

3.2 RESPONSIBILITY FOR COUNCIL FUNCTIONS

The Council's terms of reference are set below. The Committees listed in Part 3.2.2 below are expected to determine, by resolution, all matters falling within their functions. They may also delegate to Officers as they consider appropriate to ensure the efficient management of the Council's business. The delegation of functions should be read in conjunction with the list of delegations to Officers.

PART 3.2 COUNCIL			
Council	Membership	Functions	Delegation of function
Council	47 Members	<p>The Council has responsibility for all non-Executive functions. Functions which have not been delegated remain the sole responsibility of the Council.</p> <ol style="list-style-type: none"> 1. To adopt and approve amendments to the policy and budget framework; 2. Adopting and changing the Constitution; this includes financial transactions, accounting, tenders and the publication and availability of information; 3. Approving or adopting the policy framework and the budget; This is set out in Article 3 of the Constitution; 4. Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive functions which is covered by the policy framework budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget, 5. To appoint (and remove) the Leader and to note the Leader's appointments to the Cabinet and 	

		<p>their terms of reference;</p> <p>6. Agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;</p> <p>7. Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;</p> <p>8. Changing the name of the area, conferring the title of Honorary Alderman/Alderwoman or Freeman of the Borough;</p> <p>9. To adopt the Codes of Conduct for Members and officers;</p> <p>10. To adopt a Members' Allowances Scheme, after considering the report of the Independent Members' Allowances Panel;</p> <p>11. To appoint the Head of Paid Service and Returning Officer;</p> <p>12. To resolve any matters requiring Member involvement, relating to local elections, electoral registration, revisions of electoral boundaries, orders in respect of parishes and related matters pertaining to the Borough or Parish Councils;</p> <p>13. Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;</p> <p>14. All local choice functions set out in Part 3 of the Constitution which the Council decides should be undertaken by itself rather than the Executive;</p> <p>16. To make arrangements for the discharge of functions by officers under section 101 of the Local</p>	
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		Government Act 1972; 17. All other matters which, by law, must be reserved to Council.	
PART 3.2.1 COMMITTEES – please see Appendix I to 3.2.1 for Area Committees			
Committee	Membership	Functions	Delegation of function
Audit Committee	9 Members	<p><i>Statement of Purpose</i></p> <p>The purpose of an audit committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority’s financial and non-financial performance to the extent that it affects the authority’s exposure to risk and weakens the control environment, and to oversee the financial reporting process.</p> <p><i>Audit Activity</i></p> <ul style="list-style-type: none"> • To consider the Head of Audit Partnership’s annual report and opinion, and a summary of audit activity (actual and proposed) and the level of assurance it can give over the council’s governance arrangements, and any report from Internal Audit on agreed recommendations not implemented within a reasonable timescale; • To consider reports dealing with the management and performance of Internal Audit Services, including consideration and endorsement of the 3 year Strategic Internal Audit Plan; • To consider the external auditor’s annual letter, the report to those charged with governance, and any specific reports as agreed with the external auditor; 	

		<ul style="list-style-type: none"> • To liaise with the Audit Commission over the appointment of the Council's external auditor, comment on the scope and depth of external audit work and ensure that it gives value for money; <p>Regulatory Framework</p> <ul style="list-style-type: none"> • To review any issue referred to it by the Chief Executive or the Director or any Council body; • To monitor the effective development and operation of risk management and corporate governance in the Council; • To monitor council policies on 'Whistleblowing' and the 'Anti-fraud and Corruption Strategy'; • To consider and comment on the authority's Annual Governance Statement and agree its adoption as part of the approval of the annual accounts; • To consider the Council's arrangements for governance and whether adequate safeguards are in place to secure compliance with its own and other published standards and controls and best practice; <p>Accounts</p> <ul style="list-style-type: none"> • To review and approve the annual statement of accounts. Specifically, to consider whether there are concerns arising from the financial statement or from the audit that need to be brought to the attention of the Cabinet or the Council; • To consider the external auditor's report to those charged with governance on issues from the audit of the accounts; • To be responsible for ensuring effective scrutiny of the treasury 	
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		<p>management strategy and policies (Note: Council is responsible for adopting the Treasury Management strategy and policy);</p> <p>Reporting</p> <ul style="list-style-type: none"> To present an annual report to the Council providing assurance that the responsibilities of the Committee have been met. 	
Emergency Committee	6 Members, to include the Group Leaders subject to political balance.	To act on behalf of the Council, if necessary, in cases where it is not possible to call an extraordinary Council meeting, subject to a full report to the next available meeting for information.	
General Licensing Committee	10 Members	<p>1. To review and make decisions in accordance with Council policy in licensing matters under the Miscellaneous Provisions Act 1982 Schedule 3 (Sex Establishments) and Miscellaneous Provisions Act 1982 Schedule 4 (Street Trading) and the statement of principles.</p> <p>2. To discharge the Council's functions as a Licensing Authority under the Miscellaneous Provisions Act 1982, within agreed policies;</p> <p>3. To arrange for the delegation of any of the licensing functions exercisable by the Committee to an officer of the Licensing Authority subject to the limitations set out in Schedule 3 and Schedule 4 of the Miscellaneous Provisions Act 1982;</p> <p>4. To consider enforcement action against Hackney Carriage and Private Hire Vehicle Operators under the Local Government Miscellaneous Provisions Act 1976 and Town Police Clauses Act 1984;</p> <p>5. To discharge functions under Part C of Schedule 1 of the Local Authorities</p>	See delegations to the Licensing and Resilience Manager

		<p>(Functions and Responsibilities)(England) Regulations 2000;</p> <p>6. To exercise the Council's functions under any of the relevant statutory provisions relating to Health and Safety at Work etc. Act 1974, as far as they are the responsibility of the District Council, as specified in Section C of Schedule 1 of the local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended);</p> <p>7. To make decisions on matters relating to the Council's responsibilities in respect of Hackney Carriage and Private Hire Vehicles and Drivers.</p> <p>8. To consider the further issues and implications of the possible introduction of a transport token/voucher scheme. (Minute No. 283/9/01)</p>	
General Purposes Committee	9 Members	<p>1. All matters relating to the Council's responsibilities as an employer.</p> <p>2. Consider and make decisions on non-executive matters in respect of staff terms and conditions, and the pension scheme. This will include: -</p> <p>The requirement to have a schedule of discretionary decisions for the operation of the pension scheme by the pension administrators. The changes to the LGPS that took effect in April 2008, including such aspects as the formula for calculating pension contributions, have not yet been incorporated into the Swale discretions; changes to the pay scales required following a review of the reward strategy; and changes to update the policies related to market supplements, pay protection and job evaluation required following the review of the reward strategy, to</p>	

		<p>consider and make decisions on non-executive matters in respect of staff terms and conditions, and the pension scheme.</p> <p>3. To consider amendments to the Constitution and to make recommendations on amendments or changes to Full Council.</p>	
<p>Appointments Sub-Committee A Sub-Committee of the General Purposes Committee</p>	<p>7 Members – to be selected from the General Purposes Committee</p>	<p>To agree the appointments of Directors.</p> <p>To make recommendations and, where permitted by legislation, to take decisions in accordance with the provisions of Local Authorities (Standing Orders) Regulations 1993, in matters concerning the Head of Paid Service, Chief Officers, Section 5 Officer (Monitoring Officer) and Section 151 (Chief Financial) Officer. This includes appointments, Dismissals, and Disciplinary matters.</p> <p>In respect of Head of Service appointments refer to the Chief Executive delegations.</p>	
<p>Licensing Act 2003 Committee</p>	<p>15 Members</p>	<p>1. To review and make recommendations to Council upon policy in relation to licensing matters under the Licensing Act 2003 and the statement of licensing policy;</p> <p>2. To discharge the Council's functions as a Licensing Authority under the Licensing Act 2003, within agreed policy;</p> <p>3. To arrange for the discharge of any of the licensing functions exercisable by the Committee to an Officer of the Licensing Authority subject to the limitations set out in Section 10(4) of the Licensing Act 2003;</p> <p>4. To review and make recommendations to Council upon policy in relation to licensing matters under the Gambling Act 2005 and the statement principles;</p>	

		<p>5. To discharge the Council's functions as a Licensing Authority under the Gambling Act 2005, within agreed policy;</p> <p>6. To arrange for the delegation of any of the licensing functions exercisable by the Committee to an Officer of the Licensing Authority subject to the limitations set out in Section 154 of the Gambling Act 2005.</p>	
Licensing Act 2003 Sub-Committee	3 Members selected from the Licensing Act 2003 Committee	<p>Licensing Act 2003:</p> <ol style="list-style-type: none"> 1. Application for a personal licence if objection made; 2. Application for a personal licence where a person has unspent convictions – all cases; 3. Application for a premises/club premises licence if a representation is made; 4. Application for a provisional statement if representation is made; 5. Application to vary the DPS if the police object; 6. Application for the transfer of premises licence if the police object; 7. Application for interim authority if the police object; 8. Application to review a premises/club premises licence – all cases; 9. Decision to object when the Council is a consultee and not the Licensing Authority; and 10. Application for a temporary event notice when the police object. <p>Gambling Act:</p> <ol style="list-style-type: none"> 1. Application for a premises licence where representations have been received; 2. Application to vary a premises licence where representations have been received; 3. Application to transfer a licence where representations have been received; 4. Application for a provisional statement where representations have been received; 	See delegations to the Licensing and Resilience Manager

		<p>5. Review of a premises licence;</p> <p>6. Application for club gaming machine permits where representations have been received;</p> <p>7. Cancellation of a club gaming machine permit; and</p> <p>8. Application for more than 4 gaming machine permits in a licensed premises.</p>	
Planning Committee	17 Members	<p>To make decisions under the Town and Country Planning Act 1990 (as amended) and Planning (Listed Buildings and Conservation Areas) Act 1990:</p> <p>(a) Refusals;</p> <p>(b) The granting of permission, or approval;</p> <p>(c) Applications for listed building and conservation area consent;</p> <p>(d) Resolution to make and confirm tree preservation orders;</p> <p>(e) Orders under Section 215 relating to maintenance of waste land and resolution to prosecute for non-compliance with an order;</p> <p>(f) Resolution to serve enforcement notices and listed building enforcement notices and service of "stop notices", or resolution to prosecute in the case of failure to comply with any type of confirmed order;</p> <p>(g) Resolution to serve a repairs notice and to carry out urgent works to preserve listed buildings under Sections 48 and 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990;</p> <p>(h) Resolution to prosecute for the unauthorised display of advertisements.</p> <p>(i) Agreements under Section 106 of the Town and Country Planning Act 1990 (as amended);</p> <p>(j) Notices under Section 79 of the Building Act 1984; (Minute Nos. 404/7/85 and 443/9/87 refers)</p> <p>(k) To respond to consultations on County Matter applications and on all other consultations for developments</p>	See delegations to Head of Planning.

		<p>to be carried out by and/or determined by other Authorities, Agencies or Government Departments;</p> <p>(l) The determination of applications for development to be carried out by the Borough Council;</p> <p>(m) To resolve to make an Article 4 Direction;</p> <p>(n) To resolve to make an 'Area of Special Control' under the Advertisement Regulations;</p> <p>(o) To resolve to secure the preservation of a building under Sections 3 and 4 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or such other relevant legislation as may be enacted hereafter;</p> <p>(p) To resolve to revoke a planning permission;</p> <p>(q) To resolve to accept a Purchase Notice;</p> <p>(r) To resolve to serve a discontinuance order;</p> <p>(s) To determine other related planning matters including conservation, tree preservation, advertisement control, building preservation and functions the subject of agency.</p> <p>NOTE</p> <p>(i) 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.</p> <p>If the application is deferred, at that next meeting, the Head of Planning should advise Members of the prospects of such a decision if challenged on appeal and if it becomes the subject of an application for costs.</p>	
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		(ii) that in cases where the Committee determines an application contrary to officer recommendation, a full record should be made of the reasons for rejecting the recommendation.	
Planning Committee Working Group Sub-Committee of the Planning Committee	Planning Committee Members Ward Members are invited to attend.	To visit sites the subject of planning applications, as directed by the Planning Committee, and report back to the subsequent Planning Committee. See Planning Committee procedural rules.	
Policy Development and Review Committee	11 Members	<p><u>General role</u> Within their terms of reference, the Committees will:</p> <p>(i) consider any built-in review of any existing policies, strategies or plans of the Council;</p> <p>(ii) consider existing policies in the light of changes to legislation or national guidance;</p> <p>(iii) consider other reviews of existing council policy referred by a Cabinet Member or by resolution of Cabinet, Scrutiny Committee or Full Council;</p> <p>(iv) consider proposals for new Council policy referred by a Cabinet Member, Cabinet or Full Council;</p> <p>(v) provide pre-decision comment on policy decisions.</p> <p>A policy shall not be re-considered by the Committee within two years or before its built in review period, unless by resolution of the Full Council or Cabinet, or as required by a change in legislation or national guidance.</p> <p>The Chairman may invite Cabinet Members and officers of the Council or other persons to attend Committee meetings to answer questions</p>	

		<p>pertinent to the business of the Committee.</p> <p>Having considered an item, the Committee may make recommendations to the person or body that referred the item to it; Cabinet, Cabinet Member, officer of the Council or the Full Council.</p> <p>The Policy Development and Review Committee shall exercise overall responsibility for any finances made available to it.</p> <p>Annual Report – the Policy Development and Review Committee must report annually to the Full Council on their work and make recommendations for amended working methods if appropriate.</p>	
<p>Scrutiny Committee</p>	<p>13 Members</p>	<p><u>General role</u> Within their terms of reference, the Committees will:</p> <p>(i) review or scrutinise decisions made, and performance of, the Cabinet and Committees and Council Officers both in relation to individual decisions and over time;</p> <p>(ii) review or scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;</p> <p>(iii) require Members of the Cabinet and/or Committees and Chief Officers to attend before it to answer questions about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;</p> <p>(iv) make recommendations to the Cabinet or appropriate Committee or</p>	

		<p>Council arising from the outcome of the scrutiny process – it is expected that reviews of policy arising out of the work of the committee would be referred to the Policy Development and Review Committee;</p> <p>(v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance;</p> <p>(vi) make reports or recommendations to the authority or the executive with respect to any functions which are not the responsibility of the executive;</p> <p>(vii) make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of the area;</p> <p>(viii) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive;</p> <p>(ix) consider Councillor Call for Action requests in accordance with the Councillor Call for Action Protocol contained in Part 5 of this Constitution; and</p> <p>(x) in accordance with Section 19 of The Police and Justice Act 2006, to act as the Council's "Crime and Disorder Committee" in terms of reviewing and scrutinising decisions made, or other actions taken, in connection with the responsible authorities discharge of their Crime and Disorder functions.</p> <p>The Scrutiny Committee shall exercise overall responsibility for any finances made available to them.</p>	
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		Annual Report – the Scrutiny Committee must report annually to the Full Council on its work and make recommendations for amended working methods if appropriate.	
Standards Committee	Eleven Members with 3 non-voting co-opted Parish representatives	<ol style="list-style-type: none"> 1. To promote and maintain high standards of conduct by Members and co-opted members of the authority and Parish Councils within the Borough. 2. To adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. 3. To ensure that Parish Councils have in place a Code of Conduct consistent with the principles contained in Chapter 7 of the Localism Act. 4. To monitor and review the Code of Conduct as appropriate to ensure it is consistent with the following principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. 5. To ensure that the Code of Conduct includes the provision that the authority considers appropriate in respect of the registration in its register, and disclosure, of (a) pecuniary interests, and (b) interests other than pecuniary interests which the authority thinks appropriate. 6. To put in place (a) arrangements under which allegations can be investigated, and (b) arrangements under which decisions on allegations can be made. Such arrangements to include provision for the appointment by the authority of at least one independent person and to cover Parish Councils. 7. To consider applications for the grant of dispensations in accordance with the provisions contained within S.33 (b) (c) and (d) of the Localism Act 2011. 	Standards Committee Procedure Rules

		8. To set the allowances and expenses for the Independent Person and any Reserve Independent Persons.	
Standards Hearing Panel Sub-Committee of the Standards Committee	Three Members to be drawn from the Standards Committee membership	<p>1. To consider any matter referred for investigation in accordance with the Council's agreed arrangements under Term of Reference 5 of the Standards Committee.</p> <p>2. To conduct a hearing and take decisions in respect of a Member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include:</p> <ul style="list-style-type: none"> • reporting its findings to Council <i>[or to the Parish Council]</i> for information; • recommending to the Member's Group Leader (or in the case of ungrouped Members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council; • recommending to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities; • instructing the Monitoring Officer to <i>[or recommend that the Parish Council]</i> arrange training for the Member; • removing <i>[or recommend to the Parish Council that the Member be removed]</i> from all outside appointments to which he/she has been appointed or nominated by the authority <i>[or by the</i> 	Standards Committee Procedure Rules

		<p><i>Parish Council];</i></p> <ul style="list-style-type: none"> • withdrawing [<i>or recommend to the Parish Council that it withdraws</i>] facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or • excluding [<i>or recommend that the Parish Council exclude</i>] the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings. 	
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Appendix I to Part 3.2.1

Area Committees

Statement of function

The purpose of area committees is to enhance the quality of life and of council services in the relevant area and to bring greater local insight to bear in council decision-making.

Membership

Membership to include all ward members in the area. Area committee boundaries will align with ward boundaries. Substitute Members are not permitted on area committees. The chair and vice-chair of each committee will be voted for at the first meeting of the municipal year.

Areas

- Eastern (Abbey; Boughton and Courtenay; East Downs; Priory; St Ann's; Teynham and Lynsted; Watling). 12 Members (quorum: four Members).
- Sheppey (Minster Cliffs; Queenborough and Halfway; Sheerness; Sheppey Central; Sheppey East). 14 Members (quorum: five Members).
- Sittingbourne (Chalkwell; Homewood; Kemsley; Milton Regis; Murston; Roman). 11 Members (quorum: four Members).

- Western (Bobbing, Iwade and Lower Halstow; Borden and Grove Park; Hartlip, Newington and Upchurch; The Meads; Woodstock; West Downs). 10 Members (quorum: three Members).

Terms of reference

Within their terms of reference the area committees will:

1. Develop a work programme to enhance core services within the area and take a report to council on an annual basis to provide an update on progress;
2. Agree spending decisions in relation to specific funding allocated to members of the area committee;
3. Provide area intelligence to the cabinet and heads of service, and assist with policy development on relevant matters; and
4. Make recommendations to cabinet on issues in the committee's area and respond to any other specific matter referred to it by cabinet, the council or a senior council officer.

Funding allocation

With regard to point 2 of the terms of reference, each Member will receive an identical amount of specific funding, established in each annual council budget, to be allocated to projects in consultation and agreement with the area committee at large.

Members may make proposals for allocating any part of the amount remaining to them at any meeting of the area committee, and the committee's agreement will be decided by a simple majority of Members present. The pooling of individual Members' amounts is permissible.

Any amount for which an allocation has not been agreed by the area committee by the end of the financial year will be forfeited, and no rollovers will be permitted. Any funding allocation agreed by the committee but unspent by the end of each electoral cycle will also be forfeited.

