

PART 2 – RESPONSIBILITY FOR FUNCTIONS

2.0 Introduction

The Local Government Act 1972 (as amended) sets out the arrangements authorities can make for the discharge of their functions. Authorities may discharge their functions through Committees, Subcommittees, etc. There is no power to delegate Council functions to an individual Member, but powers can be delegated to an Officer in consultation with a Member.

2.1 Functions of Full Council

2.1.1 The following functions are the responsibility of the Full Council and will be discharged by the Full Council unless specifically delegated to another Committee, Subcommittee, body or Officer elsewhere in this Constitution:

- a) to adopt and approve the budget and any amendments to it which cannot be made by other bodies pursuant to the Financial Regulations;
- b) to adopt and amend any policies reserved to Full Council by law or this constitution;
- c) to adopt and amend the Constitution;
- d) to appoint the Mayor and Deputy Mayor;
- e) to elect the non-executive Leader of the Council;
- f) to make appointments to Committees;
- g) to make appointments to outside bodies;
- h) to nominate directors of any companies in which the Council has shares or owns wholly or partly, where the Council has a right to nominate directors;
- i) to change the name of the area;
- j) to confer the title of Honorary Alderman/Alderwoman or Freeman of the Borough;
- k) to adopt the Codes of Conduct for Members and Officers;
- l) to adopt a Members' Allowances Scheme, after considering the report of the Independent Members' Allowances Panel;

- m) to appoint or dismiss the Head of Paid Service and Returning Officer, the Monitoring Officer or the Section 151 Officer;
- n) 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;
- o) to make, amend, revoke, re-enact or adopt bylaws and promote or oppose the making of local legislation or personal Bills; and
- p) all other matters which, by law, must be reserved to Council.

2.2 Committees of the Council

2.2.1 Policy and Resources Committee

Membership and functions of the Policy and Resources Committee

2.2.1.1 The Policy and Resources Committee shall be comprised of 15 members of the Council.

2.2.1.2 The functions of the Committee are:

- i. to propose an annual revenue budget, capital budget, medium-term financial plan, and schedule of fees and charges to Council;
- ii. to coordinate the development of the Council's strategy and policy across service committees, and to adopt strategies and policies, where appropriate based on proposals from other service committees;
- iii. to propose to Council the strategies and policies the adoption of which is reserved to Council;
- iv. to maintain strategic oversight of all Council services, including oversight of resources, performance and risks;
- v. to exercise and delegate authority on behalf of the Council over all non-regulatory matters falling within the Committee's area of responsibility;
- vi. to exercise and delegate authority on behalf of the Council over all non-regulatory matters which fall within the area of responsibility of multiple service committees, or to determine which service committee should exercise or delegate such authority;
- vii. to commission, procure and manage external contractors on matters falling within the Committee's area of responsibility, and to maintain strategic oversight of the Council's commissioning and procurement processes;

- viii. to oversee the Council's relationships with partner organisations, and involvement in formal and informal partnerships, in matters falling within the committee's area of responsibility, including strategic relationships with government and Kent County Council;
- ix. to receive, and optionally to give effect to, recommendations from other Service Committees and from Subcommittees of the Policy and Resources Committee; and
- x. To consider amendments to the Constitution and to make recommendations on amendments or changes to Full Council.

2.2.1.3 The areas of responsibility of the Policy and Resources Committee are:

- i. corporate strategy and corporate plan;
- ii. development of annual budget and medium-term financial plan;
- iii. overall budget management;
- iv. overall risk management;
- v. overall performance management;
- vi. organisational health and safety;
- vii. customer services, including oversight of service-related complaint handling;
- viii. communications including website;
- ix. transformation and digitisation;
- x. commissioning and procurement systems and processes;
- xi. revenues and benefits, including council tax collection and council tax support;
- xii. corporate services including all Mid-Kent Services functions;
- xiii. cemeteries;
- xiv. members' and officers' learning and development;
- xv. equality and diversity;
- xvi. resilience, including emergency planning and business continuity; and
- xvii. all matters relating to the Council's responsibilities as an employer.

Subcommittees and Working Groups

2.2.1.4 The Policy and Resources Committee may establish such subcommittees and/or working groups as it requires and may set the terms of reference and membership of those subcommittees and working groups. It shall also have the following subcommittees each comprised of 7 members of the Committee who have received appropriate training on the conducting of hearings and employment:

Appointments Subcommittee

2.2.1.5 The functions of the Appointments Subcommittee shall be to:

- i. agree the appointments of Directors of the Council/Shared Services; and
- ii. make recommendations to Full Council on the appointments of the Head of Paid Service, Monitoring Officer and Section 151 Officer.

Investigation and Disciplinary Subcommittee

2.2.1.6 The function of this Subcommittee shall be to consider any disciplinary action against one of the Council's statutory officers, the Head of Paid Service, Monitoring Officer or the section 151 Officer. The powers of the Subcommittee shall include, in accordance with the Employment Procedure Rules to;

- i. suspend a statutory officer;
- ii. appoint an investigating officer to carry out a disciplinary investigation in respect of a statutory officer;
- iii. conduct a disciplinary hearing;
- iv. recommend to Council the dismissal of a statutory officer; and
- v. determine disciplinary action short of dismissal in respect of a statutory officer.

Statutory Officers Disciplinary Appeals Subcommittee

2.2.1.7 The function of this Subcommittee shall be to hear any disciplinary appeals brought by a statutory officers on any disciplinary sanction short of dismissal. No member may sit on the Appeals Subcommittee on a case which has been considered by them as a member of the Investigation and Disciplinary Subcommittee.

Planning and Transportation Policy Working Group

2.2.1.8 The Policy and Resources Committee shall establish a working group to make recommendations to it on the following areas:

- i. The development of planning policy including policies forming the local plan for recommendation to Council;
- ii. Section 106 and community infrastructure levy;
- iii. building and development control;
- iv. transport; and
- iv land charges.

2.3 Service Committees

2.3.1 Membership and functions of all service committees

2.3.1.1 All service committees shall be comprised of 15 members of the Council.

2.3.1.2 All of the service committees shall exercise the following functions within their areas of responsibility:

- i. to exercise and delegate authority on behalf of the Council over all non-regulatory matters falling wholly within the committee's area of responsibility;
- ii. to provide strategic oversight of Council services falling within the committee's area of responsibility, including oversight of resources and performance;
- iii. to commission, procure and manage external contractors on matters falling within the committee's area of responsibility;
- iv. to oversee Council relationships with partner organisations, and involvement in formal and informal partnerships, in matters falling within the committee's area of responsibility;
- v. to make recommendations to the Policy and Resources Committee on policies, strategies, budgets, fees and charges concerning services and other matters falling within the committee's area of responsibility; and
- vi. to appoint and oversee the work of any subcommittees.
- vii. To note reports presented to the committee. Items for noting will be tabled at the beginning of the agenda. The Chair will list the items for noting and any member may request that an item is discussed.

2.3.2 The areas of responsibility of the Environment and Climate Change Committee are:

- i. Refuse collection and recycling;
- ii. Street Cleansing;
- iii. Climate and ecological emergency;

- iv. Air quality;
- v. Active travel;
- vi. Environmental response, including fly-tipping, animal welfare, littering and illegal encampments;
- vii. Environmental health, including management of public health and safety risks, contaminated land, and pollution control;
- viii. Green spaces, open spaces and grounds maintenance;
- ix. Flooding, sea defences and coastal protection; and
- x. Public conveniences.

2.3.3 The areas of responsibility of the Economy and Property Committee are:

- i. Regeneration;
- ii. economic development;
- iii. town centres and markets;
- iv. visitor economy;
- v. property asset management, including beach huts;
- vi. learning and skills; and
- vii. sea fronts, harbours and quays.

2.3.4 The areas of responsibility of the Housing and Communities Committee are:

- i. Inclusivity and tackling disadvantage;
- ii. Crime, disorder and antisocial behaviour;
- iii. CCTV;
- iv. Culture;
- v. Leisure and sport;
- vi. Play areas and outdoor fitness equipment;
- vii. Voluntary and community sector;
- viii. Liaison with town and parish councils;
- ix. Parking;
- x. Heritage and conservation, including closed churchyards;
- xi. To act as the Council's crime and disorder (overview and scrutiny) committee for the purposes of and with the powers set out in the Police and Justice Act 2006, the Local Government and Public Involvement in Health Act 2007 and any regulations made under those Acts;
- xii. Housing advice, homelessness prevention and housing register;
- xiii. Affordable and social housing;
- xiv. Disabled facilities grants, home improvements and Staying Put;

- xv. Empty dwellings;
- xvi. Private-sector housing support and enforcement;
- xvii. Health inequalities;
- xviii. Liaison with public health, health providers and adult social care;
- xix. Children and young people, including liaison with children's services;
and
- xx. Child and vulnerable adult safeguarding.

2.3.5 Subcommittees and Working Groups

2.3.5.1 Service committees may set up subcommittees and/or working groups. The subcommittees will have decision making powers where these are delegated to them by the Committee. The subcommittees may make recommendations to the whole committee on particular elements of the area of responsibility of the committee.

2.3.5.2 The Housing and Communities Committee shall have a Subcommittee called the Swale Rainbow Homes Shareholder Representation Subcommittee which shall be made up of members who have received appropriate training. This shall make decisions in respect of the Council's role as shareholder of Swale Rainbow Homes.

2.3.5.3 Any Subcommittee or Working Group must report to the Service Committee and its membership will be set by the Service Committee. The membership of a Subcommittee must be drawn from the parent committee but the membership of a working group need not do. The political balance rules and access to information rules will not apply to any working groups but they will operate in an open and transparent way and membership will be drawn from members who are from different political groups on the Council. Where a working group is to be supported by officers the Chief Executive will be consulted before it is established.

2.4 Other Committees

2.4.1 Audit Committee

2.4.1.1 The Audit Committee shall comprise of 9 members of the Council.

2.4.1.2 The purpose of the 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 nonfinancial 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.

2.4.1.3 The Audit Committee has responsibility for:

Audit Activity

- i. 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;
- ii. To consider reports dealing with the management and performance of Internal Audit Services, including consideration and endorsement of Internal Audit Plans;
- iii. 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;
- iv. To oversee 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;

Regulatory Framework

- v. To review any issue referred to it by the Chief Executive or the Director or any Council body;
- vi. To monitor the effective development and operation of risk management and corporate governance in the Council;
- vii. To monitor council policies on 'Whistleblowing' and the 'Antifraud and Corruption Strategy';
- viii. To consider and comment on the authority's Annual Governance Statement and agree its adoption as part of the
- ix. approval of the annual accounts;
- x. 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;

Accounts

- xi. 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 Policy and Resources Committee or the Council;
- xii. To consider the external auditor's report to those charged with governance on issues from the audit of the accounts;
- xiii. To be responsible for ensuring effective scrutiny of the treasury management strategy and policies (Note: Council is responsible for adopting the Treasury Management strategy and policy); and

Reporting

- xiv. To present an annual report to the Council providing assurance that the responsibilities of the Committee have been met.

2.4.2 Urgent Decisions Committee

2.4.2.1 The Committee shall comprise of 7 Members of the Council, to include the Group Leaders subject to political balance rules.

2.4.2.2 The Committee shall have responsibility for exercising the functions of Full Council, if necessary, in cases where it is not possible to call a Full Council meeting, subject to a full report to the next available meeting of Full Council for information.

2.4.3 Licensing Committee

2.4.3.1 The Licensing Committee shall comprise of 15 members of the Council.

2.4.3.2 The Committee shall have responsibility for:

- i. To review and make recommendations to Policy and Resources Committee and thereafter full Council upon policy in relation to licensing matters under the Licensing Act 2003 and the statement of licensing policy;
- ii. To discharge the Council's functions as a Licensing Authority under the Licensing Act 2003, within agreed policy;
- v. 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;
- vi. To review and make recommendations to Policy and Resources Committee and thereafter full Council upon policy in relation to licensing matters under the Gambling Act 2005 and the statement principles;
- vii. To discharge the Council's functions as a Licensing Authority under the Gambling Act 2005, within agreed policy;
- viii. 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;

General Licensing Matters

- ix. To make recommendations to Policy and Resources Committee on any matters of licensing policy;
- x. To review and make decisions in accordance with Council policy in licensing matters under the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 (Sex Establishments) and Schedule 4 (Street Trading) and the statement of principles;
- xi. to discharge the Council's functions as a Licensing Authority under the Local Government (Miscellaneous Provisions) Act 1982, within agreed policies;
- xii. 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 Local Government (Miscellaneous Provisions) Act 1982;
- xiii. To discharge all licensing functions of the Council not reserved to Full Council;
- xiv. 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 Council; and
- xv. To make decisions on matters relating to the Council's responsibilities in respect of Hackney Carriage and Private Hire Vehicles and Drivers.

2.4.3. The Licensing Committee shall have a Licensing Act Subcommittee and a General Licensing Subcommittee each comprised of 3 members of the Committee.

2.4.3.1 The Licensing Act Subcommittee shall have responsibility for:

Licensing Act 2003

- i. Application for a personal licence if any objection is made;

- ii. Application for a personal licence where a person has any unspent convictions;
- iii. Application for a premises/club premises licence if a representation is made;
- iv. Application for a provisional statement if representation is made;
- v. Application to vary the DPS if the police object;
- vi. Application for the transfer of premises licence if the police object;
- vii. Application for interim authority if the police object;
- viii. Application to review a premises/club premises licence
- ix. Decision to object when the Councils a consultee and not the Licensing Authority; and
- x. 10. Application for a temporary event notice when the police object.

Gambling Act

- xi. Application for a premises licence where representations have been received;
- xii. Application to vary a premises licence where representations have been received;
- xiii. Application to transfer a licence where representations have been received;
- xiv. Application for a provisional statement where representations have been received;
- xv. Review of a premises licence;
- xvi. Application for club gaming machine permits where representations have been received;
- xvii. Cancellation of a club gaming machine permit; and
- xviii. Application for more than 4 gaming machine permits in a licensed premises.

2.4.3.2 The General Licensing Subcommittee shall have responsibility for making decisions about individual licensing matters and appeals where not otherwise delegated to the Head of Environment and Leisure Services or the Head of Housing and Community Services.

2.4.3.3 The Licensing Committee shall have a General Licensing Act Subcommittee comprising 3 members of the Council who have received training on the relevant areas of licensing law.

2.4.4 Planning Committee

2.4.4.1 The Planning Committee shall be comprised of 17 members of the Council who have received appropriate training on planning.

2.4.4.2 The Committee shall have responsibility for making decisions under the Town and Country Planning Act 1990 (as amended) and Planning (Listed Buildings and Conservation Areas) Act 1990, including:

- i. The granting of permissions, or approvals;
- ii. Refusals of permissions;
- iii. Applications for listed building and conservation area consent;
- iv. Resolution to make and confirm tree preservation orders;
- v. Orders under Section 215 relating to maintenance of waste land and resolution to prosecute for noncompliance with an order;
- vi. 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;
- vii. 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;
- viii. Resolution to prosecute for the unauthorised display of advertisements.
- ix. Agreements under Section 106 of the Town and Country Planning Act 1990 (as amended);
- x. Notices under Section 79 of the Building Act 1984;
- xi. To respond to consultations on any planning applications to be carried out by and/or determined by other Authorities, Agencies or Government Departments;
- xii. The determination of applications for development to be carried out by the Council;
- xiii. To resolve to make an Article 4 Direction;

- xiv. To resolve to make an 'Area of Special Control' under the Advertisement Regulations;
- xv. 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 thereafter;
- xvi. To resolve to revoke a planning permission;
- xvii. To resolve to accept a Purchase Notice;
- xviii. To resolve to serve a discontinuance order;
- xix. To determine other related planning matters including conservation, tree preservation, advertisement control, building preservation and functions the subject of agency.

NOTE

- A. 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 Chair should invite the Head of Planning to request the Committee 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.
- B. 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.

2.4.4.3 The Committee shall have a Working Group called the Planning Committee Site Visits Group. It shall be comprised of members of the committee and ward councillors will be invited to attend. Its responsibility will be to visit sites the subject of planning applications, as directed by the Planning Committee, and report back to the subsequent meeting Planning Committee. See Planning Committee Procedural Rules in Part 3 of this Constitution.

2.4.5 Standards Committee

2.4.5.1 The Committee shall be comprised of 11 members of the Council plus three non-voting co-opted Parish representatives.

2.4.5.2 The Committee shall have the following responsibilities:

- i. to promote and maintain high standards of conduct by Members and co-opted members of the authority and Parish Councils within the Borough;
- ii. to recommend to Full Council for adoption a code dealing with the conduct that is expected of members and co-opted members of the Council when they are acting in that capacity;
- iii. 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;
- iv. 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 Council thinks appropriate;
- v. to put in place arrangements under which allegations can be investigated and 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 in the Borough;
- vi. 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; and
- vii. to set the allowances and expenses for the Independent Person.

2.4.5.3 The Committee shall have a Subcommittee called the Standards Hearing Panel.

2.4.5.4 The Standards Hearing Panel shall be comprised of 3 members of the Committee who have received appropriate training on the conducting of hearings.

2.4.5.5 The Standards Hearing Panel shall have the following responsibilities:

- i. to consider any matter referred for investigation in accordance with the arrangements adopted by the Council for considering any allegation that a member or co-opted member of the Council or a

Parish Council in the Borough has failed to comply with the Code of conduct; and

- ii. to conduct a hearing and decide whether a member has failed to comply with the Code of Conduct and, if so determine what action(s) to take in accordance with the Council's arrangements

2.5 Area Committees

2.5.1 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.

2.5.2 The Membership of each Area Committee shall include all ward members in the area. Area committee boundaries will align with ward boundaries. Substitute Members are not permitted on Area Committees.

2.5.3 There shall be Area Committees for the following areas;

- i. Eastern (Abbey; Boughton and Courtenay; East Downs; Priory; St Ann's; Teynham and Lynsted; Watling).12 Members (quorum: four Members);
- ii. Sheppey (Minster Cliffs; Queenborough and Halfway; Sheerness; Sheppey Central; Sheppey East). 14 Members (quorum: five Members);
- iii. Sittingbourne (Chalkwell; Homewood; Kemsley; Milton Regis; Murston; Roman). 11 Members (quorum: four Members);
- iv. Western (Bobbing, Iwade and Lower Halstow; Borden and Grove Park; Hartlip, Newington and Upchurch; The Meads; Woodstock; West Downs). 10 Members (quorum: three Members).

2.5.4. The Area Committees shall have the following responsibilities:

- i. 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;
- ii. agree spending decisions in relation to specific funding allocated to members of the Committee;

- iii. provide area intelligence to the Policy and Resources Committee and heads of service, and assist with policy development on relevant matters; and
- iii. make recommendations to Full Council, Policy and Resources Committee or any Service Committee on issues in the committee's area and respond to any other specific matter referred to it by Full Council, a committee or a senior council officer.

2.6 Joint Arrangements

- 2.6.1 Kent Resource Partnership: Swale representative appointed by the Environment Committee.
- 2.6.2 South Thames Gateway Building Control Joint Committee: Swale representative appointed by the Policy and Resources Committee.