the Planning Committee (where there is sufficient time at the time of the request), and unless in the opinion of the Strategic Development and Delivery Manager the

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Delegations to Strategic Development and Delivery Manager/Development
Management Manager

response should be made by the Planning Committee, to respond on the Council's behalf to:

- (i) Kent County Council on any consultation made under the Town and Country Planning (Development Management Procedure) (England) Order 2015 and directions made thereunder, and
- (ii) All other consultations of a planning nature, including those relating to planning applications and listed building consent applications in neighbouring authorities and those arising under the Planning Act 2008 (as amended) (for example national policy statements and applications for development consent orders for NSIPs).

Note: In handling the Council's involvement in applications for Nationally Significant Infrastructure Projects (NSIP), the Strategic Development and Delivery Manager would liaise closely with the Cabinet Member, who would be kept fully advised of the consultations to which the Council is expected to respond.

- 18.15 To determine all applications for certificates of appropriate alternative development under the Land Compensation Act 1961.
- 18.16 To enter into and otherwise approve planning obligations under section 106 of the Town and Country Planning Act 1990 and to vary or relax or discharge planning obligations and agreements under section 52 of the Town and Country Planning Act 1971. To exercise all powers in connection with and under any planning obligations.
- 18.17 To serve notices to obtain information as to activities on land pursuant to Section 171C and interests in land pursuant to Section 330 of the Town and Country Planning Act 1990 and to obtain particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- 18.18 In the event the Planning Committee resolves to grant any application subject to a planning obligation and within 3 months of the resolution either no obligation is entered into or none which is acceptable to the Strategic Development and Delivery Manager/Development Management Manager (in consultation with the Head of Legal and Democracy), to refuse the application for lack of the obligation.

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Delegations to Strategic Development and Delivery Manager/Development
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18.19 In consultation with the Head of Legal and Democracy, the negotiation of and agreement to the detailed terms under which the Total Contribution, Initial Contribution and Deferred Contribution are to be paid for each development where the Principles for the payment of Deferred Contributions, the taking of security and the pooling of receipts are applied, to be reflected in the wording of the Section 106 Agreement for any such development (Minute No. 410/02/09 refers).

18.20 The allocation of any amounts received by way of Initial Contribution and Deferred Contribution in respect of each development to which the Principles under 18.19 above are applied.

**Powers Relating to Functions that can be Executive,
Non-Executive, Incidental to Either or Administrative**

Nil

Building Control Team Leader

Executive Functions

- 19.1 To determine Building Control Charges.
- 19.2 To exercise all functions of the Council under the Self-Build and Custom Housebuilding Act 2015 and regulations made thereunder (Minute No. 297/2/16).

Non-Executive Functions

- 19.3 To determine any application for permission to erect a new building or an extension to an existing one over a public sewer.
- 19.4 To determine any application submitted pursuant to the provisions of the Building Regulations.
- 19.5 To accept or reject any notice or certificate served in accordance with Part II of the Building Act 1984.
- 19.6 To undertake general Building Surveying consultancy work utilising powers under The Local Government Act 2003.
- 19.7 The issue of any notice:-
- (a) to require removal or alteration of work not in conformity with the Building Regulations or executed notwithstanding rejection of plans.
 - (b) under the Building Regulations.
 - (c) requiring deposit of plans to be of no effect after a certain interval.
 - (d) providing for cancellation of initial notice after a certain interval.

Powers Relating to Functions that can be Executive, Non-Executive, Incidental to Either or Administrative

- 19.8 In accordance, where appropriate, with Council policy to serve or issue any statutory notice and to take subsequent steps to achieve

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Delegations to Building Control Team Leader

the purpose of the notice, issue any caution, take any action considered necessary, to enforce the provisions of any statute or regulation in respect of the following:-

- (a) Control of demolitions.
- (b) Raising of chimneys.
- (c) Means of escape from fire from specified unsafe buildings.

19.9 To take such action pursuant to the provisions of Section 76 or 77 of the Building Act 1984 as he considers necessary in order to deal with any defective premises or dangerous structure.

19.10 To exercise any of the powers conferred by Section 78 of the Building Act 1984 (making safe dangerous buildings).

Business Manager

Executive Functions

- 20.1 To exercise the powers, duties and functions of the Council under the Local Land Charges Act 1975 and any Orders or Regulations made thereunder.
- 20.2 To exercise the powers and duties of the Council relating to street naming and numbering.
- 20.3 To determine Land Search fees in consultation with the Corporate Director (Place and Space) and the Head of Finance and IT (Minute No. 496/3/09 refers).

Non-Executive Functions

Nil

Powers Relating to Functions that can be Executive, Non-Executive, Incidental to Either or Administrative

Nil

Head of Environment and Land Management

Executive Functions

- 21.1 To exercise all of the Council's functions in relation to:-
- (a) Waste (including litter)
 - (b) Dogs (including stray dogs and dog fouling)
 - (c) Abandoned shopping and luggage trolleys
 - (d) Allotments
 - (e) Public conveniences
 - (f) Burials, cremations, cemeteries and crematoria and such closed burial grounds that are now, or subsequently become, the responsibility of the Council
 - (g) The maintenance of trees, parks, open spaces, gardens, recreation grounds and play areas.
 - (h) The procurement of pest control services
- 21.2 To set fees and charges as necessary for external work provided by Aspire.

Non-Executive Functions

- 21.3 In consultation with the **Cabinet Member** to apply discretion where applications are made for interments from families of previous residents of the Borough (Minute No 221/11/19 refers).
- 21.4 To approve footpath and bridleway extinguishment Orders submitted by the Kent County Council.
- 21.5 To confirm any footpath or bridleway Stopping-Up, Diversion or Creation Order and to take consequent actions as required in order to enable development to be carried out in accordance with any planning permission where any such Order has been unopposed.

NB. Pursuant to an agreement with the Kent County Council Orders for the Stopping-Up, Diversion or Creation of Footpaths under the Highways Acts are to be made by that Authority.

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Delegations to Head of Environment and Land Management

- 21.6 To approve spend from Repairs and Renewals Reserve for operational equipment at Aspire (Minute No. 188(a) 10/19 refers)

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Delegations to Officers, Proper and Authorised Officers and Designated Posts
Delegations to Head of Corporate Policy, Economic Development and
Communications

Director of Finance and Economy

To exercise all of the delegations to the Head of Finance and IT, Head of Housing, Head of Corporate Property & Projects and Revenues and Benefits Manager.

Executive Functions

- 22.1 To exercise appropriate delegations as necessary within the Council's Financial Procedure Rules, the Budgetary and Policy Framework Procedure Rules, and the Council's Treasury Management Policy.
- 22.2 To undertake accounting and other associated work on a chargeable basis where appropriate, for other public bodies as defined in the Local Authority (Goods and Services) Act 1970 or pursuant to arrangements under the Local Government Act 1972.
- 22.3 Any applications considered worthy of remission or relief, but which do not accord with the above guidelines, shall be submitted to the Executive for determination.
- 22.4 To use such method of financing for the Council's future capital programme as he considers appropriate.
- 22.5 Subject to prior agreement in principle by the **Cabinet** and/or the Council to determine appropriate arrangements for any loan to a third party.
- 22.6 To agree the Council's Business Rate estimate for submission to Government (in consultation with the relevant **Cabinet Member**) when circumstances do not allow a report to be submitted to a scheduled Cabinet Meeting.
- 22.7 In consultation with the Head of Finance and IT, to grant a discretionary discount of 50% for long term empty properties in exceptional cases where the removal of a discount can be demonstrated by the occupier to cause hardship.

Non-Executive Functions

Nil

Powers Relating to Functions that can be Executive, Non-Executive, Incidental to Either or Administrative

Nil

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Delegations to Director of Finance and Economy

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Delegations to Head of Corporate Policy, Economic Development and
Communications

Head of Corporate Policy, Economic Development and Communications

Executive Functions

Nil.

Non-Executive Functions

Nil.

Powers Relating to Functions that can be Executive, Non- Executive, Incidental to either or Administrative

Nil.

Proper and Authorised Officers and Designated Posts

A Proper Officer Provisions

1. Pre-Local Government Act 1972 Enactments

The Corporate Director (Law and Governance) be appointed Proper Officer in relation to any reference in any enactment passed before or during the same session as the Local Government Act 1972 or in any instrument made before the 26th October 1972 or in any such local statutory provision to the Clerk of the Council which, by virtue of any provision in the 1972 Act, is to be taken as a reference to the Proper Officer of the Council, save as hereinafter provided.

2. Public Health Act 1936

Officer	Function	Provision
Community Safety and Wellbeing Managers	Service of Notice requiring remedial action where there are filthy and verminous premises, persons or articles	s.84 + 85(2)

3. Public Health Act 1961

Officer	Function	Provision
Community Safety and Wellbeing Managers	Control of any verminous article	s.37

4. Local Government Act 1972

The Officers listed below be designated as Proper Officers in relation to the functions mentioned:-

Officer	Function	Provision
Chief Executive	Parish Trustee	s.13(3)

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Proper and Authorised Officers and Designated Posts

Officer	Function	Provision
Chief Executive	Witness and receipt of Declaration and Acceptance of Office	s.83(1) to (4)
Chief Executive	Receipt of Resignation of Office	s.84(1)
Corporate Director (Law and Governance)	Convening meeting to fill casual vacancy in Office of Chair	s.88(2)
Electoral Services Manager	Receipt of notice of casual vacancy from Local Government electors	s.89(1)
Head of Legal and Democracy	Admission of public (including press) to meetings	s.100
Chief Executive, Director or appropriate Head of Service	Compilation of lists of background papers for reports in his/her name	s.100D
Head of Legal and Democracy	All purposes of s.100A-K of LGA 1972 save as mentioned above	s.100A-K
Corporate Director (Finance and Economy)	Receipt of money due from Officers	s.115(2)
Head of Legal and Democracy	Officers Interests in Contracts etc	s.117
Corporate Director (Finance and Economy)	Declarations and certificates with regard to transfer of securities	s.146(1)(a) & (b)
Corporate Director (Finance and Economy)	Responsibility for administration of the Council's financial affairs	s.151
Head of Legal and Democracy	Receipt of notices under Ordnance Survey Act 1841	s.191

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Proper and Authorised Officers and Designated Posts

Officer	Function	Provision
Head of Legal and Democracy	Vesting of powers under certain charities existing before 1 st April 1974	s.210
Head of Legal and Democracy	Deposit of certain documents	s.225
Corporate Director (Finance and Economy)	Accounts for inspection by any Member of the Council	s.228(3)
Head of Legal and Democracy	Certification of certain documents	s.229(5)
All Heads of Service designated by the Head of Legal and Democracy for documents they are authorised to give, make or issue	Authentication of documents	s.234
Head of Legal and Democracy	Remission of copy byelaws to Parish Councils etc.	s.236(9) & (10)
Head of Legal and Democracy	Authentication of copy byelaws	s.238
Head of Legal and Democracy	Custody of Roll of Freemen	s.248(2)
Head of Legal and Democracy	Summons to Council Meetings	Sch.12 para. 4(2)(b)
Head of Legal and Democracy	Receipt of notice about address to which summons to meeting is to be sent	Sch. 12 para 4(3)
Head of Legal and Democracy	Certification of copies of certain resolutions (Relating to Public Health Acts 1875-1925)	Sch.14 para.25(7)

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Proper and Authorised Officers and Designated Posts

5. **Local Government Act 1974**

Officer	Function	Provision
Head of Legal and Democracy	To give notice that copies of an Ombudsman's Report are available	s.30(5)

6. **Local Government (Miscellaneous Provisions) Act 1976**

Officer	Function	Provision
Head of Legal and Democracy	Certify copies of resolutions and Minutes of proceedings	s.41(1)

7. **Rent (Agricultural) Act 1976**

Officer	Function	Provision
Head of Housing	Determination of the standard of housing which may be offered by a farmer as alternative accommodation for his or her present employees when they cease to be employed by him or her	Sch 4

8. **Local Authority Cemeteries Order 1977**

Officer	Function	Provision
Head of Environment and Land Management	To sign exclusive rights of burial	Reg. 10

9. **Local Government Finance Act 1988**

Officer	Function	Provision
Corporate Director (Finance and Economy)	Compilation of reports on actual or contemplated unlawful expenditure or if the Authority's expenditure, including proposed expenditure, is likely to exceed its resources	s.114

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Proper and Authorised Officers and Designated Posts

10. **Local Government and Housing Act 1989**

Officer	Function	Provision
Head of Legal and Democracy	Receipt of the list of Politically Restricted Posts	s.2(4)
Chief Executive	Head of the Council's Paid Service	s.4
Corporate Director (Law and Governance)	Monitoring Officer	s.5
Head of Legal and Democracy	Political Balance on Committees and appointment of Members in accordance with Group Leaders' wishes (Local Government (Committees and Political Groups) Regulations 1990, as amended)	All provisions

11. **Local Authorities (Members Interests) Regulations 1992**

Officer	Function	Provision
Corporate Director (Law and Governance)	Receipt of notices and maintenance of Registers of Interests (Members)	s.194, s.194(1) so far as it amends paragraph 41 of Schedule 12 of the Local Government Act 1972

12. **Neighbourhood Planning (Referendums) Regulations 2012**

Officer	Function	Provision
Chief Executive	All proper officer functions under the regulations	Reg. 2 and s.270(3) Local Government Act 1972

List of Designated Posts Maintained Pursuant to Section 2(2)

Local Government and Housing Act 1989

(i) **Head of Paid Service**

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 Proper and Authorised Officers and Designated Posts

- Chief Executive T Kerly
- (ii) **Responsible Financial Officer**
- Corporate Director (Finance and Economy)..... B Lockwood
- (iii) **Deputy Responsible Financial Officer**
- Head of Finance and IT M Stevens
- (iv) **Monitoring Officer**
- Corporate Director (Law and Governance)..... T Mortimer
- (v) **Deputy Monitoring Officer**
- Principal Solicitor (Strategic Development)..... J Baker
- (vi) **Directors**
- Corporate Director (Law and Governance)..... T Mortimer
 Corporate Director (Place and Space)..... Vacant
 Corporate Director (Finance and Economy) B Lockwood
- (vii) **Heads of Service**
- Head of Housing S Williams
 Head of HR and Customer Services M Pecci
 Head of Community Safety and Wellbeing S Davison
 Head of Environment and Land Management T Butler
 Head of Corporate Property and Projects P McKenner
 Head of Culture..... C Fuller
 Head of Legal and Democracy Vacant
 Head of Finance and IT..... M Stevens
 Head of Planning and Development T Naylor
 Head of Corporate Policy, Economic Development
 and Communications L Ford
- (viii) **Political Assistants - Appointed in accordance with Section 9 of the Act.**
- No such appointments have been made.
- (ix) **Officers to whom powers are delegated (not included in the above):-**

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Proper and Authorised Officers and Designated Posts

Revenues and Benefits Manager
Support Manager
Senior Recovery Manager
Recovery Officer
Community Safety and Wellbeing Managers
Spatial Planning Manager
Strategic Development and Delivery Manager/Development
Management Manager
Team Leader Building Control
Business Manager

- (x) **Posts which have an annual equivalent rate of remuneration at or in excess of the specified amount or provide regular advice to the Council, the Executive or any of the Council's Committees, Sub-Committees or at meetings under Joint Arrangements or regularly speak on behalf of the Authority to journalists or broadcasters (and which are not included in the above).**

A list of such posts is maintained by Head of Legal and Democracy.

13. **Local Government Act 2000**

Officer	Function	Provision
Monitoring Officer	Proper Officer (as Monitoring Officer) for all purposes of this Act	All Sections

NB: Some Proper Officer functions are mentioned by reference to named Officers in the text of the Constitution. Other references do not identify an Officer. The list appended to this schedule identifies an Officer for each Proper Officer reference.

14. **Localism Act 2011**

Monitoring Officer appointed Proper Officer (as Monitoring Officer) for the purposes of receiving applications for dispensation pursuant to section 33(1) of the Localism Act 2011.

15. **Other Acts**

- (a) **Public Health (Control of Diseases) Act 1984**

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 Proper and Authorised Officers and Designated Posts

Proper Officer appointed in respect of the functions listed below:-

1. Dr. James Sedgwick (or deputy)
2. Dr Shaji Geevarghese

Function	Provision
Removal of Bodies	s.4 8
Authentication of Documents	s.5 9(a)

B Other Provisions

The Officers listed be designated as set out below in relation to the functions mentioned:-

Officer	Function	Provision
Chief Executive	Returning Officer for District, Parish and Community Council Elections	s.83 Representation of the People Act 1983
Chief Executive	Electoral Services Manager	s.8 Representation of the People Act 1983
Chief Executive	Petition Officer	s.6 Recall of MP's Act 2015 (by virtue of being the Returning Officer)
Electoral Services Manager (to Consult)	Power to assign Officers in relation to requisitions of the Electoral Services Manager	s.52 Representation of the People Act 1983
Returning Officer	Electoral Services Manager	s.52 Representation of the People Act 1983
Electoral Services Manager (to Consult)	All functions in relation to parishes and Parish Councils	All appropriate provisions

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Proper and Authorised Officers and Designated Posts

Officer	Function	Provision
Returning Officer	Power to dissolve small Parish Councils	s.10 Local Government Act 1972
Electoral Services Manager	Power to make Orders grouping parishes, dissolving groups and separating parishes from groups	s.9-12 Local Government Act 1972
Electoral Services Manager	Duty to provide assistance at European Parliamentary Elections	s.52 Representation of the People Act 1983
Electoral Services Manager	Duty to divide Parliamentary Constituency into Polling Districts	s.18A, 18B, and 18C Representation of the People Act 1983
Electoral Services Manager	Power to divide electoral divisions into polling districts at Local Government Elections	s.31 Representation of the People Act 1983
Electoral Services Manager	Powers in respect of holding elections	All appropriate provisions
Electoral Services Manager	Power to pay expenses publicly incurred by Electoral Services Manager	s.54 Representation of the People Act 1983
Returning Officer	Power to fill vacancies in the event of insufficient nominations at Parish Council Elections	s.39 Representation of the People Act 1983 and S.I 1986 No. 1080
Returning Officer	Duty to declare vacancy in office in certain cases	s.86 & 87 Local Government Act 1972

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 Proper and Authorised Officers and Designated Posts

Officer	Function	Provision
Returning Officer	Duty to give public notice of a casual vacancy:	
	Principal Council	s.87 & 89 Local Government Act 1972, as amended by the Local Government Act 1985
	Parish Council	s.87 Local Government Act 1972 Local Elections (Parishes and Communities) (England) Rules 2006
Returning Officer	Power to make temporary appointments to Parish Councils	s.39 Representation of the People Act 1983
Returning Officer	Power to determine fees and conditions for supply of copies of, or extracts from, election documents	All Elections Rules
Returning Officer	Power to submit proposals to the Secretary of State for an Order as to 'Election Pilots'	Sect 10 (Pilot Schemes for Local Elections in England and Wales) Representation of the People Act 2000
Electoral Services Manager	Retention of documents after an election and make available for public inspection	Rules 53 and 54 Local Elections (Principal Areas) (England and Wales) Rules 2006
Electoral Services Manager	Retention of documents after an election and make available for public inspection	Rules 53 and 54 Local Elections (Parishes and Communities) (England and Wales) Rules 2006

Delegations to Officers, Proper and Authorised Officers and Designated Posts
Proper and Authorised Officers and Designated Posts

Officer	Function	Provision
Electoral Services Manager	Receipt of request by 10 Local Government electors for the electoral area to hold an election to fill a casual vacancy in the office of Parish Councillor	Rule 5 Local Elections (Parishes and Communities) (England and Wales) Rules 2006
Electoral Services Manager	Deputy Returning Officer for District and Parish Elections	s83 Representation of the People Act 1983
Electoral Services Manager	Receipt of Election expenses, Declarations and Returns and the holding on deposit for public inspection	s.82 & 89 Representation of the People Act 1983
Head of Legal and Democracy	Proper Officer - arranging and notifying meetings to consider Section 114 Reports	s.116 Local Government Finance Act 1988
Corporate Director (Finance and Economy)	Person having responsibility for the administration of the financial affairs of the authority	s.112 Local Government Finance Act 1988
Head of Environment and Land Management	Proper Officer – Seizure of stray dogs	s.149 Environmental Protection Act 1990
Head of Environment and Land Management	Authorised Officer - control and operation of a shopping/luggage trolley collection and storage service	s.99 and Schedule 4 Environmental Protection Act 1990
Head of Community Safety and Wellbeing	Authorised Officer – authorised to appoint staff as Inspectors under the Act and to issue certificates of appointment	Schedule 2 Sunday Trading Act 1994.

Officer	Function	Provision
Head of Community Safety and Wellbeing	Appointed Person	Para 7 (8) of schedule 1 to the Scrap Metal Dealers Act 2013
Strategic Development and Delivery Manager/Development Management Manager	Authorised Officer – maintenance of Deposit Registers	Regulation 10 of the Hedgerow Regulations 1997
Head of Housing and Director of Place and Space	Authorised Officers – to make Public Spaces Protection Orders	Anti-Social Behaviour, Crime and Policing Act 2014

C General Provisions

1. Save as specified in Parts A and B above the Chief Executive, Directors and Heads of Service be appointed Proper Officers and Authorised Officers generally for the purposes of present and future enactments directly controlling or authorising the discharge of the functions of their respective services and directorates and each such Proper Officer or Authorised Officer be empowered to authorise suitably qualified staff to enter premises or land to take any action in accordance with the statutory functions associated with the duties and work of their respective services and directorates and to authorise staff for any other purposes.
2. In the event of any such designated Officer not being available to deal with matters for which he has been designated Proper Officer or Authorised Officer, the appropriate senior Officer graded at Management Grade be authorised to act as Proper Officer or Authorised Officer as appropriate or in the case of the Chief Executive, or the Corporate Director (Law and Governance).

Proper Officer/Monitoring Officer Roles

NB: Some Proper Officer functions are mentioned specifically by reference to the relevant Officer in the text of the Constitution and in the list below. Where the text refers to the ‘Proper Officer’ without identifying the relevant Officer, that Officer is identified in the list below.

Proper Officer	Nominee	Function	Articles of the Constitution
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Proper and Authorised Officers and Designated Posts

Head of Legal and Democracy	Member Services Manager (Operational)	Public availability for Executive decisions.	12.03
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Proper Officer	Nominee	Function	Council Procedure Rules
Head of Legal and Democracy	Member Services Manager (Operational)	Report re: allocation of politically balanced seats	1.2(iii)
Head of Legal and Democracy	Member Services Manager (Operational)	Receipt of questions from the public	2 (viii)
Head of Legal and Democracy	Member Services Manager (Operational)	Calling Extra Ordinary meetings	3.1
Head of Legal and Democracy	Member Services Manager (Operational)	Determination of date and time of Extra Ordinary meetings	3.1
Head of Legal and Democracy	Member Services Manager (Operational)	Public notice of meetings	4.4
Head of Legal and Democracy	Member Services Manager (Operational)	Determination of time and place of (Ordinary Meetings)	5
Head of Legal and Democracy	Member Services Manager (Operational)	Notice of and Summons to meetings	6
Head of Legal and Democracy	Member Services Manager (Operational)	Receipt of notice of Member questions	10

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Proper and Authorised Officers and Designated Posts

Officer	Function	Provision	
Head of Legal and Democracy	Member Services Manager (Operational)	Motions on Notice	11
Head of Legal and Democracy	Member Services Manager (Operational)	Receipt of Notice to rescind a decision made at a meeting of the Council held in the preceding 6 months	16.1
Head of Legal and Democracy	Member Services Manager (Operational)	Receipt of notice of written questions	10

Proper Officer	Nominee	Function	Access to Information Procedure Rules
Head of Legal and Democracy	Member Services Manager (Operational)	Supply of documents	6(c)
Officer making report		List of background papers	8.1
Officer making report		Exclusion of access to reports	11
Head of Legal and Democracy	Member Services Manager (Operational)	Publication of Forward Plan particulars	14.2
Head of Legal and Democracy	Member Services Manager (Operational)	Key decisions not in Forward Plan – informing relevant chair	15(b)
Head of Legal and Democracy	Member Services Manager (Operational)	Key decisions not in Forward Plan – availability of copies for public	15(c)
Head of Legal and Democracy	Member Services Manager (Operational)	Reports requested on key decision	17.1
Head of Legal and Democracy	Member Services Manager (Operational)	Record of Executive decisions taken with Officer(s) present	18

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Delegations to Officers, Proper and Authorised Officers and Designated Posts
Proper and Authorised Officers and Designated Posts

Proper Officer	Nominee	Function	Budget and Policy Framework Procedure Rules
Head of Legal and Democracy	Member Services Manager (Operational)	Service of copies of Cabinet budget and policies	2(b)
Head of Legal and Democracy	Member Services Manager (Operational)	Written notice of Leader's objection to Council decision on budget/policy	2(f)

Proper Officer	Nominee	Function	Executive Procedure Rules
Head of Legal and Democracy	Member Services Manager (Operational)	Notices/reports on delegation of Executive functions	1.4(b)
Head of Legal and Democracy	Member Services Manager (Operational)	Placing items on agenda at request of Leader and others (including the calling of meetings)	2.5

Proper Officer	Nominee	Function	Overview and Scrutiny Procedure Rules
Head of Legal and Democracy	Member Services Manager (Operational)	Convening Extra Ordinary meeting of Overview and Scrutiny Committee	4
Head of Legal and Democracy	Member Services Manager (Operational)	Inclusion of agenda items and Member request	8
Head of Legal and Democracy	Member Services Manager (Operational)	Receipt of recommendations to be put to the decision-taker	10(a)
Head of Legal and Democracy	Member Services Manager (Operational)	Calling Council meetings	11(a)

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Delegations to Officers, Proper and Authorised Officers and Designated Posts

Proper and Authorised Officers and Designated Posts

Proper Officer	Nominee	Function	Overview and Scrutiny Procedure Rules
Head of Legal and Democracy	Member Services Manager (Operational)	Receipt of Overview and Scrutiny Committee report to be placed before the decision-taker and dealing with the response	11(b)
Head of Legal and Democracy	Member Services Manager (Operational)	Notification of requirement to attend meetings	13(b)
Head of Legal and Democracy	Member Services Manager (Operational)	Notification of Executive decision and key decisions by Officers to Members	15(a)
Head of Legal and Democracy	Member Services Manager (Operational)	Receipt and notification of call-in requests	15(d)

Standards Committee

Proper Officer	Nominee	Function
Monitoring Officer		Standards Committee
Monitoring Officer	Member Services Manager (Operational)	Receipt of Declarations of Members Interests and maintain on Deposit

Miscellaneous

Proper Officer	Nominee	Function
Monitoring Officer	Various	Any other Proper Officer provisions under the Constitution or any Statute not dealt with elsewhere