

**GOVERNANCE COMMITTEE**  
**05 November 2013 at 7.00 pm**  
**Conference Room, Argyle Road, Sevenoaks**

**AGENDA**

**Membership:**

Chairman: Cllr. Mrs. Davison Vice-Chairman: Cllr. Scholey  
Cllrs. Mrs. Cook, Fittock, London, Mrs. Morris and Walshe

	<b><u>Pages</u></b>	<b><u>Contact</u></b>
<b>Apologies for Absence</b>		
1. <b>Minutes</b> To approve the Minutes of the meeting of the Governance Committee held on 19 September 2013.	(Pages 1 - 8)	
2. <b>Declarations of Interest</b> Any interest not already registered		
3. <b>Actions arising from the last meeting</b> (if any)		
4. <b>Review of New Governance Arrangements</b>	(Pages 9 - 34)	Christine Nuttall Tel: 01732 227245
5. <b>Review of the Allocation of Special Responsibility Allowances</b>	(Pages 35 - 38)	Christine Nuttall, Adrian Rowbotham Tel: 01732 227245, Tel: 01732 227153
6. <b>Amendments to the Council's Constitution: Part 13 - Officer Responsibilities and Delegations</b>	(Pages 39 - 68)	Christine Nuttall Tel: 01732 227245
7. <b>Amendments to the Constitution relating to the Licensing function</b>	(Pages 69 - 100)	Claire Perry Tel: 01732 227325
8. <b>Work Plan</b>	(Pages 101 - 102)	

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format please do not hesitate to contact the Democratic Services Team as set out below.

For any other queries concerning this agenda or the meeting please contact:

**The Democratic Services Team (01732 227241)**

**GOVERNANCE COMMITTEE**

Minutes of the meeting held on 19 September 2013 commencing at 7.00 pm

Present: Cllr. Mrs. Davison (Chairman)

Cllrs. Fittock, Mrs. Morris and Walshe

Apologies for absence were received from Cllrs. Mrs. Cook, London and Scholey

Cllrs. Davison and Mrs. Hunter were also present.

5. Minutes

Resolved: That the minutes of the Governance Committee held on 10<sup>th</sup> July 2013 be approved and signed as a correct record.

6. Declarations of Interest

There were no additional declarations of interest.

7. Actions arising from the last meeting

The Committee noted that three Governance Committee Working Groups had been held since the last meeting and had considered options for Members' Allowances that had fed into the report due to be considered later in the agenda.

8. Appointment of Electoral Registration Officer and Returning Officer for District and Parish Council Elections

The Committee considered a report explaining that Sevenoaks District Council was required by the Representation of the People Act to appoint an officer of the Council as Electoral Registration Officer and as Returning Officer for the election of Sevenoaks District councillors and of parish councillors. At Sevenoaks District Council these roles had traditionally been undertaken by the Chief Executive and the report recommended to Council that the Chief Executive, Dr. Pav Ramewal, be appointed Electoral Registration Officer for the Sevenoaks District Council and Returning Officer for the election of councillors of the Sevenoaks District and of councillors of parishes within the Sevenoaks District.

A Member noted that two by-elections were due to be held at the end of September and questioned who would be acting as Returning Officer at the elections. In response, the Elections Manager reported that Dr Pav Ramewal had previously been appointed Deputy Returning Officer and would be overseeing the conduct of the elections.

## Agenda Item 1

### Governance Committee - 19 September 2013

Another Member expressed some concerns that at the Kent County Council election count in May 2013 it had been very difficult to hear the announcements as they were being made. The Elections Manager confirmed that the problems with the sound system were being investigated and the Council was working with Sevenoaks Leisure Centre to improve the quality of announcements at future elections. Counting staff would also be asked to remain quiet as announcements were being made.

Resolved: That Council be recommended to appoint the Chief Executive, Dr. Pav Ramewal, Electoral Registration Officer for the Sevenoaks District Council and Returning Officer for the election of councillors of the Sevenoaks District and of councillors of parishes within the Sevenoaks District.

#### 9. Review of Member Expenses

The Committee considered a report outlining proposed changes to Appendix G of the Council's Constitution 'Members' Allowance Scheme' in relation to the payment of Members' Expenses. The framework for the payment of Members' Expenses needed to be reviewed to take account of the new governance arrangements introduced in May 2013.

The Chief Officer Legal and Governance explained that one of the main changes that was being proposed was a clarification of 'Approved Duties'. The proposed Schedule 2 contained a list of examples and whilst the list was not definitive, any doubtful claims would be adjudicated by the Section 151 Officer.

Members felt that attendance at Development Control Committee meetings for Ward related matters and representing constituents at appeals should be included in the list of approved duties.

A Member suggested that there should be a clear explanation that attendance at Committee meetings as an observer was not considered an approved duty. The only exception to this was meetings of the Cabinet where Members had a right to attend in order to hold the Cabinet to account.

Another main change was the proposal that Travelling Expenses would be payable in accordance with the HMRC maximum tax free allowance as had been recommended by the Joint Independent Remuneration Panel.

In relation to the procedure for making expenses claims those over 3 months old will not be paid with all claims to be finalised within one month of the end of the relevant financial year.

Resolved: That Full Council be recommended to approve the changes to Appendix G of the Constitution in relation to Members' Expenses, including the Inclusion of Schedule 2 to the Members' Allowance Scheme, attached at Appendix 1.1 of the report, subject to the amendments outlined above.

#### 10. Review of Members' Allowances

In August 2012, the Joint Independent Remuneration Panel (JIRP) began a review into Members' Allowances for 2013/14. The review made a number of recommendations covering Basic Allowance, Special Responsibility Allowances (SRAs), Carers' Allowance, Travel Expenses and Pensions. In June 2013, following a change in governance arrangements the Panel reviewed its recommendations regarding allowances payable under the new structure. The Committee considered a report setting out the recommendations arising from the further review.

Mr Barry Cushway and Mrs Rachael Roots attended the meeting to present the report produced by the Joint Independent Remuneration Panel. Mr Cushway explained that the Panel had produced a brief report that tried to reflect the changes that the Panel had understood had been made to the Council's governance structure. The Committee was reminded that the remit of the Panel was to develop an allowance scheme that would encourage wider participation and that the Panel needed to remain independent of the financial considerations of the Council.

A Member noted that there was no justification in the report for the reduction in the allowances paid to the Opposition Group Leaders. Mr Cushway recalled that this had been a recommendation from the original report produced by the Panel in October 2012 and that the recommendation would have been based on meetings that had been held with Members. Mr Cushway agreed that he would review the notes that had been taken at the meetings and would explain the reasons behind the recommendation following the meeting. The response would be copied into the Committee Chairman.

The Committee considered the role of Vice-Chairmen. The Panel Members suggested that it may be helpful to have a job specification for the role of Vice-Chairman and reported that they were happy to revisit the recommendation based on fresh evidence.

A Governance Committee Working Group had been established to consider the options for Members' Allowances and the Group met on three occasions throughout August and September 2013. The options considered by the Working Group included:

- Option 1 – JIRP proposed scheme
- Option 2 – JIRP proposed scheme less 15% for all allowances
- Option 3 – Increasing from 85% of JIRP proposed scheme level in 2013/14 to 100% in 2016/17

The Working Group had also agreed that allowances should be paid to the Chairman of the Licensing Committee, the Chairman of the Sevenoaks Joint Transportation Board and the Chairman of the Health Liaison Board.

The Governance Committee Working Group most favoured Option 2 because the cost could be contained within the current budget, and by reducing all allowances by the same percentage the differential between allowances as recommended in the JIRP proposed scheme could be achieved.

The Chairman noted that inflationary increases had been built within Option 2. This option also included a substantial rise in the basic allowance paid to councillors. The proposed increase would mean that councillors at Sevenoaks District Council would become the second best remunerated in the County. The Chairman hoped that Members would be satisfied that the recommended option recognised the ward work that many members undertook.

Some Members expressed concerns with the recommended option. One Member felt that Special Responsibility Allowances remained disproportionate to the Basic Allowance whilst another Member felt that increasing allowances for councillors sent the wrong message to staff who had experienced a pay freeze in recent years.

The Committee noted that under Option 2, the overall budget for Members' Allowances had not increased.

Resolved: That Council be recommended to:

- a) Adopt Option 2 – the Joint Independent Panel proposed increase less 15% for all allowances - for the payment of Members' Allowances.
- b) Formally record thanks to Barry Cushway, Rachael Roots and Susan Piggot-Foster MBE for their work in preparing 'Report on revised allowances for Members following change of Committee Structure at Sevenoaks District Council, June 2013'.

#### 11. Scrutiny Committee - Change to Terms of Reference

The Committee considered a report setting out suggested revisions to Part 5 and Appendix H of the Council's Constitution relating to the Terms of Reference of the Scrutiny Committee. The Terms of Reference for the Scrutiny Committee were drafted in such a way that nine members were called from a pool of fifteen, and the mechanics of this process could lead to a breach of political proportionality. In order to avoid this at the first meeting, all members of the Committee were invited to attend. However it was necessary to make changes to the terms of reference prior to the next meeting in order for the Committee to legally and effectively fulfil its scrutiny function.

The current Terms of Reference stated that:

- 4.1 The Scrutiny Committee will comprise a permanent Chairman and Vice Chairman, neither of whom sit on Cabinet Advisory Committees and a pool of 15 members 3 drawn from each of the Cabinet Advisory Committees, none of whom may be members of the Cabinet or be their Deputies.*
- 4.2 When a meeting is called 9 ordinary members and the Chairman and Vice Chairman will be called to form the committee. No Members will be called from the Cabinet Advisory Committee where a decision being scrutinised was formulated.*
- 4.3 The membership is to be chosen according to political proportionality rules.*

4.4 *The membership of the Committee can be found at Appendix H - Membership of Council Committees, Cabinet and Advisory Committees.*

The following changes were proposed in the report:

4.2 *When a meeting is called the Chairman (or Vice Chairman in the Chairman's absence) will call 9 members from the pool of 15 (see para. 4.1 above) and if necessary a pool of substitutes (see para. 4.3 below) to form the committee. No Members will be called from the Cabinet Advisory Committee where a decision being scrutinised was formulated.*

4.3 *The membership is to be chosen according to political proportionality rules. If application of paras. 4.1 and 4.2 above results in a breach of these rules, then a substitution may be made from a pool of substitutes drawn from the Cabinet Advisory Committees, in order to maintain political proportionality.*

Resolved: That the revisions to Part 5 and Appendix H of the Council's Constitution as set out in Appendices A and B of the report, be recommended to the Council for agreement.

## 12. Sevenoaks District Strategic Board

The Committee considered a report setting out the background to Locality Boards and seeking approval to work with the County Council to establish a Sevenoaks District Strategic Board. The setting up of local arrangements to replace the Sevenoaks District Kent Locality Board had the support of the Leader of Kent County Council.

The Chief Officer Communities and Business reported that the Locality Board had considered the report on 11<sup>th</sup> September 2013 and put forward the following amendment to the terms of reference:

- amending number 1 to remove the word "Cabinet" to read "...and 7 Sevenoaks District Council Members"
- the addition of a new number 2 "The Leader of Sevenoaks District Council will have the power to rotate/amend the District Council membership as appropriate" with sequential numbering appropriately changed.

At the Locality Board meeting the Head of Business Transformation and Programmes at Kent County Council (KCC) had confirmed that the arrangements did not need to be formally confirmed through the KCC committee process.

The Committee considered the delivery structure included within the report which included a number of multi-agency groups across the District. The Strategic Board would focus on 6 key themes previously agreed by the Locality Board: Youth Commissioning arrangements, Schools, Health, the Community Plan, Troubled Families, the future of library provision in the District.

In response to a question, the Chief Officer Communities and Business confirmed that the Strategic Board would be a meeting held in public and all Members would be welcome to attend the meeting and ask questions of the Officers present.

## Agenda Item 1

### Governance Committee - 19 September 2013

Resolved: That Council be recommended to:

- a) approve the creation of a Sevenoaks District Strategic Board which builds on the working arrangements of the previous Sevenoaks District Kent Locality Board,
- b) approve the draft terms of reference as amended; and
- c) note the proposed Strategic Board delivery structure.

#### 13. Draft Survey - Review New Governance Arrangements

A draft questionnaire was circulated by the Chief Officer Legal and Governance for the Committee's consideration. The Chairman explained that the purpose of the survey was to ask Members their opinion of the current governance arrangements. The survey had been formulated from information received from Members on what they wanted surveyed.

Members agreed that some of the statements within the questionnaire should be re-worded so that direct questions were asked.

The Committee agreed that the question relating to the Member's Portal should not be included as it did not directly relate to the current governance structure.

It was also agreed that an additional item under question 1 should be added - "*Do you think you are made aware of items under consideration before a recommendation is made?*"

The Committee considered the timing of the questionnaire and Members agreed that it should be circulated to all Members on or around Friday 25<sup>th</sup> October 2013 after all Advisory Committees had held their second meetings. Members suggested that responses should be received by 15<sup>th</sup> November 2013.

It was agreed that the Chairman should approve the final draft of the questionnaire prior to circulation to all Members.

Resolved: That the draft Governance Arrangements questionnaire be approved, subject to the amendments outlined above, and circulated to all Members of the Council on or after 25<sup>th</sup> October 2013 for a period of three weeks.

#### 14. Work Plan

The Committee considered its Work Plan, noting that the next meeting was due to be held on Tuesday 5<sup>th</sup> November 2013. It was agreed that it could be necessary to hold a meeting of the Working Group in December 2013 to consider the Governance Arrangements questionnaire responses.

Resolved: That the Work Plan be noted.

THE MEETING WAS CONCLUDED AT 8.40 PM

CHAIRMAN

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## Review of New Governance Arrangements

### Governance Committee – 5<sup>th</sup> November 2013

Report of Chief Officer Legal and Governance

Status: For consideration

Also considered by: Council – 1 April 2014

Key Decision: No

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**Executive Summary:** The Governance Committee is tasked with reviewing the new governance arrangements which were introduced at Annual Council in May 2013 in addition to looking at options such as the Committee System or a Hybrid Model requiring Secretary of State approval and to report back to Council by April 2014.

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### This report supports the Key Aim of Effective Use of Council Resources

**Portfolio Holder** Cllr. Fleming

**Contact Officer(s)** Christine Nuttall Ext. 7245

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**Governance Committee Recommendation to Council:** To be reported at the Council meeting on 1<sup>st</sup> April 2014.

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**Reason for recommendation:** The Governance Committee is tasked with reviewing the new governance arrangements which were introduced at Annual Council in May 2013 as well as looking at options such as the Committee System or a Hybrid Model requiring Secretary of State approval and to report back to Council by April 2014.

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### Introduction and Background

- 1 On the 23<sup>rd</sup> April 2013 Council approved a proposed new governance structure following Members concerns with the previous structure in the following areas:

Perception of remoteness/inaccessibility of portfolios; feeling of disengagement from influence and decision-making; lack of training and development (succession planning for future Cabinet members); and the need to streamline the system to match the resource available.

- 2 The approval was subject to detailed mechanisms being brought back to the Annual Council in May 2013 to enable implementation of the structure with a review of the new governance arrangements being undertaken and reported back to Full Council by April 2014. In addition, options requiring more detailed consideration, such as the Committee System or a Hybrid Model requiring Secretary of State approval, were to be investigated during the next municipal

## Agenda Item 4

year. The new governance structure was accordingly approved at Annual Council on the 14<sup>th</sup> May 2013.

- 3 This report reviews the new governance structure to date with additional reporting due to take place at the Governance Committee Meeting on the 13<sup>th</sup> March in time to report to Council on the 1<sup>st</sup> April 2014.

### **Review of the New Governance Arrangements to date**

- 4 At the Governance Committee meeting on the 10<sup>th</sup> July 2013 it was agreed that the Policy and Performance Manager (now the Head of Transformation & Strategy) should be asked to help develop a “First Impressions of the New Governance Structure” to be sent to all Councillors and key stakeholders in August 2013. The first draft of the questionnaire would be sent to Members of the Committee for approval prior to being distributed.
- 5 A draft questionnaire was circulated at the Governance Committee meeting on the 19<sup>th</sup> September 2013 where it was explained that the purpose of the survey was to ask Members their opinion of the current governance arrangements. The survey had been formulated from information received from Members on what they wanted surveyed.
- 6 Members agreed that some of the statements within the questionnaire should be reworded so that direct questions were asked.
- 7 The Committee considered the timing of the questionnaire and Members agreed that it should be circulated to all Members on or around Friday 25<sup>th</sup> October 2013 after all Advisory Committees had held their second meetings. Responses to be received by the 15<sup>th</sup> November 2013. It was agreed that it could be necessary to hold a meeting of the Working Group in December 2013 to consider the Governance Arrangement questionnaire responses.
- 8 The questionnaire as set out at Appendix A is to be duly circulated to all Members on or about the 25<sup>th</sup> October 2013.

### **Other options such as the Committee System or a Hybrid Model**

- 9 On the 9<sup>th</sup> March 2012 an e-mail letter was sent to the then Chief Executive setting out the Governance Arrangements available to Principal Councils in England under the Localism Act 2011. A copy of this letter is set out at Appendix B which explains that it would now be possible for a council to pass a resolution, to move to the committee system at its annual meeting in May 2012, unless the resolution specified an annual meeting in a later year. The letter also sets out the requirements to put proposals for some novel form of governance arrangements to the Secretary of State.
- 10 In September of this year the Monitoring Officer spoke with Kathy Billington who is the contact point at the Department for Communities and Local Government. Kathy Billington informed the Monitoring Officer that no Councils in England had put forward proposals to the Secretary of State to consider any novel form of governance arrangements. Even if proposals passed the requirements test that

have been set there would still need to be House of Commons approval and House of Lords approval to any novel form of governance arrangements.

- 11 Set out at Appendix 3 is a list of Councils in Kent and surrounding areas and shows the kinds of governance models adopted. All Councils in Kent are working under some form of Cabinet governance model. Only Tandridge District Council is working under the Leader and Committee System as a result of their population falling under the threshold for the previous requirement to change to the Cabinet system of governance.
- 12 If a resolution is passed that makes a change to a Committee system of governance then the local authority may not pass another resolution changing back to the Cabinet system until the end of the period of 5 years beginning with the date the original resolution was passed.
- 13 The Monitoring Officer also spoke with Kathy Billington about the timing of any resolution to change to a Committee system and the fact that the earliest that this could take place would be a year before the next District Council elections which would commit newly elected Members to a new governance structure upon which they had not been consulted. In addition, our Constitution at present sets out a requirement that “The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals to change from a Leader and Cabinet Form of Executive to Alternative Arrangements or Vice Versa.
- 14 However, there is nothing to stop present Members from making a recommendation to the newly elected administration in 2015 to consider changing to the Committee form of governance.

**Key Implications**

Financial

- 15 There does not appear to have been any adverse financial implications resulting from the new governance arrangements.
- 16 There could be financial implications as a result of changing to the Committee system of governance which at this point in time are not quantifiable.

Legal Implications and Risk Assessment Statement.

- 17 As set out above.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	

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Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	No	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

### Conclusions

We await the outcome of the survey entitled "Governance Arrangements – Members' Survey. This may be considered by a Working Group in December in order to make recommendations to the Governance Committee on the 13<sup>th</sup> March 2014.

Some work has taken place in relation to looking at other options such as the Committee System or a Hybrid Model and the practical requirements of this are set out within the report.

### Appendices

Appendix A – Governance Arrangements – Members' Survey

Appendix B – E-mail letter dated 9<sup>th</sup> March 2012 entitled "Localism Act 2011: Governance Arrangements Available To Principal Councils in England

Appendix C – List of Councils in Kent and surrounding areas showing the kinds of governance models in operation.

### Background Papers:

Localism Act 2011

Sevenoaks District Council Constitution

**Mrs Christine Nuttall**  
**Chief Officer for Legal and Governance**

## Introduction

As set out at the Full Council meeting in April the basic premise of the Council's governance review was the need to review both member and officer resource in response to the future challenges facing Sevenoaks, the efficiency and transparency of decision-making, and in part the extended governance opportunities afforded by the Localism Act 2011.

From meetings held with Members the general tenor of their concerns with the previous structure were summarised as:

- perception of remoteness/inaccessibility of portfolios;
- feeling of disengagement from influence and decision-making;
- lack of training and development (succession planning for future Cabinet members); and
- need to streamline the system to match the resource available.

It was agreed that a review of the new governance arrangements would be undertaken and a report would go back to Full Council in April 2014.

Members are invited to give their views on the new governance arrangements through this survey. The questions are focused on whether the new arrangements meet with the initial aims and have suitably addressed Members concerns.

The survey will close on 15 November 2013. The results will first be considered by the Governance Committee and will go on to inform the report back to Full Council in April 2014.

## Agenda Item 4

### 1. Please tell us to what extent you agree with each of the following questions about the new governance structure.

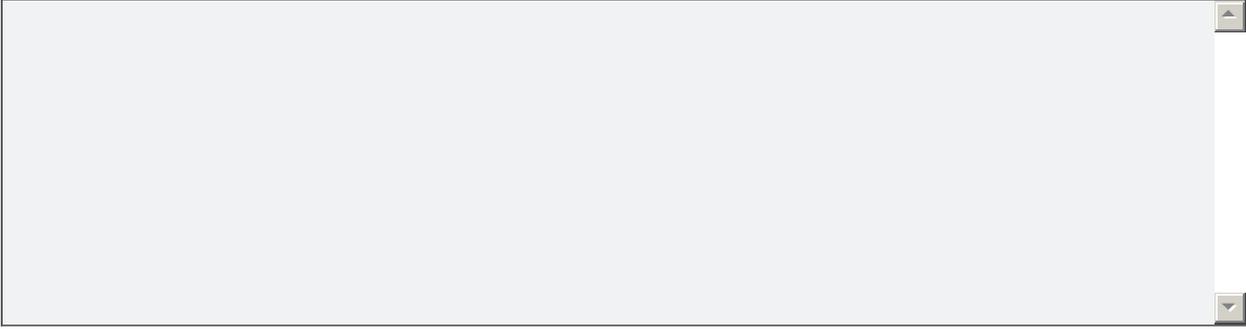
	Yes - I strongly agree	Yes - I agree	I neither agree nor disagree	No - I disagree	No - I strongly disagree	Too early to say	Do not know
Do you feel that the Council is performing more effectively and efficiently?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you feel that the Cabinet is more accountable under the new arrangements?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you feel more engaged and involved in Council business?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you feel more engaged and involved in the decision making process?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you feel that you have been more able to influence decision making?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you feel that the new governance structure provides more opportunities for training and for your future development?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you feel that Portfolios are now less remote and more accessible than before?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you feel that the role of Scrutiny has been enhanced?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### 2. Do you think you are made aware of items under consideration before a recommendation is made?

- Yes - I strongly agree
- Yes - I agree
- I neither agree nor disagree
- No - I disagree
- No - I strongly disagree
- Do not know

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**3. If you would like to comment further about questions 1 and 2 above please use the space provided below**



## Advisory Committees

### 4. Please tell us to what extent do you agree with the following questions about the Cabinet Advisory Committees.

	Yes - I strongly agree	Yes - I agree	I neither agree nor disagree	No - I disagree	No - I strongly disagree	Too early to say	Not applicable
Do you feel that Portfolio Holders should be able to Chair Advisory Committees?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you feel that you have been consulted about policy matters through an Advisory Committee?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you feel that advisory Committees have made it easier for you to influence Council policy?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you feel that you have been able to contribute your ideas for initiatives the Council could undertake?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you feel that you have been encouraged to contribute your ideas through the Advisory Committees?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### 5. If you would like to comment further about the questions about the Advisory Committees please use the space provided below

## Meetings & Working Groups

**6. To ensure proper consideration of the range of services within the remit of each committee, the current number of scheduled meetings is...**

- ... too few
- ... about right
- ... too many

**7. To what extent do you agree that working groups improve Council policy and / or performance?**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Too early to say
- Do not know

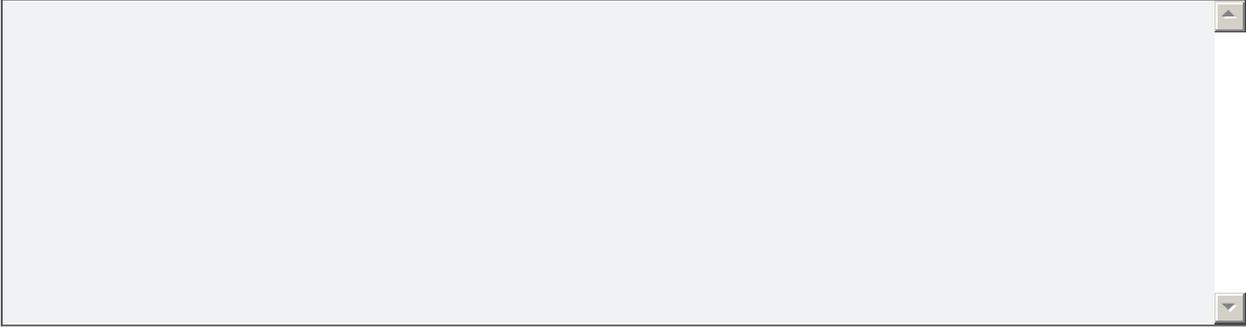
**8. To what extent do you agree that working groups represent value for money?**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Do not know

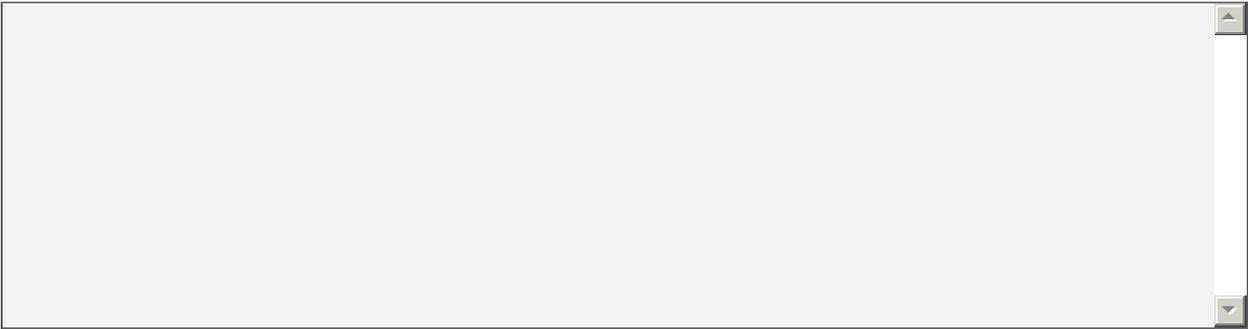
**9. From your experience do you feel that the number of meetings and working groups require a greater involvement of officers under the new governance arrangements?**

- Yes - I strongly agree
- Yes - I agree
- I neither agree nor disagree
- No - I disagree
- No - I strongly disagree
- Too early to say
- Do not know

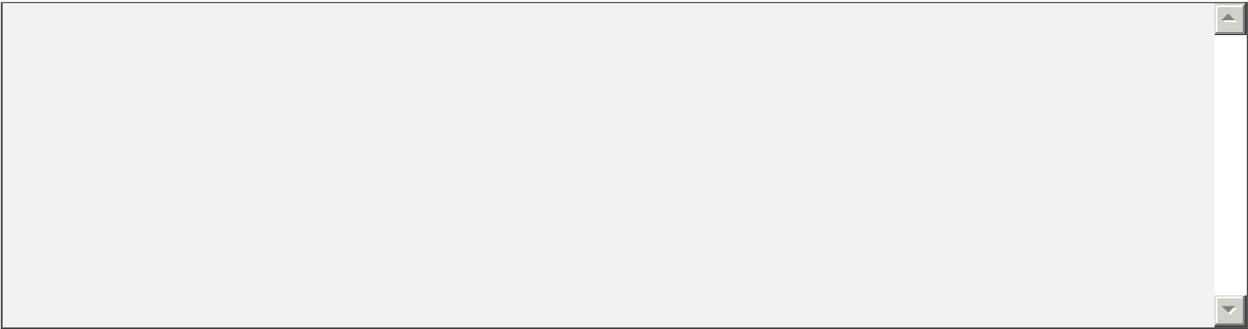
**10. If you would like to comment further about questions 6 to 9 above please use the space provided below**



**11. Overall in my opinion the main strength of the new governance arrangements is...**

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**12. Overall in my opinion the main weakness of the new governance arrangements is...**

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9 March 2012

Chief Executive  
By email

Dear Chief Executive

### **LOCALISM ACT 2011: GOVERNANCE ARRANGEMENTS AVAILABLE TO PRINCIPAL COUNCILS IN ENGLAND**

The Department is currently implementing the Localism Act 2011 ("the 2011 Act"), which received Royal Assent on 15 November 2011, and I am now writing to you about the governance arrangements which it will be open to your council to adopt under this Act.

#### *Governance arrangements available to councils*

Currently, all principal councils in England with a population of 85,000 or greater on 30 June 1999 are required to operate one of two executive governance models – either the mayor and cabinet or leader and cabinet model. Principal councils with a lower population may operate one of these executive models or alternative arrangements (a modified committee system).

The 2011 Act gives councils greater freedoms over their governance arrangements. In future your council, if it so chooses, will be able to operate the committee system instead of an executive governance model. It will also be open to your council to consider some novel form of governance arrangements such as a hybrid of executive and committee systems, or something entirely new. If your council wished to pursue such novel arrangements it would need to put its proposals to the Secretary of State inviting him to use his regulation making powers to make these novel governance arrangements available to councils.

#### *Implementation of the new freedoms*

The provisions of the 2011 Act enabling your council to resolve to move to the committee system are now in force. Where any such resolution is passed, the council would operate the committee system from its next annual meeting or a subsequent annual meeting specified in the resolution. It is intended to bring the further provisions of the 2011 Act, and associated secondary legislation, needed for councils to operate the committee system into force from 4 May 2012.

Paul Rowsell  
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Email [paul.rowsell@communities.gsi.gov.uk](mailto:paul.rowsell@communities.gsi.gov.uk)

Accordingly, it is now open to your council, if it chooses, to resolve to move to the committee system. If your council were now to pass such a resolution, it would move to the committee system at its annual meeting held in May 2012, unless the resolution specified an annual meeting in a later year.

I would draw to your attention that it is intended that the proposed secondary legislation on the committee system will -

- replicate the effect of provisions of the Local Government Act 1972 that applied to the traditional committee system and reserved certain matters – e.g. decisions on the budget – for the full council; and
- give to councils the flexibility that if they adopt a committee system with overview and scrutiny committees, those committees will have the same kind of scrutiny powers as a scrutiny committee under executive arrangements.

It is intended to make and lay this secondary legislation before Parliament in the first half of April so that it will come into force on 4 May.

Finally, if your council wishes to put proposals for some novel form of governance arrangements to the Secretary of State, it should submit the proposal setting out how it considers the following statutory conditions would be met -

- that the operation of the proposed arrangements would be an improvement on the council's current arrangements;
- that the operation of the proposed arrangements would be likely to ensure that decisions are taken in an efficient, transparent and accountable way; and
- that the proposed arrangements would be appropriate for all councils or any particular description of council.

Any submission would need to describe how and by whom the functions of the council are to be discharged under the proposal and the arrangements for delegation. It should be sent to Kathy Billington at [kathy.billington@communities.gsi.gov.uk](mailto:kathy.billington@communities.gsi.gov.uk).

If you have any queries on the letter, please contact my colleagues Karl Holden at [karl.holden@communities.gsi.gov.uk](mailto:karl.holden@communities.gsi.gov.uk) or Kathy Billington at [Kathy.billington@communities.gsi.gov.uk](mailto:Kathy.billington@communities.gsi.gov.uk)

Yours sincerely



**Paul Rowsell**

## **Appendix C – List of Councils in Kent and surrounding areas showing the kinds of governance models in operation**

### **Ashford Borough Council**

**Operates under a:** Executive and Leader system since 2001 – It's been called Cabinet and Leader since May 2011.

#### **Committees**

Cabinet  
Council  
Appeals Committee  
Appointments Committee  
Audit Committee  
Joint Transportation Board  
Licensing Health and Safety Committees  
Licensing Sub Committee  
Overview and Scrutiny Committee  
Planning Committee  
Selection and Constitutional Review Committee  
Standards Committee

### **London Borough of Bexley Council**

**Operates under a:** Leader and Cabinet Model

#### **Committees**

Council  
Extraordinary Council Meeting  
Cabinet  
Public Cabinet  
Regulatory Committees  
Appeals Committee  
General Purposes Committee  
General Purposes Sub-Committee  
Pensions Committee  
Planning Committee  
Other Committees  
Bexley Agreed Syllabus Conference  
Governor Appointment Committee

Manager Appointments Sub-Committee  
Overview and Scrutiny Committees  
Adults' Services Overview and Scrutiny Committee  
Children's Services and Education Overview and Scrutiny Committee  
Crime and Disorder Overview and Scrutiny Committee  
Environment and Leisure Overview and Scrutiny Committee  
Finance and Corporate Services Overview and Scrutiny Committee  
Health Overview and Scrutiny Committee  
Public Realm, Community Safety, Economic Development and Regeneration Overview and Scrutiny Committee  
Sub Committees - Overview and Scrutiny  
Bexley First Sub-Committee  
Transport Users' Sub-Committee  
Scrutiny Project Sub Groups  
Accommodation Options for Older People Scrutiny Sub-Group  
Business Rates Retention Scrutiny Sub Group  
Rivers in Bexley Scrutiny Sub-Group  
Transitions Scrutiny Sub-Group  
Violence Against Children Scrutiny Sub-Group  
Panels/Other Groups Appointed by the Council  
Audit Committee  
Civic Recognition Panel  
Constitution Review Panel  
Top Management Review Panel

## **London Borough of Bromley**

**Operates under a:** Executive and Committee system

### **Committees**

Council  
Council  
Executive  
Care Services Portfolio  
Education Portfolio  
Environment Portfolio  
Executive  
Improvement and Efficiency Sub-Committee  
Public Protection and Safety Portfolio  
Renewal and Recreation Portfolio  
Resources Portfolio  
Policy Development and Scrutiny Committees  
Care Services Policy Development and Scrutiny Committee  
Education Budget Sub-Committee

Education Policy Development and Scrutiny Committee  
Environment Policy Development and Scrutiny Committee  
Executive and Resources Policy Development and Scrutiny Committee  
Health Scrutiny Sub-Committee  
Public Protection and Safety Policy Development and Scrutiny Committee  
Renewal and Recreation Policy Development and Scrutiny Committee  
Regulatory Committees  
Appointment Panel  
Audit Sub-Committee  
General Purposes and Licensing Committee  
Industrial Relations Sub Committee  
Licensing Sub-Committee  
Local Joint Consultative Committee  
Pensions Investment Sub-Committee  
Rights of Way Sub-Committee  
Standards Committee  
Standing Advisory Council for Religious Education  
Urgency Committee  
Plans Sub-Committees  
Development Control Committee  
Plans Sub-Committee No. 1  
Plans Sub-Committee No. 2  
Plans Sub-Committee No. 3  
Plans Sub-Committee No. 4

## **Dartford Borough Council**

Operates under a: Cabinet and Leader Model

### **Committees**

Annual Council  
Appeals Panel  
Appointments Panel  
Audit Board  
Cabinet  
Cabinet Advisory Panel A  
Cabinet Advisory Panel B  
Crime and Disorder (Overview and Scrutiny) Committee  
Dartford Locality Board  
Deed, Trust and Obligations Committee  
Development Control Board  
Discretionary Housing Payments Panel  
Electoral Provisions Sub-Committee  
General Assembly of the Council  
General Assembly of the Council (Budget)  
Hearing Panel  
Independent Remuneration Panel  
Joint Transportation Board

Kent and Medway Police and Crime Panel  
Licensing Committee  
Licensing Sub-Committee  
Policy Overview Committee  
Remuneration & Performance Management Panel  
Scrutiny Committee  
Treasury Management Panel

## **Dover District Council**

**Operates under a:** Leader and Cabinet Model

### **Committees:**

Council  
Cabinet  
Shadow Cabinet  
Planning Committee  
Scrutiny (P&G) Committee  
Scrutiny (Community & Regeneration) Committee  
Governance Committee  
Regulatory Committee  
General Purposes Committee  
Electoral Matters Committee  
East Kent (Joint Arrangements) Committee  
East Kent (Joint Scrutiny) Committee  
Dover Joint Transportation Board  
Standards Committee  
Licensing Committee  
Dover and Shepway Shadow Health and Wellbeing Board  
Pre-Implementation Meeting of the Dover Locality Board

## **Maidstone Borough Council**

**Operates under a:** Leader and Cabinet. Council meetings are chaired by the mayor of Maidstone.

### **Committees:**

Council  
Cabinet  
Cobtree Manor Estate charity committee  
Queens Own Royal West Kent Regiment Museum Trust  
Audit Committee  
(Maidstone) JTB  
Licensing Committee – Licensing Act 2003 Committee, Licensing Act 2003 Sub  
Committee  
Overview and Scrutiny – 7 Committees

Planning – Planning Committee and Planning Referrals Committee  
Standards Committee  
General Purposes Group  
Housing Consultative Board  
Maidstone Locality Board  
Member and Employment and Development Panel  
Performance Sub Committee of the Member and Development Panel  
Property Investment Cabinet Committee  
Spatial Planning Strategy Advisory Group

## **Gravesham Borough Council**

**Operates under a:** Leader and Cabinet Model

### **Committees:**

Appeals Sub-Committee  
Appointments Board  
Appointments Panel  
Business & the Community Committee  
Cabinet  
Community Services Committee  
Council  
Crime and Disorder Scrutiny Committee  
Finance and Audit Committee  
Gravesham East Forum  
Gravesham Joint Transportation Board  
Gravesham Rural Forum  
Hackney Carriage Sub-Committee  
Housing Delivery Committee  
Independent Remuneration Panel  
Kent and Medway Police & Crime Panel  
Licensing Committee  
Licensing Panel  
Northfleet & Gravesend West Forum  
Overview Scrutiny Committee  
Performance & Administration Committee  
Planning and the Environment Committee  
Regulatory Board  
South Thames Gateway Building Control Joint Committee  
Standards Committee

## **Shepway District Council**

**Operates under a:** Leader and Cabinet Model

**Committees:**

Council

Cabinet

Overview and Scrutiny x2

Non executive functions x6

Governance x2

## **Swale Borough Council**

**Operates under a:** Leader and Cabinet Model

**Committees:**

Council

Cabinet

Policy Overview Committee

Swale Joint Transportation Board

Planning Committee

Scrutiny Committee

Standards Committee

Audit Committee

Licensing Sub-committee

Cabinet Delegated Decisions

General Purposes Committee

Appointments Committee

Chief Executive Delegated Decision

Swale Rural Forum

Emergency Committee

Local Development Framework Panel

South Thames Gateway Building Control Joint Committee

Extraordinary Council

General Licensing Committee

Planning working Group

Annual Council

Standards Hearing Sub-Committee

Standards Appeals Sub-Committee

Standards Referrals Sub-Committee

Standards Consideration Sub-Committee

Licensing Act 2003 Committee

## **Tandridge District Council**

**Operates under a:** Leader and Committee System

Population fell under the threshold for the previous requirement to change to the Cabinet system, therefore Tandridge have remained under the Committee System for decision making. There has been no political will to change the arrangement and it is felt that the introduction of a separate Scrutiny Committee would increase the bureaucracy of the decision making process.

The Committee System has retained cross party support as both the Conservative and Liberal Democrats have felt that committees have been politically balanced.

### **Committees:**

Community Services  
Council  
Housing  
Tandridge Housing Partnership Group  
Licensing  
Licensing Sub-Committee (I)  
Licensing Sub-Committee (T)  
Overview & Scrutiny  
Planning  
Planning Policy  
Resources  
Standards

## **Thanet District Council**

**Operates under a:** Leader and Cabinet System

### **Committees:**

Full Council  
Cabinet  
Shadow Cabinet  
Governance and Audit Committee  
Overview and scrutiny panel  
Joint committees –  
East Kent Joint Arrangements committee, East Kent JIRP,  
East Kent Joint scrutiny committee,  
Joint Transportation Board  
Regulatory Committees –  
Licensing Board,  
Licensing Sub- Committee,

Planning Committee  
Standards Committee  
LDF Cabinet Advisory Group  
Working Groups – Airport Working Party  
Asset Management Working Party,  
Boundary and Electoral Arrangements Working Party,  
Corporate Improvement & budget working party,  
Crime and Disorder Reduction Partnership Working Party,  
East Kent Hospitals Clinical Strategy Review Task & finish Group,  
East Kent Spatial Development Company Review Task and Finish Group,  
Electoral Registration Process Review Task and Finish Group,  
Minis Bay Day Centre Review Task & Finish Group,  
Ramsgate Port Centre Task & Finish Group,  
Ramsgate Port and Marina Working Party,  
Shared Services Working Party,  
Thanet Beaches Contamination Review Task & Finish Group,  
Welfare Reform Review Task & Finish Group.  
Other – Appeals Panel,  
Constitutional Review Working Party,  
General Purposes Committee,  
Senior Officer Appointments Panel

### **Tonbridge and Malling Borough Council**

**Operates under a:** Executive cabinet and standing committee system.

Hybrid system – Cabinet and 8 advisory boards – these have evolved to consider executive business and make recommendations to Cabinet. The advisory boards have no delegations, give transparency and have politically balanced membership. With the large number of Members the committee system has given involvement to back benchers and meant that decisions are not taken in isolation. Cabinet members are not on the advisory boards, however portfolio holders attend advisory boards and may take decisions based on the recommendations of the advisory boards outside of the committee meetings. This enables business to be completed and prevents delays as a result of the committee meeting schedule.

Planning committees are geographically based and Ward specific, therefore there is not necessarily a political balance.

Extensive training is organised through HR for Members both through an initial induction and via annual refreshers to ensure that decisions reached are constitutionally and legally correct.

**Committees:**

Council  
Cabinet  
Area 1 Planning Committee  
Area 2 Planning Committee  
Area 3 Planning Committee  
Audit committee  
General Purposes committee  
Licensing and Appeals committees  
Licensing and Appeals Panel  
Overview and scrutiny Committee  
Communities Advisory Board  
Community Safety Advisory Board  
Finance and Property Advisory Board  
Health and Wellbeing Advisory Board  
Innovation and Improvement Advisory Board  
Leisure and Arts Advisory Board  
Local Environmental Management Advisory Board  
Planning and Transportation Advisory Board  
Strategic Housing Advisory Board  
Joint Transportation Board  
Parish Partnership Panel  
Tonbridge Forum  
Twinning Committee

**Tunbridge Wells Borough Council**

**Operates under a:** Leader and Cabinet

**Committees:**

Full Council – Full Council  
Cabinet – Cabinet and Joint Transportation board  
Audit and Governance Committee  
Communities Cabinet Advisory Group  
Eastern Area Planning Committee  
Finance & Governance cabinet advisory group  
General Purposes Committee  
Joint Eastern and Western Planning committee  
Licensing Committee  
Licensing sub- Committee  
Overview and scrutiny Committee  
Planning and Transportation Cabinet Advisory Group

Western Area Planning Committee  
Standards Committee

## **Mid Sussex District Council**

**Operates under a:** Leader and Cabinet

### **Committees:**

Annual Council  
Council  
Cabinet  
Cabinet Grants Panel  
Audit Committee  
Charity Trustees  
CenSus (Central Sussex Partnership) Joint Committee  
District Planning Committee  
Licensing Committee  
Licensing Sub-Committee A  
Liquor Licensing Panels  
North East Area Planning Committee  
Scrutiny Committee for Leader and Service Delivery  
Scrutiny Committee for Leisure and Community  
Scrutiny Committee for Planning and Economic Development  
South West Area Planning Committee  
Standards Committee

## **Rother District Council**

**Operates under a:** Leader and Cabinet

### **Committees:**

Full Council  
Cabinet  
Licensing and General Purposes Committee  
Joint Waste Committee  
Planning Committee  
Resources Overview and Scrutiny Committee  
Services Overview and Scrutiny Committee  
Standards Committee

## **Wealden District Council**

**Operates under a:** Leader and Cabinet

### **Committees:**

Audit and Finance Committee  
Cabinet  
Cabinet Local Development Framework Sub Committee  
Full Council  
Joint Planning Committee North and South  
Licensing Committee  
Licensing Sub Committee  
Overview and Scrutiny Committee  
Personnel Committee  
Planning Committee North  
Planning Committee South  
Standards Committee  
Workstream 2015 - Finance  
Workstream 2015 - Governance  
Workstream 2015 - Organisational Development  
Workstream 2015 - Partnerships  
Workstream 2015 - Services

## **Elmbridge Borough Council**

**Operates under a:** Leader and Cabinet

Strong Leader model, with delegations to individual portfolio holders.

Moved from the Committee system in 2000.

Reviewed and trimmed down from 4 Scrutiny Committees to 1 approximately 4 years ago. Scrutiny committee meets 5 times per year with the portfolio holders attending on a rotational basis.

Elmbridge operates a large regulatory system where Members feel engaged and have experienced very few 'call ins' to Cabinet.

Inclusive Member involvement prior to Cabinet meetings – work with a spirit of cooperation.

Currently have 60 Councillors but are making first approaches to review the boundaries and perhaps reduce to 48 members.

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**REVIEW OF THE ALLOCATION OF SPECIAL RESPONSIBILITY ALLOWANCES**

**Governance Committee – 5 November 2013**

Report of Chief Officer Legal and Governance  
 Chief Finance Officer

Status: For Decision

Key Decision: No

**Portfolio Holder** Cllr. Fleming (Strategy and Performance)

**Contact Officer(s)** Christine Nuttall Ext: 7245  
 Helen Martin Ext: 7483  
 Philippa Gibbs Ext: 7247

**Recommendation to Governance Committee:** That the Committee establish a Working Group to further review the allocation of Special Responsibility Allowances.

**Reason for recommendation:** At the Council meeting on 1 October 2013 the Governance Committee was asked to review the allocation of special responsibility allowances.

**Introduction**

- At the meeting of Full Council on 1 October 2013 the Governance Committee was asked to review the allocation of special responsibility allowances and consider all options within the budget available.

**Background**

- The budget for Members Allowances for 2013/14 is £365,460.

The amount available for Special Responsibility allowances is £46,774<sup>1</sup>  
 The principles used for calculating the special responsibility allowances that were agreed at the Governance Committee on 19 September 2013 were related to the basic allowance of £5,140 as follows:

Cabinet Deputies	12.5% of basic allowance
Committee Chair - DC	75% of basic allowance
Committee Chair - Licensing	50% of basic allowance
Chair Health Liaison Board	50% of basic allowance

<sup>1</sup> Budget less payments to Leader and Cabinet Members

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Chair Transportation Board <sup>2</sup>	50% of basic allowance
Development Control - Members	5% of basic allowance
Licensing Committee Members	2.5% of basic allowance
Group Leaders	Flat Rate of £ 1,277 for each group <sup>3</sup>

The number of Members in each category is as follows:

Cabinet Deputies	10
Committee Chair - DC	1
Committee Chair - Licensing	1
Chair Health Liaison Board	1
Chair Transportation Board <sup>4</sup>	1 (alternate years)
Development Control – Members (excl Chair)	18
Licensing Committee Members excl. Chair	12
Group Leaders	2

In practice, Members only receive one special responsibility allowance.

### Key Implications

#### Legal Implications and Risk Assessment Statement.

- 3 The Local Authorities (Members' Allowances)(England) Regulations 2003 sets out under s.19 that before an authority makes or amends a scheme, the authority shall have regard to the recommendations made in relation to it by an independent remuneration panel. Any changes to allocation of special responsibility allowances would constitute an amendment to the scheme adopted by Council on the 1<sup>st</sup> October 2013.
- 4 On the 19<sup>th</sup> September 2013 two members of the Panel, Mr Barry Cushway and Mrs Rachael Roots attended the Governance Committee when the Committee was considering the presently adopted scheme. At that Governance Committee meeting the minutes reflect that the Committee considered the role of Vice-Chairmen. The Panel Members suggested that it may be helpful to have a job specification for the role of Vice-Chairman and reported that they were happy to revisit the recommendation based on fresh evidence.

#### Financial

- 5 If there is a need for the Joint Independent Remuneration Panel (the Panel) to revisit and comment on any proposed amendment to the present scheme adopted by Council on the 1<sup>st</sup> October 2013 a charge may be implemented.

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<sup>2</sup> We pay this on alternate years

<sup>3</sup> Originally £1500 but 'across the Board ' reduction of 15%

<sup>4</sup> We pay this on alternate years

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	N/A
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	No	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		

**Conclusions**

- 6 It is suggested that the Governance Committee establish a working group to review the allocation of Special Responsibility Allowances within the budget of £46,774 that is available. The review could also include options for the provision of allowances for Vice-Chairmen.
- 7 The Working Group may also wish to consider whether Members Allowances should be linked to the national pay agreement for staff, and that provision for that inflation linked to the Officers award be included in future budgets.

**Appendices** None

**Background Papers:** None

**Mrs Christine Nuttall**  
**Chief Officer for Legal and Governance**

**Mr Adrian Rowbotham**  
**Chief Finance Officer**

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**AMENDMENTS TO THE COUNCIL'S CONSTITUTION:  
PART 13 - OFFICER RESPONSIBILITIES AND DELEGATIONS**

**Governance Committee – 5 November 2013**

Report of Chief Officer Legal and Governance

Status: For Decision

Key Decision: No

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**Portfolio Holder** Cllr. Fleming (Strategy and Performance)

**Contact Officer(s)** Christine Nuttall Ext: 7245

Philippa Gibbs Ext: 7247

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**Recommendation to Governance Committee:** That the Committee notes the changes to delegations made within the Constitution following the senior management restructure as approved by Council on the 1<sup>st</sup> October 2013.

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**Reason for recommendation:** to ensure the Members of the Committee are aware of the changes approved by Full Council.

---

**Introduction and Background**

- 1 At the meeting of Full Council on 19 February 2013 it was agreed that:  
  
‘authority be delegated to the Monitoring Officer to make the necessary consequential changes to Part 13 of the Constitution entitled “Officer Responsibilities and Delegations” in order to take account of the changes in senior management set out within the report.’ (Minute 50. d (e))
- 2 Under the above delegated authority the Monitoring Officer made the necessary amendments to the Council’s Constitution and these were in place when the new senior management structure took effect on 1 September 2013. In addition to the amendments that were made in relation to the senior management reorganisation, the Monitoring Officer also took the opportunity to ensure that Part 13 of the Constitution reflected the most up-to-date legislation. Paragraph 2.2 of Part 1 of the Constitution enables the Monitoring Officer to make changes to the Constitution required by statute.
- 3 As the amendments were made under delegated authority there was no need to ask Council to formally adopt the changes. However due to the substantial amendments that were required it was felt prudent to bring these to Members’ attention and as a result the changes were approved by Council on the 1<sup>st</sup> October 2013.

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### Changes Made

4 The amended Part 13 of the Constitution entitled “Officer Responsibilities and Delegations” is set out within the Appendix to this report and has been in operation since the 1<sup>st</sup> September 2013 and appears to be working effectively.

5 The main changes to the Delegation document are as follows:

The Director posts were deleted.

All Heads of Service posts were deleted.

The Head of Paid Service and s.151 Officer responsibilities were amalgamated under the Chief Executive post.

Paragraph 4.6 was updated to reflect the fact that Ethical Standards Officers no longer exist under current legislation with the Monitoring Officer having delegated authority in relation to investigations. A cross reference in a foot note to Appendix S of the Constitution “Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011” can be made for clarification purposes.

Following the creation of the new Chief Officer posts generic delegations to such officers were set out under paragraph 11.

All new Chief Officers were asked to set out their responsibilities and to check and where necessary update their legal powers.

A typographical error was spotted in relation to the sum set out for writing off debts. This read £500 and should have read £5,000 in line with Appendix D “Financial Procedure Rules”. A cross reference in a foot note to Appendix D of the Constitution “Financial Procedure Rules” can be made for clarification purposes.

### Key Implications

#### Financial

None arising directly from the contents of this report.

#### Legal Implications and Risk Assessment Statement.

Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution under review.

If Chief Officers act without the appropriate authority any decision or action they take could be challenged and result in adverse costs and publicity against the Council. It is therefore imperative that delegations are in place for the operational efficiency of the Council.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	N/A
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	No	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		

**Appendices**

Appendix – Part 13 - Officer Responsibilities and Delegations (as amended)

**Background Papers:**

Sevenoaks District Council's Constitution  
Local Government Act 2000

**Mrs Christine Nuttall**  
**Chief Officer for Legal and Governance**

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## **PART 13 - OFFICER RESPONSIBILITIES AND DELEGATIONS**

### **1. The Council’s Officers**

1.1 The Council has people working for it (Officers) to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between Officers and Members. (Appendix J - Protocol on Councillor and Officer Relations)

### **2. Management Structure**

#### General

2.1 The full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

#### Chief Officers

2.2 The full Council will engage persons for the following posts, who will be designated Chief Officers:

<b>Post</b>	<b>Functions and areas of responsibility</b>
Chief Executive	<p>Overall corporate management and operational responsibility (and Head of Paid Service) (including overall management responsibility for all Officers)</p> <p>Provision of professional advice to all parties in the decision-making process.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>The Section 151 Officer.</p> <p>The Returning Officer and Electoral Registration Officer for the Council.</p> <p>Responsibility for Regeneration.</p>
Chief Officer Communities & Business	<p>Community Engagement, Community Plan, Community Safety, Economic Development, Grants, Health, Leisure, Health and Wellbeing Boards, Older People, Safeguarding, West Kent Partnership, Young People.</p>
Chief Officer Environmental & Operational	<p>Building Control, Business Continuity, Corporate Health &amp; Safety, CCTV, Emergency Planning, Environmental Health, Licensing, Parking &amp; Amenity, Procurement, Refuse Collection &amp; Recycling, Street &amp; Other</p>

## Agenda Item 6

Services	cleansing services, Land Charges.
Chief Finance Officer	Audit, Anti-Fraud, Benefits, Business Rates, Council Tax, Finance, Risk Management, Strategic Asset Management, Treasury Management.
Chief Officer Housing	Climate Change, Empty Homes, Housing Policy & Enabling, Management of Gypsy/Traveller sites & unauthorised encampments, Liaison with Housing Associations, Private Housing, Social Housing, West Kent Leader Programme, Private sector letting scheme, Disabled facility grants and welfare funerals.
Chief Officer Legal & Governance	Data Protection & Freedom of Information, Democratic Services, Elections, Legal Services, Monitoring Officer, Standards Ethics and Governance
Chief Planning Officer	Conservation, Development Control, Planning Appeals, Planning Enforcement, Planning Policy, Arboricultural Policy.
Chief Officer Corporate Support	Customer Services, Facilities Management, IT Services, Property Services, Post Room & Scanning, Telecommunications.

2.3 The designations of these posts may be changed from time to time by the Cabinet on receipt of advice from the Chief Executive.

### Head of Paid Service and s.151 Officer and Monitoring Officer

2.4 The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service and s. 151 Officer
Chief Officer Legal & Governance	Monitoring Officer

2.5 Such posts will have the functions described in paragraphs 3, 4 and 5 below.

### Structure

2.6 The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out at the end of this part of this Constitution.

### Delegations to Dartford Borough Council

2.7 Pursuant to enabling legislation Council and Cabinet have delegated to Dartford

Borough Council via its Head of Paid Service the discharge of all functions with regard to the Internal Audit and Fraud Service as may be more particularly identified in Schedule 1 of the Partnership Working Agreement. Council and Cabinet have also agreed to place at the disposal of Dartford Borough Council for the purposes of their functions the services of officers employed by Sevenoaks District Council.

- 2.8 Pursuant to enabling legislation Council and Cabinet have delegated to Dartford Borough Council via its Head of Paid Service the discharge of all functions with regards to the Environmental Health Service as may be more particularly identified in the Partnership Working Arrangements. Council and Cabinet have also agreed to place at the disposal of Dartford Borough Council for the purposes of their functions the services of officers employed by Sevenoaks District Council.

### **3. Functions of the Chief Executive (as Head of Paid Service)**

#### Discharge of Functions by the Council

- 3.1 The Chief Executive will keep under review the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

#### Restrictions on Functions

- 3.2 The Chief Executive may not be the Council's Monitoring Officer but may hold the post of s.151 Officer if a qualified accountant.

### **4. Functions of the Monitoring Officer (Chief Officer Legal & Governance)**

#### Maintaining the Constitution

- 4.1 The Monitoring Officer (Chief Officer Legal & Governance) will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

#### Ensuring Lawfulness and Fairness of Decision-Making

- 4.2 After consulting with the Chief Executive (the Head of Paid Service and s.151 Officer), the Chief Officer Legal & Governance (Monitoring Officer) will report to the full Council or to the Cabinet in relation to an Executive Function – if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.
- 4.3 Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

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### Supporting the Standards Committee

- 4.4 The Chief Officer Legal & Governance (the Monitoring Officer) will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- 4.5 Notwithstanding the duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and providing copies of any records or documents belonging to the Council to the Standards Committee for the purpose of investigation or determination of a complaint against a Member.

### Conducting Investigations

- 4.6 The Chief Officer Legal & Governance (the Monitoring Officer) may conduct investigations into allegations of Member Code of Conduct breaches and make reports or recommendations in respect of them to the Standards Committee.

### For Access to Information

- 4.7 The Chief Executive (the Head of Paid Service and s.151 Officer) will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

### Advising Whether Cabinet Decisions are Within the Budget and Policy Framework

- 4.8 The Monitoring Officer, in consultation with the Head of Paid Service and s.151 Officer, will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

### Providing Advice

- 4.9 The Monitoring Officer, in consultation with the Head of Paid Service and s.151 Officer, will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members.

### Restrictions on Posts

- 4.10 The Monitoring Officer cannot be the Head of Paid Service and s.151 Officer.

## **5. Functions of the s.151 Officer (the Chief Executive)**

### Ensuring Lawfulness and Financial Prudence of Decision-Making

- 5.1 After consulting with the Monitoring Officer, the s.151 Officer will report to the full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

Administration of Financial Affairs

- 5.2 The s.151 Officer will have responsibility for the administration of the financial affairs of the Council.

Contributing to Corporate Management

- 5.3 The s.151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

Providing Advice

- 5.4 The s.151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members and will support and advise Members and Officers in their respective roles.

Giving Financial Information

- 5.5 The s.151 Officer will provide financial information to the media, members of the public and the community.

Restrictions on Functions

- 5.6 The s.151 Officer may not be the Monitoring Officer but may hold the post of Head of Paid Service.

**6. Duty to provide sufficient resources to the Monitoring Officer, the s.151 Officer and the Returning Officer**

- 6.1 The Council will provide the Monitoring Officer, s.151 Officer and the Council's Returning Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**7. Conduct**

- 7.1 Officers will comply with the Officers' Code of Conduct (Appendix I - Code of Conduct for Employees) and the Protocol on Officer/Councillor Relations set out in (Appendix J - Protocol on Councillor and Officer Relations) or such other Protocols as may be adopted by the Council.

**8. Employment**

- 8.1 The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out in (Appendix M - Officer Employment Procedure Rules).

**9. Delegations to Officers**

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### Introduction - Overall Basis

- 9.1 This scheme delegates the powers and duties of the Council to Officers and shall be interpreted widely rather than narrowly and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified, including appointment and dismissal of staff (where that is not reserved to Members by the scheme of delegation to committees) and authorising the affixing of the Common Seal.
- 9.2 This scheme operates under sections 101 of the Local Government Act 1972 and 15 of the Local Government Act 2000 and all other enabling powers.

### Overall Limitations

- 9.3 This scheme does not delegate to Officers:
- (a) any matter reserved to full Council;
  - (b) any matter, which by law, may not be delegated to an Officer; and
  - (c) the determination of policy (including extension of or amendment to an existing policy) and budgetary matters; and
  - (d) any matter expressly withdrawn from delegation by this scheme or, in a particular case, by the Council, Cabinet or Committee or Sub-Committee.
- 9.4 The exercise of a delegated power shall be subject to:
- (a) The Council's policies, procedures and protocols, including the Budget and Policy Framework (Appendix B - Budget and Policy Framework Procedure Rules).
  - (b) The requirements of the Constitution, including the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules) and Financial Procedure Rules (Appendix D - Financial Procedure Rules);
  - (c) Any statutory restrictions;
  - (d) The right of the Council, Cabinet, Committee or Sub-Committee to decide any matter in a particular case; and
  - (e) Any restrictions, conditions or directions of the delegating body.
- 9.5 In exercising delegated powers, Officers shall:
- (a) have regard to any report by the Chief Executive in his capacity as Head of Paid Service or the Monitoring Officer under sections 4 and 5 of the Local Government and Housing Act 1989 or the Chief Executive in his capacity as s.151 Officer under section 114 of the Local Government Finance Act 1988.

- (b) not go beyond the provision in the revenue or capital budgets for their service except to the extent permitted by the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules) or Financial Procedure Rules (Appendix D - Financial Procedure Rules).
- (c) Where and when appropriate, report back to Cabinet, or appropriate Committee or Sub-Committee, as to the exercise of the delegated powers.

### **10. Further Provisions:**

- 10.1 This scheme includes the power for Officers to delegate in writing all or some of the delegated functions to other Officers (described by name or post) either fully or under the general supervision and control of the delegating officer. Sub-delegations shall be recorded in a register kept by the Democratic Services Team under section 100G of the Local Government Act 1972. It shall be the responsibility of the Officer delegating any function to ensure that a copy of the delegation is forwarded to the Democratic Services Manager.
- 10.2 Before exercising delegated powers an Officer shall comply with the requirements for consultation with Members set out in this Constitution, including the limitations set out in this Scheme of Delegation, the Budget and Policy Framework Procedure Rules (Appendix B - Budget and Policy Framework Procedure Rules), the Access to Information Procedure Rules (Appendix A - Access to Information Procedure Rules), the Financial Procedure Rules (Appendix D - Financial Procedure Rules), and the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules), and the Protocols (as set out in the appendices to this Constitution). It shall always be open to an Officer not to exercise delegated powers but to refer the matter to the Cabinet, Committee or Sub-Committee for decision.
- 10.3 In exercising delegated powers, Officers shall consult with such other Officers as they determine appropriate and shall have regard to any advice given.
- 10.4 This scheme shall operate from 1<sup>st</sup> September 2013.
- 10.5 This scheme delegates to the holder of each post named in it the management of the resources made available for the duties of the post as specified in the terms of the post holder's appointment.
- 10.6 In each case the delegated authority does not authorise the post holder to make any planning application which would materially conflict with or prejudice an identified policy in an adopted Local Plan for the time being in force.
- 10.7 In each case, except where the Chief Executive is exercising delegated authority under paragraph 12 (d) below, none of the Officers named is authorised to make a formal response on behalf of the Council to any Government Consultation Paper, without reference first to the Cabinet, relevant Portfolio Holder or the relevant Committee provided that when the timescale does not allow for reference to a scheduled Cabinet or Committee meeting, Officers are authorised to respond,

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following consultation with the relevant member of the Cabinet (where the matter is an Executive function) or with the relevant Committee Chairman (where the matter is not an Executive function).

- 10.8 The powers delegated to Officers, other than the Chief Executive, in this scheme may also be exercised by the Chief Executive when he considers such action to be appropriate.
- 10.9 Any reference to any Act of Parliament shall include reference to regulations, subordinate legislation and European Union legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
- 10.10 Reference to any enactment, regulation, order or byelaw shall include any amendment, re-enactment or re-making of the same.
- 10.11 Any post referred to below 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.

### **11. General Delegations to All Chief Officers Acting Individually**

- 11.1 The Chief Officers referred to within Part 13 of the Constitution are those set out in paragraph 2.2 above.
- 11.2 Chief Officers are empowered to carry out those specific functions of the Council delegated to them in this scheme of delegation forming Part 13 of the Constitution in addition to the follows generic powers:-
- 11.3 Deal with employment issues in accordance with the Council's procedures.
- 11.4 Within service budgets, accept tenders, place contracts and procure other resources within or outside the Council subject to compliance with the Council's Financial and Contract Procedure Rules.
- 11.5 Serve, receive and act upon notices and comply with any duty of the Council.
- 11.6 Exercise virement within the financial limits contained in the Financial Procedure Rules.
- 11.7 Provide services to other local authorities and organisations.
- 11.8 In exercising their delegated powers Chief Officers must act within the law, the Council's Constitution, its Financial and Contract Procedure Rules and other procedures and policies and within appropriate service budgets.
- 11.9 In exercising their delegated powers the Chief Officers will:

- consult the relevant Cabinet Portfolio Holder as appropriate;
- consult any appropriate Chief Officer or relevant Head of Service/Service Manager, in particular where there are significant financial, legal, property or HR implications of the proposed action or decision.

11.10 In the event of a Chief Officer post being vacant, or in the absence of a Chief Officer, those delegated powers may be exercised by the relevant Head of Service/Service Manager so far as permitted by law.

11.11 Where this Constitution permits the exercise of delegated powers by Heads of Service/Service Managers, such exercise is subject to the same restrictions and requirements as are applicable to Chief Officers.

### **12. Delegation to the Chief Executive and s.151 Officer**

- (a) To be Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989 and the s.151 Officer
- (b) The power to incur expenditure in the event of a civil emergency and to make orders under the Public Order Act 1986.
- (c) To manage the co-ordination of budget processes, including overall strategy, planning and information.
- (d) In cases of urgency, after consultation with the Leader and Deputy Leader of the Council [and, where possible, the Leader(s) of the Opposition], to take any decision which could be taken by the Cabinet or by a Committee and to report such actions to Cabinet or Committee as appropriate.
- (e) To be the Returning Officer and Electoral Registration Officer for the Council.
- (f) To be the proper officer of the Council for the purposes of the Local Government Act 1972, The Local Authorities (Executive and Arrangements)(Meetings and Access to Information)(England ) Regulations 2012 and the Local Government (Miscellaneous Provisions) Act 1976.
- (g) To designate suitably qualified officers as Authorising Officers for the purpose of granting authorisations to exercise the powers made available to the Council by the Regulation of Investigatory Powers Act, 2000 in accordance with the changes to provisions made by the Protection of Freedoms Act 2012.
- (h) To exercise the granting of the higher level of internal authorisation under the Regulation of Investigatory Powers Act 2000 as set out in the Council's Surveillance Policy.
- (i) To be the proper officer of the Council for the purpose of Part II of the Local Authorities (Statutory Order) (England) Regulations 2001

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- (j) As Head of Paid Service, to exercise any powers delegated to another Officer except those in respect of which a specific professional qualification is required by statute.
- (k) The Chief Executive, or in his absence, the Chief Officer Communities & Business to give authorisation of a dispersal order under the Anti Social Behaviour Act 2003 Part 4 (Sections 30 and 31).
- (l) Pursuant to enabling legislation this Council via its Chief Executive has received and shall discharge all the functions of Dartford Borough Council with regard to the Revenues and Benefits Service as may be more particularly identified in Schedule 1 of the Partnership Working Agreement and Dartford Borough Council have agreed to place at the disposal of Sevenoaks District Council for the purposes of those functions the services of officers employed by Dartford Borough Council.
- (m) Pursuant to enabling legislation this Council via its Chief Executive has received and shall discharge all the functions of Dartford Borough Council with regard to the Environmental Health Service as may be more particularly identified in the Partnership Working Arrangements and Dartford Borough Council have agreed to place at the disposal of Sevenoaks District Council for the purposes of those functions the services of officers employed by Dartford Borough Council.
- (n) To grant exemptions on the political restrictions of officer posts under the Localism Act 2011
- (o) To exercise the proper administration of the Council's financial affairs which shall include issues of insurance, discretions as to rating, housing benefits and Council Tax under section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988.

This authority is limited in the following cases:

- (i) the approval of sums exceeding £10,000 being transferred from an agreed estimate to another purpose other than for which it was approved shall be subject to approval by the relevant Portfolio Holder(s); and
  - (ii) the writing off of debts exceeding £5,000 and rent arrears exceeding £5,000 shall be subject to approval by the Value for Money Portfolio Holder.
- (p) To exercise the budgetary control functions under the Council's Financial Procedure Rules.
  - (q) To arrange all borrowings, financing and investment in line with the Council's Treasury Management Policy Statement.
  - (r) To agree the terms of loans permitted under law.
  - (s) To authorise the release of funds from contingencies as set out in the Revenue Budget.

- (t) To have responsibility for the Council's general administration (including the sealing of documents), Committee structure and operation (including payment of Members' allowances and expenses) save that any adjustment to the Council's calendar of meetings as may be necessary shall only be exercised after consultation with the Leader of the Council or the appropriate Chairman. To be the proper officer of the Council for the purposes of sections 96, 225, 229 and Part VA, sections 115 and 146 of the Local Government Act 1972 and for the purposes of section 41 of the Local Government (Miscellaneous Provisions) Act 1976.
- (u) To manage central training and job evaluation.
- (v) To determine and issue guidelines to Officers for the management of human resources and in particular recruitment, training, conditions of service, rewards and discipline.
- (w) To permanently re-grade posts up to and including Head of Service level.

### **13. Delegation to the Chief Finance Officer**

- (a) To exercise all the powers of management in the best interests of the Council with regard to land and property owned by the Council including authorising action for possession of any land or property.
- (b) To acquire and dispose of land that is necessary for the Council's current programme.
- (c) To institute and conduct legal proceedings where sufficient evidence exists when this is in the Council's interest or arising out of its functions and to take such action as he thinks appropriate with regard to any such proceedings as being in the Council's interest.
- (d) To defend all proceedings brought against the Council including appeals against its decisions and to take such action as he thinks appropriate with regard to any such proceedings.
- (e) To authorise Officers to represent the Council before all Courts and Tribunals.
- (f) To have the responsibility for taking care of all securities and title deeds of all property held in the name of the Council.
- (g) To maintain the collection of revenue, council tax and national non-domestic rates.
- (h) The administration of benefits.
- (i) To maintain an effective internal audit service
- (j) To act as lead officer for the Audit Committee
- (k) To act as the Risk Management Officer Champion and ensure appropriate risk

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management arrangements are in place across the Council.

- (l) To act as lead officer for maintaining effective corporate governance arrangements and the preparation of the Annual Governance Statement.
- (m) To make appropriate banking arrangements on behalf of the Council
- (n) To insure against risks where he considers this appropriate.
- (o) To receive and respond to expressions of interest under Community Right to Challenge, under Part 5, Chapter 2 of the Localism Act 2011.
- (p) To undertake the functions of the designated s.151 Officer in the absence of such Officer.

### **14. Delegation to the Chief Officer Legal & Governance**

- (a) To institute and conduct legal proceedings where sufficient evidence exists when this is in the Council's interest or arising out of its functions and to take such action as is considered appropriate with regard to any such proceedings as being in the Council's interest.
- (b) To defend all proceedings brought against the Council including appeals against its decisions and to take such action as is considered appropriate with regard to any such proceedings.
- (c) To authorise Officers to represent the Council before all Courts and Tribunals.
- (d) To have responsibility for the Council's general administration (including the sealing of documents), Committee structure and operation (including payment of Members' allowances and expenses) save that any adjustment to the Council's calendar of meetings as may be necessary shall only be exercised after consultation with the Leader of the Council or the appropriate Chairman or Chairmen.
- (e) To have the responsibility for taking care of all securities and title deeds of all property held in the name of the Council.
- (f) To act as the Proper Officer for the purposes of the Local Government Act 2000.
- (g) To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.
- (h) To prepare all contracts for the sale or purchase of Council Land and property and all leases, tenancy agreements or other agreements affecting Council land or property including easements or any interest in land.
- (i) To settle legal documents.
- (j) To sign the documents intended to give effect to decisions of a council body.

- (k) To sign any notice, demand or other document on behalf of the Council in connection with any actual or contemplated legal proceeding.
- (l) To settle any action in any court or tribunal in which the Council is a party or where legal proceedings are indicated providing that any settlement exceeding £50,000 will be subject to prior consultation with the Leader or Deputy Leader of the Council except in cases of urgency where the settlement is made on the advice of Counsel.
- (m) In consultation with the Chairman of the Governance Committee to make payments or provide other benefits in cases of maladministration in accordance with Section 92 of the Local Government Act 2000 (as amended)
- (n) To act as the Proper Officer for the purposes of the Local Government Acts 1972 and 2000 and all Regulations made there under other than those Proper Officer functions delegated to the Chief Executive and s.151 Officer in connection with the administration of the Council's financial affairs.
- (o) To act as lead officer for the Governance Committee
- (p) To act as lead officer for the Standards Committee

### **15. Delegation to Chief Planning Officer**

- (a) To exercise all the powers and duties of the Council as the Local Planning Authority (including the conduct of appeals) under all Town and Country Planning legislation, subject to the following exceptions:
  - (1) Where an application is submitted to Sevenoaks District Council for determination, it shall be referred to the Development Control Committee if any of the following apply.
    - (i) In the opinion of the Chief Planning Officer, the application is of a significant, controversial or sensitive nature.
    - (ii) It is proposed to determine an application which in the opinion of the said Chief Planning Officer, would set a significant precedent.
    - (iii) A written request for consideration by the Development Control Committee, supported by an appropriate planning reason<sup>1</sup>, has been received from a Member of the Council no later than 21 calendar days following despatch of the weekly list of planning applications on which such applications appear, or such lesser period as may be notified by the Chief Planning Officer in relation to any application where a decision could not otherwise be made by Committee before the statutory deadline for determination.

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<sup>1</sup> A 'Planning Reason' includes accordance with a relevant Development Plan Policy or a material planning consideration. The Chief Planning Officers or Development Control Manager will offer advice if necessary on an appropriate planning reason.

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Where amended plans and/or information of a significant nature (as determined by the Chief Planning Officer) are received on an application, an additional call-in period will be given, the period for which will be specified by the Chief Planning Officer to suit the circumstances of each case.

- (iv) A written request for consideration by the Development Control Committee, supported by an appropriate planning reason, has been received from a Member of the Council relating to an application in their Ward no later than seven calendar days following notification by the Chief Planning Officer of a proposed recommendation which is contrary to representations received in support of, or in objection to, an application from the Town or Parish Council for the area (subject to the arrival of such representations within the statutory consultation period).
  - (v) An application known to have been submitted by, or on behalf of, a Member or an Officer of the District Council, or a member of their family<sup>2</sup>.
- (2) Where the Council is a consultee to an application e.g. where an application is submitted to Kent County Council as the Mineral Planning Authority, the application shall be referred to the Development Control Committee if in the opinion of the Chief Planning Officer, it is of a significant, controversial or sensitive nature.
- (3) Enforcement action shall be referred to the Development Control Committee if either of the following apply.
- (i) A request for consideration by the Development Control Committee, supported by an appropriate planning reason, has been received from a Local Member; or
  - (ii) The Chairman or Vice Chairman of the Development Control Committee requires the case to be considered by the Development Control Committee.
- (4) Where permission has been refused under delegated powers, an appeal has been lodged and new information has been received that leads Officers to conclude that refusal of permission can no longer be substantiated at appeal, the matter will be referred back to Members to enable the original delegated refusal to be reviewed.

If sufficient time is available, local Members will be asked to agree to a decision no longer to oppose the scheme following the procedure for delegated decisions and if the local Members do not agree the matter will be

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<sup>2</sup> A 'member of their family' shall include a partner (someone they are married to, civil partner or other person who they live with in a similar capacity), a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of their partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.

referred to the Development Control Committee including, if necessary, an emergency meeting.

If the appeal timetable does not allow for the above process to be completed in time, the review of the delegated decision will be referred to a Panel of three Members of the Committee for decision, after consultation with the local Members.

The Chief Executive will call a meeting of one of the Panels whenever there is business to be transacted.

A Panel will contain three Members of the Development Control Committee. Either the Chairman or Vice-Chairman of the Development Control Committee will be one of the Members of the panel and the other Members of the Panel will be selected sequentially in alphabetical order. Local Members should not normally be part of the Panel but will have the right to address the Panel for a maximum of 3 minutes.

Any Member of the Development Control Committee may act as a substitute on a Panel. Democratic Services must be notified by the Members concerned of any substitutions at least one working hour prior to a Panel meeting. The Chairman or Vice-Chairman of the Development Control Committee, whichever is present, will be the Chairman of the Panel.

The quorum for a Panel meeting shall be three Members.

The procedure will not apply to the review of individual reasons for refusal where the decision to refuse permission does not change.

- (5) The Chief Planning Officer to institute, conduct and settle legal proceedings on behalf of the Council in any Court of Law, Tribunal or other body in respect of any breach or contravention of the Planning Acts and regulations made thereunder (including actions for injunctions).
- (b) To take all necessary action to defend legal proceedings against the Council.
- (c) To exercise all relevant legislation where appropriate as follows:
- The Town and Country Planning Act 1990
  - Planning (Listed Buildings and Conservation Areas) Act 1990
  - Town and Country Planning (Control of Advertisements)(England) Regulations 2007
  - the Town and Country Planning (General Permitted Development) Order 1995

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- Planning & Compulsory Purchase Act 2004
- Planning and Compensation Act 1991
- Countryside and Rights of Way Act 2000.
- Growth and Infrastructure Act 2013
- the Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions of the planning authority

### **16. Delegation to the Chief Officer Environmental & Operational Services**

- (a) To exercise all the Council's powers and duties with regard to Building Control under the Building Act 1984 and regulations made thereunder.
- (b) To take all necessary action to secure compliance with the Building Act 1984 and regulations made thereunder, including the service of statutory notices.
- (c) To institute, conduct and settle legal proceedings on behalf of the Council in any Court of Law, Tribunal or other body in respect of any breach or contravention of the Building Act 1984 and regulations made thereunder (including actions for injunctions).
- (d) To take all necessary action to defend legal proceedings against the Council.
- (e) To exercise the functions of the Council with regard to environmental improvements and access to the Countryside.
- (f) To deal with all matters relating to high hedges under Part 8 of the Anti-Social Behaviour Act 2003

#### Environmental and Operational Services

##### Direct Services

- (g) To operate the activities of Sevenoaks Direct Services.
- (h) To deal with any matters relating to the powers contained in the Clean Neighbourhood and Environment Act 2005.
- (i) To deal with any matters relating to the powers contained in the Environmental Protection Act 1990
- (j) To deal with any matters relating to the powers contained in the Refuse Disposal (Amenity) Act 1978

### Parking & Amenity

- (k) To operate playgrounds to ensure health and safety requirements are met, and to seek alternative management of playgrounds as appropriate.
- (l) To monitor and review the Council's grounds maintenance contract and ensure corrective action is taken when required.

### Environmental Services

- (m) To be the Council's proper officer for the purposes of matters relating to food safety and infectious diseases save that where such designation requires a medical or other specialist qualification, to be authorised to designate suitable persons as proper officer for that purpose.
- (n) To exercise all the functions of the Council with regard to matters relating to environmental health, including public health, food hygiene and health and safety, animal welfare (including the authorisation of legal proceedings).
- (o) To exercise all the functions of the Council with regard to matters relating to contaminated land (including the authorisation of legal proceedings) and air quality.

### Licensing

- (p) To authorise legal proceedings in respect of any contravention arising from the Licensing Act 2003, the Gambling Act 2005 and the Charities Act 2006.
- (q) To determine all applications for a personal license, where no objections have been made
- (r) To determine all applications for a premises licence/club premises certificate, where no representations have been made.
- (s) To determine all applications for a provisional statement where no representations have been made.
- (t) To determine all applications to vary premises licences/club premises certificates where no relevant representations have been made.
- (u) To determine all applications to vary designated personal licence holders, except where there is a police objection.
- (v) To determine all requests to be removed as designated personal licence holders.
- (w) To determine all applications by way of Interim Authority Notices except where there is a police objection.
- (x) To determine whether representations submitted are irrelevant, frivolous, or vexatious

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- (y) To determine all applications for Minor Variations to premises/club premises licences.
- (z) To determine all applications for removal of the mandatory condition to have a Designated Premises Supervisor at Community Premises.
- (aa) To maintain the Licensing Register.
- (bb) 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 granting of permits for small buses.
- (cc) To exercise all the Council's functions with regard to hypnotism street collections (including the variation of any conditions imposed on any licence)

### Additional Functions

- (dd) To carry out the land charges function.
- (ee) To carry out street naming and numbering.
- (ff) To carry out the retaining of walls near streets.
- (gg) To carry out the Council's functions in relation to temporary road and footpath closures.
- (hh) To carry on the functions associated with parking contraventions.
- (ii) To exercise as appropriate all relevant legislation as follows:
  - Animal Boarding Establishments Act 1963
  - Animal Welfare Act 2006
  - Animals Act 1941
  - Breeding of Dogs Act 1973 & 1991
  - Dogs (Fouling of Land) Act 1996
  - Clean Air Act 1993
  - Control of Pollution Act 1974
  - Control of Dogs Order 1991
  - Criminal Justice and Public Order Act 1994

- Anti- Social Behaviour Act 1972
- Dangerous Dogs Act 1991
- Dangerous Wild Animals Act 1976
- Environment Act 1995
- European Communities Act 1972
- Food Safety Act 1984 and 1990
- Food Hygiene (England) Regulations 2006
- Food and Environment Protection Act 1985
- Guard Dogs Act 1975
- Health Act 2006
- Health and Safety at Work etc Act 1974
- National Assistance (Amendment) Act 1951
- National Assistance Act 1948
- Noise Act 1996
- Noise and Statutory Nuisance Act 1993
- Offices, Shops and Railway Premises Act 1963
- Performing Animals (Regulations) Act 1925
- Pet Animals Act 1951
- Pesticides Act 1995
- Pollution Prevention and Control Act 1990
- Police and Criminal Evidence Act 1984
- Prevention of Damage by Pests Act 1949
- Public Health (Amendment) Act 1907 and 1961
- Public Health Act 1936, 1925, 1961

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- Public Health (Control of Diseases) Act 1984
- Refuse Disposal (Amenity) Act 1978
- Riding Establishments Act 1964 & 1970
- Scrap Metal Dealers Act 2013
- Christmas Day Trading Act 2004
- Sunday Trading Act 1847
- Goods Vehicle (Licensing of Operators) Act 1995
- Towns Improvement Clauses Act 1847
- The Water Supply (Water Quality) Regulations 2010
- Water Industry Act 1991
- Wildlife and Countryside Act 1981
- The Private Water Supply Regulations 2009
- Zoo Licencing Act 1981
- Road Traffic Act 1988 and 1991
- Road Traffic Regulation Act 1984
- Traffic Management Act 2004
- Town Police Clauses Act 1847
- Highways Act 1980
- House to House Collections Act 1939
- Local Government Act 1972
- The Local Government (Miscellaneous Provisions) Act 1976 and 1982
- Commons Act 1899
- Local Authorities (Goods and Services) Act 1970
- Sunbeds Regulation Act 2010

- Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions of the Environmental services authority.

## **17. Delegation to the Chief Officer Housing**

### Housing Services

- (a) To exercise all the functions of the Council as a housing authority, including the responsibility for the Council's Housing Strategy and policies, the enabling role, the Homelessness and Housing advice service, standard and fitness of properties, Energy Conservation issues and the management of unauthorised encampments and of the Council's gypsy site.
- (b) The power to authorise Housing staff (Housing advice and Homelessness) under Part V11 Housing Act 1996, Housing Act 2002, Prevention from Eviction Act 1977, Police and Criminal Evidence Act 1984 and National Assistance Act 1948.
- (c) To exercise where appropriate all other relevant legislation as follows:
  - Houses, Grants, Construction and Regeneration Act 1996
  - Housing Acts 1977, 1985, 1988, 1989, 1996, 2002 and 2004
  - Environmental Protection Act 1990
  - Local Government Acts 1933 & 1972
  - Caravan Sites and Control of Development Act 1960
  - Caravan Sites Act 1968
  - Building Act 1984
  - The Water Supply (Water Quality) Regulations 2010
  - The Water Industry Act 1991 as amended
  - The Private Water Supply Regulations 2009
  - Prevention of Damage by Pests Acts 1949
  - Public Health Acts 1936 & 1961
  - Public Health Control of Disease Act 1984 as amended
  - Landlord and Tenant Act 1985

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- National Assistance Act 1948
- Local Government (Miscellaneous Provisions) Act 1976 & 1982
- Criminal Justice and Public Order Act 1994
- Home Energy Conservation Act 1995 as amended
- Land Drainage Act 1991
- Rent (Agricultural) Act 1976
- Protection from Eviction Act 1977
- Mobile Homes Act 1975 and 1983
- Police and Criminal Evidence Act 1984
- The National Assistance Act 1948
- The Local Government (Miscellaneous Provisions) Act 1976
- The Kent Acts
- Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions of the Housing Authority.

### **18. Delegations to the Chief Officer Communities & Business**

#### Communities and Business

- (a) To be responsible for the implementation and co-ordination of the Council's duties and functions under the Crime and Disorder Act 1998 as amended, including the authorisation of seeking appropriate orders under the Act.
- (b) To manage the Council's contractual relationship with Sencio Community Leisure and to operate the Council's leisure facilities that are not under the management of the Leisure Trust, including seeking alternative management of leisure facilities or funding or assistance from the Lottery Arts Fund save that where support or rejection for such assistance arises from a town or parish council, the Local Member(s) shall be consulted.
- (c) In partnership, facilitate arts (arts development in partnership with Kent County Council) within Council policies and manage the Council's contractual relationship for the operation of the Stag (formerly known as Sevenoaks Playhouse).

- (d) To exercise co-ordination of all matters relating to sustainable development and other matters of environmental management and policy agreed by the Council.
- (e) To be responsible for the implementation of Economic Development Policy and Programmes.
- (f) To be responsible for Strategic and Operational Tourism.
- (g) To undertake the Council's involvement in Health Improvement Plans, Health and Wellbeing Boards and the implementation of Health Policy.
- (h) To be responsible for the implementation, with other partners, of the Sevenoaks District Community Plan on behalf of the Council.
- (i) The responsibility, with other partners, for the implementation of the Voluntary Sector Compact.
- (j) To facilitate youth development and safeguarding within the Council's policies.
- (k) To operate the Council's capital schemes in parishes and other grant schemes.
- (l) To authorise and maintain a list of assets of community value and to make adjudications and decisions in relation thereto.
- (m) To exercise where appropriate all other relevant legislation as follows:
  - Anti-Social Behaviour Act 2003 and consequential amendments
  - Police Reform Act 2002
  - Police & Justice Act 2006
  - Localism Act 2011or such other Acts of Parliament as relate to the relevant statutory functions for Community Safety.

### **19. Delegations to Chief Officer Corporate Support**

- (a) To be responsible for the following functions
  - Customer services
  - Facilities Management
  - IT Services
  - Property Services,

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- Post Room and Scanning
- Telecommunications

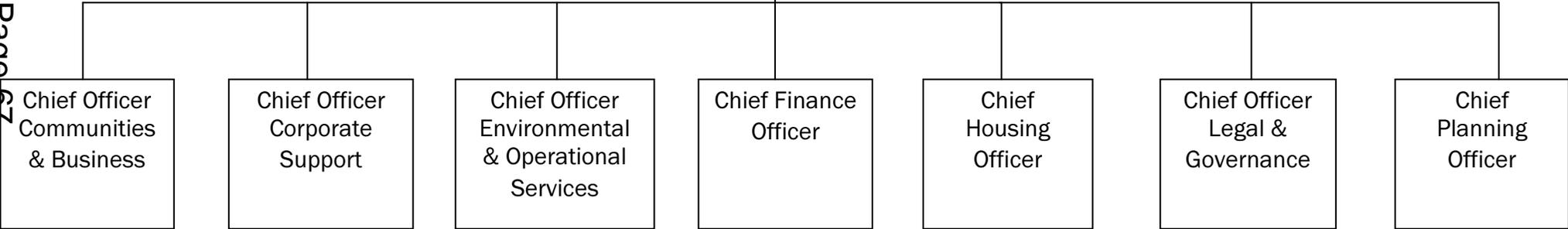
(b) To exercise where appropriate all other relevant legislation as follows:

- Landlord and Tenant Act 1954
- Landlords and Tenant Covenants Act 1995
- The Construction (Design and Management) Regulations 2007
- The Control of Asbestos Regulations 2012
- Disability Discrimination Act 2005
- The Local Government (Miscellaneous Provisions) Act 1976
- Local Authorities (Goods and Services) Act 1970
- The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007
- Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions in relation to the Facilities and IT services of the authority

**Organisational Structure**

Chief Executive



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**AMENDMENTS TO THE COUNCIL'S CONSTITUTION RELATING TO THE COUNCIL'S LICENSING FUNCTION**

**Governance Committee – 5 November 2013**

Report of Chief Officer Environmental and Operational Services

Status: For Decision

Also considered by: Licensing Committee – 16 October 2013

Council – 26 November 2013

Key Decision: No

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**Portfolio Holder** Cllr. Ms Lowe (Housing and Community Safety)

**Contact Officer(s)** Claire Perry Ext: 7325

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**Recommendation to the Licensing Committee and Governance Committee:** That Full Council be recommended to approve the amendments to Part 8 and Part 13 of the Council's constitution attached at Appendix A and Appendix B.

**Recommendation to Council:** That the amendments to Part 8 and Part 13 of the Council's constitution attached at Appendix A and Appendix B be approved.

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**Reason for recommendation:** to ensure that the Council's Constitution remains up-to-date and reflects the legislation under which the Council's Licensing Team operate.

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**Introduction and Background**

1. It has been necessary to update the Council's constitution to reflect changes that have been made to legislation and new legislation that has been implemented.
2. In Part 8 – Licensing Committee, the Committee's Terms of Reference have been amended to reflect new legislation in the Police Reform and Social Responsibility Act 2011 – to enable the Local Authority to set a Late Night Levy or an Early Morning Restriction Order should they wish.
3. Under Part 8 of the Constitution it is also being suggested that the Licensing Committee should delegate powers to the Licensing Sub-Committees for the determination of an application for a Sexual Entertainment Venue licence.
4. It is also felt that it would be beneficial to refer some reports to a Licensing Sub-Committee on either an application by a Private Hire Driver or a Hackney Carriage Driver. As a result of this a minor amendment to the Terms of Reference for the Licensing Sub-Committees has been suggested.

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5. The proposed changes to Part 13 – Officer Responsibilities and Delegations, clarify that the delegations to Officers to determine applications under the Licensing Act 2003 and Gambling Act 2005, exist only when no relevant representations have been received.

### **Key Implications**

#### Financial

None arising directly from the contents of this report.

#### Legal Implications and Risk Assessment Statement.

Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution under review.

If Chief Officers act without the appropriate authority any decision or action they take could be challenged and result in adverse costs and publicity against the Council. It is therefore imperative that delegations are given correctly.

#### Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	N/A
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	No	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		

#### **Appendices**

Appendix A - Part 8 – Licensing Committee (as amended)

Appendix B- Part 13 - Officer Responsibilities and Delegations (as amended)

#### **Background Papers:**

Sevenoaks District Council's Constitution

**Mr Richard Wilson**

**Chief Officer for Environmental and Operation Services**

## PART 8 – LICENSING COMMITTEE

### 1. Licensing Committee

- 1.1 Composition: Thirteen Members of the District Council reflecting the political proportionality of the Council
- 1.2 Terms of Reference
- (a) Except as provided in the Licensing Act 2003 and the Gambling Act 2005, the discharge of all functions of the District Council as licensing authority prescribed by those acts;
  - (b) the issue, renewal, transfer, suspension and revocation of hackney carriage, private hire vehicle, driver and operator licenses;
  - (c) applications for the licensing of sex establishments
  - ~~(d) the discharge of relevant functions relating to the Police Reform and Social Responsibility Act 2011;~~ and
  - (d) the discharge of all other functions relating to licensing and registration in so far as they are the responsibility of the District Council.

### 2. Licensing Hearing Sub-Committees

- 2.1 The Licensing Committee has established ~~four~~five Licensing Hearing Sub-Committees. The Chief Executive will call a meeting of one of the sub-committees whenever there is business to be transacted.

Composition: Each Sub-Committee will contain three Members of the Licensing Committee. Any member of the Licensing Committee may act as a substitute on any of the Licensing Sub-Committees. Democratic Services must be notified by the members concerned of any substitutions at least one working hour prior to a sub-committee meeting.

- ~~2.2~~ Terms of Reference

Licensing Act 2003:

- (a) determination of application for the grant/ renewal of a personal licence where an objection notice has been given by the Police;
- (b) consideration of Police objection notice following conviction of personal licence holder;
- (c) determination of application for the variation of a designated premises supervisor where a notice has been received from the Police;

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- (d) determination of application for the transfer of a premises licence where a notice has been received from the Police;
- (e) determination of application for:
  - (i) premises licence;
  - (ii) club premises certificate;
  - (iii) provisional statement;
  - (iv) variation of premises licence / club premises certificates;
  - (v) review of a licence following an application by a senior police officer; where relevant representations have been made;
- (f) determination of application for the review of a premises licence/club premises certificate;
- (g) determination on review of premises licence following closure order;
- (h) consideration of Police or Environmental Health objection notice given in response to a temporary event notice; and
- (i) consideration of Police notice given in response to an interim authority notice.

### Gambling Act 2005:

- (a) determination of application for the grant/ variation/ transfer/ reinstatement of premises licence where relevant representations have been received.;
- (b) determination on review of premises licence;
- (c) determination of application for provisional statement where relevant representations have been received.;
- (d) consideration of notice of objection to temporary use notice;
- (e) determination of application for the grant/ renewal of family entertainment centre gaming permit, club gaming permit, club machine permit, licensed premises gaming machine permit, gaming machine permit where relevant representations have been received.; and
- (f) cancellation of club gaming permit, club machine permit, licensed premises gaming machine permit where relevant representations have been received.

Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27, Policing and Crime Act 2009

(a) determination of application for the grant/ renewal/ transfer of a sex shop, sex cinema or sexual entertainment venue

Town Police Clauses Act 1847, Public Health Act 1875 and Local Government (Miscellaneous Provisions) Act 1976

(a) 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, the licensing of private hire operators and the granting of permits for small buses where the matter has been referred by the delegated officer.

### **3. Procedure at Sub-Committees of the Licensing Committee (established in accordance with Section 9 of the Licensing Act 2003)**

- 3.1 In accordance with Section 9 (1) of the Licensing Act 2003, the Licensing Committee has resolved to establish **fourfive** Sub-Committees, each consisting of three members of the Committee.
- 3.2 The Sub-Committees have delegated authority to determine those functions that are reserved for decision by the Sub-Committees in accordance with Appendix B of the Council's Statement of Licensing Policy dated 7<sup>th</sup> January 2011.
- 3.3 Hearings shall be conducted in accordance with this Procedure Note and The Licensing Act 2003 (Hearings) Regulations 2005 subject to the right of the Sub-Committee to vary that procedure at their absolute discretion if considered in the public interest.
- 3.4 The quorum for a Sub-Committee shall be two members.
- 3.5 At the commencement of each hearing the Sub-Committee shall elect one of its members as Chairman.
- 3.6 The order of business at hearings shall be:
  - (a) Election of Chairman.
  - (b) Declarations of interests.

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- (c) Chairman explains the procedure to be followed at the hearing, including the setting of equal time limits for all parties and the granting of adjournments.
- (d) Chairman ascertains who is assisting or representing the parties.
- (e) Applicant (or his/her representative) addresses the Sub-Committee.
- (f) Applicant questioned by members. At the discretion of the Sub-Committee, other parties may be permitted to question the applicant.
- (g) Persons who have made representations in respect of the application (or their representative) address the Sub-Committee. No issues other than those relevant to their representations may be raised.
- (h) Members question each party at the conclusion of their address. At the discretion of the Sub-Committee, the applicant may be permitted to question other parties.
- (i) Sub-Committee may offer the parties a short adjournment to discuss in the absence of the Sub-Committee whether a solution acceptable to all the parties can be put to the Sub-Committee.
- (j) Applicant (or his/her representative) makes closing address.
- (k) Sub-Committee may grant a short adjournment. The parties may not speak to members regarding the application during adjournments.
- (l) The Sub-Committee considers the application and motions put to accept or reject the application in the terms requested or to grant the application subject to specified conditions. Reasons are to be given for motions.
- (m) The parties will be informed of the decision at the hearing or thereafter in accordance with Regulation 26 of the 2005 Regulation.

## **PART 13 - OFFICER RESPONSIBILITIES AND DELEGATIONS**

### **1. The Council’s Officers**

1.1 The Council has people working for it (Officers) to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between Officers and Members. (Appendix J - Protocol on Councillor and Officer Relations)

### **2. Management Structure**

#### General

2.1 The full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

#### Chief Officers

2.2 The full Council will engage persons for the following posts, who will be designated Chief Officers:

<b>Post</b>	<b>Functions and areas of responsibility</b>
Chief Executive	Overall corporate management and operational responsibility (and Head of Paid Service) (including overall management responsibility for all Officers)  Provision of professional advice to all parties in the decision-making process.  Representing the Council on partnership and external bodies (as required by statute or the Council).  The Section 151 Officer.  The Returning Officer and Electoral Registration Officer for the Council.  Responsibility for Regeneration.
Chief Officer Communities & Business	Community Engagement, Community Plan, Community Safety, Economic Development, Grants, Health, Leisure, Health and Wellbeing Boards, Older People, Safeguarding, West Kent Partnership, Young People.
Chief Officer Environmental & Operational	Building Control, Business Continuity, Corporate Health & Safety, CCTV, Emergency Planning, Environmental Health, Licensing, Parking & Amenity, Procurement, Refuse Collection & Recycling, Street & Other

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Services	cleansing services, Land Charges.
Chief Finance Officer	Audit, Anti-Fraud, Benefits, Business Rates, Council Tax, Finance, Risk Management, Strategic Asset Management, Treasury Management.
Chief Officer Housing	Climate Change, Empty Homes, Housing Policy & Enabling, Management of Gypsy/Traveller sites & unauthorised encampments, Liaison with Housing Associations, Private Housing, Social Housing, West Kent Leader Programme, Private sector letting scheme, Disabled facility grants and welfare funerals.
Chief Officer Legal & Governance	Data Protection & Freedom of Information, Democratic Services, Elections, Legal Services, Monitoring Officer, Standards Ethics and Governance
Chief Planning Officer	Conservation, Development Control, Planning Appeals, Planning Enforcement, Planning Policy, Arboricultural Policy.
Chief Officer Corporate Support	Customer Services, Facilities Management, IT Services, Property Services, Post Room & Scanning, Telecommunications.

2.3 The designations of these posts may be changed from time to time by the Cabinet on receipt of advice from the Chief Executive.

### Head of Paid Service and s.151 Officer and Monitoring Officer

2.4 The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service and s. 151 Officer
Chief Officer Legal & Governance	Monitoring Officer

2.5 Such posts will have the functions described in paragraphs 3, 4 and 5 below.

### Structure

2.6 The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out at the end of this part of this Constitution.

### Delegations to Dartford Borough Council

2.7 Pursuant to enabling legislation Council and Cabinet have delegated to Dartford

Borough Council via its Head of Paid Service the discharge of all functions with regard to the Internal Audit and Fraud Service as may be more particularly identified in Schedule 1 of the Partnership Working Agreement. Council and Cabinet have also agreed to place at the disposal of Dartford Borough Council for the purposes of their functions the services of officers employed by Sevenoaks District Council.

- 2.8 Pursuant to enabling legislation Council and Cabinet have delegated to Dartford Borough Council via its Head of Paid Service the discharge of all functions with regards to the Environmental Health Service as may be more particularly identified in the Partnership Working Arrangements. Council and Cabinet have also agreed to place at the disposal of Dartford Borough Council for the purposes of their functions the services of officers employed by Sevenoaks District Council.

### **3. Functions of the Chief Executive (as Head of Paid Service)**

#### Discharge of Functions by the Council

- 3.1 The Chief Executive will keep under review the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

#### Restrictions on Functions

- 3.2 The Chief Executive may not be the Council's Monitoring Officer but may hold the post of s.151 Officer if a qualified accountant.

### **4. Functions of the Monitoring Officer (Chief Officer Legal & Governance)**

#### Maintaining the Constitution

- 4.1 The Monitoring Officer (Chief Officer Legal & Governance) will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

#### Ensuring Lawfulness and Fairness of Decision-Making

- 4.2 After consulting with the Chief Executive (the Head of Paid Service and s.151 Officer), the Chief Officer Legal & Governance (Monitoring Officer) will report to the full Council or to the Cabinet in relation to an Executive Function – if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.
- 4.3 Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

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### Supporting the Standards Committee

- 4.4 The Chief Officer Legal & Governance (the Monitoring Officer) will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- 4.5 Notwithstanding the duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and providing copies of any records or documents belonging to the Council to the Standards Committee for the purpose of investigation or determination of a complaint against a Member.

### Conducting Investigations

- 4.6 The Chief Officer Legal & Governance (the Monitoring Officer) may conduct investigations into allegations of Member Code of Conduct breaches and make reports or recommendations in respect of them to the Standards Committee.

### For Access to Information

- 4.7 The Chief Executive (the Head of Paid Service and s.151 Officer) will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

### Advising Whether Cabinet Decisions are Within the Budget and Policy Framework

- 4.8 The Monitoring Officer, in consultation with the Head of Paid Service and s.151 Officer, will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

### Providing Advice

- 4.9 The Monitoring Officer, in consultation with the Head of Paid Service and s.151 Officer, will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members.

### Restrictions on Posts

- 4.10 The Monitoring Officer cannot be the Head of Paid Service and s.151 Officer.

## **5. Functions of the s.151 Officer (the Chief Executive)**

### Ensuring Lawfulness and Financial Prudence of Decision-Making

- 5.1 After consulting with the Monitoring Officer, the s.151 Officer will report to the full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

### Administration of Financial Affairs

- 5.2 The s.151 Officer will have responsibility for the administration of the financial affairs of the Council.

### Contributing to Corporate Management

- 5.3 The s.151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

### Providing Advice

- 5.4 The s.151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members and will support and advise Members and Officers in their respective roles.

### Giving Financial Information

- 5.5 The s.151 Officer will provide financial information to the media, members of the public and the community.

### Restrictions on Functions

- 5.6 The s.151 Officer may not be the Monitoring Officer but may hold the post of Head of Paid Service.

## **6. Duty to provide sufficient resources to the Monitoring Officer, the s.151 Officer and the Returning Officer**

- 6.1 The Council will provide the Monitoring Officer, s.151 Officer and the Council's Returning Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

## **7. Conduct**

- 7.1 Officers will comply with the Officers' Code of Conduct (Appendix I - Code of Conduct for Employees) and the Protocol on Officer/Councillor Relations set out in (Appendix J - Protocol on Councillor and Officer Relations) or such other Protocols as may be adopted by the Council.

## **8. Employment**

- 8.1 The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out in (Appendix M - Officer Employment Procedure Rules).

## **9. Delegations to Officers**

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### Introduction - Overall Basis

- 9.1 This scheme delegates the powers and duties of the Council to Officers and shall be interpreted widely rather than narrowly and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified, including appointment and dismissal of staff (where that is not reserved to Members by the scheme of delegation to committees) and authorising the affixing of the Common Seal.
- 9.2 This scheme operates under sections 101 of the Local Government Act 1972 and 15 of the Local Government Act 2000 and all other enabling powers.

### Overall Limitations

- 9.3 This scheme does not delegate to Officers:
- (a) any matter reserved to full Council;
  - (b) any matter, which by law, may not be delegated to an Officer; and
  - (c) the determination of policy (including extension of or amendment to an existing policy) and budgetary matters; and
  - (d) any matter expressly withdrawn from delegation by this scheme or, in a particular case, by the Council, Cabinet or Committee or Sub-Committee.
- 9.4 The exercise of a delegated power shall be subject to:
- (a) The Council's policies, procedures and protocols, including the Budget and Policy Framework (Appendix B - Budget and Policy Framework Procedure Rules).
  - (b) The requirements of the Constitution, including the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules) and Financial Procedure Rules (Appendix D - Financial Procedure Rules);
  - (c) Any statutory restrictions;
  - (d) The right of the Council, Cabinet, Committee or Sub-Committee to decide any matter in a particular case; and
  - (e) Any restrictions, conditions or directions of the delegating body.
- 9.5 In exercising delegated powers, Officers shall:
- (a) have regard to any report by the Chief Executive in his capacity as Head of Paid Service or the Monitoring Officer under sections 4 and 5 of the Local Government and Housing Act 1989 or the Chief Executive in his capacity as s.151 Officer under section 114 of the Local Government Finance Act 1988.

- (b) not go beyond the provision in the revenue or capital budgets for their service except to the extent permitted by the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules) or Financial Procedure Rules (Appendix D - Financial Procedure Rules).
- (c) Where and when appropriate, report back to Cabinet, or appropriate Committee or Sub-Committee, as to the exercise of the delegated powers.

### **10. Further Provisions:**

- 10.1 This scheme includes the power for Officers to delegate in writing all or some of the delegated functions to other Officers (described by name or post) either fully or under the general supervision and control of the delegating officer. Sub-delegations shall be recorded in a register kept by the Democratic Services Team under section 100G of the Local Government Act 1972. It shall be the responsibility of the Officer delegating any function to ensure that a copy of the delegation is forwarded to the Democratic Services Manager.
- 10.2 Before exercising delegated powers an Officer shall comply with the requirements for consultation with Members set out in this Constitution, including the limitations set out in this Scheme of Delegation, the Budget and Policy Framework Procedure Rules (Appendix B - Budget and Policy Framework Procedure Rules), the Access to Information Procedure Rules (Appendix A - Access to Information Procedure Rules), the Financial Procedure Rules (Appendix D - Financial Procedure Rules), and the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules), and the Protocols (as set out in the appendices to this Constitution). It shall always be open to an Officer not to exercise delegated powers but to refer the matter to the Cabinet, Committee or Sub-Committee for decision.
- 10.3 In exercising delegated powers, Officers shall consult with such other Officers as they determine appropriate and shall have regard to any advice given.
- 10.4 This scheme shall operate from 1<sup>st</sup> September 2013.
- 10.5 This scheme delegates to the holder of each post named in it the management of the resources made available for the duties of the post as specified in the terms of the post holder's appointment.
- 10.6 In each case the delegated authority does not authorise the post holder to make any planning application which would materially conflict with or prejudice an identified policy in an adopted Local Plan for the time being in force.
- 10.7 In each case, except where the Chief Executive is exercising delegated authority under paragraph 12 (d) below, none of the Officers named is authorised to make a formal response on behalf of the Council to any Government Consultation Paper, without reference first to the Cabinet, relevant Portfolio Holder or the relevant Committee provided that when the timescale does not allow for reference to a scheduled Cabinet or Committee meeting, Officers are authorised to respond,

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following consultation with the relevant member of the Cabinet (where the matter is an Executive function) or with the relevant Committee Chairman (where the matter is not an Executive function).

- 10.8 The powers delegated to Officers, other than the Chief Executive, in this scheme may also be exercised by the Chief Executive when he considers such action to be appropriate.
- 10.9 Any reference to any Act of Parliament shall include reference to regulations, subordinate legislation and European Union legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
- 10.10 Reference to any enactment, regulation, order or byelaw shall include any amendment, re-enactment or re-making of the same.
- 10.11 Any post referred to below 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.

### **11. General Delegations to All Chief Officers Acting Individually**

- 11.1 The Chief Officers referred to within Part 13 of the Constitution are those set out in paragraph 2.2 above.
- 11.2 Chief Officers are empowered to carry out those specific functions of the Council delegated to them in this scheme of delegation forming Part 13 of the Constitution in addition to the follows generic powers:-
- 11.3 Deal with employment issues in accordance with the Council's procedures.
- 11.4 Within service budgets, accept tenders, place contracts and procure other resources within or outside the Council subject to compliance with the Council's Financial and Contract Procedure Rules.
- 11.5 Serve, receive and act upon notices and comply with any duty of the Council.
- 11.6 Exercise virement within the financial limits contained in the Financial Procedure Rules.
- 11.7 Provide services to other local authorities and organisations.
- 11.8 In exercising their delegated powers Chief Officers must act within the law, the Council's Constitution, its Financial and Contract Procedure Rules and other procedures and policies and within appropriate service budgets.
- 11.9 In exercising their delegated powers the Chief Officers will:

- consult the relevant Cabinet Portfolio Holder as appropriate;
- consult any appropriate Chief Officer or relevant Head of Service/Service Manager, in particular where there are significant financial, legal, property or HR implications of the proposed action or decision.

11.10 In the event of a Chief Officer post being vacant, or in the absence of a Chief Officer, those delegated powers may be exercised by the relevant Head of Service/Service Manager so far as permitted by law.

11.11 Where this Constitution permits the exercise of delegated powers by Heads of Service/Service Managers, such exercise is subject to the same restrictions and requirements as are applicable to Chief Officers.

### **12. Delegation to the Chief Executive and s.151 Officer**

- (a) To be Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989 and the s.151 Officer
- (b) The power to incur expenditure in the event of a civil emergency and to make orders under the Public Order Act 1986.
- (c) To manage the co-ordination of budget processes, including overall strategy, planning and information.
- (d) In cases of urgency, after consultation with the Leader and Deputy Leader of the Council [and, where possible, the Leader(s) of the Opposition], to take any decision which could be taken by the Cabinet or by a Committee and to report such actions to Cabinet or Committee as appropriate.
- (e) To be the Returning Officer and Electoral Registration Officer for the Council.
- (f) To be the proper officer of the Council for the purposes of the Local Government Act 1972, The Local Authorities (Executive and Arrangements)(Meetings and Access to Information)(England ) Regulations 2012 and the Local Government (Miscellaneous Provisions) Act 1976.
- (g) To designate suitably qualified officers as Authorising Officers for the purpose of granting authorisations to exercise the powers made available to the Council by the Regulation of Investigatory Powers Act, 2000 in accordance with the changes to provisions made by the Protection of Freedoms Act 2012.
- (h) To exercise the granting of the higher level of internal authorisation under the Regulation of Investigatory Powers Act 2000 as set out in the Council's Surveillance Policy.
- (i) To be the proper officer of the Council for the purpose of Part II of the Local Authorities (Statutory Order) (England) Regulations 2001

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- (j) As Head of Paid Service, to exercise any powers delegated to another Officer except those in respect of which a specific professional qualification is required by statute.
- (k) The Chief Executive, or in his absence, the Chief Officer Communities & Business to give authorisation of a dispersal order under the Anti Social Behaviour Act 2003 Part 4 (Sections 30 and 31).
- (l) Pursuant to enabling legislation this Council via its Chief Executive has received and shall discharge all the functions of Dartford Borough Council with regard to the Revenues and Benefits Service as may be more particularly identified in Schedule 1 of the Partnership Working Agreement and Dartford Borough Council have agreed to place at the disposal of Sevenoaks District Council for the purposes of those functions the services of officers employed by Dartford Borough Council.
- (m) Pursuant to enabling legislation this Council via its Chief Executive has received and shall discharge all the functions of Dartford Borough Council with regard to the Environmental Health Service as may be more particularly identified in the Partnership Working Arrangements and Dartford Borough Council have agreed to place at the disposal of Sevenoaks District Council for the purposes of those functions the services of officers employed by Dartford Borough Council.
- (n) To grant exemptions on the political restrictions of officer posts under the Localism Act 2011
- (o) To exercise the proper administration of the Council's financial affairs which shall include issues of insurance, discretions as to rating, housing benefits and Council Tax under section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988.

This authority is limited in the following cases:

- (i) the approval of sums exceeding £10,000 being transferred from an agreed estimate to another purpose other than for which it was approved shall be subject to approval by the relevant Portfolio Holder(s); and
  - (ii) the writing off of debts exceeding £5,000 and rent arrears exceeding £5,000 shall be subject to approval by the Value for Money Portfolio Holder.
- (p) To exercise the budgetary control functions under the Council's Financial Procedure Rules.
  - (q) To arrange all borrowings, financing and investment in line with the Council's Treasury Management Policy Statement.
  - (r) To agree the terms of loans permitted under law.
  - (s) To authorise the release of funds from contingencies as set out in the Revenue Budget.

- (t) To have responsibility for the Council's general administration (including the sealing of documents), Committee structure and operation (including payment of Members' allowances and expenses) save that any adjustment to the Council's calendar of meetings as may be necessary shall only be exercised after consultation with the Leader of the Council or the appropriate Chairman. To be the proper officer of the Council for the purposes of sections 96, 225, 229 and Part VA, sections 115 and 146 of the Local Government Act 1972 and for the purposes of section 41 of the Local Government (Miscellaneous Provisions) Act 1976.
- (u) To manage central training and job evaluation.
- (v) To determine and issue guidelines to Officers for the management of human resources and in particular recruitment, training, conditions of service, rewards and discipline.
- (w) To permanently re-grade posts up to and including Head of Service level.

### **13. Delegation to the Chief Finance Officer**

- (a) To exercise all the powers of management in the best interests of the Council with regard to land and property owned by the Council including authorising action for possession of any land or property.
- (b) To acquire and dispose of land that is necessary for the Council's current programme.
- (c) To institute and conduct legal proceedings where sufficient evidence exists when this is in the Council's interest or arising out of its functions and to take such action as he thinks appropriate with regard to any such proceedings as being in the Council's interest.
- (d) To defend all proceedings brought against the Council including appeals against its decisions and to take such action as he thinks appropriate with regard to any such proceedings.
- (e) To authorise Officers to represent the Council before all Courts and Tribunals.
- (f) To have the responsibility for taking care of all securities and title deeds of all property held in the name of the Council.
- (g) To maintain the collection of revenue, council tax and national non-domestic rates.
- (h) The administration of benefits.
- (i) To maintain an effective internal audit service
- (j) To act as lead officer for the Audit Committee
- (k) To act as the Risk Management Officer Champion and ensure appropriate risk

## Agenda Item 7

management arrangements are in place across the Council.

- (l) To act as lead officer for maintaining effective corporate governance arrangements and the preparation of the Annual Governance Statement.
- (m) To make appropriate banking arrangements on behalf of the Council
- (n) To insure against risks where he considers this appropriate.
- (o) To receive and respond to expressions of interest under Community Right to Challenge, under Part 5, Chapter 2 of the Localism Act 2011.
- (p) To undertake the functions of the designated s.151 Officer in the absence of such Officer.

### **14. Delegation to the Chief Officer Legal & Governance**

- (a) To institute and conduct legal proceedings where sufficient evidence exists when this is in the Council's interest or arising out of its functions and to take such action as is considered appropriate with regard to any such proceedings as being in the Council's interest.
- (b) To defend all proceedings brought against the Council including appeals against its decisions and to take such action as is considered appropriate with regard to any such proceedings.
- (c) To authorise Officers to represent the Council before all Courts and Tribunals.
- (d) To have responsibility for the Council's general administration (including the sealing of documents), Committee structure and operation (including payment of Members' allowances and expenses) save that any adjustment to the Council's calendar of meetings as may be necessary shall only be exercised after consultation with the Leader of the Council or the appropriate Chairman or Chairmen.
- (e) To have the responsibility for taking care of all securities and title deeds of all property held in the name of the Council.
- (f) To act as the Proper Officer for the purposes of the Local Government Act 2000.
- (g) To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.
- (h) To prepare all contracts for the sale or purchase of Council Land and property and all leases, tenancy agreements or other agreements affecting Council land or property including easements or any interest in land.
- (i) To settle legal documents.
- (j) To sign the documents intended to give effect to decisions of a council body.

- (k) To sign any notice, demand or other document on behalf of the Council in connection with any actual or contemplated legal proceeding.
- (l) To settle any action in any court or tribunal in which the Council is a party or where legal proceedings are indicated providing that any settlement exceeding £50,000 will be subject to prior consultation with the Leader or Deputy Leader of the Council except in cases of urgency where the settlement is made on the advice of Counsel.
- (m) In consultation with the Chairman of the Governance Committee to make payments or provide other benefits in cases of maladministration in accordance with Section 92 of the Local Government Act 2000 (as amended)
- (n) To act as the Proper Officer for the purposes of the Local Government Acts 1972 and 2000 and all Regulations made there under other than those Proper Officer functions delegated to the Chief Executive and s.151 Officer in connection with the administration of the Council's financial affairs.
- (o) To act as lead officer for the Governance Committee
- (p) To act as lead officer for the Standards Committee

### **15. Delegation to Chief Planning Officer**

- (a) To exercise all the powers and duties of the Council as the Local Planning Authority (including the conduct of appeals) under all Town and Country Planning legislation, subject to the following exceptions:
  - (1) Where an application is submitted to Sevenoaks District Council for determination, it shall be referred to the Development Control Committee if any of the following apply.
    - (i) In the opinion of the Chief Planning Officer, the application is of a significant, controversial or sensitive nature.
    - (ii) It is proposed to determine an application which in the opinion of the said Chief Planning Officer, would set a significant precedent.
    - (iii) A written request for consideration by the Development Control Committee, supported by an appropriate planning reason<sup>1</sup>, has been received from a Member of the Council no later than 21 calendar days following despatch of the weekly list of planning applications on which such applications appear, or such lesser period as may be notified by the Chief Planning Officer in relation to any application where a decision could not otherwise be made by Committee before the statutory deadline for determination.

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<sup>1</sup> A 'Planning Reason' includes accordance with a relevant Development Plan Policy or a material planning consideration. The Chief Planning Officers or Development Control Manager will offer advice if necessary on an appropriate planning reason.

## Agenda Item 7

Where amended plans and/or information of a significant nature (as determined by the Chief Planning Officer) are received on an application, an additional call-in period will be given, the period for which will be specified by the Chief Planning Officer to suit the circumstances of each case.

- (iv) A written request for consideration by the Development Control Committee, supported by an appropriate planning reason, has been received from a Member of the Council relating to an application in their Ward no later than seven calendar days following notification by the Chief Planning Officer of a proposed recommendation which is contrary to representations received in support of, or in objection to, an application from the Town or Parish Council for the area (subject to the arrival of such representations within the statutory consultation period).
  - (v) An application known to have been submitted by, or on behalf of, a Member or an Officer of the District Council, or a member of their family<sup>2</sup>.
- (2) Where the Council is a consultee to an application e.g. where an application is submitted to Kent County Council as the Mineral Planning Authority, the application shall be referred to the Development Control Committee if in the opinion of the Chief Planning Officer, it is of a significant, controversial or sensitive nature.
- (3) Enforcement action shall be referred to the Development Control Committee if either of the following apply.
- (i) A request for consideration by the Development Control Committee, supported by an appropriate planning reason, has been received from a Local Member; or
  - (ii) The Chairman or Vice Chairman of the Development Control Committee requires the case to be considered by the Development Control Committee.
- (4) Where permission has been refused under delegated powers, an appeal has been lodged and new information has been received that leads Officers to conclude that refusal of permission can no longer be substantiated at appeal, the matter will be referred back to Members to enable the original delegated refusal to be reviewed.

If sufficient time is available, local Members will be asked to agree to a decision no longer to oppose the scheme following the procedure for delegated decisions and if the local Members do not agree the matter will be

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<sup>2</sup> A 'member of their family' shall include a partner (someone they are married to, civil partner or other person who they live with in a similar capacity), a parent, a parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of their partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.

referred to the Development Control Committee including, if necessary, an emergency meeting.

If the appeal timetable does not allow for the above process to be completed in time, the review of the delegated decision will be referred to a Panel of three Members of the Committee for decision, after consultation with the local Members.

The Chief Executive will call a meeting of one of the Panels whenever there is business to be transacted.

A Panel will contain three Members of the Development Control Committee. Either the Chairman or Vice-Chairman of the Development Control Committee will be one of the Members of the panel and the other Members of the Panel will be selected sequentially in alphabetical order. Local Members should not normally be part of the Panel but will have the right to address the Panel for a maximum of 3 minutes.

Any Member of the Development Control Committee may act as a substitute on a Panel. Democratic Services must be notified by the Members concerned of any substitutions at least one working hour prior to a Panel meeting. The Chairman or Vice-Chairman of the Development Control Committee, whichever is present, will be the Chairman of the Panel.

The quorum for a Panel meeting shall be three Members.

The procedure will not apply to the review of individual reasons for refusal where the decision to refuse permission does not change.

- (5) The Chief Planning Officer to institute, conduct and settle legal proceedings on behalf of the Council in any Court of Law, Tribunal or other body in respect of any breach or contravention of the Planning Acts and regulations made thereunder (including actions for injunctions).
- (b) To take all necessary action to defend legal proceedings against the Council.
- (c) To exercise all relevant legislation where appropriate as follows:
- The Town and Country Planning Act 1990
  - Planning (Listed Buildings and Conservation Areas) Act 1990
  - Town and Country Planning (Control of Advertisements)(England) Regulations 2007
  - the Town and Country Planning (General Permitted Development) Order 1995

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- Planning & Compulsory Purchase Act 2004
- Planning and Compensation Act 1991
- Countryside and Rights of Way Act 2000.
- Growth and Infrastructure Act 2013
- the Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions of the planning authority

### **16. Delegation to the Chief Officer Environmental & Operational Services**

- (a) To exercise all the Council's powers and duties with regard to Building Control under the Building Act 1984 and regulations made thereunder.
- (b) To take all necessary action to secure compliance with the Building Act 1984 and regulations made thereunder, including the service of statutory notices.
- (c) To institute, conduct and settle legal proceedings on behalf of the Council in any Court of Law, Tribunal or other body in respect of any breach or contravention of the Building Act 1984 and regulations made thereunder (including actions for injunctions).
- (d) To take all necessary action to defend legal proceedings against the Council.
- (e) To exercise the functions of the Council with regard to environmental improvements and access to the Countryside.
- (f) To deal with all matters relating to high hedges under Part 8 of the Anti-Social Behaviour Act 2003

#### Environmental and Operational Services

##### Direct Services

- (g) To operate the activities of Sevenoaks Direct Services.
- (h) To deal with any matters relating to the powers contained in the Clean Neighbourhood and Environment Act 2005.
- (i) To deal with any matters relating to the powers contained in the Environmental Protection Act 1990
- (j) To deal with any matters relating to the powers contained in the Refuse Disposal (Amenity) Act 1978

### Parking & Amenity

- (k) To operate playgrounds to ensure health and safety requirements are met, and to seek alternative management of playgrounds as appropriate.
- (l) To monitor and review the Council's grounds maintenance contract and ensure corrective action is taken when required.

### Environmental Services

- (m) To be the Council's proper officer for the purposes of matters relating to food safety and infectious diseases save that where such designation requires a medical or other specialist qualification, to be authorised to designate suitable persons as proper officer for that purpose.
- (n) To exercise all the functions of the Council with regard to matters relating to environmental health, including public health, food hygiene and health and safety, animal welfare (including the authorisation of legal proceedings).
- (o) To exercise all the functions of the Council with regard to matters relating to contaminated land (including the authorisation of legal proceedings) and air quality.

### Licensing

- (p) To authorise legal proceedings in respect of any contravention arising from the Licensing Act 2003, the Gambling Act 2005 and the Charities Act 2006.
- (q) To determine all applications for a personal licence, where no objections have been made
- (r) To determine all applications for a premises licence/club premises certificate [under the Licensing Act 2003](#), where no [relevant](#) representations have been made.
- (s) To determine all applications for a provisional statement [under the Licensing Act 2003](#), where no [relevant](#) representations have been made.
- (t) To determine all applications to vary premises licences/club premises certificates [under the Licensing Act 2003](#), where no relevant representations have been made.
- (u) To determine all applications to vary designated personal licence holders, except where there is a police objection.
- (v) To determine all requests to be removed as designated personal licence holders.
- (w) To determine all applications by way of Interim Authority Notices except where there is a police objection.
- (x) To determine whether representations submitted are irrelevant, frivolous, or vexatious

## Agenda Item 7

(y) To determine all applications for Minor Variations to premises/club premises licences.

(z) To determine all applications for removal of the mandatory condition to have a Designated Premises Supervisor at Community Premises.

(aa) To make a representation to applications for Premises Licence or Club Premises Certificate under the Licensing Act 2003.

(bb) To make an application for a premises licences or club premises certificate to be reviewed without having to wait for another Responsible Authority to make an application.

(cc) To determine all applications for a premises licence/club premises certificate under the Gambling Act 2005, where no relevant representations have been made.

(dd) To determine all applications for a provisional statement under the Gambling Act 2005, where no relevant representations have been made.

(ee) To determine all applications to vary premises licences/club premises certificates under the Gambling Act 2005, where no relevant representations have been made.

~~(z)~~(ff) To maintain the Licensing Register.

~~(aa)~~(gg) 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, the licensing of private hire operators and the granting of permits for small busses.

~~(bb)~~(hh) To exercise all the Council's functions with regard to hypnotism street collections (including the variation of any conditions imposed on any licence)

### Additional Functions

~~(ee)~~(ii) To carry out the land charges function.

~~(dd)~~(jj) To carry out street naming and numbering.

~~(ee)~~(kk) To carry out the retaining of walls near streets.

~~(ff)~~(ll) To carry out the Council's functions in relation to temporary road and footpath closures.

~~(gg)~~(mm) To carry on the functions associated with parking contraventions.

~~(hh)~~(nn) To exercise as appropriate all relevant legislation as follows:

- Animal Boarding Establishments Act 1963

- Animal Welfare Act 2006
- Animals Act 1941
- Breeding of Dogs Act 1973 & 1991
- Dogs (Fouling of Land) Act 1996
- Clean Air Act 1993
- Control of Pollution Act 1974
- Control of Dogs Order 1991
- Criminal Justice and Public Order Act 1994
- Anti- Social Behaviour Act 1972
- Dangerous Dogs Act 1991
- Dangerous Wild Animals Act 1976
- Environment Act 1995
- European Communities Act 1972
- Food Safety Act 1984 and 1990
- Food Hygiene (England) Regulations 2006
- Food and Environment Protection Act 1985
- Guard Dogs Act 1975
- Health Act 2006
- Health and Safety at Work etc Act 1974
- National Assistance (Amendment) Act 1951
- National Assistance Act 1948
- Noise Act 1996
- Noise and Statutory Nuisance Act 1993
- Offices, Shops and Railway Premises Act 1963

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- Performing Animals (Regulations) Act 1925
- Pet Animals Act 1951
- Pesticides Act 1995
- Pollution Prevention and Control Act 1990
- Police and Criminal Evidence Act 1984
- Prevention of Damage by Pests Act 1949
- Public Health (Amendment) Act 1907 and 1961
- Public Health Act 1936, 1925, 1961
- Public Health (Control of Diseases) Act 1984
- Refuse Disposal (Amenity) Act 1978
- Riding Establishments Act 1964 & 1970
- Scrap Metal Dealers Act 2013
- Christmas Day Trading Act 2004
- Sunday Trading Act 1847
- Goods Vehicle (Licensing of Operators) Act 1995
- Towns Improvement Clauses Act 1847
- The Water Supply (Water Quality) Regulations 2010
- Water Industry Act 1991
- Wildlife and Countryside Act 1981
- The Private Water Supply Regulations 2009
- Zoo Licencing Act 1981
- Road Traffic Act 1988 and 1991
- Road Traffic Regulation Act 1984
- Traffic Management Act 2004

- Town Police Clauses Act 1847
- Highways Act 1980
- House to House Collections Act 1939
- Local Government Act 1972
- The Local Government (Miscellaneous Provisions) Act 1976 and 1982
- Commons Act 1899
- Local Authorities (Goods and Services) Act 1970
- Sunbeds Regulation Act 2010
- Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions of the Environmental services authority.

## **17. Delegation to the Chief Officer Housing**

### Housing Services

- (a) To exercise all the functions of the Council as a housing authority, including the responsibility for the Council's Housing Strategy and policies, the enabling role, the Homelessness and Housing advice service, standard and fitness or properties, Energy Conservation issues and the management of unauthorised encampments and of the Council's gypsy site.
- (b) The power to authorise Housing staff (Housing advice and Homelessness) under Part V11 Housing Act 1996, Housing Act 2002, Prevention from Eviction Act 1977, Police and Criminal Evidence Act 1984 and National Assistance Act 1948.
- (c) To exercise where appropriate all other relevant legislation as follows:
  - Houses, Grants, Construction and Regeneration Act 1996
  - Housing Acts 1977, 1985, 1988, 1989, 1996, 2002 and 2004
  - Environmental Protection Act 1990
  - Local Government Acts 1933 & 1972
  - Caravan Sites and Control of Development Act 1960
  - Caravan Sites Act 1968

## Agenda Item 7

- Building Act 1984
- The Water Supply (Water Quality) Regulations 2010
- The Water Industry Act 1991 as amended
- The Private Water Supply Regulations 2009
- Prevention of Damage by Pests Acts 1949
- Public Health Acts 1936 & 1961
- Public Health Control of Disease Act 1984 as amended
- Landlord and Tenant Act 1985
- National Assistance Act 1948
- Local Government (Miscellaneous Provisions) Act 1976 & 1982
- Criminal Justice and Public Order Act 1994
- Home Energy Conservation Act 1995 as amended
- Land Drainage Act 1991
- Rent (Agricultural) Act 1976
- Protection from Eviction Act 1977
- Mobile Homes Act 1975 and 1983
- Police and Criminal Evidence Act 1984
- The National Assistance Act 1948
- The Local Government (Miscellaneous Provisions) Act 1976
- The Kent Acts
- Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions of the Housing Authority.

### **18. Delegations to the Chief Officer Communities & Business**

#### Communities and Business

## Agenda Item 7

- (a) To be responsible for the implementation and co-ordination of the Council's duties and functions under the Crime and Disorder Act 1998 as amended, including the authorisation of seeking appropriate orders under the Act.
- (b) To manage the Council's contractual relationship with Sencio Community Leisure and to operate the Council's leisure facilities that are not under the management of the Leisure Trust, including seeking alternative management of leisure facilities or funding or assistance from the Lottery Arts Fund save that where support or rejection for such assistance arises from a town or parish council, the Local Member(s) shall be consulted.
- (c) In partnership, facilitate arts (arts development in partnership with Kent County Council) within Council policies and manage the Council's contractual relationship for the operation of the Stag (formerly known as Sevenoaks Playhouse).
- (d) To exercise co-ordination of all matters relating to sustainable development and other matters of environmental management and policy agreed by the Council.
- (e) To be responsible for the implementation of Economic Development Policy and Programmes.
- (f) To be responsible for Strategic and Operational Tourism.
- (g) To undertake the Council's involvement in Health Improvement Plans, Health and Wellbeing Boards and the implementation of Health Policy.
- (h) To be responsible for the implementation, with other partners, of the Sevenoaks District Community Plan on behalf of the Council.
- (i) The responsibility, with other partners, for the implementation of the Voluntary Sector Compact.
- (j) To facilitate youth development and safeguarding within the Council's policies.
- (k) To operate the Council's capital schemes in parishes and other grant schemes.
- (l) To authorise and maintain a list of assets of community value and to make adjudications and decisions in relation thereto.
- (m) To exercise where appropriate all other relevant legislation as follows:
  - Anti-Social Behaviour Act 2003 and consequential amendments
  - Police Reform Act 2002
  - Police & Justice Act 2006
  - Localism Act 2011

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or such other Acts of Parliament as relate to the relevant statutory functions for Community Safety.

### **19. Delegations to Chief Officer Corporate Support**

(a) To be responsible for the following functions

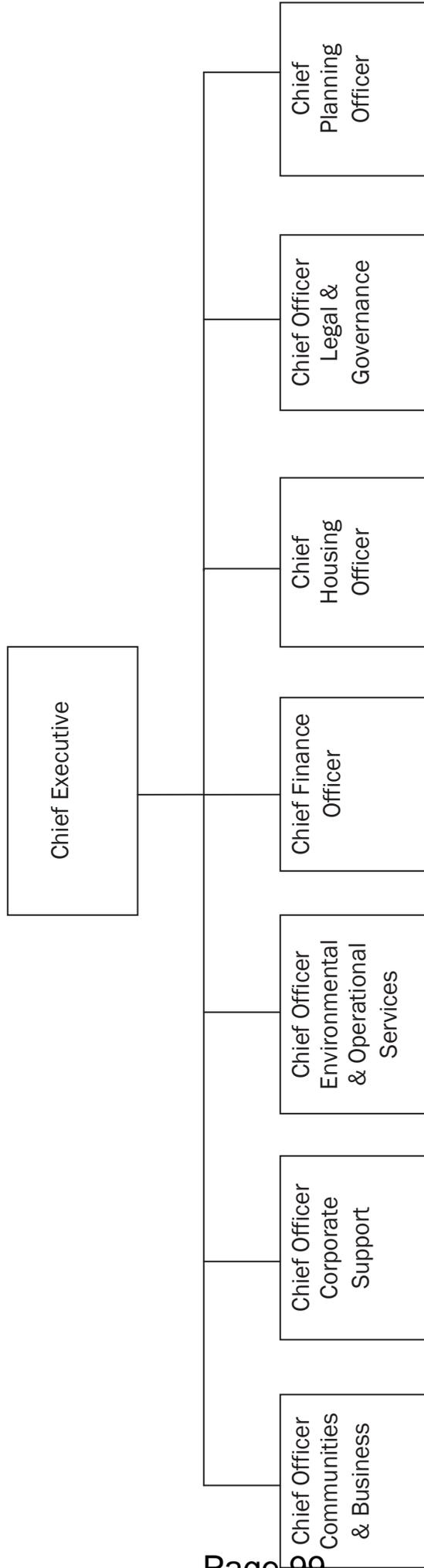
- Customer services
- Facilities Management
- IT Services
- Property Services,
- Post Room and Scanning
- Telecommunications

(b) To exercise where appropriate all other relevant legislation as follows:

- Landlord and Tenant Act 1954
- Landlords and Tenant Covenants Act 1995
- The Construction (Design and Management) Regulations 2007
- The Control of Asbestos Regulations 2012
- Disability Discrimination Act 2005
- The Local Government (Miscellaneous Provisions) Act 1976
- Local Authorities (Goods and Services) Act 1970
- The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007
- Localism Act 2011

or such other Acts of Parliament as relate to the relevant statutory functions in relation to the Facilities and IT services of the authority

**Organisational Structure**



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**Governance Committee Work Plan 2013/14**

<b>10 July 2013</b>	<b>19 September 2013</b>	<b>5 November 2013</b>	<b>13 March 2014</b>
<p>Remuneration in relation to new governance arrangements</p> <p>Update on new Shoreham and Badgers Mount Parish Councils</p>	<p>Recommendations from the Joint Independent Remuneration Panel</p> <p>Review of Expenses</p> <p>Sevenoaks District Strategic Board</p> <p>Appointment of Returning Officer</p>	<p>Review of new governance arrangements</p>	<p>Outcome of review of new governance arrangements</p> <p>Review of Constitution</p>

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