

## Scheme of Delegations to Officers

### 1. Delegations from Full Council

#### 1.1. Chief Executive

1.1.1. To exercise, in so far as it shall be lawful, between meetings of the Council any functions falling within their terms of reference in consultation with the Mayor or in his/her absence the Deputy Mayor.

PROVIDED THAT:

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled Council meeting or justified the calling of a special meeting;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (iv) a report is made to the next scheduled meeting of the body concerned.

1.1.2. All delegations to officers shall be subject to the overriding proviso that the Chief Executive may -

- (i) require the officer concerned not to exercise the power, but to report to the Committee for instructions; and
- (ii) require the officer concerned that, on any particular matter, the Chief Executive will exercise a reserve power to take the appropriate decision him/herself (carrying the responsibility for such decisions likewise).

#### 1.2. Directors

1.2.1 To exercise, in so far as it shall be lawful, between meetings of the Council, any functions falling within their terms of reference in consultation with the Mayor or in his/her absence the Deputy Mayor.

PROVIDED THAT:

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled Council or justified the calling of a special meeting;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (iv) a report is made to the next scheduled meeting of the body concerned.

### **1.3. Monitoring Officer**

- 1.3.1. Power to acquire land or any interest therein on behalf of the Council on terms approved by the District Valuer or other appropriately qualified valuer where the acquisition is in consequence of a resolution of the Council to make a compulsory purchase order, or has been approved by, or with the authority of the Council, including the signing of any contract or other incidental action.
- 1.3.2. A general authority to institute and/or defend legal proceedings and/or take the opinion of Counsel in order to protect the Council's interests and to facilitate the exercise by the Council, its committees and officers of their delegated powers and duties, subject to the:
- (i) agreement of the relevant Director or the Chief Executive;
  - (ii) requirement to make regular reports to the relevant instructing officer or committee; and
  - (iii) requirement to consult with the Section 151 Officer if there are likely to be financial implications in excess of £5,000 as a result of the proposed action.

## **2. DELEGATION OF THE CABINET FUNCTIONS TO OFFICERS**

### **2.1. Chief Executive**

- 2.1.1 To exercise, in so far as it shall be lawful, between meetings of the Cabinet any functions falling within their terms of reference in consultation with the Leader of the Council or in his/her absence any two members of the Council who are also members of the Cabinet.

#### **PROVIDED THAT:**

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of Cabinet or justified the calling of a special meeting;
  - (ii) the decision is recorded in writing and signed by the parties thereto;
  - (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
  - (iv) a report is made to the next scheduled meeting of the body concerned.
- 2.1.2. All delegations to officers shall be subject to the overriding proviso that the Chief Executive may -
- (a) require the officer concerned not to exercise the power, but to report to the Committee for instructions; and
  - (b) require the officer concerned that, on any particular matter, the Chief Executive will exercise a reserve power to take the appropriate decision him/herself (carrying the responsibility for such decisions likewise).
- 2.1.3. To determine applications for use of the Borough badge.

2.1.4. To exercise the powers relating to emergency or disaster under section 138 of the Local Government Act 1972 or in his or her absence the Directors.

PROVIDED THAT:

- (i) a report on the action taken and the expenditure incurred is made to the next scheduled meeting of the Cabinet; and
- (ii) the S151 Officer is consulted upon the expenditure and other financial implications if not otherwise involved.

2.1.5 To give consent on behalf of the Council when consulted by the police under section 31 of the Anti-Social Behaviour Act 2003 with respect to the proposed granting of an authorisation to a constable in uniform under section 30. In addition this delegated authority shall extend to responding to any consultation with respect to the withdrawal of the authorisation and any generally.

## **2.2. Directors**

2.2.1. To exercise, in so far as it shall be lawful, between meetings of the Cabinet any functions falling within their terms of reference in consultation with the Leader of the Council or in his/her absence any two members of the Council who are also members of the Cabinet.

PROVIDED THAT:

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled Cabinet meeting or justified the calling of a special meeting;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (iv) a report is made to the next scheduled Cabinet meeting.

## **2.3 Director of Change and Communities**

2.3.1. In connection with the administration of Council Tax and the Council Tax Benefit Scheme:

- (a) to determine occupation, to send bills and notices, grant reliefs, issue penalties, collect income and take all recovery and other administrative steps necessary to collect council tax in accordance with any statute or statutory regulations and to make determinations and exercise discretions as appropriate, except for matters specially reserved to the Council or the Cabinet;
- (b) to write off irrecoverable council tax and penalties and residual community charge and penalties in accordance with the provisions of the Council's Financial Procedure Rules or any other Council policy or procedure amending or replacing the same and for the time being in force;
- (c) to be responsible for any Council Tax Benefit take up scheme;

- (d) to grant council tax benefit in accordance with any statute or statutory regulations and make determinations and exercise discretion as appropriate, except for matters specifically reserved to the Council or the Cabinet;
- (e) to represent the Billing Authority in any proceedings before the Valuation Tribunal, the Council Tax Benefit Appeals Service, in any proceedings relating to the recovery and enforcement of council tax and penalties before the Magistrates Court and in the County Court under the Small Claims Track and otherwise, in so far as it may be lawful;
- (f) to undertake interviews under caution, to issue cautions, administrative penalties and undertake prosecutions in accordance with the relevant legislation, the Council's prosecution policy and statement of fraud in respect of Council Tax Benefit;
- (g) to administer Discretionary Housing Payments in accordance with the relevant legislation and the Council's policy;
- (h) to serve or withdraw completion notices under Schedule 4A of the Local Government Finance Act 1988 as amended;
- (i) to determine liable persons, exemptions, discounts, transitional relief schemes, calculate instalments, appoint bailiffs, collection agents and process servers, request a statement of case for the opinion of the High Court subject to consulting first with the Legal Services Manager/Monitoring Officer, attach earnings and income support, impose a charge upon property, attach allowances, levy distress, impose charges for levying distress, institute proceedings by way of bankruptcy or otherwise of the debtor or commitment to prison, to request and execute warrants of arrest and exercise any other administrative step for the collection of council tax;
- (j) to undertake all other administrative processes in connection with the Council Tax Benefit Scheme;
- (k) to represent the Billing Authority in requests for administration orders under the County Court Acts in respect of unpaid council tax;
- (l) to be responsible for the prevention, detection and prosecution of council tax fraud;
- (m) to be the administrator for the collection fund established under section 89 of the Local Government Finance Act 1988.

#### 2.3.2. In connection with the administration of the Housing Benefit Scheme:

- (a) to be responsible for any Housing Benefit take up schemes;
- (b) to grant Housing Benefit (rent allowances and rent rebates) in accordance with any statute or statutory regulations and make determinations and exercise discretion as appropriate, except for matters specifically reserved to the Council and the Cabinet;
- (c) to determine and recover overpayments of Housing Benefit using all means available;

- (d) to operate the Council's Discretionary Housing Payments policy.

2.3.3. To undertake interviews under caution, to issue cautions, administrative penalties and undertake prosecutions in accordance with the relevant legislation and the Council's fraud and prosecution policies in respect of Housing Benefit;

- (a) to undertake all other administrative processes in connection with the Housing Benefit Scheme;
- (b) to represent the Council in any proceedings relating to the recovery or other matters concerning Housing Benefit before the Magistrates Court, the Housing Benefit Appeals Service or a County Court under the Small Claims Track or otherwise in so far as it may be lawful.

2.3.4. In connection with the administration of the national non domestic rate:

- (a) to determine occupation, to send bills and notices, grant reliefs, collect income and take all recovery and other administrative steps necessary to collect the national non domestic rate in accordance with any statute or statutory regulations and make determinations and exercise discretions as appropriate, except for matters, specially reserved to the Council or the Cabinet;
- (b) to represent the Billing Authority in any proceedings before the Valuation Tribunal, and in any proceedings relating to the recovery and enforcement of national non domestic rate before the Magistrates and the County Court under the Small Claims Track and otherwise in so far as it may be lawful;
- (c) to serve or withdraw completion notices under Schedule 4A of the Local Government Finance Act 1988 as amended;
- (d) to determine liable persons, exemptions, transitional relief schemes, calculate instalments, appoint bailiffs, request a statement of case for the opinion of the High Court subject to consulting first with the Legal Services Manager/Monitoring Officer, impose a charge upon property, levy distress, impose charges for levying distress, seek insolvency of the debtor or commitment to prison or liquidation of companies, to request and execute warrants of arrest and exercise any other administrative step for the collection of national non domestic rate;
- (e) to represent the Billing Authority in requests for administration orders in the County Court under the Small Claims Track or otherwise in so far as it may be lawful in respect of unpaid national non domestic rate;
- (f) to calculate and pay interest on overpayments of national non domestic rate in accordance with the NDR (Payment of Interest) Regulations 1990;
- (g) to take all necessary action under section 44A of the Local Government Finance Act 1988 as may be necessary or appropriate on behalf of the Council;
- (h) to be responsible for the prevention, detection and prosecution of national non domestic rate fraud; and

- (i) to determine appeals against a refusal to grant a discretionary or hardship relief

The following delegations shall apply in relation to Housing Functions:

- 2.3.5. To have authority to undertake all necessary statutory procedures in relation to applications from homeless people and others towards whom the Council may have statutory obligations regarding housing accommodation and to have authority to implement the Council's statutory obligations.
- 2.3.6. To allocate housing accommodation managed by or under control of the Council subject to any instructions of the Cabinet within any current policy framework of the Council.
- 2.3.7. To have authority to enter into nomination agreements with Housing Associations or other registered social landlords.
- 2.3.8. To recover rent arrears owing to the Council by all lawful means including the remedy of distress, using Certified Bailiffs as necessary, in consultation with the Legal Services Manager/Monitoring Officer.

#### **2.4. Director of Regeneration and Sustainability**

- 2.4.1. To determine applications for the hire of: -

- (a) Public halls and other facilities under the control of the Cabinet
- (b) Bandstands
- (c) Sporting facilities including playing fields and recreation grounds
- (d) Swimming baths and sports complexes
- (e) Parks for special events

within any current policy framework approved by the Council but, without prejudice to the Council, to determine individual fees above the normal scale with hirers with respect to the Assembly Hall and Parks.

- 2.4.2. To book shows in the Assembly Hall within the approved estimates.
- 2.4.3. To close recreation grounds, playing fields and other facilities to the general public where necessary after consultation with the Cabinet Leader, or in his/her absence, any two borough councillors who are members of the Cabinet.
- 2.4.4. To withdraw the use of any recreation facilities from persons repeatedly misusing them after consultation with the Cabinet Leader or in his/her absence any two borough councillors who are members of the Cabinet subject to a written report being made to the next scheduled meeting of the Cabinet.
- 2.4.5. To determine requests for unusual uses of recreation grounds, playing fields and other facilities after consultation with the Cabinet Leader or, in his/her absence, any two borough councillors who are members of the Cabinet.

- 2.4.6. To operate a scheme of complimentary tickets for Assembly Hall shows.
- 2.4.7. To approve in consultation with the Cabinet Leader or, in his/her absence, any two Borough Councillors who are members of the Cabinet, grants for cultural and artistic activities or for sport and physical recreation, should there be any residual funds after consideration each year of such applications by the Cabinet.
- 2.4.8. To grant tenancy agreements for allotments to suitable applicants.
- 2.4.9. In connection with the Tunbridge Wells Museum and Art Gallery -
- (a) to acquire and dispose of works of art, exhibits and specimens in accordance with the acquisition and disposal provisions within any current policy framework of the Council relating to Collections Management;
  - (b) to book exhibitions and artists/craftsmen in accordance with any current policy framework of the Council; and
  - (c) to negotiate and set fees and charges for goods and services provided by the Tunbridge Wells Museum and Art Gallery in accordance with any current policy framework of the Council.
- 2.4.10. To have authority to exercise the statutory powers relating to means of escape in case of fire from Houses in Multiple Occupation under Section 352 and 368 of the Housing Act 1985 (as amended), subject to consultation with the Fire Authority.
- 2.4.11. To accept undertakings under Section 368 of the Housing Act 1985 (as amended) that part of a house will not be used for human habitation, subject to the required consultation with the Fire Authority and to the undertaking being in a form approved and recorded by the Legal Services Manager/Monitoring Officer.
- 2.4.12. To have authority, subject to the applicant defraying the Council's expenses, to approve temporary road closures under Section 21 of the Town Police Clauses Act 1847.
- 2.4.13. In consultation with the Cabinet Leader, to amend the list of roads whose residents are permitted to purchase reduced price car park season tickets in accordance with the current Parking Places Orders.
- 2.4.14. To determine applications for permission to use the Council's car parks for purposes other than car parking having regard to the terms of the current Parking Places Orders.
- 2.4.15. In the absence of the Parking Manager, to exercise the powers delegated to him/her in connection with the agency agreement with the County Council relating to parking decriminalisation.
- 2.4.16. To make decisions on technical issues concerning matters relating to the functions of the Cabinet.

- 2.4.17. To have authority to carry out all approved works of improvement and maintenance in accordance with approved Council policy and within the approved budgetary estimates including the processing of such notices and orders under statute, regulations or byelaws as may be requisite for that purpose.
- 2.4.18. Together with the Head of Sustainability, to give overall direction to the Parking Manager under the terms of the agency agreement with the Kent County Council relating to parking decriminalisation, to secure the performance and functions as therein defined and, within approved budgets, to retain or procure the services of such professional, administrative or other staff or services as are required to perform those activities and functions.
- 2.4.19. To raise objections to or make representations against the issue of Operator's Licences under Section 12 of the Good Vehicles (Licensing of Operators) Act 1955 subject to consultation with the Legal Services Manager /Monitoring Officer as appropriate.
- 2.4.20. To take such enforcement action as may be necessary to recover monies due in respect of a penalty charge notice, including the registration of the charge certificate, the application for a warrant of execution, the use of certified bailiffs or otherwise.
- 2.4.21. To exercise all of the functions under the legislation listed below, related regulations and any re-enactments of this legislation, insofar as they are functions of the Cabinet including the issue and service of notices, the execution of works (including the disposal of articles), the issuing, refusal and renewal of licences and the initiation of prosecutions in consultation with the Legal Services Manager/Monitoring Officer, except where otherwise indicated:

Anti-Social Behaviour

Building Act 1984

Clean Air Act 1993

Contaminants in Food (England) Regulations 2003

Control of Pollution Act 1974

County of Kent 1981

Criminal Justice and Public Order Act 1994

Dangerous Dogs Act 1991

Environmental Protection Act 1990

Guard Dogs Act 1975

Home Safety Act 1961

Housing Acts 1985, 1988, and 1996

Imported Food Regulations 1997

Litter Act 1983

Local Government Act 1972

Local Government (Miscellaneous Provisions) Act 1976

Local Government (Miscellaneous Provisions) Act 1982

Noise Act 1996

Prevention of Damage by Pests Act 1949

Products of Animal Origin (Third Country Imports) (England) Regulations 2003, as amended

Products of Animal Origin (Import and Export) Regulations 1996, as amended

Public Health Act 1936

Public Health Act 1961

Public Health (Control of Diseases) Act 1984

Refuse Disposal (Amenity) Act 1978

Slaughter of Poultry Act 1967

Slaughter of Poultry (Licences and Specified Qualifications) Regulations 1991

Slaughterhouse Licence (Forms and Records) Regulations 1959

Sunday Trading Act 1994

Transmissible Spongiform Encephalopathy (England) (Regulation) 2002

Directive 80/777/EEC

Local Government Act 1972

Water Industry Act 1991

Local Authorities Cemeteries Order 1977

Food Safety Act 1990

European Communities Act 1972

## **2.5. Monitoring Officer**

- 2.5.1. To have a general authority to institute and/or defend legal proceedings and/or take the opinion of Counsel in order to protect the Council's interests and to facilitate the exercise by the Council, its committees and officers of their delegated powers and duties, subject to the:

- (i) agreement of the relevant Director or the Chief Executive;
  - (ii) requirement to make regular reports to the relevant instructing officer or committee; and
  - (iii) requirement to consult with the Section 151 Officer if there are likely to be financial implications in excess of £5,000 as a result of the proposed action.
- 2.5.2. To have authority to sign agreements and take other incidental action for the grant or disposal of any interests in land as provided for within the function of powers delegated to the Cabinet or officers.
- 2.5.3. To have authority (a) to make a bankruptcy petition and/or (b) to recover liquidated monetary debts owing to the Council by means of the institution of legal proceedings or otherwise, except where other remedies are being sought.
- 2.5.4. To affix the Common Seal of the Council to such documents as shall be necessary to discharge mortgages or other legal charges on being advised by the S151 Officer that the monies owing have been repaid.
- 2.5.5. In the absence of any authority granted by the Council to a specific officer, to have authority to sign contracts in consequence of a resolution of the Cabinet or as provided for within powers delegated to the Cabinet or officers. In the absence of the Monitoring Officer the Deputy Monitoring Officer or other Solicitor may also sign such contracts.
- 2.5.6. To recover, instituting legal proceedings as necessary, rent arrears and other liquidated monetary payments owing to the Council in consultation with the Head of Housing and Health.
- 2.5.7. To recover, instituting legal proceedings as necessary, possession of land or buildings occupied without the Council's consent, in consultation with the Head of Housing and Health.
- 2.5.8. To serve all notices required under the 'Right to Buy' and related provisions of the Housing Act 1985.
- 2.5.9. To sign Certificates of Title under the Housing Act 1985.
- 2.5.10. To investigate claims for Home Loss Payments and Disturbance Payments under the Land Compensation Act 1973, as amended, and to authorise payments in both cases, subject to obtaining the District Valuer's apportionment of the rateable value in the case of Home Loss Payments (if necessary).
- 2.5.11. In cases where allotment holders fail to comply with the terms of their tenancy agreements, to serve notices to quit in respect of allotments and to take all necessary steps to regain possession which includes instituting legal proceedings.
- 2.5.12. In connection with gypsy and other caravan sites managed by the Council, to recover, instituting legal proceedings as necessary, possession of caravan plots in consultation with the Head of Housing and Well-being.
- 2.5.13. To institute possession proceedings in connection with temporary accommodation in consultation with the Head of Housing and Well-being.

- 2.5.14. To have authority, after consultation with the Cabinet Leader or, in his/her absence, any two members of the Cabinet who are borough councillors, to prosecute in the case of offences where the Council is a competent Authority or, alternatively, has the power in its own right, relating to footpaths and bridleways in the case of: -
- (i) ploughing etc. of footpaths and bridleways - failure to remove (Highways Act 1980, Section 164); and
  - (ii) nuisance created by barbed wire on land adjoining a highway - failure to remove (Highways Act 1980, Section 164);
- 2.5.15. To have authority to serve notices under Section 330 of the Town and Country Planning Act 1990 in respect of any cases where he is satisfied that a prima facie case exists for enforcement under Section 172, 187(a) or 215 of the Town and Country Planning Act 1990 or Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or under any statutory re-enactment of the said legislation.

## **2.6. Head of Finance and Governance/S151 Officer**

- 2.6.1. To have authority to exercise all those powers referred to as delegated to the Section 151 Officer by the Council's Financial Procedure Rules and the Contract Procedure Rules.
- 2.6.2. To complete and sign off statutory returns in respect of council tax and council tax benefits as Head of Finance and Governance for the Council and as required by legislation as Section 151 Officer.
- 2.6.3. To complete statutory subsidy calculations and returns as S151 Officer of the Council, and all other statistical returns.
- 2.6.4. To write off irrecoverable income due in accordance with the provisions of the Council's Financial Procedure Rules and any other Council policies or procedures amending or replacing the same and for the time being in force.
- 2.6.5. To be responsible for the accounting arrangements for the operation of the collection fund.
- 2.6.6. To be responsible for the administration of the Council's financial affairs.
- 2.6.7. To undertake the investment of the monies of the Council and the borrowing of such sums as the Council shall have resolved to borrow.
- 2.6.8. To authorise the making of advances for house purchase and improvement in accordance with any scheme approved by the Council and to consent to the transfer of ownership in respect of properties held in mortgage in cases where:-
- (i) The circumstances of occupation have altered materially and permanently; or
  - (ii) It is proposed to add a further person(s) to the mortgage deed without affecting the liability of the existing mortgagor(s); and

- (iii) The proposed mortgagor, or combination of mortgagors, would, if applying for a mortgage on the same terms and conditions as the existing loan, be acceptable under the Council's scheme for mortgage lending.
- 2.6.9. To make arrangements for the collection of income due to the Council and to represent the Council in proceedings taken under the Small Claims Track and otherwise in the County Court in so far as it may be lawful.
- 2.6.10. To approve the letting or parting with possession of the whole or part of a dwelling held in mortgage by the Council.
- 2.6.11. To deal with all Council mortgage matters.
- 2.6.12. In consultation with the Monitoring Officer or, in his/her absence, with his/her Deputy, to determine when a certificate should be issued under the provisions of the Local Government (Contracts) Act 1997.
- 2.6.13. To issue, renew or repay Bonds and Temporary Loans in accordance with the Council's approved policy.
- 2.6.14. To authorise the premature repayment of individual bonds and mortgages issued by the Council in accordance with the Council's approved policy.
- 2.6.15. To negotiate and accept bank charges and fees with the Council's bankers.
- 2.6.16. To grant public transport concessions in accordance with any scheme approved by the Council.
- 2.6.17. To authorise the write off of income due to the Council deemed to be uncollectable in accordance with the provisions of the Council's Financial Procedure Rules or any policies or procedures amending or replacing the same for the time being in force.
- 2.6.18. To authorise financial leases in accordance with approved capital financing arrangements.
- 2.6.19. To administer and manage the Council's officer car leasing scheme within the approved policy of the Council but subject to any authority granted to the Chief Executive in respect of the allocation of lease cars to officers and to hear appeals regarding the operation of the scheme.
- 2.6.20. To approve Local Authority Housing Association grant requests from Housing Associations in consultation with the Leader.
- 2.6.21. To consider and determine applications for grants made under the Regulatory Reform (Housing Assistance) (England and Wales Order 2002 (as amended)) in accordance with the approved Council policy, strategy and budgetary provision.
- 2.6.22. To approve applications and such terms as are necessary for Do It Yourself Shared Ownership, Mortgage Rescue and other such initiatives within the agreed budgets.
- 2.6.23. To serve notices under the following legislation, to initiate prosecution for non-compliance with such notices in consultation with the Monitoring Officer and to arrange the carrying out of works in default insofar as these functions are functions of the Cabinet.

Housing Act 1985

Housing Act 2004

Building Act 1984

Public Health Act 1936

National Assistance Act 1948

County of Kent Act 1981

The following delegations shall apply in connection with the administration of fixed assets:

2.6.24. The following delegations shall apply in respect of commercial properties which are defined for this purpose as being all land and buildings owned by the Council or in which it has an interest and which are managed on a commercial basis but excluding land and buildings which are held by the Council in order to discharge or fulfil its statutory functions where different considerations may apply.

2.6.25. To exercise the following powers, including the service of any necessary statutory or other notices, subject to the provisos set out below:

- (i) to negotiate and agree rent reviews;
- (ii) to terminate, renew or relet leases and licences as appropriate;
- (iii) to grant new leases or licences;
- (iv) to grant licences to assign or to sub-let;
- (v) to vary the terms of leases;
- (vi) to grant wayleaves, easements or rights of way; and
- (vii) to grant or refuse to give consents or approvals under covenants or other provisions where permission must be sought from the Council under the terms of any leases, tenancies, licences or similar documents.

### **Provisos**

- (a) All rents, charges etc shall not be less than current relevant market values.
- (b) No leases or licences shall be granted, renewed or terminated where the current or proposed consideration or annual rent (which for this purposes shall be exclusive of VAT) exceeds £25,000 in value.
- (c) All decisions shall be in accordance with all adopted Council policies.
- (d) At six monthly intervals action taken shall be reported to Cabinet.

- 2.6.26. To approve or refuse applications to purchase or licence small areas of land not exceeding £2,000 in value (which for this purpose shall be exclusive of VAT) but subject to all such disposals being at current market values, being in accordance with Council policy and any action taken under this delegation being reported to the Cabinet within a period of six months.
- 2.6.27. To take any necessary action, in consultation with the Legal Services Manager/Monitoring Officer, to recover possession of any land and buildings occupied without the Council's consent.
- 2.6.28. To take any necessary action by all lawful means, which shall include amongst other matters, but not by way of limitation, using the remedy of distress through the employment of certified bailiffs, to recover all outstanding areas of rent and other monies provided it is done in consultation with the Legal Services Manager/Monitoring Officer.
- 2.6.29. To instruct property consultants, valuers and surveyors in respect of acquisitions and disposals and for other advice in accordance with the decisions of Cabinet or otherwise as necessary.
- 2.6.30. To determine applications for hire of the Camden Centre in Royal Victoria Place, Tunbridge Wells and the Town Hall, Tunbridge Wells in accordance with any scheme of fees approved by the Council but with the power to depart from such approved scheme in individual cases where special circumstances apply subject to the condition that any such departure shall not be less than the lowest relevant fee payable.
- 2.6.31. To make application under the Planning Acts for permission to carry out development on any Council owned land.
- 2.6.32. In consultation with the appropriate Director where the exercise of the delegation affects the Service.
- (a) To determine those officers for whom it is essential to be provided with a telephone at their private residence, the cost of installing and rental to be borne by the Council and an appropriate allowance to be paid for official calls.
  - (b) To adjust the employment package, including salary and grading, of any post, after consultation with the Chairman and Vice-Chairman of the General Purposes Committee where it is clear that this is in the Council's interest in order to recruit or retain staff to or in that post, subject to a report being submitted to the General Purposes Committee on adjustments made.
  - (c) To determine any applications for extensions to sick pay (full pay up to 4 weeks; half-pay up to 8 weeks).
  - (d) To determine on their merits any further applications from employees for extension to sick pay.
  - (e) To determine the rate of pay for casual employees.

- (f) To agree up to an additional £1,000 on the existing Relocation Expenses to cover weekend journeys after consultation with the Chairman and Vice-Chairman of General Purposes Committee.

## **2.7. Head of Planning Services**

- 2.7.1. To have authority to serve directions or notices (including those relating to enforcement) under the powers or under statutory re-enactments of the same referred to in the paragraphs below.
- 2.7.2. To determine all applications under the Building Regulations (Approved Inspector etc.) 2000 (as amended) having regard to any relevant legislation, including Sections 16 and 18 of the Building Act 1984 and to grant or refuse applications for the relaxation or dispensation of the regulations under Section 8 of the Building Act, 1984.
- 2.7.3. To determine all Initial Notices and Public Bodies Notices from Approved Inspectors etc. under the Building (Approved Inspector) Regulations 2000 (as amended) having regard to any relevant legislation including Sections 47(i) or 54(i) of the Building Act 1984.
- 2.7.4. To declare the deposit of plans to be of no effect after the prescribed interval under Section 32 of the Building Act 1984.
- 2.7.5. To have authority to require or carry out tests under Section 33 of the Building Act 1984.
- 2.7.6. To have authority to exercise the statutory powers relating to means of escape in case of fire to certain types of building under Section 72 of the Building Act 1984 subject to consultation with the Fire Authority.
- 2.7.7. To have authority to exercise the statutory powers relating to the raising of chimneys affected by the erection of adjoining buildings, under Section 73 of the Buildings Act 1984 in situations where the application of the Building Regulations to building work is involved.
- 2.7.8. To have authority to take action including emergency measures, in relation to dangerous structures, building or parts, or excavations under Sections 77 and 78 of the Buildings Act 1984 and Sections 25 and 26 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.7.9. To have authority to respond to notices received relating to the proposed demolition of buildings and to take such other action as may be necessary relating to the control of demolitions and protection of buildings under Section 80 and 81 of the Building Act 1984 and Section 29 of the Local Government (Miscellaneous Provisions) Act 1982.
- 2.7.10 To have authority to require works carried out without notice under regulation 15 of the Building Regulations 2000 (as amended) to be exposed for inspection and to require under Section 36 of the Building Act 1984 the removal or alteration of work not in conformity with the Building Regulations 2000 (as amended) or executed without the submission of plans.

- 2.7.11. To have authority to exercise the statutory powers relating to means of escape in case of fire from Houses in Multiple Occupation under Section 352 and 368 of the Housing Act 1985 (as amended), subject to consultation with the Fire Authority.
- 2.7.12. Acceptance of undertakings under Section 368 of the Housing Act 1985 (as amended) that part of a house will not be used for human habitation, subject to the required consultation with the Fire Authority and to the undertaking being in a form approved and recorded by the Legal Services Manager/Monitoring Officer.
- 2.7.13. To have authority to exercise the statutory powers relating to the protection of damaged buildings and the securing of unoccupied buildings under Sections 28 and 29 of the County of Kent Act, 1981, and Section 29 of the Local Government (Miscellaneous Provisions) Act 1982.
- 2.7.14. To have authority to serve formal notice of requisition for information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, thereby requiring person(s) to state in writing the nature of their interest in certain land or premises.
- 2.7.15. In situations where the requirements of any statutory notices served under the legislation referred to in this section have not been met, authority to arrange and authorise payment for works in default in accordance with the legislation set out below subject to there being sufficient monies within the Council's approved revenue budget and compliance with the Council's Financial Procedure Rules and Contract Procedure Rules.

Building Act 1984, Sections 77(2) and 78(1)  
 Building Act 1984, Section 36(3)  
 Housing Act 1985, Section 375(1), (3)  
 County of Kent Act 1981, Sections 28(1) and 29(1), (3)

- 2.7.16 To have authority to take immediate emergency action in relation to dangerous structures and buildings covered by Section 78 of the Building Act 1984 when required in all matters which are the Service's responsibility, in line with the Borough Council's and the Building Control Emergency Works Service Plan.
- 2.7.17. To have authority to act as 'appointing officer' when necessary for the appointment of a third surveyor under Section 10(8) of The Party Wall etc. Act 1996.
- 2.7.18. To determine the fees payable for schemes with an estimated cost in excess of £0.5 million in consultation with the S151 Officer.

## **2.8 Head of Sustainability**

- 2.8.1. In connection with the administration of the National No-Domestic rate, to grant discretionary and hardship reliefs, except for matters specifically reserved for Full Council or Cabinet.

## **2.9 Clinical Director of Communicable Disease Control at West Kent Health and any other medical officer authorised by the Clinical Director.**

- 2.9.1. To exercise all of the powers under the legislation listed below, related regulations and any re-enactments of this legislation in so far as they are within the functions of the Cabinet including the issue and service of notices, the execution of works (including the disposal of articles), the issuing, refusal and removal of Licences and the initiation of prosecutions in conjunction with the Legal Services Manager/Monitoring Officer.

### **Public Health (Control of Disease) Act 1984**

## **3. DELEGATION OF THE AREA PLANNING COMMITTEES' FUNCTIONS TO OFFICERS**

### **3.1. Chief Executive**

- 3.1.1. To exercise, in so far as it shall be lawful, between meetings of the committee or sub-committee set up by either of them any functions falling within their terms of reference in consultation with the Chairman or, in his or her absence, the Vice Chairman.

#### **PROVIDED THAT:**

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of the aforementioned body or justified the calling of a special meeting thereof;
  - (ii) the decision is recorded in writing and signed by the parties thereto;
  - (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
  - (iv) a report is made to the next scheduled meeting of the body concerned
- 3.1.2. All delegations to officers shall be subject to the overriding proviso that the Chief Executive may -
- (i) require the officer concerned not to exercise the power, but to report to the Committee for instructions; and
  - (ii) require the officer concerned that, on any particular matter, the Chief Executive will exercise a reserve power to take the appropriate decision him/herself (carrying the responsibility for such decisions likewise).

### **3.2. Directors**

- 3.2.1. To exercise, in so far as it shall be lawful, between meetings of the committee or sub-committee set up by either of them any functions falling within their terms of reference in consultation with the Chairman or, in his/her absence, the Vice-Chairman.

PROVIDED THAT:

- (i) The Chief Executive as well as the persons being consulted is satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of the aforementioned body or justified the calling of a special meeting thereof;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (iv) a report is made to the next scheduled meeting of the body concerned.

### 3.3. Monitoring Officer

3.3.1. A general authority to institute and/or defend legal proceedings and/or take the opinion of Counsel in order to protect the Council's interests and to facilitate the exercise by the Council, its committees and officers of their delegated powers and duties, subject to the:

- (i) agreement of the relevant Director or the Chief Executive;
- (ii) requirement to make regular reports to the relevant instructing officer or committee; and
- (iii) requirement to consult with the Section 151 Officer if there are likely to be financial implications in excess of £5,000 as a result of the proposed action.

### 3.4. Head of Planning Services

3.4.1. Authority to confirm Public Footpath and Bridleway Orders when there has been no objection lodged within the statutory period.

3.4.2. Carry out any functions laid out in Schedule 1 below, except for the determination of:

- Any application to implement a permission otherwise than in accordance with conditions imposed by Committee, within 10 years of the grant of planning permission;
- Any application a member has called in for a planning reason;
- Any application made by a member, or person who has been a member, or a relative or partner of such a person in the 3 years prior to making the application (as defined by the Code of Conduct for Members) (for the sake of clarification, this exemption covers applicants who are members or related to members, but not agents);
- Any application made by an officer/employee in the Council's Planning Department, or person who has been an officer/employee in the 3 years prior to making the application, or a relative or partner of such a person (defined in the same terms as those laid out in the Code of Conduct for Members), or by any current employee/officer employed elsewhere in the Council;
- Any application the granting of which would represent a departure from the Local Plan/Local Development Framework where the departure application is to be notified to the Secretary of State under the terms of the Town and County Planning (Development Plans and Consultation) (Departures) Directions 1999 (such applications may only be approved by one of the Area Planning Committees);
- Approval of Major Applications (as defined by the GDPO);
- Applications which would otherwise be delegated but which the Head of Planning Services considers should come before the Committee;
- Any proposal involving the Borough Council either as applicant or landowner, either on its own, or jointly with another individual or body;

- Applications for Certificates of Lawfulness of existing development, (other than householder applications), which must be determined in consultation with the Legal Services Manager/Monitoring Officer.

3.4.3. Carry out all functions related to the enforcement of planning legislation contained in Schedule 1 except that the issue of all formal notices and requisitions for information must be jointly authorised by the Legal Services Manager/Monitoring Officer.

3.4.4. Carry out all functions related to appeals against planning and enforcement decisions made by Tunbridge Wells Borough Council.

All powers conferred under this section shall be subject to all duties and obligations contained in the Human Rights Act 1998 and all primary and secondary legislation concerning equal opportunities.

### **Schedule 1**

All functions concerning the Council's role as Local Planning Authority contained in the following primary legislation and all subordinate legislation made there under

PUBLIC HEALTH ACT 1925 (needs to be adopted)

GREEN BELT (LONDON AND HOME COUNTIES) ACT 1938

AGRICULTURAL LAND (REMOVAL OF SURFACE SOIL) ACT 1953

TOWN AND COUNTRY PLANNING ACT 1959

CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960

LAND COMPENSATION ACT 1961

EUROPEAN COMMUNITIES ACT 1972

ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979

LOCAL GOVERNMENT PLANNING AND LAND ACT 1980

COMPULSORY PURCHASE (VESTING DECLARATIONS) ACT 1981

BUILDINGS ACT 1984

PLANNING (HAZARDOUS SUBSTANCES) ACT 1990

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

PLANNING AND COMPENSATION ACT 1991

ECCLESIASTICAL EXEMPTION (LISTED BUILDINGS AND CONSERVATION AREAS) ORDER 1994

THE ENVIRONMENT ACT 1995

28 April 2010

HEDGEROW REGULATIONS 1997

REGULATORY AND INVESTIGATION PROCEDURES ACT 2000

ANTI-SOCIAL BEHAVIOUR ACT 2003

PLANNING AND COMPULSORY PURCHASE ACT 2004

THE HEALTH ACT 2006

and the power contained in s.111 Local Government Act 1972 and s.2 Local Government Act 2000, so far as the use of such powers is incidental to the exercise of the functions of a Local Planning Authority under the legislation listed above, subject to prevailing common law and statutory duties and obligations concerning the use of those powers (advice on this point can be obtained from the Legal Services Manager/Monitoring Officer).

#### 4. Delegation of Licensing Committee Functions to Officers

##### 4.1. Head of Sustainability delegations

4.1.1 The Council's functions in connection with the following matters are delegated to the Head of Sustainability.

Function	Provision of Act or Statutory Instrument
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and section 15 of the Transport Act 1985 (c. 67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57);  (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
14AA Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the Gambling Act 2005.
14AB Functions relating to exchange of information.	Section 30 of the Gambling Act 2005.
14C. Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.	Section 304 of the Gambling Act 2005.

14E. Power to exchange information	Section 350 of the Gambling Act 2005.
14G Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the Gambling Act 2005.
16. Power to license performances of hypnotism.	The Hypnotism Act 1952 (c. 46).
17. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
18. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c. 53).
23. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c. 32); sections 2 to 16 of the Game Licensing Act 1860 (c. 90), section 4 of the Customs and Inland Revenue Act 1883 (c. 10), sections 12(3) and 27 of the Local Government Act 1874 (c. 73), and section 213 of the Local Government Act 1972 (c. 70).
24. Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c. 16).
25. Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964 (c. 69).
40. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).
56. Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c. 35).
57. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)
58. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).
59. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086).
60. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).

61. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763).
62. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).
63. Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
65. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
66. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
67. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).
68. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.

## 4.2 Mixed Delegations

- 4.2.1. The Head of Sustainability has authority to determine all applications for licensing and/or registration in respect of the matters listed below, UNLESS the applicant has relevant prior convictions or has had a previous licence of the type sought revoked by this Council or any other. In such cases, the application shall be determined by the Sub-Committee.
- 4.2.2. The Head of Sustainability has authority to suspend any licence issued under the legislation listed below.
- 4.2.3. The Sub-Committee has authority to revoke any of the licences listed below.

Function	Provision of Act or Statutory Instrument
1. Power to issue licences authorising the use of land as a caravan site (site licences).	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c. 62).

2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c.49).
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4.2.4 The Head of Sustainability has authority to determine all applications for licensing and/or registration in respect of the matters listed below, UNLESS the applicant has relevant prior convictions (or, in the case of applicants for drivers' licences, has 9 or more fixed penalty points), or has had a previous licence of the type sought revoked by this Council or any other. In such cases, the application shall be determined by the sub-Committee.

4.2.5. The Head of Sustainability has authority to suspend any licence issued under the legislation listed below.

4.2.6. The Sub-Committee has authority to revoke any of the licences listed below.

<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6. Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c. 2) as saved for certain purposes by article 3(3)(c) of the Gambling Act Order.
7. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(d) and (4) of the Gambling Act Order.
8. Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963 as saved for certain purposes by article 3(3)(e) of the Gambling Act Order.
9. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 (c. 65) as saved for certain purposes by article 4(2)(l) and (m) of the Gambling Act Order.
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 (c. 32) as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order

11. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order.
12. Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985 (c. 13).
13. Power to issue theatre licences.	Sections 12 - 14 of the Theatres Act 1968 (c. 54)
14. Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933 (c. 12), section 52 of, and Schedule 12 to, the London Government Act 1963 (c. 33), section 79 of the Licensing Act 1964 (c. 26), sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 (c. 19) and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).
14A. Functions relating to licensing.	Sections 5 to 8 of the Licensing Act 2003 (c. 17).
14AC Functions relating to occasional use notices.	Section 39 of the Gambling Act 2005.
21. Power to license night cafes and take-away food shops.	Section 2 of the Late Night Refreshment Houses Act 1969 (c. 53), Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994.
29. Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 (c. 60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11).
30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951 (c. 35); section 1 of the Animal Boarding Establishments Act 1963(c. 43); the Riding Establishments Acts 1964 and 1970 (1964 c. 70 and 1970 c. 70); section 1 of the Breeding of Dogs Act 1973 (c. 60), and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.

33. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c. 38).
34. Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See <i>also</i> the Animal By-Products Order 1999 (S.I. 1999/646).
39. Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c. 31) and section 2 of the House to House Collections Act 1939 (c. 44)
69. Power to issue new beer licence.	Sections 16 to 19 and 21 of the London Local Authorities Act 1995 (c.x.) and, to the extent that it does not have effect by virtue of regulation 2(3), section 25 of that Act.

### 4.3. Chief Executive

4.3.1. To exercise, in so far as it shall be lawful, between meetings of the Council or the Cabinet or any committee or sub-committee set up by either of them, any functions falling within their terms of reference in consultation with:

- (a) in the case of the Council, the Mayor or in his/her absence the Deputy Mayor;
- (b) in the case of the Cabinet, the Leader of the Council or in his/her absence any two members of the Council who are also members of the Cabinet; and
- (c) in the case of a committee or sub-committee the Chairman or, in his/her absence, the Vice-Chairman.

PROVIDED THAT:

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of the aforementioned body or justified the calling of a special meeting thereof;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (iv) a report is made to the next scheduled meeting of the body concerned.

4.3.2. All delegations to officers shall be subject to the overriding proviso that the Chief Executive may -

- (i) require the officer concerned not to exercise the power, but to report to the Committee for instructions; and

- (ii) require the officer concerned that, on any particular matter, the Chief Executive will exercise a reserve power to take the appropriate decision him/herself (carrying the responsibility for such decisions likewise).

#### 4.4. Directors

4.4.1 To exercise, in so far as it shall be lawful, between meetings of the Council or the Cabinet or any committee or sub-committee set up by either of them, any functions falling within their terms of reference in consultation with:

- (a) in the case of the Council, the Mayor or in his/her absence the Deputy Mayor;
- (b) in the case of the Cabinet, the Leader of the Council or in his/her absence any two members of the Council who are also members of the Cabinet; and
- (c) in the case of a committee or sub-committee the Chairman or, in his/her absence, the Vice-Chairman.

PROVIDED THAT:

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of the aforementioned body or justified the calling of a special meeting thereof;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (iv) a report is made to the next scheduled meeting of the body concerned

4.4.2 To exercise, in so far as it shall be lawful, between meetings of the Council or the Cabinet or any committee or sub-committee set up by either of them any functions falling within their terms of reference in consultation with those listed in (a) – (c) below. Without prejudice to the generality of this paragraph, such functions will include:-

Arrangements for the proper administration of the Council's financial affairs

Supplementary Estimates

Property Matters

- (i) in the case of the Council, the Mayor or in his/her absence the Deputy Mayor;
- (ii) in the case of the Cabinet, the Leader of the Council or in his/her absence any two Members of the Council who are also members of the Cabinet; and
- (iii) in the case of a committee or sub-committee the chairman or, in his/her absence, the vice chairman.

**PROVIDED THAT:**

- (i) The Chief Executive as well as the persons being consulted is satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of the aforementioned body or justified the calling of a special meeting thereof;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (iii) a report is made to the next scheduled meeting of the body concerned.

**4.5. Director of Services to the Community**

4.5.1. To exercise any functions of the Committee between meetings thereof and coming within the parameters of his/her post or, in his/her absence, the Chief Executive, with the concurrence of the Chairman, or in his/her absence, the Vice-Chairman, subject to provisos below. Without prejudice to the generality of this paragraph, such functions will include the following: -

**Licensing and Registration****Provisos**

- (i) a report is made to the next scheduled meeting of the Licensing Committee;
  - (ii) the decision is recorded in writing;
  - (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
  - (iv) the parties making or consulted about the decision are satisfied that the decision could not reasonably have awaited a scheduled meeting of the Committee or justified the calling of a special meeting thereof.
- 4.5.2. To exercise all of the functions under the legislation listed below, related regulations and any re-enactments of this legislation, insofar as they are functions of the Committee including the issue and service of notices, the execution of works (including the disposal of articles), the issuing, refusal and renewal of licences and the initiation of prosecutions in consultation with the Legal Services Manager/Monitoring Officer except where otherwise indicated.

**Animal Boarding Establishment Act 1963**

**Breeding of Dogs Act 1973**

**Caravan Sites and Control of Development Act 1960**

**Celluloid and Cinematographic Film Act 1922**

**Cinemas Act 1985**

**County of Kent Act 1981**

**Dangerous Wild Animals Act 1976**

**Food and Environmental Protection Act 1985**

**Food Safety Act 1990**

**Game Act 1831**

**Game Licences Act 1860**

**Gaming Act 1968**

**Health Act 2006**

**Health and Safety at Work Etc Act 1974**

**House to House Collections Act 1939**

**House to House Collections Regulations 1947**

**Land Drainage Act 1991**

**Late Night Refreshment Houses Act 1969**

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

**Local Government (Miscellaneous Provisions) Act 1982**

**Lotteries and Amusements Act 1976**

**Pet Animals Act 1951 (as amended by Pet Animals Act (Amendment) Act 1983)**

**Public Health Acts (Amendment) Act 1907**

**Riding Establishments Act 1964 and 1970**

**Scrap Metal Dealers Act 1964**

**Slaughterhouses Act 1974**

**Theatres Act 1968**

**Town Police Clauses Act 1847**

The above delegated functions to include the enforcement of any relevant Regulations, Orders or Bylaws made under the above legislation.

- 4.5.3. The following powers which are subject to the same constraints as are set out above are only to be exercised in consultation with the Chairman or, in his/her absence, the Vice-Chairman, of the Committee.

**Dangerous Wild Animals Act 1976**

**Local Government Act 1972**

**Local Government (Miscellaneous Provisions) Act 1982**

- 4.5.4 The following powers are to be exercised subject to the same constraints as set out above:

Authority to assign instruments of appointment of inspectors in accordance with regulations made under Section 18 of the Health and Safety at Work Act 1974;

Authority to engage a veterinary surgeon or practitioner and empower inspectors/RSPCA to inspect and report on any animal boarding, dog breeding, pet shop and riding establishment premises under the Animal Board Establishment Act 1963, The Breeding of Dogs Act 1973, The Pet Animals Act 1951, and The Riding Establishment Acts 1964 and 1970 and any subsequent Animal Welfare Legislation).

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

- 4.5.5. The following powers are to be exercised subject to the same constraints as are set out above:

**Local Government (Miscellaneous Provisions) 1976**

**Celluloid and Cinematographic Film Act 1922**

**Cinemas Act 1985**

**County of Kent Act 1981**

**Game Act 1831**

**Game Licences Act 1860**

**Gaming Act 1968**

**Guard Dog Act 1975**

**Late Night Refreshment Houses Act 1969**

**Local Government (Miscellaneous Provisions) Act 1982**

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

**Lotteries and Amusements Act 1976**

**Motor Vehicles (Tests) Regulations 1981**

**Police, Factories Etc (Miscellaneous) Provisions Act 1916**

**Public Health (Amendment) Act 1907**

**Theatres Act 1968**

**Town Police Clauses Act 1847**

**Town Police Clauses Act 1889**

## Traffic Signs Regulations and General Directions 1982

### 4.6. Legal Services Manager/Monitoring Officer

- 4.6.1. A general authority to institute and/or defend legal proceedings and/or take the opinion of Counsel in order to protect the Council's interests and to facilitate the exercise by the Council, its committees and officers of their delegated powers and duties, subject to the:
- (i) agreement of the relevant Director or the Chief Executive;
  - (ii) requirement to make regular reports to the relevant instructing officer or committee; and
  - (iii) requirement to consult with the Section 151 Officer if there are likely to be financial implications in excess of £5,000 as a result of the proposed action.

### 5. DELEGATION OF THE GENERAL PURPOSES COMMITTEE'S FUNCTIONS TO OFFICERS

The following officers are authorised to exercise the Council functions listed below as delegated by the **General Purposes Committee**.

#### 5.1. Chief Executive

- 5.1.1. All delegations to officers shall be subject to the overriding proviso that the Chief Executive may -
- (i) require the officer concerned not to exercise the power, but to report to the Committee for instructions; and
  - (ii) require the officer concerned that, on any particular matter, the Chief Executive will exercise a reserve power to take the appropriate decision him/herself (carrying the responsibility for such decisions likewise).
- 5.1.2. To incur reasonable expenditure on behalf of the Council for hospitality connected with the activities of the Council, Cabinet or any of its committees/sub-committees.
- 5.1.3. To instruct the Legal Services Manager/Monitoring Officer to take immediate legal action, including Court proceedings, necessary to protect the interests of the Council or take the opinion of Counsel on any point of Law which it is necessary to determine in the interests of the Council.
- 5.1.4. To exercise any function delegated to the Committee and within the parameters of his/her post between meetings of the Committee, or, in his/her absence, the Directors or such of them as are available, acting collectively and unanimously, with the concurrence of the Committee Chairman, or in his/her absence the Vice-Chairman subject to the provisos set out in paragraph (5). Without prejudice to the generality of this paragraph, such functions will include:-
- Elections
  - Name and Status of Areas and Individuals
  - Promotion of Local Bills

**Provisos**

- (i) a report is made to the next scheduled meeting of the Committee;
- (ii) the decision is recorded in writing;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (iv) the parties making or consulted about the decision are satisfied that the decision could not reasonably have awaited a scheduled meeting of the Committee or justified the calling of a special meeting thereof.

5.1.5. With the Director of Services to the Community, to have authority to sign the instrument of appointment of the Head of Sustainability as Inspector under section 19 of the Health and Safety at Work etc Act 1974.

5.1.6. To exercise, in so far as it shall be lawful, between meetings of the committee or sub-committee set up by either of them any functions falling within their terms of reference in consultation with the chairman or, in his/her absence, the vice chairman.

**PROVIDED THAT:**

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of the aforementioned body or justified the calling of a special meeting thereof;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (i) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (ii) a report is made to the next scheduled meeting of the body concerned

5.1.7. To appoint such staff as shall be required subject to the following criteria being met:

- (i) provision being made for the appointment within the approved staff establishment and budget;
- (ii) the appointment being in accordance with the approved policies and procedures of the Council which, for the avoidance of doubt, shall include the Officer Employment Procedure Rules;
- (iii) where the appointment is in respect of a Senior Manager (who is defined for this purpose as being any officer directly responsible to the Chief Executive or a Director but not including junior support staff) it shall only be made after consultation with the Chairman, or in his/her absence the Vice Chairman, of the General Purposes Committee.

5.1.8. To dismiss staff subject to the following criteria being met:

- (i) the dismissal being lawful;
- (ii) the dismissal being in accordance with the approved policies and procedures of the Council which, for the avoidance of doubt, shall include the Officer Employment Procedure Rules;
- (iii) there being budgetary provision for any monies payable, including any severance payment or payment of compensation under a compromise agreement;
- (iv) the net impact on the staff establishment being a reduction of no more than 5 posts and prior consultation having taken place with the Human Resources Manager. For the avoidance of doubt the authority to make such dismissal shall include the authority to make the appropriate redundancy and other payments in accordance with the said approved policies of the Council and statutory regulations.

5.1.9. To undertake such statutory or other consultation which may be required or thought to be desirable with a view to making changes to the staff establishment whether by way of dismissal or otherwise provided that it is done in consultation with the Chairman, or in his/her absence the Vice Chairman, of the General Purposes Committee.

5.1.10. To approve essential overtime working as may be required provided there is provision within the approved budget.

5.1.11. To determine any appeals by officers against the decision of the Heads of Service and Directors relating to the entitlement under the Council's lease car scheme.

## **5.2. Directors**

5.2.1. To appoint such staff as shall be required subject to the following criteria being met

- (i) provision being made for the appointment within the approved staff establishment and budget;
- (ii) the appointment being in accordance with the approved policies and procedures of the Council which, for the avoidance of doubt, shall include the Officer Employment Procedure Rules;
- (iii) where the appointment is in respect of a Senior Manager (who is defined for this purpose as being any officer directly responsible to the Chief Executive or a Director but not including junior support staff) it shall only be made after consultation with the Chairman, or in his/her absence the Vice Chairman, of the General Purposes Committee.

5.2.2. To dismiss staff subject to the following criteria being met

- (i) the dismissal being lawful;
- (ii) the dismissal being in accordance with the approved policies and procedures of the Council which, for the avoidance of doubt, shall include the Officer Employment Procedure Rules;

- (iii) there being budgetary provision for any monies payable;
- (iv) the net impact on the staff establishment being a reduction of no more than 3 posts and prior consultation having taken place with the Human Resources Manager. For the avoidance of doubt the authority to make such dismissal shall include the authority to make the appropriate redundancy and other payments in accordance with the said approved policies of the Council and statutory regulations.

- 5.2.3. To undertake such statutory or other consultation which may be required or thought to be desirable with a view to making changes to the staff establishment whether by way of dismissal or otherwise provided that it is done in consultation with the Chairman, or in his/her absence the Vice Chairman, of the General Purposes Committee.
- 5.2.4. To approve essential overtime working as may be required provided there is provision within the approved budget.
- 5.2.5. To determine any appeals by officers against the decision of the Heads of Service relating to the entitlement under the Council's lease car scheme.
- 5.2.6. To exercise, in so far as it shall be lawful, between meetings of the committee or sub-committee set up by either of them any functions falling within their terms of reference in consultation with the Chairman or, in his or her absence, the Vice Chairman.

**PROVIDED THAT:**

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of the aforementioned body or justified the calling of a special meeting thereof;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (iv) a report is made to the next scheduled meeting of the body concerned

**5.3. Heads of Service**

- 5.3.1. To appoint such staff as shall be required subject to the following criteria being met
- (i) provision being made for the appointment within the approved staff establishment and budget;
  - (ii) the appointment being in accordance with the approved policies and procedures of the Council which, for the avoidance of doubt, shall include the Officer Employment Procedure Rules;
- 5.3.2. To dismiss staff subject to the following criteria being met
- (i) the dismissal being lawful;

- (ii) the dismissal being in accordance with the approved policies and procedures of the Council which, for the avoidance of doubt, shall include the Officer Employment Procedure Rules;
- (iii) there being budgetary provision for any monies payable;
- (iv) the net impact on the staff establishment being a reduction of no more than 2 posts and prior consultation having taken place with the Human Resources Manager. For the avoidance of doubt the authority to make such dismissal shall include the authority to make the appropriate redundancy and other payments in accordance with the said approved policies of the Council and statutory regulations.

5.3.3. To undertake such statutory or other consultation which may be required or thought to be desirable with a view to making changes to the staff establishment whether by way of dismissal or otherwise provided that it is done in consultation with the Chairman, or in his/her absence the Vice Chairman, of the General Purposes Committee.

5.3.4. To approval essential overtime working as may be required provided there is provision within the approved budget.

5.3.5. To determine any appeals by officers against the decision of the Heads of Service and Directors relating to the entitlement under the Council's lease car scheme.

#### **5.4. All Relevant Officers**

To implement the Council's disciplinary procedure.

#### **5.5. Director of Change and Communities**

5.5.1. To exercise any functions of the Committee between meetings thereof and coming within the parameters of his or her post or, in his or her absence, the Chief Executive, with the concurrence of the Chairman, or in his or her absence, the Vice-Chairman, subject to provisos below. Without prejudice to the generality of this paragraph, such functions will include the following: -

Health and Safety at Work discharged otherwise than in the Council's capacity as an employer.

#### **Provisos**

- (i) a report is made to the next scheduled meeting of the General Purposes Committee;
- (ii) the decision is recorded in writing;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (iv) the parties making or consulted about the decision are satisfied that the decision could not reasonably have awaited a scheduled meeting of the Committee or justified the calling of a special meeting thereof.

- 5.5.2. To exercise all of the powers under the legislation listed below and any re-enactments of the legislation insofar as they are functions of this Committee:

**Health & Safety at Work Etc Act 1974**

**5.6. Monitoring Officer**

- 5.6.1. To exercise legal action relating to any function delegated to the Committee between meetings thereof, with the concurrence of the Chairman or, in his/her absence, the Vice-Chairman, subject to provisos (i) to (v) below.

**Provisos**

- (i) the Director of Change and Community or, in his/her absence, and as appropriate, Head of Sustainability or, in their absence, the Chief Executive concurs;
  - (ii) a report is made to the next scheduled meeting of the Committee;
  - (iii) the decision is recorded in writing;
  - (iv) where there are financial implications exceeding £1,000, the S151 Officer is consulted; and
  - (v) the parties making or consulted about the decision are satisfied that the decision could not reasonably have awaited a scheduled meeting of the Committee or justified the calling of a special meeting thereof.
- 5.6.2. To have authority to take all necessary action (including the laying of an information) by way of instituting or defending any civil or criminal proceedings under any enactment, statutory instrument, order or bylaw on behalf of the Council provided that it is done in consultation with the relevant Head of Service or Director.
- 5.6.3. To have authority to issue and sign such statutory notices as shall from time to time be authorised by the Council or the Cabinet or under powers delegated by either of these bodies or their committees or sub-committees to members or officers.
- 5.6.4. To have a general authority to institute and/or defend legal proceedings and/or take the opinion of Counsel in order to protect the Council's interests and to facilitate the exercise by the Council, its committees and officers of their delegated powers and duties, subject to the:
- (i) agreement of the relevant Director or the Chief Executive;
  - (ii) requirement to make regular reports to the relevant instructing officer or committee; and
  - (iii) requirement to consult with the Section 151 Officer if there are likely to be financial implications in excess of £5,000 as a result of the proposed action.

## **6. DELEGATION OF THE STANDARDS COMMITTEE'S FUNCTIONS TO OFFICERS**

### **6.1. Chief Executive**

- 6.1.1. To authorise payment up to a maximum of £1,000 in any one case of maladministration provided that a report is made of the action taken at the next meeting of the Committee.
- 6.1.2. All delegations to officers shall be subject to the overriding proviso that the Chief Executive may:
- (i) require the officer concerned not to exercise the power, but to report to the committee for instruction; and
  - (ii) require the officer concerned that, on a particular matter, the Chief Executive will exercise a reserve power to take the appropriate decision him/herself (carrying the responsibility for such decisions likewise).
- 6.1.3. To exercise, in so far as it shall be lawful, between meetings of the committee or sub-committee set up by either of them, any functions falling within their terms of reference in consultation with the Chairman or, in his/her absence, the Vice-Chairman.

#### **PROVIDED THAT:**

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of the aforementioned body or justified the calling of a special meeting thereof;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (iv) a report is made to the next scheduled meeting of the body concerned.

### **6.2 Monitoring Officer**

- 6.2.1. To make amendments to the Constitution to take account of legislative changes, Council decisions, typographical errors or other matters which are not substantive or controversial in nature.
- 6.2.2. To exercise, in so far as it may be lawful, any function of the committee between meetings with the concurrence of the Chairman, or the Vice-Chairman, subject to the provisos set out below.

#### **Provisos**

- (i) a report is made to the next scheduled meeting of the Committee;
- (ii) the decision is recorded in writing;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and

- (iv) the parties making or consulted about the decision are satisfied that the decision could not reasonably have awaited a scheduled meeting of the Committee concerned or justified the calling of a special meeting thereof.

6.2.3. To authorise payment up to a maximum of £250 in any one case of maladministration provided that a report is made of the action taken at the next meeting of the Committee.

6.2.4. To have a general authority to institute and/or defend legal proceedings and/or take the opinion of Counsel in order to protect the Council's interests and to facilitate the exercise by the Council, its committees and officers of their delegated powers and duties, subject to the:

- (i) agreement of the relevant Director or the Chief Executive;
- (ii) requirement to make regular reports to the relevant instructing officer or committee; and
- (iii) requirement to consult with the Section 151 Officer if there are likely to be financial implications in excess of £5,000 as a result of the proposed action.

6.2.5. To have authority to take all necessary action (including the laying of information) by the way of instituting or defending any civil or criminal proceedings under any enactment, statutory instrument, order or byelaw on behalf of the Council provided that it is done in consultation with the relevant Head of Service or Director.

### **6.3. Head of Finance and Governance**

To authorise payment up to a maximum of £500 in any one case of maladministration provided that a report is made of the action taken at the next meeting of the Committee.

### **6.4. Directors**

6.4.1. To authorise payment up to a maximum of £500 in any one case of maladministration provided that a report is made of the action taken at the next meeting of the Committee.

6.4.2. To exercise, in so far as it shall be lawful, between meetings of the committee or sub-committee set up by either of them any functions falling within their terms of reference in consultation with the Chairman or, in his/her absence, the Vice-Chairman.

#### **PROVIDED THAT:**

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of the aforementioned body or justified the calling of a special meeting thereof;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and

- (iv) a report is made to the next scheduled meeting of the body concerned.

## **6.5 Heads of Service**

To authorise payment up to a maximum of £250 in any one case of maladministration provided that a report is made of the action taken at the next meeting of the Committee.

## **7. DELEGATION OF THE AUDIT COMMITTEE'S FUNCTIONS TO OFFICERS**

### **7.1. Chief Executive**

- 7.1.1 To exercise, in so far as it shall be lawful, between meetings of the committee or sub-committee set up by either of them, any functions falling within their terms of reference in consultation with the Chairman or, in his/her absence, the Vice-Chairman.

#### **PROVIDED THAT**

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of the aforementioned body or justified the calling of a special meeting thereof; the decision is recorded in writing and signed by the parties thereto;
- (ii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and
- (iv) a report is made to the next scheduled meeting of the body concerned

- 7.1.2. All delegations to officers shall be subject to the overriding proviso that the Chief Executive may –

- (i) require the officer concerned not to exercise the power, but to report to the Committee for instructions; and
- (ii) require the officer concerned that, on any particular matter, the Chief Executive will exercise a reserve power to take the appropriate decision him/herself (carrying the responsibility for such decisions likewise).

### **7.2. Directors**

- 7.2.1. To exercise, in so far as it shall be lawful, between meetings of the committee or sub-committee set up by either of them, any functions falling within their terms of reference in consultation with the Chairman or, in his/her absence, the Vice-Chairman.

#### **PROVIDED THAT:**

- (i) The Chief Executive as well as the persons being consulted are satisfied that the decision is so urgent that it could not reasonably have awaited the next scheduled meeting of the aforementioned body or justified the calling of a special meeting thereof;
- (ii) the decision is recorded in writing and signed by the parties thereto;
- (iii) where there are financial implications exceeding £1,000 the S151 Officer is consulted; and

- (iv) a report is made to the next scheduled meeting of the body concerned.

### **7.3. Legal Services Manager/Monitoring Officer**

A general authority to institute and/or defend legal proceedings and/or take the opinion of Counsel in order to protect the Council's interests and to facilitate the exercise by the Council, its committees and officers of their delegated powers and duties, subject to the:

- (i) agreement of the relevant Director or the Chief Executive;
- (ii) requirement to make regular reports to the relevant instructing officer or committee; and
- (iii) requirement to consult with the Section 151 Officer if there are likely to be financial implications in excess of £5,000 as a result of the proposed action.

