

## AGENDA

### GENERAL PURPOSES COMMITTEE MEETING

Date: Wednesday, 2 March 2016

Time: 5.00 pm

Venue: Committee Room, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Mike Baldock, Bowles (Chairman), Derek Conway, Mike Cosgrove, Adrian Crowther, Harrison, Gerry Lewin (Vice-Chairman), David Simmons and Mike Whiting

Quorum = 3

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	Pages
1. Apologies for Absence and Confirmation of Substitutes	
2. Minutes	
To approve the Minutes of the Meeting held on 6 October 2014 (Minute Nos. 268 - 273) as a correct record.	
3. Declarations of Interest	
Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.	
The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:	
(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.	
(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.	
<b>Advice to Members:</b> If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Director of Corporate Services as Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.	

## **PART A MINUTES FOR RECOMMENDATION TO COUNCIL**

- |    |   |         |
|----|---|---------|
| 4. | Review of Local Engagement Forums and Swale Rural Forum | 1 - 18  |
| 5. | Motion referred from Council on 27 January 2016         | 19 - 28 |
| 6. | Constitution Review                                     | 29 - 60 |

**Issued on Tuesday, 23 February 2016**

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about the work of this Committee, please visit [www.swale.gov.uk](http://www.swale.gov.uk)

**Corporate Services Director, Swale Borough Council,  
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

<b>General Purposes Committee</b>	
<b>Meeting Date</b>	2 March 2016
<b>Report Title</b>	Review of Local Engagement Forums and Swale Rural Forum
<b>Cabinet Member</b>	Cllr Mike Whiting, Cabinet Member for Localism, Sport, Culture and Heritage
<b>SMT Lead</b>	Kathryn Carr, Director of Regeneration
<b>Head of Service</b>	Emma Wiggins, Head of Economy and Community Services
<b>Lead Officer</b>	Sara Toal, Communications Manager
<b>Recommendations</b>	<ol style="list-style-type: none"><li>1. To recommend to Council that the Local Engagement Forums and the Swale Rural Forum cease in their current form.</li><li>2. To note proposals for better ways to engage with our community.</li></ol>

## **1 Purpose of Report and Executive Summary**

- 1.1 This report sets out details of the proposal made by Policy Development and Review Committee (PDRC) following a review carried out on the effectiveness of Swale Borough Council's Local Engagement Forums and Swale Rural Forum.
- 1.2 The report also outlines the proposals for better ways to engage with our community.

## **2 Background**

### **Local Engagement Forums**

- 2.1 Kent County Council and Swale Borough Council established three local engagement forums (LEFs) across the Borough in January 2009, to engage, inform and consult residents across Swale in order to achieve their ambition to create better services, build positive relationships with communities, and to create confident and skilled community members.

### **Swale Rural Forum**

- 2.2 Swale Borough Council established the Swale Rural Forum in December 2005 to discuss issues and make recommendations regarding rural problems, given the ambition to create better rural services and build positive relationships within the rural community.

- 2.3 The Forum was established to 'rural proof' relevant policy and strategy documents and, where appropriate, respond to consultations from local, County, regional, and national level organisations.
- 2.4 A review took place in 2014/15 to establish the effectiveness of Swale Borough Council's Local Engagement Forums and Swale Rural Forum. The PDRC was invited to provide feedback and input into the review in order to inform any changes or improvements for future years, or indeed determine whether the forums are the best means for the Council to engage with the public.
- 2.5 Following PDRC on 18 November 2015, the proposal made to Cabinet was that both the Local Engagement Forums and Swale Rural Forum cease in their current form, and that a consultation undertaken on better ways to engage.
- 2.6 A consultation took place from 21 December 2015, asking residents what methods of engagement they would value in terms of the Councils' engagement with them. Discussions also took place at the LEFs and the Rural Forum. Appendix I sets out the feedback.
- 2.7 Taking into consideration the feedback, proposals have been developed for better ways to engage with our community. These are shown in Appendix II. These new ways to engage will be promoted and publicised so people are aware of the change in approach. In summary these include:
- whilst LEFs and the Rural Forum will cease, public meetings will be organised on an ad hoc basis when there is a significant or contentious local issue that requires discussion so face-to-face communication is still available;
  - attendance by the Leader or nominated deputy at meetings of the Swale Area Committee of Kent Association of Local Councils to engage with Parish Councils;
  - introduce a 'Your Swale' section on the website and Inside Swale magazine, so it is easier for residents to find out about services and what's on;
  - introduce direct email to residents informing of news, information; and
  - continue to use social media such as Facebook and Twitter;

### **3 Proposals**

- 3.1 To recommend to Council that both the Local Engagement Forums and Swale Rural Forum cease in their current forms.
- 3.2 To note the proposals for better ways to engage with our community.

## 4 Alternative Options

- 4.1 To continue all three Local Engagement Forums and Swale Rural Forum. This is not recommended as it is clear that these are not effective in engaging with the residents and community, and more efficient and effective engagement methods are required.
- 4.2 Assist community groups or other organisations to run and organise LEFs. This is not recommended as even though such groups may be happy to take the lead, it will still require the Council to provide resource, and this is not an effective method of engaging with the community.

## 5 Consultation Undertaken or Proposed

- 5.1 Following consultation with members through the PDRC, consultation took place from 21 December 2015, including discussions at the LEFs and Rural forum.

## 6 Implications

Issue	Implications
Corporate Plan	Community Engagement contributes towards 'a Borough to be proud of' as it ensures that the Council listens and empowers local residents.
Financial, Resource and Property	<p>The cost of the introduction of a new direct email channel and a new website will be requested through a Performance Fund bid as part of a wider digital channel development project. Should this bid be successful, these new online channels will be the main drivers of community engagement activity. If not, our existing website will be used at no cost to achieve the engagement proposals outlined, but in a more limited capacity due to existing technical capability.</p> <p>A roadshow and public events are the only other elements of the proposals that require budget for delivery. £420 per annum will be contributed by ECS utilising the budget previously allocated for the LEFs. Any additional budget required to develop materials and organise roadshow and public events will be allocated from the existing Communications Service campaigns budget, which is £13,500 per annum.</p>
Legal and Statutory	None.
Crime and Disorder	By utilising new channels of engagement we will be able to promote the work of the Community Safety Partnership.
Sustainability	Introducing primarily online channels of engagement and resourcing through the existing communications service ensures the campaign activity is sustainable.

	We will also, through the new engagement channels, be able to promote and encourage community participation in recycling services.
Health and Wellbeing	By utilising new channels of engagement we will be able to promote and encourage community participation in Active Swale activities and events, and promote health and wellbeing messages from CCGs and the Chief Medical Officer to a wider audience and more frequently.
Risk Management and Health and Safety	None.
Equality and Diversity	Providing new channels for community engagement increases accessibility to groups who may not have engaged with the Council previously.

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Consultation Results
- Appendix II: Community Engagement Proposals

## 8 Background Papers

8.1 LEF and Swale Rural Forum paper PDRC November 2015  
<http://services.swale.gov.uk/meetings/ieListDocuments.aspx?CId=127&MId=1585&Ver>

## Consultation Results – Local Engagement Forums

Local Engagement Forum	You Said	We Did
Faversham	<ul style="list-style-type: none"> <li>▪ “Forums are valued as they currently are and are a great form of engagement.”</li> <li>▪ “Swale Borough Council website is poor and doesn’t make it easy for the public to reach information about the forums due to the layout – suggested putting LEFs under ‘Committee Meetings’ on website.”</li> <li>▪ “Agenda is advertised too late – two weeks’ notice isn’t enough.”</li> <li>▪ “Suggest the use of an email group.”</li> <li>▪ “The name of the forums shouldn’t change, as recorded in the minutes from PDRC on 18 November.”</li> <li>▪ “Overall publicity/communication isn’t as effective as it could potentially be.”</li> <li>▪ “Despite the same attendees at each forum, the information is being fed back by the representative to groups/organisations.”</li> <li>▪ “Suggested promotion in Inside Swale.”</li> <li>▪ “Send to other social media pages to advertise, for instance Faversham TC, groups/organisations in the area.”</li> <li>▪ “More should be published in the papers, including a follow up from the meeting.”</li> <li>▪ “Residents highlighted the importance of face to face engagement with the Council and the benefit of a general forum to discuss issues of the day.”</li> <li>▪ “It is the only forum for parish council’s engagement.”</li> <li>▪ “Critical of the extent of consultation with some advocating that it be 'run again with publicity' and that the website is 'impenetrable'.”</li> </ul>	<p>Improvements are planned to the Council’s website in 2016 which will address the points raised.</p> <p>Promotion of the ways the Council will engage will take place, including in Inside Swale</p> <p>Public meetings will still take place but on an ad hoc basis when there is a significant/ contentious issue</p>

	<ul style="list-style-type: none"> <li>▪ “Don’t want the entire process to be put online/social media as not everyone has easy access.”</li> <li>▪ “Residents can’t speak or raise a question at Faversham TC meetings due to being in the surrounding parishes and so value LEF meeting.”</li> </ul>	
<p>Sheppey</p>	<ul style="list-style-type: none"> <li>▪ “When LEF’s were first set up to replace the old Sheppey Area Committees, they were fully engaged and the meetings had a purpose.”</li> <li>▪ “Public attendance at the LEFs is poor. Before, when there was an issue it was standing room only. Public would speak first before items, as well as ‘chip-in’.”</li> <li>▪ “The Area Committees made expenditure decisions and LEFs are not fulfilling this and are not effectively engaging.”</li> <li>▪ “No problem with LEFs being removed, issues will be raised and will be consulted with the public when needed.”</li> <li>▪ “Supported Area Committees when a Parish Councillor. Major issues aren’t being put on the agendas, for instance consultation on Sheppey Hospital. There needs to be a better mechanism to trigger a positive/good discussion.”</li> <li>▪ “Supported Area Committees – good officer/member support and budget. Should have meetings when necessary and based around specific items, not scheduled in ‘religiously’.”</li> <li>▪ “Agenda is advertised too late – two weeks’ notice isn’t enough.”</li> <li>▪ “Public office workers and members of the public do attend at Parish Level. LEF should not use non-attendance of public as it not being relevant.”</li> <li>▪ “Support single issue meetings and suggests a coordinator rings PCs to see what issues are and coordinate a meeting.”</li> <li>▪ “LEF’s get Police and KFRS attendance whereas Parish meetings do not and so commends LEFs.”</li> <li>▪ “LEFs are a good mechanism for community networking with partners.”</li> </ul>	<p>Noted and supports the recommendation in the report.</p> <p>Improvements are planned to the Council’s website in 2016 which will address the points raised.</p> <p>Promotion of the ways the Council will engage will take place, including in Inside Swale</p> <p>Public meetings will still take place but on an ad hoc basis when there is a significant/ contentious issue</p>

	<ul style="list-style-type: none"> <li>▪ “Aren’t fulfilling purpose unless a major issue of concern/ interest is present.”</li> </ul>	
Sittingbourne	<ul style="list-style-type: none"> <li>▪ “Swale Borough Council website is poor and doesn’t make it easy for the public to reach information about the forums due to the layout and accessibility issues.”</li> <li>▪ “The name of the forums doesn’t attract people to attend.”</li> <li>▪ “Press coverage needs to improve.”</li> <li>▪ “Promotion in Inside Swale.”</li> <li>▪ “More promotion on Social Media.”</li> <li>▪ “Supportive of engagement with the Council but require better ways to do so.”</li> </ul>	<p>Improvements are planned to the Council’s website in 2016 which will address the points raised.</p> <p>Promotion of the ways the Council will engage will take place, including in Inside Swale and on social media.</p> <p>Public meetings will still take place but on an ad hoc basis when there is a significant/ contentious issue.</p>

## Consultation Results – Online Questionnaire

You Said	We Did
Q1 - Are you aware of the ways you can engage with the Council at the moment? If no, why?	
<p>73% - Yes</p> <p>27% - No, comments below:</p> <ul style="list-style-type: none"> <li>▪ “You don’t listen or act anyway.”</li> <li>▪ “Not needed to so never looked.”</li> <li>▪ “How do you find out about times, venue etc.”</li> <li>▪ “Never been informed.”</li> </ul>	Noted
Q2 - How have you/do you currently engage with the Council? Please specify if you have ever:	
<p>Attended a LEF or other public meeting?</p> <p>60% - Yes</p> <p>40% - No</p> <p>Followed us/made a comment on social media?</p> <p>69% - Yes</p> <p>31% - No</p> <p>Responded to a survey/consultation? (other than this one)</p> <p>66% - Yes</p> <p>34% - No</p> <p>Written a letter/email to your Councillor/ the Leader?</p> <p>60% - Yes</p> <p>40% - No</p> <p>Attended a Council or Committee meeting?</p> <p>53% - Yes</p> <p>47% - No</p>	Noted

<p>If no to any of the above, why not?</p> <ul style="list-style-type: none"> <li>▪ “You don’t listen or act on what we ask you to do.”</li> <li>▪ “More people would probably attend an LEF if they knew what LEF meant. Perhaps it should just be called a Have Your Say meeting? And the people on the panel should be advertised at least three weeks in advance. With their names and what they do on posters. Shops should be asked to posters in their windows.”</li> <li>▪ “Didn’t think I could make a difference.”</li> <li>▪ “Work commitments, lack of knowledge of events.”</li> <li>▪ “Didn’t know I could.”</li> <li>▪ “Don’t use social media. No need to write a letter/email to Councillor.”</li> </ul>	
<p>Q3 - Do you think the Council provides the best opportunities to enable you to engage at the moment? Are they accessible to you?</p>	
<p>36% - Yes</p> <p>64% - No, comments below:</p> <ul style="list-style-type: none"> <li>▪ No – “Email address for every department should be on a list on contact page of the website instead of being blocked by customer service staff that lack customer service. List more numbers than just the customer service number.”</li> <li>▪ No – “No information.”</li> <li>▪ No – “Not well publicised and discussions are not flowing rather than councillors won’t move from the agenda or give open answers.”</li> <li>▪ No – “The LEFs are not sufficiently engagement in that run by the council who set the agenda. Should have variety of different chairmen; rotate between councillors and (capable!) members of the public. Too much a forum for offloading Council issues rather than driven by the public.”</li> <li>▪ Yes – “I am informed because I proactively dig for info. Those who are not informed probably are not yet aware of this survey. The PROBLEM is for SBC to get the message out to those who do not read Inside Swale, do not attend meetings, maybe do use FACEBOOK, and are generally ignorant until they have a specific problem that they wish to be addressed.”</li> <li>▪ No – “Limited information, do they hold the meetings in various venues or it is always Sittingbourne. What about people living in high deprivation areas?”</li> <li>▪ No – “Forums are always held on a Tuesday.”</li> </ul>	<p>Noted. Comment regarding customer services passed to head of service.</p>

<ul style="list-style-type: none"> <li>▪ No – “Didn’t know anything about it.”</li> <li>▪ No – “These surveys should have a middle button for people who think engagement is sort of OK but could be better.”</li> <li>▪ No – “You are slow, unresponsive and find excuses not to act.”</li> </ul>	
<p>Q4 - Are you interested in engaging with the Council more and/or in different ways?</p>	
<p>67% - Yes 33% - No</p> <p>Comments below:</p> <ul style="list-style-type: none"> <li>▪ “I just would like to know what is going on without relying on the local paper which isn't the best.”</li> <li>▪ “There needs to be more public involvement in local decision making.”</li> <li>▪ “Progress.”</li> <li>▪ “More frequent opportunities to meet such as LEFs but run on different basis. Need to think out detail re how run, who sets agenda (if one needed), venues etc. Need to change the format on regular basis so keeps fresh.”</li> <li>▪ “Online surveys would be a good addition as I cannot to evening meetings.”</li> <li>▪ “I like to know what’s going on.”</li> <li>▪ “Would be helpful to know how to.”</li> <li>▪ “For the good of the wider community.”</li> </ul>	<p>Noted</p>
<p>Q5 - What would encourage you to engage more with the Council in future? Are there specific subjects that are of particular interest to you, that you would like to be involved with, give ideas and feedback, or be kept informed and up to date about?</p>	
<ul style="list-style-type: none"> <li>▪ “My time is too valuable to discuss with you, when you always have only good reasons not to do things. More accountability is needed - I want to see people held accountable to do their work, not making excuses all the time.”</li> <li>▪ “LEF meetings that are only held when there are important issues, not just at set times in the year when nothing is happening.”</li> <li>▪ “Sheppey tourism.”</li> <li>▪ “Planning and Regeneration.”</li> <li>▪ “Not currently, I would only engage on subjects that interest me at the time.”</li> </ul>	<p>Noted</p>

<ul style="list-style-type: none"> <li>▪ “Different venues and times, local meetings in accessible places. Greater promotion of meetings and remember not everyone is unemployed in Swale. There are people who actually work!”</li> <li>▪ Not really sure if you mean engage with Council or Councillors. The two are different! I'd like to enquire for example into how the council operates as have seen and heard of many instances where it appears council unaware of its responsibilities and obligations.”</li> <li>▪ Anything affecting Faversham, especially the Creek and heritage.”</li> <li>▪ More publicity quicker meetings more to the point, quick action on points raised.”</li> </ul>	
<p>Q6 - Are there specific decision-makers/people in the council or other public bodies (e.g. Police, Kent County Council, Fire &amp; Rescue Service, NHS) you would like to engage with and why?</p>	
<ul style="list-style-type: none"> <li>▪ “We haven’t seen a policeman here in ages - people break the law here all the time: speeding, theft, burglary. Yet police are not controlling it.”</li> <li>▪ “Kent Police, KFRS, KCC, NHS, all should be available to be questioned and have suggestions given by the public.”</li> <li>▪ Police, KCC Highways, Local health organisations such as Swale CCG and KMPT.”</li> <li>▪ “I feel Swale needs the opportunity to engage with health representatives in particular, the CCGs. I would also like the opportunity to discuss local issues with KCC.”</li> <li>▪ “I found that the LEF's provided a FORUM, as opposed to Committee Members' Debate and DECISIONS.”</li> <li>▪ “I think other bodies could be dealt with separately. There is enough to be getting on with looking more deeply into the council operations. Also if e.g. Police come to a meeting it becomes a talk by the police (taking up much time) not a forum for discussion.”</li> <li>▪ “Councillors.”</li> </ul>	<p>Noted</p>
<p>Q7 - Are there any different methods of engagement that would you would prefer to use and be more likely to participate in?</p>	
<p>Join live online discussions/Q&amp;As?</p> <p>38% - Yes</p> <p>53% - No</p> <p>9% - N/A</p> <ul style="list-style-type: none"> <li>▪ “These services are often unregulated and you have to wait long periods until you get a response.”</li> <li>▪ “Can get a bit long winded unless chaired effectively.”</li> <li>▪ Nice and modern.”</li> </ul>	<p>Noted</p>

View online meetings/presentations?

69% - Yes

31% - No

- “Easy for more people to get involved who cannot get to meetings.”
- “Anyone can watch when they have some spare time, not just on a specific date or time.”

Attend public meetings in your area?

86% - Yes

7% - No

7% - N/A

- “Less interest in talking about how the Council is taking action.”
- “Yes but need advance warning.”
- “Keep LEFs but radically alter structure, who runs etc.”
- Meetings are not easy to attend.”
- If they were more localised to the area not Sheppey-wide but about Minster.”

Receive email newsletter/updates?

92% - Yes

8% - No

- “Yes, straight to computer.”
- “Work commitments mean not always able to attend.”
- Yes – can read as and when I want.”

Follow/comment through social media?

79% - Yes

21% - No

- “Facebook is good.”
- “Would expect prompt responses.”

- “I do this now; you can comment but get little reply.”

Read and comment on online blogs?

54% - Yes

46% - No

- “Most blogs are boring.”

Attend public information events/exhibitions/displays?

80% - Yes

6% - No

14% - N/A

- “Preferably at weekends and evenings.”
- “Need to be promoted and available outside normal working hours.”

Send letters/emails to Councillors/Leader?

72% - Yes

21% - No

7% - N/A

- “Always a means of communication.”

Respond to surveys/consultations – by post/door to door/online?

76% - Yes

24% - No

- “Surveys are a pain. If have to do them, online is easiest.”
- “Online is convenient.”

Attend Committee/Council meetings?

76% - Yes

15% - No

9% - N/A

<ul style="list-style-type: none"> <li>▪ “Need to be arranged at different times.”</li> </ul>	
<p>Q8 - What would you like to get out of the engagement you have with the Council in future? For example, you may want to get answers to questions, have opportunities to have a say, to feel listened to, raise an issue, get more/better information about what’s happening locally and council decisions and services, or something else. What would matter most to you?</p>	
<ul style="list-style-type: none"> <li>▪ “I want to be able to ask them to so sometime - for example stop the speeding through my village - and then I want them to demonstrate progress by the next meeting rather than shuffle papers, accountabilities and excuses.”</li> <li>▪ “Keep the LEF but make it less of a forced act, don’t set it every few months but hold them when they are required.”</li> <li>▪ “Subscribe to free email results service of all decisions made in meetings.”</li> <li>▪ “Proper information not sensationalised.”</li> <li>▪ “Depends on the subject.”</li> <li>▪ “The opportunity to raise concerns and have a voice. Also, to get answers.”</li> <li>▪ “Bins and planning that's all. Don't want to pay for or need any other services. All this cultural stuff you do is an utter waste of time and money. And for God sake will you take down the 'it's here' bill boards around the town, they are (a) a false claim as none of it is 'here yet' and (b) are an utter eyesore.”</li> <li>▪ “Need to look at when and where meetings held all means of communication. Online surveys are now becoming very significant.”</li> <li>▪ “All methods of modern communication would be encouraging engagement with all residents especially the younger generation, busy people and those less mobile.”</li> <li>▪ “Everything matters but at the moment it is getting the Council to put in two parks on Thistle Hill which they have the money and land for but have done little to move forwards to installing and the Green Spaces Manager has ignored my emails for a month.”</li> </ul>	<p>Noted</p>

## Community engagement proposals – ‘Your Swale’

Feedback from the consultation process reveals that in order to successfully engage with the wider community the Council will need to look at more accessible ways of enabling public involvement beyond the traditional LEF public meetings and Rural Forum, and to embrace more modern channels for engagement.

It is evident from the feedback that the ways the community can engage with the Council needs to be accessible, at a place and time convenient for the resident, clearly signposted, simplified and humanised to encourage greater awareness of the opportunities available, and to improve community participation. It is therefore proposed that all community engagement activity be consolidated under a campaign identity of ‘Your Swale’.

Online channels potentially provide a wide reach across the community, are much more accessible for residents to engage with in the comfort of their own home or when out and about on a mobile device/ tablet at a time convenient for them, and offer us a cost-effective means of engagement. As such, it is proposed that these channels are used as the main driver for community engagement, supplemented by face-to-face activity when required.

It is proposed that community engagement activity is focussed on Council activity and that of its Members rather than that of wider partner organisations such as the Police, KFRS, CCG and KCC. That instead the Council, through ‘Your Swale’ activities, provides clear information and links to how residents can directly engage with those partner organisations on the services and issues for which those bodies are responsible.

It is proposed that community engagement focus on the following areas.

- **What the Council is responsible for** – what the Council does for you and your community and how to access its services, providing clear information and links to how residents can engage with other public bodies on the issues for which they are responsible.
- **What’s happening in the Borough** – keeping citizens up to date about the latest issues the Council is addressing for them (both Council-wide initiatives and local concerns), activities and events taking place (in partnership with Visit Swale), how the Council has listened to feedback, the decisions it makes, and why it comes to the decisions it does.
- **Delivery, success and change** - what the Council is doing to make Swale a better place, the progress being made, and how it is spending council taxpayers’ money.
- **How to get involved** - how the community can find and receive regular information, be involved in Council activities and their community (e.g. volunteering, community litterpicks, events), participate in consultations, and provide feedback.



	next'.	
<b>Inside Swale magazine</b>	<p>Introduce a 'Your Swale' section to the magazine where members of the community and councillors debate an issue. This could be a complex issue that requires explanation, a rumour that needs quashing, a hot-topic people are keen to know more about, or a forthcoming decision that may be contentious.</p> <p>This topic could also be developed as a short and informal video for use on website and social media as described above.</p>	Delivered quarterly - to be introduced from June 2016 edition.
<b>'Your Swale' roadshow</b>	<p>A mobile exhibit that travels to key locations (e.g. high streets, supermarkets, libraries, village halls, post-offices). Managed by the Communications Service and relevant service teams, and attended by Members.</p> <p>The exhibit could be topic-specific - for example, relating to the regeneration of the Borough - or undertaken to annually showcase progress against the corporate plan, what is making Swale a better place, inform residents about forthcoming Council activity and plans, and to promote current consultations and other methods of engagement.</p> <p>This roadshow would bring the Council to places of high footfall and provide an informal opportunity for residents to learn more, raise questions, and provide comments directly to officers and Members in a familiar setting without significant time commitment on their part.</p> <p>Roadshow schedule, locations and outcomes (what was raised and what we do with the feedback) would be publicised via all online 'Your Swale' channels to reach beyond those people who directly interact with us on the day.</p>	Visit key locations during the Summer
<b>'Your Swale' public meetings</b>	<p>Formal public meetings on contentious/important topics held in the locality involved.</p> <p>Attendance by the Leader or nominated deputy at meetings of the Swale Area Committee of Kent Association of Local Councils to engage with Parish Councils</p>	<p>Organisation of public meetings as and when required.</p> <p>Attendance of the Leader or nominated deputy at meetings</p>

It is proposed that the community engagement channels as described are developed, scheduled and delivered by the Communications Team, with the support of all service areas and Members to provide direction, regular content, and to actively participate in direct engagement with the public in the areas described.

<b>General Purposes Committee Meeting</b>	
<b>Meeting Date</b>	2 March 2016
<b>Report Title</b>	Amendment to Note i of Part 3.2.1 of the Constitution – Head of Planning ‘call-in’ powers
<b>Cabinet Member</b>	Cllr Gerald Lewin, Cabinet Member for Planning
<b>SMT Lead</b>	Kathryn Carr
<b>Head of Service</b>	James Freeman
<b>Lead Officer</b>	James Freeman
<b>Key Decision</b>	No
<b>Classification</b>	Open
<b>Recommendations</b>	1. Agree NOT to amend the constitution following the motion submitted by Members

## 1 Purpose of Report and Executive Summary

- 1.1 The following motion, proposed by Councillor Mike Baldock and seconded by Councillor Mark Ellen, was submitted to the Council on 27 January 2016:
- “To amend note i of Part 3.2.1 of the Constitution from "that in cases where the Committee is minded to make a decision that would be contrary to officer recommendation and contrary to policy and/or guidance, the Chairman should invite the Head of Planning to consider if the application should be deferred to the next meeting of the Committee or if there should be a short adjournment for Officers to consider the views of the Planning Committee and to give further advice."
- to
- "That in cases where the Committee is minded to make a decision that would be contrary to officer recommendation and contrary to policy and/or guidance, the Chairman should invite the Head of Planning to consider if there should be a short adjournment for Officers to consider the views of the Planning Committee and to give further advice at the same meeting."
- 1.2 As per the Council’s constitution, the motion was referred without discussion to this Committee so that a full report explaining the position and implications of the motion could be considered.
- 1.3 This report explains the background to the current constitution position, and considers the pros and cons of the motion. As a result, it sets out a recommendation that, on balance, the benefits of minimising the risks of

substantial costs and potential adverse impact on the reputation of the Council are significant enough to suggest that the existing constitutional arrangements should be maintained.

## **2 Background**

### **Constitutional background**

- 2.1 The Local Planning Authority has to make decisions balancing the material considerations to avoid challenge, and these powers assist in ensuring that the Council complies with its responsibility under Article 13 of the constitution in that the following principles must be followed:
- (a) Proportionality
  - (b) Due consideration and the taking of professional advice from officers
  - (c) Respect for human rights
  - (d) A presumption in favour of openness
  - (e) Clarity of aims and desired outcomes
  - (f) Due regard for the individuals and communities served by SBC.
- 2.2 Most often, the Planning Committee will review the evidence brought forward by officers, and respect the recommendation that is set out in the report. However, on occasions the Planning Committee may be minded to reject the recommendation that has been set out. On such occasions, the issue is whether the Planning Committee is able to articulate good reasons for its position, as judged against Planning legislation, Planning Case Law, and local planning policy.
- 2.3 Regardless of the reasons given by the Planning Committee, in such cases the applicant has the right to appeal the decision. However, in the absence of any such sound reasons, then not only is the appeal much more likely to succeed, but costs are also likely to be awarded against the Council, on the basis that the Council has acted unreasonably and has caused another party to incur unnecessary expense as a result. Unreasonable behaviour in this instance would relate to issues surrounding the merits of the appeal – please refer to appendix 1 for examples. Costs to the Council can range from a few thousand pounds to well in excess of £100k for major significant planning applications and would be dependant on the reasons for refusal.
- 2.4 In order to mitigate the likelihood of such an event, the Council introduced into its Constitution the option of a ‘call-in’ power for the Head of Planning (or his designated deputy) to call in a planning application at Planning Committee when the Committee was minded to make such a decision without strong planning arguments for doing so. This is designed to allow time to review the position and provide further evidence to the Committee, such that a decision that is sound in

planning terms is more likely to be arrived at, including the drafting of viable reasons for refusal.

## **Use of the powers in practice**

- 2.5 Swale BC was one of the first Councils to introduce such 'cooling-off' powers in Kent, and since then many authorities have adopted similar powers into their constitutions. At Swale, the power is used on an infrequent basis and only where the Head of Planning Services believes that the Council would be at a significant risk of having costs awarded against it and/or having a prejudicial impact for the continuing future use of an adopted planning policy, and the resultant cumulative consequential costs.
- 2.6 The 'call-in' powers have been in place for many years and have been used only on a few occasions. In the most recent five years the powers have been used on eleven occasions, as follows:
- in four cases, Planning Committee followed HoS recommendation to Approve;
  - in five cases Planning Committee chose to refuse the planning application;
  - in one case the applicant withdrew their application following the 'call-in'; and
  - in one case the application is still in the Call In process (Perry Court).
- 2.7 All five of the refusals resulted in an Appeal being made, with the following outcomes:
- in one case the Appeal was withdrawn by the applicant;
  - in two cases the Appeal was allowed
    - in one of these cases costs were not sought (Woodlands Lodge);
    - in one of these cases costs were sought but refused (land rear of Bell Centre); and
  - in two cases the Appeal process is still underway (New Rides Farm and Seager Rd).
- 2.8 Whilst the Council has not been subject to any significant costs in relation to any 'called-in' planning application, one of the outstanding cases regarding a wind farm application may well give rise to significant costs against the Council should the Planning Committee's reasons for refusal not be accepted by the Planning Inspector. The Planning Committee was recently advised that the costs could amount to £200K+ and accepted that the 'health' reason for refusal should be removed, although costs remain likely to amount to substantially above £100K should the Council's other reasons for refusal be found unsubstantiated.

- 2.9 Similarly, any major scheme involving housing development where we currently have no five-year housing land supply and no substantive national planning designation protecting the site, if refused and exposed at appeal could lead to significant legal and technical costs of over £100K.
- 2.10 The existence of the 'call-in' procedures enables the Head of Planning to consider, either with regard to the policy background to a particular case or the evidence submitted, that the Council could be found by an Inspector to have acted unreasonably given its stated reasons for refusing a planning application.
- 2.11 The call-in procedure therefore allows:
- (i) these issues to be highlighted;
  - (ii) an assessment to be made of the likely implications for the overturn, including the reasons for refusal sought;
  - (iii) assessment of the likelihood of succeeding at appeal; and
  - (iv) assessment of whether the Council could be subjected to significant costs.
- 2.12 When considering potential 'call-in' decisions, the Head of Planning will base his judgement on the balance of the material planning considerations involved, and the consequential likelihood of the risks of significant costs to the Council, or where the future application of agreed Local Plan policy could be prejudiced.
- 2.13 All of the above considerations would usually require extensive review and analysis, including reference to case law and evaluation of complex evidence. This can often require specialist input (and potential research) that may not be readily available at the Planning Committee for the Head of Planning to refer to, and cannot be dealt with through a short adjournment.

### Pros and Cons

2.14 Given the above, the pros and cons of the Motion can be set out, as follows:

Pros if the Motion is adopted	Cons if the Motion is adopted
<ul style="list-style-type: none"> <li>▪ Enable members of the public to attend only one meeting with the prospect of reaching a determination, unless the matter is deferred by members of the Committee</li> <li>▪ Consequently reduces the potential for confusion and frustration of the general public</li> <li>▪ Reduce any perception that officers are over-ruling the Planning Committee</li> </ul>	<ul style="list-style-type: none"> <li>▪ Unrealistic expectations of officers being able to respond effectively in a short space of time to complex issues raised by members, including:               <ul style="list-style-type: none"> <li>- the robustness of the reasons for refusal being sought;</li> <li>- enabling a full legal and technical review and assessment of those issues; and</li> <li>- the risks of potential costs to the Council e.g. reference to previous</li> </ul> </li> </ul>

<ul style="list-style-type: none"> <li>▪ Speed up decision making and contribute to meeting targets</li> <li>▪ Prevent decision-making delay and the associated costs of reporting to a further Committee meeting</li> </ul>	<p style="text-align: center;">case law</p> <ul style="list-style-type: none"> <li>▪ Lead to officers not being able to fully consider all the issues, implications and risks and, consequently, not being able to inform the Planning Committee of all the issues involved in making a sound decision</li> <li>▪ Increase the risk to the Council of receiving significant costs for ‘unreasonableness’ in decision making - which can amount to significant sums in excess of £100K</li> <li>▪ Lose the opportunity for ‘cooling-off’ from the controversy and high public profile of items presented at a Planning Committee meeting, buying the time for further consideration</li> </ul>
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### 3 Proposals

- 3.1 Given the balance of pros and cons set out above, it is considered that there are no significant implications for continuing to allow a ‘call-in’ period. On the few occasions that it is actually used, it enables the Planning Committee to make a robust decision based on full consideration of the evidence and potential implications of going against an officer recommendation.
- 3.2 In the absence of such Constitutional option, the potential risks to the Council of costly appeal decisions would be much greater, in the absence of the time to provide the Committee with the necessary officer advice, which may require specialist research and support in informing Committee Members before a formal decision is made.

### 4 Alternative Options

- 4.1 The report considers the existing constitutional process compared with the proposed Motion for change, and the arguments for both are set out above.
- 4.2 There are potentially myriad minor alternatives to the existing wording of the Constitution which could be considered – for example, the power of call-in could fall to the Chair of the Planning Committee under advice from the Head of Planning.
- 4.3 An alternative approach has been adopted at South Oxfordshire where the Head of Planning considers that he/she may wish to use the “cooling off” powers, he/she will inform the Planning Committee accordingly before the meeting proceeds to the next item. He/she will then consult with the Cabinet Member for

Planning or in his/her absence the Leader of the Council and confirm his/her decision by noon on the second working day after the date on which the decision was taken. If he/she confirms a “cooling off period”, he/she will not issue the decision notice but will bring a further report to the committee at the first opportunity setting out the relevant issues and inviting it to reconsider the matter. The decision taken by the Committee having considered this second report will be final and the Head of Planning will issue the decision notice.

- 4.4 Maidstone Borough Council have also included within their constitution an alternative approach involving the setting up of a Planning Referrals Committee. This Committee is comprised of three councillors from each of the largest three political groups, excluding Councillors and substitute members of the Planning Committee. This group will then determine planning applications referred to it by the Head of Planning and Development if s/he is of the opinion that the decision of the Planning Committee is likely to have significant cost implications.

## 5 Consultation Undertaken or Proposed

- 5.1 The Planning Committee Chair have been consulted on the motion and the report and his views will be verbally presented at the meeting
- 5.2 Whichever option is agreed, it is important to ensure that the public gallery and applicants are made fully aware of what decisions are being voted upon and what procedures are being implemented.

## 6 Implications

Issue	Implications
Corporate Plan	A well run Planning Committee contributes to the “A council to be proud of” priority, in terms of supporting the efficiency and performance of the Council.
Financial, Resource and Property	It is not possible to identify what the likely financial risks are to the Council of agreeing to the Motion as put forward. However, as a marker the current appeal being considered for the Four Rides Farm wind turbine appeal is expected to incur circa £400,000 costs both internally and relating to the applicant.  Any significant costs claim would need to be met from reserves.
Legal and Statutory	Covered in the main report.
Crime and Disorder	None identified.
Sustainability	None identified.
Health and Wellbeing	None identified.

Risk Management and Health and Safety	Any risks associated with the item relate to financial and reputational risks.
Equality and Diversity	None identified.

## 7 Appendices

- 7.1 Appendix I: National Planning Policy Guidance (NPPG): What type of behaviour may give rise to a substantive award against a local planning authority?

## 8 Background Papers

- 8.1 Council Constitution – weblink

<http://services.swale.gov.uk/meetings/ieListDocuments.aspx?CId=287&MId=1469&Ver=4&Info=1&a=1>

## National Planning Policy Guidance (NPPG)

### What type of behaviour may give rise to a substantive award against a local planning authority?

Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- preventing or delaying development which should clearly be permitted, having regard to its accordence with the development plan, national policy and any other material considerations.
- failure to produce evidence to substantiate each reason for refusal on appeal
- vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
- refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead
- acting contrary to, or not following, well-established case law
- persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable
- not determining similar cases in a consistent manner
- failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances
- refusing to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage
- imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the [National Planning Policy Framework](#) on planning conditions and obligations
- requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy in the [National Planning Policy Framework](#), on planning conditions and obligations

- refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal
- not reviewing their case promptly following the lodging of an appeal against refusal of planning permission (or non-determination), or an application to remove or vary one or more conditions, as part of sensible on-going case management.
- if the local planning authority grants planning permission on an identical application where the evidence base is unchanged and the scheme has not been amended in any way, they run the risk of a full award of costs for an abortive appeal which is subsequently withdrawn

(This list is not exhaustive).

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<b>General Purposes Committee</b>	
<b>Meeting Date</b>	3 March 2016
<b>Report Title</b>	Constitution Review
<b>Cabinet Member</b>	Cllr Andrew Bowles , Leader
<b>SMT Lead</b>	Mark Radford
<b>Head of Service</b>	
<b>Lead Officer</b>	Katherine Bescoby, Democratic and Electoral Services Manager
<b>Key Decision</b>	No
<b>Classification</b>	Open
<b>Forward Plan</b>	<b>Reference number:</b>
<b>Recommendations</b>	<p>1. That the Committee considers the report and the working papers and makes recommendations to Council.</p> <p>(Recommendations from this Committee will be presented to Council on 16 March 2016.)</p>

## 1 Purpose of Report and Executive Summary

1.1 Reviewing the constitution regularly ensures it is fit for purpose and maintains good governance and decision making arrangements. The review of the constitution is an on-going task and it is timely to look at the items presented in this report.

1.2 The report sets out the details of:

- A minor amendment to clarify the Council Procedure Rules in relation to motions submitted as amendment to the budget to ensure that business is conducted effectively and efficiently.
- Suggested changes to the Officer Scheme of Delegation.
- Suggested Planning Committee Procedure Note.

(Whilst a review of all the procedure rules has been undertaken, it should be noted that regulations and the statutory Modular Constitution guidance means that the review has concentrated on those areas where the Council has discretion.)

1.3 Elsewhere on the agenda there are separate reports relating to

- the review of the Local Engagement Forums and the Rural Forum and
- the motion that was referred from Council on 27 January to amend note (i) of Part 3.2.1 of the Constitution in relation to the Head of Planning’s delegation to defer matters where the Committee is minded to make a decision that would be contrary to officer recommendation and contrary to policy and/or guidance.

1.4 Any recommendations from these reports will also be presented to Council on 16 March 2016.

## 2 Background

2.1 Working papers have been prepared on the proposed amendments to the Officer Scheme of Delegation and the Planning Committee Procedure Note.

## 3 Proposals

3.1 The Committee is asked to give a view and make recommendations to the Council regarding the points raised in the Working Papers in the report. In addition the Committee is asked to agree an additional point of clarification under Council Procedure Rule in relation to the amendment to the budget.

3.2 The current procedure rule reads “amendments to the budget are to be made in writing and delivered to the Proper officer by 5pm on the Monday before the meeting” it is suggested that the following addition be made:

**In proposing any changes to the budget any amendment must ensure that the proposal achieves a balanced budget**

## 4 Alternative Options

4.1 There is discretion on the proposals set out in the Working Papers; matters where there is no discretion in relation to law and statutory guidance do not form part of this report.

## 5 Consultation Undertaken or Proposed

5.1 The review of the Constitution is the role of this Committee. All members do receive all council agendas and reports and can attend the Committee. All recommendations from this Committee have to be agreed by Council.

## 6 Implications

Issue	Implications
Corporate Plan	Having an up to date Constitution is important for good governance and decision making and is part of the Council to be proud of

	objective.
Financial, Resource and Property	None at this stage, it is anticipated that the work arising out of the review will be contained within existing resources.
Legal and Statutory	Where there is a change as a result of legislation or regulation, or suggested on the basis of legal advice this is set out in the working papers.
Crime and Disorder	None identified at this stage.
Sustainability	None identified at this stage.
Health and Wellbeing	None identified at this stage.
Risk Management and Health and Safety	None identified at this stage.
Equality and Diversity	None identified at this stage.

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Working Papers – proposed changes to Officer Scheme of delegation and suggested Planning Committee Procedure Note.

## 8 Background Papers

None

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## PART 3.4 - SCHEME OF OFFICER DELEGATIONS

### INTRODUCTION

This scheme has been adopted by Swale Borough Council and its Executive and is the list of delegations to officers under section 101 of the Local Government Act 1972 (as amended), section 15 of the Local Government Act 2000 and all other powers enabling delegations to officers.

The delegations which follow are subject to the responsibility of the Chief Executive to ensure the efficient management and execution of the Council's functions and implementation of its policies.

The purpose of the delegations is to lead to a streamlining of the processes of the Council.

Any reference to any Act of Parliament shall include references 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.

Reference to any enactment, regulation, order or byelaw shall include any amendment, re-enactment or re-making of the same.

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.

The exercise of any delegated power is subject to: -

- the overriding requirement to ensure that the financial effect of the delegation will fall within an approved budget;
- the Council's policies including the Budget and Policy framework, the Procedure Rules, Protocols and Codes in this Constitution;
- any statutory restrictions; and
- the right of Council, Cabinet or committee to decide on any matter in a particular case.

In streamlining, wherever possible the scheme of delegation, reference is made only where appropriate to the policies under which the delegation is being exercised. There is an overriding requirement that all delegations are agreed with the law and the council's policies.

Before deciding whether to exercise the delegation the officer concerned should ensure that the Director and/or Heads of Service has considered whether the matters is of a controversial nature, or involving significant changes in policy, to require consultation upon with the relevant committee chairman or cabinet member and recorded or agreement reached to report to the cabinet, council and committee as appropriate.

Officers shall also undertake all the operational duties within the remit of their team or service and all necessary powers to do this are therefore deemed to be delegated to the relevant Director or Head of Service or Officer who has responsibility for the discharge of the function.

So far as the delegations relate to powers which arise by virtue of agency agreements they are subject also to any qualifications contained in the respective agreements.

Reference in these delegations to any Statute, Statutory Instrument or Regulation made thereunder shall be deemed to include any statutory re-enactment or modification thereof and any Order or Regulation made thereunder.

Except where specific provision is made by legislation or by resolution of the Council, the Heads of Service are appointed to be the proper officers in respect of any legislation falling within the scope of their respective services.

All Directors and Heads of Service shall designate an appropriate responsible officer to deputise during his/her absence or indisposition.

The delegated powers held by an officer may be exercised by the line manager of that officer, and any Director or Head of Service may authorise other responsible officers (who have the relevant skills and knowledge) to act on their behalf, provided that there is a written record of such authorisation. A central record will be kept.

Where the Council, a Committee or Sub-Committee, the Leader, Cabinet, a Cabinet, Committee or an individual Cabinet Member has delegated a function to an Officer, the person or body making the delegation may at any time resume responsibility for the function either in respect of a particular matter or generally, and so may exercise the function despite the delegation.

In determining the suitability of an officer to be given this authority, regard must be had to the nature of the authority being given, the seniority of the post, the experience of the relevant officer and all other relevant circumstances so as to ensure that the authority and the relevant officer are appropriately matched. This authorisation must:

- be in writing, dated and signed by the officer giving the authority;
- specifically identify the post and person authorised to carry out the functions;
- specifically identify the functions to which the authorisation relates (attach an extract from the scheme as the numbering may change over time); and
- identify any conditions (if any) to which the authorisation is subject..

### **Conflicts of Interest**

Every Officer is responsible for identifying whether he/she has any conflict of interest in any matter which is under consideration, actual or perceived, within the authority, and notifying the authority (including under section 117 of the Local Government Act 1972).

Where an Officer has a conflict of interest in any matter, he/she shall not participate in that matter in his/her capacity as an Officer except with the prior approval of his/her line manager, the Monitoring Officer or the Chief Executive.

Where the Chief Executive is unable to act on a matter because of a conflict of interest, the matter shall be discharged by the Corporate Directors collectively, or by such Officer as they shall determine for this purpose.

Where a Corporate Director is unable to act on a matter because of a conflict of interest, the Chief Executive shall discharge the matter him/herself or allocate the matter to another Officer.

Where the Monitoring Officer is unable to act on a matter in his/her statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the Officer designated by the Monitoring Officer as Deputy Monitoring Officer.

Where the Monitoring Officer is unable to act on a matter under the Standards Committee Regulations 2008 in relation of Member conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose under section 82A of the Local Government Act

2000.

Where any other Officer is unable to act on a matter that Officer's line manager or the Chief Executive may arrange for another Officer to discharge the matter.

## DELEGATIONS TO THE CHIEF EXECUTIVE

### General

1. To be and carry out the duties of Head of Paid Service and to exercise authority over all other officers of the Council so far as is necessary for the efficient management of the Council's functions.
2. All appointments, (including appointments for particular statutory purposes), discipline and dismissals of staff at and below Head of Service level is —delegated to the Chief Executive (for Heads of Service appointments a joint Member officer decision-making panel will be constituted, the member of which will be agreed between the Leader and Chief Executive); appointment and dismissal of Directors and Section 151 Officer must be confirmed by the Appointments Sub-Committee.  
~~decision-making panel will be constituted, the membership of which will be agreed between the Leader and Chief Executive); appointment and dismissal of Directors and Section 151 Officer must be confirmed by the Appointments Sub-Committee.~~
3. To exercise the power to appoint a Designated Independent Person in respect of disciplinary investigations or proceedings in respect of the Monitoring Officer or Chief Finance Officer. This delegation is to be exercised in consultation with the Leader.
4. To nominate a deputy who may exercise the Chief Executive's powers in the absence or incapacity of the Chief Executive.
5. To exercise any of the powers delegated to any other officer, including Directors.
6. To bring forward proposals for restructuring of the Council where it may be required or thought to be desirable to ensure that the Council has advice on the establishment and structure needed to carry out efficiently the work of the Council. This includes undertaking any statutory consultation or other consultation.
7. Health and Safety.
8. To liaise with national and local associations, authorities, groups, companies, organisations and individuals to further the policies and objectives of the Council.
9. To be responsible for undertaking negotiations and consultation with staff through their trade unions on all matters relating to employment.
- ~~7-10.~~ To submit responses to government and other bodies, consulting on changes to legislation and policy, as considered appropriate, following consultation with the appropriate Cabinet Member.

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**Emergency Measures – in exercising these delegations the Chief Executive will ensure that the Leader is informed in accordance with the Council's Emergency Plan.**

- ~~8-11.~~ To be authorised in response to a serious emergency/disaster within the Borough, and on the border of the Borough, to commit staff and resources until such time as the Emergency Committee can meet.
- ~~9-12.~~ To discharge the Council's duties under Civil Contingencies Act 2004.
- ~~10-13.~~ Authority to take any urgent action between meetings in consultation with the Leader

or Deputy Leader, on matters which are outside the scope of powers expressly delegated to any Director or Head of Service.

### Crime and Disorder

~~11.14.~~ To consult with other agencies and with the Chairman of the Crime and Disorder Partnership and Ward Members and to take such action as may be necessary to secure the proper implementation of Orders under the Crime and Disorder Act 1998, or any amendment or re-enactment thereof.

~~12.15.~~ To authorise officers to apply for judicial approval and to undertake surveillance under the Regulation of Investigatory Powers Act 2000, including exceptional cases where it is likely that knowledge of confidential information will be acquired or where a vulnerable or juvenile Covert Human Intelligent Source is to be used.

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### Complaints

~~13.16.~~ To deal transparently with issues relating to the Commission for Local Administration (Complaints to the Local Government Ombudsman).

~~14.17.~~ To make maladministration payments in consultation with the Leader of the Council up to £2,000.

### Elections

~~15.18.~~ To be the Electoral Registration Officer.

~~16.19.~~ To be the Returning Officer.

~~17.20.~~ To discharge the Councils functions regarding Parliamentary, Local Government (Kent County Council, Borough Council and Parish/Town Council) and European Elections and Referendum.

~~18.21.~~ To make an order under Section 91 of the Local Government Act 1972 to appoint temporary members to Parish Councils.

### Miscellaneous

~~19.22.~~ To take preliminary steps to protect the rights and interests of the Council relating to any White Paper, Bill of Statutory Instrument or Order in Parliament.

~~20.23.~~ Authority to reallocate the delegations to different Directors/Heads of Service as and when required.

~~21.24.~~ To determine arrangements for civic hospitality and transport in consultation with the Leader of the Council.

## DELEGATIONS TO EACH DIRECTOR

1. Authority to write-off any irrecoverable debt not delegated to the Head of Finance and Head of Commissioning and Customer Contact in accordance with the financial regulations.
2. To donate or write-off surplus goods or equipment which are not economically viable to sell.
3. To award contracts for the winning tender in accordance with Contract Standing Orders.
4. On receipt of a detailed report from the relevant Head of Service to approve virement on the approved budget of a cost centre subject to the limitations outlined in the Financial regulations
5. In consultation with the relevant portfolio holder, to authorise waivers to competitive tendering process for the amounts not exceeding the limit set out in Contract Standing Orders.
6. In consultation with the relevant portfolio holder, to authorise the extension of contracts for amounts not exceeding the limit set out in Contract Standing Orders.
7. Authority to appoint staff within the approved establishment. The Chief Executive has delegated authority to the Directors all appointments, discipline and dismissal of staff below Heads of Service within their Directorates.
8. Authority to authorise Occasional or Regular Car User Allowances in accordance with the Council's Conditions of Service.
9. Authority to determine requests for honoraria within their directorate in accordance with the Council's HR policies.
10. To issue requisitions for information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

## **DELEGATIONS TO THE CORPORATE SERVICES DIRECTOR**

1. To be and carry out the duties of the Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989, the Local Government Act 2000 and any other enactments and the Council's Constitution, and to nominate a member of staff to deputise as Monitoring Officer.
2. To be the "proper officer" for the functions designated to the Proper Officer under the Local Government Act 1972; Representation of the People Act 1983; Local Elections (Parishes and Communities) Rules 1986; Local Government and Housing Act 1989.
3. To be the Deputy Electoral Registration Officer.
4. To authorise officers to apply for judicial approval and to undertake surveillance under the Regulation of Investigatory Powers Act 2000 including cases, in the absence of the Chief Executive, where it is likely that knowledge of confidential information will be acquired or where a vulnerable or juvenile Covert Human Intelligent Source is to be used.
5. To give consent to the exercise by the Police of powers to disperse groups of young persons under Part 5 of the Anti Social Behaviour Act 2003.
6. To deal with issues relating to the Commission for Local Administration (Complaints to the Local Government Ombudsman).
7. To maintain a record of notices of disclosable pecuniary interests and disclosable non-pecuniary interests by any Councillor and personal and prejudicial and personal and non-prejudicial

interests by any Officer and to maintain the register of Councillor's interests and declarations.

8. To report to Council on any requests to approve extended absence of Councillors from any meetings, and the declaration of vacancies of any seats of the Council.
9. To consider and determine applications from Parish and Town Councillors in respect of declarations of prejudicial interests under Section 94 of the Local Government Act 1972.
10. To record, hold and administer civic gifts.
11. To provide information to the public and Councillors about the decision making process and individual decisions.
12. To maintain the record of officer delegations.
13. To make any necessary updates to the constitution (as required by law) where there is no discretion.
14. To be the Petitions Officer.
15. Receive requests for Call for Action and to place items on the appropriate Scrutiny Committee.
16. To authorise approval of conference attendance for Members appointed to outside bodies or in connection with their Council responsibilities in consultation with the Leader of the Council.
17. To publish and maintain the Council's Constitution with authority to make minor textual changes and amendments to Officer Delegations to take account of changes in legislation.

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#### Environmental Services

- ~~17-18.~~ To discharge the Council's responsibilities with regard to statutory nuisances.
- ~~18-19.~~ To administer all Port Health matters and monitor and enforce all other matters of public health and environmental health.
- ~~19-20.~~ To appoint inspectors under the Health and Safety at Work etc. Act 1974.
- ~~20-21.~~ To implement and enforce the provisions of the Health and Safety at Work Act 1974 and any others referred to therein, together with any Health and Safety Regulations.
- ~~21-22.~~ To implement the provisions of the Food and Environment Protection Act 1985, the Control of Pesticides Regulations 1986 and of the Food Safety Act 1990 and any Orders or Regulations made thereunder or relating to the foregoing or having effect by virtue of the European Communities Act 1972 and any modifications or re-enactment to the foregoing.
- ~~22-23.~~ To enforce the provisions of the Prevention of Damage by Pests Act 1949.
- ~~23-24.~~ To implement and enforce the provisions of the Environmental Protection Act 1990.
- ~~24-25.~~ To implement and enforce the Environment Act 1995.
- ~~25-26.~~ To enforce the provisions of the Clean Air Act 1993.

47

- 26.27. To enforce the provisions of the Control of Pollution Act 1974.
- 27.28. To enforce the provisions of the Pollution Prevention and Control Act 1999.
- 28.29. To implement and enforce the provisions of the Noise and Statutory Nuisance Act 1993.
- 29.30. To implement and enforce the provisions of the Environmental Permitting (England and Wales) Regulations 2010<sup>1007</sup>.
- 30.31. To implement and enforce the provisions of the Public Health Acts 1936 and 1961.

31.32. To enforce the provisions of The Public Health (Control of Disease) Act 1984.

*NB: The Clinical Director of the Kent Health Protection Unit is appointed as the Proper Officer of the Council to carry out duties under the above Act, the Public Health (Prevention of Tuberculosis) Regulations 1925, the Public Health Act 1936, the Public Health (Ships) Regulations 1979 and any other Regulations made under the Act, and any consultants in Communicable Disease Control, authorised by the Clinical Director, are similarly appointed to act on his behalf.*

32.33. To implement and enforce the provisions of the Water Industry Act 1991 and Private Water Supplies Regulations 2009<sup>1994</sup> in relation to private water supplies.

33.34. To implement and enforce the provisions of the Building Act 1984.

34.35. To enforce the provisions of The County of Kent Act 1981.

36. To implement and enforce the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and 1982.

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37. To enforce the provisions of the Land Drainage Act 1991

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38. To enforce the provisions of the Clean Neighbourhoods and Environment Act 2005

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Part 5, Chapter 1 sections 77 – 79, Chapter 2, section 82 – 86,

Part 7, Chapter 1 sections 69 – 73,

35. Part 9, sections 101 – 105

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38. To enforce the provisions of the Environmental Damage (Prevention and Remediation) (England) Regulations 2015

39. To enforce the provisions of the Noise Act 1996

40. To enforce the provisions of the Anti-Social Behaviour Crime and Policing Act 2014 – Chapter 1 Sections 43 – 93

41. To enforce the provisions of the Health Act 2006 – Part 1 Chapter 1.

42. To enforce the provisions of the Plant Protection Product Regulations 2011.

43. To enforce the provisions of the Plant Protection Products (Sustainable Use) Regulations 2012.

**Miscellaneous**

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44. To enforce provisions of the Offices, Shops and Railway Premises Act 1963.

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45. To arrange burials and cremations pursuant to Section 46 of the Public Health (Control of Disease) Act 1984.

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**Licensing**

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38464. To carry out all licensing functions in respect of:

- Street trading in licensed streets (the Local Government (Miscellaneous Provisions) Act 1982);
- Premises, club premises, personal licences, provisional statement, Designated Premises Supervisor, Temporary Event Notices in accordance with the Council's Licensing Policy and the Licensing Act 2003;
- Premises, provisional statement, Temporary Use Notices, Game Machine Permits, Lotteries, Prize Gaming Permits, acting as the Responsible Authority and instituting proceedings for non-compliance in accordance with the Council's Gambling Policy and the Gambling Act 2005;
- Street collections (section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (as amended));
- House to House collections (Section 2 of the House to House Collections Act 1939 (as amended)); and
- Sex establishments (Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- To act as the "responsible authority" within the meaning of the Licensing Act 2003 and Gambling Act 2005.
- To maintain a register of persons carrying out business as a scrap metal dealer pursuant to the provisions of the Scrap Metal Dealers Act 1964 and 2013.

**Audit**

Please note delegations 47 to 48, will be assigned to the Head of Audit

47. The provision of an adequate and effective system of internal audit of the Council's accounting records and its system of internal control in accordance with the proper practices in relation to internal control as prescribed by the Accounts and Audit Regulations 2015.

48. The maintenance of the Council's Strategic Risk Register and the provision of advice and guidance on the principles and practices of Risk Management.

**Human Resources**

Please note delegations 49 to 63 will be assigned to the Head of Human Resources

**General**

49. To operate the Severance Policy with any redundancies or business cases for enhancements being approved by the appropriate Director or Chief Executive, and signed off by the appropriate Cabinet Member.

50. Enter into agreements with trade unions where implementation does not increase expenditure.

51. Enter into agreements with staff for the purpose of regulating work time.

52. Assimilate staff on appointment, promotion or re-grading.

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53. Grant removal expenses and lodging allowances in accordance with any scheme approved by the Council.

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54. Determination of requests for provision of temporary accommodation for employees.

55. To make changes in accordance with legal requirements and best practice to HR policies and procedures following informal consultation with staff and the agreement of the Cabinet Member for Finance.

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56. Administer the Council's Pension Discretionary Policy.

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**Training - these delegations to be exercised in accordance with HR and Learning and Development policies.**

57. Grant financial assistance for post entry training.

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58. Determination of proposals to attend corporate and service training courses.

59. Determination of proposals for the retention of fees for trainers.

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**Payroll**

60. To implement all negotiated salary or wage awards where no exercise of a discretion is involved.

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61. Administer staff benefits and expenses and review rates annually.

62. To pay salaries, wages, pensions and insurance contributions without reference to Members in accordance with the agreed arrangements.

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63. To make payments in respect of Members' allowances and expenses under Sections 173 to 178 of the Local Government Act 1972, and to keep a register of such payments.

**Miscellaneous**

~~36. 45. To enforce provisions of the Offices, Shops and Railway Premises Act 1963.~~

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~~37. 46. To arrange burials and cremations pursuant to Section 46 of the Public Health (Control of Disease) Act 1984.~~

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**DELEGATIONS TO HEADS OF SERVICE**

1. Authority to approve staffing structures within existing budgets. The Directors have delegated authority to Heads of Service for all appointments, discipline and dismissal of staff within their teams.
2. Authorisation to approve the payment of overtime to members of staff in accordance with the Council's Conditions of Service or the appropriate negotiated conditions within their department.
3. To sign any document needed to implement a decision by, or in the name of, the Council that is within the scope of the powers delegated to.

4. Authority to authorise staff to enter land or premises.
5. To serve statutory notices and arrange for works in default.
6. Authority to spend in accordance with the financial regulations. This includes authority to award contracts that are within the approved budget for the current financial year, having gone through the tendering procedures as set out in contract standing orders. (Relevant Cabinet Members to be kept informed of any waivers granted).
7. Authority to implement new and existing legislation.
8. To respond to consultations on behalf of the Council in consultation with the relevant Cabinet Member where appropriate.

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## DELEGATIONS TO THE HEAD OF LEGAL

**These delegations are subject to the Law Society practice procedures and requirements of the Solicitors Regulation Authority**

### General

1. Authority to sign, or, where necessary, seal, any document needed to implement a decision taken by, or in the name of, the Council, and to authorise other officers to do so and to keep a record.
2. To act as Solicitor to the Council and carry out all related work on behalf of the Council.
3. To institute, conduct, prosecute and defend any legal proceedings on behalf of the Council including cases where the Council considers it expedient for the protection or the promotion of the interests of the inhabitants of the Council's area.
4. On instruction from client departments to settle, if appropriate, and in the interests of the Council any actual or threatened legal proceedings and in consultation where necessary with the relevant statutory officers.
5. To ensure with regard to 3 and 4 above that the early involvement of the Council's External Auditor be sought where appropriate in cases of an unusual and significant nature and that an information report be presented thereafter at the earliest opportunity to the Executive.
6. To instruct Counsel and professional advisors as appropriate and in accordance with the agreed procedures of the Mid Kent Legal Services Partnership.
7. To give legal undertakings and indemnities on behalf of the Council and to keep a register.
8. Under Section 223 of the Local Government Act 1972 to authorise Officers who are not admitted solicitors to appear in Magistrates' Courts on behalf of the Council.
9. Determine procedural arrangements for the issue of all consents, refusals, decisions and notices on behalf of the Council.
10. To accept on behalf of the Council the service of notices, orders and legal procedures.

~~11. To publish and maintain the Council's Constitution with authority to make minor textual changes and amendments to Officer Delegations to take account of changes in legislation.~~

~~12.1. To agree changes to membership of Committees throughout the year in consultation with the appropriate Group Leader.~~

### Land and Property

~~13.12. To dispose of any land or any interest in land in accordance with the law, following Member approval.~~

~~14.13. To acquire properties which the Council is under a legal obligation to acquire under planning legislation, following Member approval.~~

~~15.14. To complete all property transactions and contractual arrangements.~~

~~16.15. To make and carry out the statutory notifications and advertisement procedure in relation to Footpath Orders, in accordance with S257 of the Town and Country Planning Act, and where there are no objections, or any objections made are withdrawn, to confirm the Order.~~

### Miscellaneous

~~17.16. To administer the Members Allowance Scheme.~~

~~18.17. To be Data Protection and Freedom of Information Officer and to maintain the Records Retention Scheme and Publication Scheme in respect of the Freedom of Information Act 2000.~~

~~19.18. To maintain a central record of RIPA applications and authorisations in line with RIPA Orders and Codes of Practice.~~

~~20.19. Implement provisions of Environmental Information Regulations 1995.~~

## DELEGATIONS TO THE HEAD OF HUMAN RESOURCES

~~Please note, these will be included under the Director of Corporate Services delegations and he will assign them to the Head of Human Resources~~

### General

~~1. To operate the Severance Policy with any redundancies or business cases for enhancements being approved by the appropriate Director or Chief Executive, and signed off by the appropriate Cabinet Member.~~

~~2. Enter into agreements with trade unions where implementation does not increase expenditure.~~

~~3. Enter into agreements with staff for the purpose of regulating work time.~~

~~4. Assimilate staff on appointment, promotion or re-grading.~~

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~~5. Grant removal expenses and lodging allowances in accordance with any scheme approved by the Council.~~

~~6. Determination of requests for provision of temporary accommodation for employees.~~

~~7. To make changes in accordance with legal requirements and best practice to HR policies and procedures following informal consultation with staff and the agreement of the Cabinet Member for Finance.~~

~~8. Administer the Council's Pension Discretionary Policy.~~

~~**Training – these delegations to be exercised in accordance with HR and Learning and Development policies.**~~

~~9. Grant financial assistance for post entry training.~~

~~10. Determination of proposals to attend corporate and service training courses.~~

~~11. Determination of proposals for the retention of fees for trainers.~~

**Payroll**

~~12. To implement all negotiated salary or wage awards where no exercise of a discretion is involved.~~

~~13. Administer staff benefits and expenses and review rates annually.~~

~~14. To pay salaries, wages, pensions and insurance contributions without reference to Members in accordance with the agreed arrangements.~~

~~15. To make payments in respect of Members' allowances and expenses under Sections 173 to 178 of the Local Government Act 1972, and to keep a register of such payments.~~

**DELEGATIONS TO THE HEAD OF FINANCE**

1. To be the Chief Finance Officer and be responsible for the administration of the financial affairs of the Council under Section 151 of the Local Government Act 1972 (as amended); to exercise the duties of the Chief Finance Officer under Section 114 of the Local Government Finance Act 1988; and to discharge functions under the Accounts and Audit Regulations 2011
2. To deal with matters specified by Financial Regulations.
3. Negotiate with the external auditor on the level and type of audit resources required to carry out the statutory and management audit requirements of the Council.
4. To write-off any irrecoverable debt in accordance with the Financial regulations, and the information to be kept in a register.
5. To estimate any collection fund surplus or deficit and to subsequently notify the major precepting authority.
6. To make loans to officers for car purchase and to keep a register of these loans.

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7. To enter into leasing agreements to lease assets for use by the Council as approved by the Capital Programme or Executive.
8. To arrange and review insurance in accordance with the Council's Policy.
9. To raise loans and make investments as and when required.
10. To manage the Council's treasury management activities in accordance with the CIPFA Code of Practice for Treasury management and CLG Guidelines
11. Authorise financial leases in accordance with approved capital financing arrangements.
12. Make arrangements for the collection of income due to the Council.
13. Sign all necessary claim forms in respect of any grants or other funds payable to the Council.
14. To set the Council Tax and Business Rate Base.
15. To publish in a local newspaper, within 21 days, notice of the amount of Council Tax set by the authority in accordance with Section 38 Local Government Finance Act 1992.
16. Exercise responsibility for the accounting arrangements for the operation of the collection fund in connection with the administration of Council Tax and Non-Domestic Rate.
17. Authorise Statutory Returns in connection with Council Tax and Council Tax Benefit, Non-Domestic Rate and Discretionary Housing Payments.
18. Authorise Statutory subsidy calculations and returns in connection with the administration of Housing Benefit.
19. Determine and declare local average interest rates in accordance with legislation and the interest rate for loans to housing associations.
20. Issue, renew or repay temporary loans.
21. Administer matters in respect of mortgages granted by the Council.
22. Authorise the premature repayment of mortgages issued by the Council.
23. Provide financial services either on an agency basis or where required by statute.
24. Authorise persons to act for the Council at company and creditor meetings.
25. Where appropriate to elect for VAT status on particular land or property.

## **DELEGATIONS TO THE HEAD OF AUDIT**

~~Please note, these will be included under the Director of Corporate Services delegations and he will assign them to the Head of Audit~~

- ~~1. The provision of an adequate and effective system of internal audit of the Council's accounting records and its system of internal control in accordance with the proper practices in relation to internal control as prescribed by the Accounts and Audit Regulations 2003<sup>15</sup> (amended 2006).~~

~~2. The maintenance of the Council's Strategic Risk Register and the provision of advice and guidance on the principles and practices of Risk Management.~~

## **DELEGATIONS TO THE HEAD OF COMMISSIONING AND CUSTOMER SERVICES**

### **Waste Collection and Disposal**

1. To exercise powers in relation to refuse collection, street cleaning, public conveniences, recycling and minor works.
2. To levy charges regarding the collection and disposal of waste other than household waste, and for the provision of bins and sacks.
3. To implement and enforce the provisions of Part II and Schedule 4 of the Environmental Protection Act 1990.
4. To implement and enforce the provisions of the Public Health Act 1961 regarding the accumulations of rubbish.

### **Seafront and Harbour**

5. To manage and maintain seafront facilities.
6. To grant and to renew licences for pleasure boats and for pleasure boatmen pursuant to the Public Health Acts Amendment Act 1907 (as amended by the Local Government Act 1974) and to dispose of boats and ancillary equipment abandoned or uncollected on any port or foreshore in Council's ownership.

### **Recreation**

7. To manage, maintain and control parks, open spaces, country parks, equipped play areas, outdoor and indoor sports facilities and swimming pools.
8. To let parks and open spaces for sporting and recreation facilities including fairs, exhibitions and displays.
9. To make arrangements for the provision and advertising of leisure and recreation services and events.
10. To deal with petitions in relation to ball games on open spaces in consultation with Ward Members.

### **Cemeteries and Churchyards**

11. To manage and maintain Council owned cemeteries and to maintain "closed churchyards".
12. To exercise powers in relation to the granting of rights of burial, rights to erect memorials and maintenance of graves pursuant to the Local Government Act 1972, Public Health Act 1936 and Local Authorities Cemeteries Order 1977.

### **Parking and Highways Management**

13. To manage, maintain and control off-street parking and to make necessary amendments to the Off Street Parking Order.
14. To manage on-street parking enforcement in accordance with The Road Traffic (Permitted Parking and Special Parking Area) (County of Kent) (Borough of Swale) Order 1999.
15. To agree to the use of car parks for non-commercial use and to temporarily suspend on and off street parking bays.
16. To enforce the provisions of the Road Traffic Regulation Act 1984 and Refuse Disposal (Amenity) Act 1978 regarding the removal of vehicles and any other offence.
17. To enforce the provisions of the Clean Neighbourhoods and Environment Act 2005 in relation to fixed penalty notices for nuisance parking offences.
18. To exercise the Council's powers to provide and maintain footway lighting systems and street naming and numbering.
19. To exercise the power to provide and maintain bus shelters and to give consent to Parish Councils for the erection of seats and shelters.
20. Authority in conjunction with the Head of Legal to make Orders for the closure of highways for a period of 24 hours or less for special purposes under Section 21 of the Town Police Clauses Act 1847.

#### **Hackney Carriage and Private Hire Vehicles**

21. To undertake all functions regarding Hackney Carriage and Private Hire Vehicles in accordance with the relevant provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

#### **Allotments**

22. To administer allotments and the discharge of related statutory functions.

#### **Contract Standing Orders**

- ~~24.~~ 23. To agree waivers in accordance with Contract Standing Orders.

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#### **Miscellaneous**

- ~~224.~~ In conjunction with the Head of Legal, to serve Notices under section 23 of the Local Government (Miscellaneous Provisions) Act 1976 in relation to dangerous trees.
- ~~253.~~ To implement and enforce the provisions of the Land Drainage Act 1991.
- ~~24.~~ ~~To administer concessionary bus travel permits for the elderly and disabled.~~
- ~~265.~~ To undertake responsibility for the effects of oil pollution on the coast line.

## **DELEGATIONS TO THE HEAD OF ECONOMY AND COMMUNITIES**

### **Corporate Strategy and Communications**

*Swale Borough Council Constitution  
July 2015  
Part 3.4 Officer Delegations*

1. To produce and publish publicity and information material.
2. To manage and coordinate press and media relations.
3. To issue press statements and where appropriate, following discussion with the relevant portfolio holder.
4. To co-ordinate consultation on behalf of the Council. ~~In respect of this proposed amendment, the Head of Corporate Strategy and Communications has concerns regarding the removal of the word 'corporate' as this implies that this covers all consultation which is not the case.~~

### Community Services

1. To enable community development services across the Borough.
2. To provide management and administration of local grant schemes and payments in accordance with the agreed policy framework.
3. To manage Community Halls and asset transfer projects.
4. To manage the CCTV partnership agreement and take decisions on service provision
5. To deliver services in accordance with statutory and legislative requirements including Section 17 of the Crime and Disorder Act.
6. To manage the Community Safety Unit.
- ~~7. To manage SBC's involvement in youth services including Swale Youth Forum and Local Children Trust Board.~~

### Cultural Services

- ~~8.7.~~ To work in partnership to enable the delivery of arts, heritage and cultural activities in Swale .
- ~~9.8.~~ To manage the preservation and development of cultural and heritage infrastructure.
- ~~10.9.~~ To enable the delivery for sports and physical activities across the Borough.

### Economic Development and Regeneration

- ~~11.10.~~ To implement key regeneration projects across the Borough.
- ~~12.11.~~ To enable synergy between the Council, learning providers and local business.
- ~~13.12.~~ To enable the delivery of tourism projects across the Borough.
- ~~14.13.~~ To manage green infrastructure projects and promote biodiversity.

### Environmental Services

- ~~14.~~14. To discharge the Council's responsibilities with regard to statutory nuisances.
- ~~15.~~15. To enforce the provisions of the following Acts in relation to the welfare of animals:
- Performing Animals (Regulation) Act 1925;
  - Pet Animals Act 1951;
  - Animal Boarding Establishments Act 1963;
  - Breeding of Dogs Act 1973 and 1991;
  - Riding Establishments Act 1964 and 1970;
  - Dangerous Wild Animals Act 1976;
  - Zoo Licensing Act 1981;
  - Animal Welfare Act 2006;
  - Dogs Act 1871, 1906 and Dangerous Dogs Act 1991; and
  - Dog Control Orders (Clean Neighbourhoods and Environment Act) 2005.
  - Breeding and Sale of Dogs (Welfare) Act 1999
- ~~16.~~16. To enforce the provisions of the Prevention of Damage by Pests Act 1949.
- ~~17.~~17. To implement and enforce the provisions of the Environmental Protection Act 1990.
- ~~18.~~18. To implement and enforce the Environment Act 1995.
- ~~19.~~19. To enforce the provisions of the Clean Air Act 1993.
- ~~20.~~20. To enforce the provisions of the Control of Pollution Act 1974.
- ~~21.~~21. To implement and enforce the provisions of the Noise and Statutory Nuisance Act 1993.
- ~~22.~~22. To implement and enforce the provisions of Part 6 of the Antisocial Behaviour Act 2003.
- ~~23.~~23. To enforce the provisions of the Noise Act 1996.
- ~~24.~~24. To implement and enforce the provisions of the Criminal Damage Act 1971, the Antisocial Behaviour Act 2003, Part IV of the Environmental Protection Act 1990 and the Town and Country Planning Act 1990 in relation to graffiti, littering and fly posting.
- ~~25.~~25. To implement and enforce the provisions of the Clean Neighbourhood Act 2005.
- ~~26.~~26. To enforce the provisions of the Control of Pollution Amendment Act 1989 and the Environmental Protection (Duty of Care) Regulations 1991 regarding transport of waste.
- ~~27.~~27. To implement and enforce the provisions of the Environmental Permitting (England and Wales) Regulations 2007.
- ~~28.~~28. To implement and enforce the provisions of Part II and Schedule 4 of the Environmental Protection Act 1990.

- ~~30-29.~~ To enforce the provisions of the Health Act 2006 relating to smoke-free offences.
- ~~31-30.~~ To enforce the provisions of The County of Kent Act 1981.
- ~~32-31.~~ To implement and enforce the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and 1982.
- ~~33-32.~~ To administer the Waste to land (Use in Agriculture) Regulations 1989.
- ~~34-33.~~ To enforce the provisions of S3-6 of the Refuse Disposal Amenity Act 1978, Part VIII of the Road Traffic Regulations Act 1984 and The Removal and Disposal of Vehicles (England) (Amended) Regulations 2002.
- ~~35-34.~~ To implement and enforce the provisions of S235-238 of Part XI of the Local Government Act 1972 in relation to the enforcement of Byelaws.
- ~~36-35.~~ To implement and enforce the provisions of Parts 1, 2, 4, 6, 7 and Part 11 S154 only of the Anti-Social Behaviour, Crime and Policing Act 2014.

#### **Gypsy Sites and Unlawful Encampments**

- ~~376.~~ To monitor the number of gypsies/land travellers, legally and illegally encamped within the Borough and to maintain a continuing dialogue with the Kent County Council over gypsy site provision.
- ~~387.~~ To issue Notices in relation to the removal of gypsies on the highway under the Highways Act 1980 and from Council owned land under the Criminal Justice and Public Order Act 1994.

#### **Miscellaneous**

- ~~39.~~ ~~To maintain a list of senior nominated officers regarding establishment arrangements for the protection and safeguarding of children and vulnerable adults.~~
- ~~3840~~ **To enter into agreements and contracts for the supply of goods and services in connection with the service**
- ~~3944.~~ To enable the delivery of markets on Council owned sites by working with market cooperatives in Faversham, Sheerness and Sittingbourne.
- ~~402.~~ To enforce the provisions of the Sunday Trading Act 1994 and to enforce any breaches of street trading under the Local Government (Miscellaneous Provisions) Act 1982.
- ~~413.~~ To exercise the Council's power to secure unoccupied buildings under the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
- ~~424.~~ To authorise officers to apply for judicial approval and to undertake surveillance under the Regulation of Investigatory Powers Act 2000, excluding cases where it is likely that knowledge of confidential information will be acquired or where a vulnerable or juvenile Covert Human Intelligent Source is to be used.

43. To implement the provisions of the Counter Terrorism and Security Act 2015

44. To implement the provisions of the Modern Slavery Act 2015

45. To implement the provisions of the Childrens Act 2004

## DELEGATIONS TO THE HEAD OF HOUSING

### Housing

1. To implement and enforce the provisions of the Housing Act 1985 (as amended) and the Housing Act 2004 in relation to demolition orders, housing conditions, licensing of houses in multiple occupation and additional control provisions in relation to residential accommodation including overcrowding.
2. Power to approve disabled facilities grants in accordance with statutory criteria and authority to allow applicants to start work before grants are approved pursuant to Part I of the Housing Grants Construction and Regeneration Act 1996 (as amended).
3. To implement the provisions of Article 3 of the Regulatory Reform Act (Housing Assistance) (England and Wales) Order 2002 with power to provide housing assistance in accordance with the Council's published policy and grant/loan conditions, and power in consultation with the Cabinet Member for Housing to recover the grant in total or in part where a house is sold within five years.
4. To implement the provisions of Part VI of the Housing Act 1996 (as amended).
5. To enter into agreements for the supply of goods and services in connection with grant and financial assistance schemes.
6. To promote group repair and renewal schemes.
7. To adopt the power given in the Localism Act 2011 to discharge Homelessness Duty into the Private Rented Sector.

### Homelessness

8. To implement the provisions of Part VII of the Housing Act 1996 (as amended) in relation to processing and determining all homeless applications.

### Council Tax and Non-Domestic Rates

9. To exercise all of the Council's powers and duties to bill, administer and collect the Council Tax and Non-Domestic Rates .
10. Pursuant to Section 101 of the Local Government Act 1972, to issue enforcement proceedings including making complaints on behalf of the Swale Borough Council in the Magistrates Court under the following Regulations: -
  - The Community Charges (Administration and Enforcement) Regulations 1989;
  - The Community Charges (Administration and Enforcement) (Amendment) Regulations 1989;
  - Community Charges (Co-Owners) Regulations 1990 (as amended);
  - Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990 (as amended);

- Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended);
  - any other further regulations issued by the Secretary of State for the Environment under the Local Government Finance Act 1988 (Schedule 9);
  - The Council Tax (Administration & Enforcement) Regulations 1992 (as amended); and
  - any further regulations issued by the Secretary of State for the Environment under the Local Government Finance Act 1992 (Schedule 4).
11. To write off any irrecoverable debt in respect of Council Tax, Non-Domestic Rates and Housing Benefit Overpayments in accordance with the Financial regulations and the information to be kept in a register.
  12. To appear on behalf of the Council at a Valuation Tribunal.
  13. To consider applications for non-domestic rate relief from charitable and other organisations pursuant to Sections 43 and 47 of the Local Government Finance Act 1988.
  14. To consider applications for the reduction and remission of rates pursuant to section 49 of the Local Government Finance Act 1988.
  15. To write-off any irrecoverable debt in the case of council tax, business rates or housing benefit overpayments in accordance with the Financial Regulations, and the information to be kept in a register.

#### **Housing and Council Tax Benefit**

16. To exercise all of the Council's powers and responsibilities for Housing and Council Tax Benefits, including the payment of benefits and the determination of discretionary payments.
17. To administer rent rebates for Local Authority tenants and rent allowances for Private/Housing pursuant to Section 134 of the Social Security Administration Act 1992 (as amended).

#### **Caravans**

18. To implement and enforce the provisions of the Caravan Sites and Control of Development Act 1960.

#### **Public Health**

19. To implement and enforce the provisions of the Public Health Act 1936 and 1961.
20. To implement and enforce the provisions of the Water Industry Act 1991 in relation to private water supplies.

#### **Buildings**

21. To implement and enforce the provisions of the Building Act 1984.
22. To enforce the provisions of Part XI of the Local Government (Miscellaneous Provisions) Act 1982.
23. To implement and enforce the provisions of the Water Act 1989.

#### **Drainage**

- 24. To implement and enforce the provisions of the Land Drainage Act 1991.
- 25. To enforce the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

**Pests**

- 26. To implement and enforce the provisions of the Prevention of Damage by Pests Act 1949.

**Miscellaneous**

- 27. To implement and enforce the provisions of Part III of the Environmental Protection Act 1990.
- 28. To enforce the provisions of The County of Kent Act 1981.

**DELEGATIONS TO THE HEAD OF PLANNING**

**Development Control**

- 1. To determine applications, to agree minor variations to planning obligations, to respond to prior notifications and to make observations on behalf of the Borough Council in accordance with the provisions of the appropriate Development Plan or other adopted Borough Council Planning Policy Guidance.
- 2. The delegated powers in paragraph 1 above shall not be exercised in the following circumstances:
  - (a) applications where the decision of the Head of Planning would conflict with any written representation received within the specified representation period from:
    - (i) any Member of the Borough Council;
    - (ii) a statutory consultee; or
    - (iii) a Parish or Town Council;
 provided that any such representations from (ii) or (iii) above are, in the opinion of the Head of Planning based upon relevant planning considerations. .
  - (b) applications where the decision of the Head of Planning would conflict with letters of representations, or petitions, from at least three separate addresses received within the specified representation period from persons or bodies (other than those set out in (a) above) provided that any such representations are, in the opinion of the Head of Planning, based upon relevant planning considerations and a relevant Ward Member requests that the application should be reported to the Planning Committee  
(see 2 (i) above)
  - (c) applications submitted by Members of the Council and Members of Staff; and
  - (c) applications which the Head of Planning considers are sufficiently major or raise difficult questions of policy interpretation or any unusual or difficult issues which warrant Member determination.

**Trees, Hedgerows and High Hedges**

- 3. To respond to notifications under the Town and Country Planning Act 1990 of intention to cut down, uproot, top or lop a tree within a Conservation Area or for trees covered by Tree Preservation Orders.
- 4. To determine Felling Licence applications.

5. To make and confirm, where there are no objections, Tree Preservation Orders.
6. Refusals of permission to cut down trees and approvals to lopping, silvicultural thinning of woodlands and routine cutting of coppice woodland not affecting draw trees.
7. Authority under Regulation 12 of the Hedgerows Regulations 1997 (as amended) and Section 214B of the Town and Country Planning Act 1990 (as amended) to enter onto land.
8. To respond to hedgerow notifications in consultation with the appropriate Ward Member(s).
9. Subject to consultation with the Head of Legal, to serve notices relating to dangerous trees, in accordance with Section 23 of the Local Government (Miscellaneous Provisions) Act 1976.
10. To consider and determine the Council's response to the formal complaints in relation to high hedges, to issue remedial notices and determine all other matters in relation to high hedges in accordance with Part 8 of the Anti-Social Behaviour Act 2003.

#### **Enforcement**

11. To serve Enforcement Notices and/or to issue "breach of condition notices" to secure compliance with planning conditions.
12. To serve Notices under the Town and Country Planning Act 1990 requiring the proper maintenance of land and the removal or obliteration of any placard or poster.
13. To make representations on behalf of the Council where appropriate to the granting or variation of Goods Vehicle Operators Licences under Section 12 of the Goods Vehicles (Licensing of Operators) Act 1995.
14. In cases of urgency between meetings to serve a "Stop Notice", a "Temporary Stop Notice" an Enforcement Notices or a Listed Building Enforcement Notice (following consultation with the Chairman or the Vice-Chairman of the Planning Committee and a relevant Ward Member).
15. To serve a requisition for information under Section 330 of the Town and Country Planning Act 1990.

#### **Conservation of Historic Environment**

16. In cases of extreme urgency between meetings to to serve a Building preservation Notice under Section 3. of the Planning (Listed Buildings and Conservation Areas) Act 1990.
17. To serve Urgent Works Notices and carry out works where it is considered urgently necessary for the preservation of a listed building.
18. To input to consultations by Church Authorities under the Ecclesiastical Exemption Regulations.

#### **Miscellaneous**

19. To exercise powers of entry in accordance with Sections 196A and 324 of the Town and Country Planning Act 1990 (as amended) and Section 88 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).
20. To screen and scope Environmental Impact Assessments, in accordance with The Town and

Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended).

21. To determine applications for Certificates of Lawful Use or Development.
22. To carry out consultations under the procedure set out for minor developments by Government departments.
23. To accept non-material amendments to approve schemes including minor amendments to conditions and planning obligations
24. To approve details reserved in conditional permissions (facing materials, landscaping, joinery details etc.)
25. To determine whether an applications should not be considered in outline.
26. To serve notices requiring information regarding disposal of waste pursuant to Section 93 of the Control of Pollution Act 1974.
27. To act as “responsible authority” within the meaning of the Licensing Act 2003 and Gambling Act 2005.
28. To implement the provisions of the Environmental Assessment of Plans and Programmes Regulations 2004.
29. To authorise officers to apply for judicial approval and to undertake surveillance under the Regulation of Investigatory Powers Act 2000, excluding cases where it is likely that confidential information will be acquired.
30. To be responsible for the Council's Building Control function by way of representation at the Joint Committee of the South Thames Gateway Building Control Partnership.
31. To implement and enforce the provisions of the Antisocial Behaviour Act 2003 in relation to high hedges and miscellaneous powers.

## **DELEGATIONS TO THE HEAD OF PROPERTY**

### **General**

1. To enter into all 'de-minimis' Agreements, eg. minor wayleaves, easements, rights of way, temporary occupation of land, tenants-at-will etc.
2. To negotiate and agree terms for the modification, variation or release of covenants contained in conveyances and transfers in accordance with any relevant provisions contained within the Asset Management Strategy, the Asset Transfer Policy and Disposals Policy.
3. To deal with Blight Notices ensuring final compensation where the notices have been accepted by the Council for conveyancing purposes.
4. To approve disturbance payments, etc. other than payments in respect of well maintained houses.
5. To finalise negotiations in the case of confirmed Compulsory Purchase Orders.
6. To deal with applications for the sale of sub-station sites.

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Part 3.4 Officer Delegations*

7. To deal with applications for the sale and purchase of land where the proposed consideration does not exceed £10,000 or where the land is to be sold or purchased on behalf of the Kent County Council.
8. To assign leases, subject to the normal investigation of the financial abilities of the new leases and to those cases also requiring a change of the approved use being determined, in consultation with the Cabinet Member for Finance.
9. To terminate or accept the surrender of a leasehold interest in land where it is of benefit to the Council.
10. To approve rent reviews and lease renewals up to a maximum increase of £7000 or 20% per annum whichever is the greater amount.
11. To enter into leases for less than seven years or to enter into leases where the annual rent is less than £3000.
12. To retain agents to advise upon terms for sales, leases, purchases, easements, compensation claims and similar matters or otherwise in connection therewith.
13. To negotiate the terms of, and authorise the granting of, landlords licences and consents and variations under existing leases.
14. To carry out any site investigation where he/she considers it necessary whether upon the commencement of negotiations or acquisition or otherwise.
15. To apply for planning permission for the development of any land or property and to make any other application under planning legislation.

DRAFT

## Planning Committee Procedure Notes

1. The Chairman will introduce himself and explain that this is a Planning Committee meeting to be conducted in accordance with the Council's Constitution (including the Procedure Rules) which is available on the Council's Website.  
  
The Chairman will explain the role of, and introduce, any visiting Members. Any Member who is not a Member of the Planning Committee may attend as a Visiting Member and may speak, provided s/he gives prior notification to the Chairman. Such visiting Members may include Ward Members. The Chairman will explain that these visiting Members can speak on an application but cannot vote.
2. The Chairman will also explain that following a decision by members, delegated authority is given to the planning officer to issue the decision notice, planning permission is not granted until the issue of the decision notice. All the application documents are published on the internet and the decision notice will be available there in due course.
3. The meeting will follow the order set out in the Agenda unless otherwise stated
4. Any Substitute Members will be introduced by name and it will be explained that when acting as a substitute on the Planning Committee the substitute Member must also have undertaken appropriate training.
6. The Chairman will explain that the Committee will deal with any matters where a member of the public has registered to speak before moving on to the remainder of the agenda.
7. The Chairman will introduce each item giving the agenda item number, the planning application number and the location then hand over to the planning officer.
8. If the Chairman has not given the agenda item number, the planning application number and the location then the Planning Officer will do so. The application will be summarised by the Planning Officer and any update on the application will be given.
9. Those members of the public who have registered to speak will have the opportunity to speak in accordance with the public participation rules. If the matter is deferred to a site meeting of the Planning Working Group the Chairman will clarify that they can speak now and that there will also be a further opportunity to speak at the site meeting. He will make it clear that there will be no opportunity to speak on the matter when it comes back to the Committee for final determination.

If a Member wishes to speak on an item, s/he may only speak once on an item.

10. The Chairman will then move the officer recommendation, a seconder will be found and the debate will open.
11. The meeting has a quasi-judicial role and determines the rights and obligations of the applicant. Members are reminded that they should not vote according to party lines but must consider the application and everything that is said in the meeting concerning the application. They should then make a decision based solely on the information available to them and to exercise their planning judgement accordingly.
  - 11.1 Members who have disclosed a pecuniary interest in an item are advised to leave the room while that item is considered.
  - 11.2 Members who have disclosed a non-pecuniary interest in an item may remain in the room but may not speak or vote. Members are advised to leave the room if their interest is more than purely technical.
  - 11.3 Unless they have a disclosable pecuniary interest in the item being discussed, Members are advised to remain in the meeting for the whole time that an item is being debated and are strongly encouraged not to vote on the matter unless they have done so.
12. When a vote is taken the Democratic Services Officer will make a note of the number of votes for and against and the number of abstentions. If this is unclear the meeting will wait until the Democratic Services Officer is satisfied that the vote is clear.
13.
  1. If the vote follows the officer recommendation to **approve** for the reasons given in the report then planning permission will be granted subject to the issue of the decision notice.
  2. If the vote follows the officer recommendation to **refuse** for the reasons given in the report then planning permission will be refused subject to the issue of the decision notice.
  3. If the vote does not follow the officer recommendation to **approve** then:
    - (a) the Chairman will invite the Head of Planning to consider if the application should be deferred in accordance with Part 3 of the Constitution. If the application is deferred to that next meeting, the Head of Planning will advise Members of the prospects of such a decision being challenged on appeal and on the implications of a cost application being made against the Council.
    - (b) If the decision is not deferred to the next meeting, a further motion must be made to refuse the application. A detailed minute of the Planning Committee's reasons (which should be full, clear and convincing) should be made by the Democratic Services Officer and a copy placed on the application file. The courts have expressed the view that such reasons should be clear and convincing. The Chairman should also give the planning officer the opportunity to explain the implications of any decision contrary to his/her recommendation.

(c) The wording of the reasons for refusal should be clearly understood before the Planning Committee votes on a motion to refuse an application. It is preferable for the Chairman to propose a short adjournment of the application to allow officers to draft the framework wording rather than leaving the reasons to the officers to draft following the meeting and to provide delegated authority to the Head of Planning to make any necessary detailed wording changes.

If the vote is passed then planning permission will be **refused** subject to the issue of the decision notice.

4. If the vote does not follow the officer recommendation to **refuse** for the reasons given in the report then:

- (a) the Chairman will invite the Head of Planning to consider if the application should be deferred in accordance with Part 3 of the Constitution and if not deferred,
- (b) a further motion must be made to approve the application with delegated authority given to the Head of Planning to impose suitable conditions
- (c) If the vote is passed then planning permission will be **approved** subject to the issue of the decision notice.

14. The outcome of the voting will be announced by the Chairman before moving on to the next item. If the Chairman fails to do this then the Head of Planning will step in and announce the outcome.

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