

PART 13 - OFFICER RESPONSIBILITIES AND DELEGATIONS

1. The Council's Officers

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

2. Management Structure

General

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

Chief Officers

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

Post	Functions and areas of responsibility
Chief Executive	Overall corporate management and operational responsibility (and Head of Paid Service) (including overall management responsibility for all Officers) Provision of professional advice to all parties in the decision-making process. Representing the Council on partnership and external bodies (as required by statute or the Council).
Community and Planning Services Director	Leisure (non-Trust), community development, environmental health, direct services, planning, housing, economic development, tourism and building control.
Corporate Resources Director	Central support services, finance, administration, legal, governance support, IT and technical support services and customer services. Together with the Head of Legal and Democratic Services (Monitoring Officer), responsibility for a system of record keeping for all the Council's decisions.

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

Head of Paid Service, Monitoring Officer and Chief Finance Officer

2.4 The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal and Democratic Services	Monitoring Officer
Corporate Resources Director	Chief Finance Officer (Section 151 Officer)

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

Structure

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

Delegations to Dartford Borough Council

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

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

3. Functions of the Chief Executive

Discharge of Functions by the Council

3.1 The Chief Executive will report to full Council on the manner in which the

discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

Restrictions on Functions

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

4. Functions of the Monitoring Officer (Head of Legal and Democratic Services)

Maintaining the Constitution

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

Ensuring Lawfulness and Fairness of Decision-Making

4.2 After consulting with the Chief Executive (the Head of Paid Service) and the Corporate Resources Director (Chief Finance Office), the Head of Legal and Democratic Services (Monitoring Officer) will report to the full Council or to the Cabinet in relation to an Executive Function – if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.

4.3 Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

Supporting the Standards Committee

4.4 The Head of Legal and Democratic Services (the Monitoring Officer) will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

Receiving Reports

4.5 The Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of the case tribunals.

Conducting Investigations

4.6 The Head of Legal and Democratic Services (the Monitoring Officer) will conduct investigations into matters referred by Ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.

For Access to Information

4.7 The Chief Executive (the Head of Paid Service) will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer

reports and background papers are made publicly available as soon as possible.

Advising Whether Cabinet Decisions are Within the Budget and Policy Framework

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

Providing Advice

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

Restrictions on Posts

- 4.10 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

5. Functions of the Chief Finance Officer (Corporate Resources Director)

Ensuring Lawfulness and Financial Prudence of Decision-Making

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

Administration of Financial Affairs

- 5.2 The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

Contributing to Corporate Management

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

Providing Advice

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

Giving Financial Information

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

Restrictions on Functions

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

6. Duty to provide sufficient resources to the Monitoring Officer, the Chief Finance Officer and the Returning Officer

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

7. Conduct

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

8. Employment

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

9. Delegations to Officers

Introduction - Overall Basis

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

Overall Limitations

- 9.3 This scheme does not delegate to Officers:
- (a) any matter reserved to full Council;
 - (b) any matter, which by law, may not be delegated to an Officer; and

- (c) the determination of policy (including extension of or amendment to an existing policy) and budgetary matters; and
- (d) any matter expressly withdrawn from delegation by this scheme or, in a particular case, by the Council, Cabinet or Committee or Sub-Committee.

9.4 The exercise of a delegated power shall be subject to:

- (a) The Council's policies, procedures and protocols, including the Budget and Policy Framework (Appendix B - Budget and Policy Framework Procedure Rules).
- (b) The requirements of the Constitution, including the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules) and Financial Procedure Rules (Appendix D - Financial Procedure Rules);
- (c) Any statutory restrictions;
- (d) The right of the Council, Cabinet, Committee or Sub-Committee to decide any matter in a particular case; and
- (e) Any restrictions, conditions or directions of the delegating body.

9.5 In exercising delegated powers, Officers shall:

- (a) have regard to any report by the Chief Executive (the Head of Paid Service) or the Monitoring Officer under sections 4 and 5 of the Local Government and Housing Act 1989 or of the Corporate Resources Director (Chief Finance Officer) under section 114 of the Local Government Finance Act 1988.
- (b) not go beyond the provision in the revenue or capital budgets for their service except to the extent permitted by the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules) or Financial Procedure Rules (Appendix D - Financial Procedure Rules).
- (c) where, and when appropriate, report back to Cabinet, or appropriate Committee or Sub-Committee, as to the exercise of the delegated powers.

10. Further Provisions:

10.1 This scheme includes the power for Officers to delegate in writing all or some of the delegated functions to other Officers (described by name or post) either fully or under the general supervision and control of the delegating officer. Sub-delegations shall be recorded in a register kept by the Democratic Services Team under section 100G of the Local Government Act 1972. It shall be the responsibility of the Officer delegating any function to ensure that a copy of the delegation is forwarded to the Democratic Services Manager.

- 10.3 Before exercising delegated powers an Officer shall comply with the requirements for consultation with Members set out in this Constitution, including the limitations set out in this Scheme of Delegation, the Budget and Policy Framework Procedure Rules (Appendix B - Budget and Policy Framework Procedure Rules), the Access to Information Procedure Rules (Appendix A - Access to Information Procedure Rules), the Financial Procedure Rules (Appendix D - Financial Procedure Rules), and the Contracts Procedure Rules (Appendix E - Contracts Procedure Rules), and the Protocols (as set out in the appendices to this Constitution). It shall always be open to an Officer not to exercise delegated powers but to refer the matter to the Cabinet, Committee or Sub-Committee for decision.
- 10.4 In exercising delegated powers, Officers shall consult with such other Officers as they determine appropriate and shall have regard to any advice given.
- 10.5 This scheme shall operate from 25th September 2007.
- 10.6 This scheme delegates to the holder of each post named in it the management of the resources made available for the duties of the post as specified in the terms of the postholder's appointment.
- 10.7 In each case the delegated authority does not authorise the postholder to make any planning application which would materially conflict with or prejudice an identified policy in an adopted Local Plan for the time being in force.
- 10.8 In each case, except where the Chief Executive is exercising delegated authority under (d) below, none of the Officers named is authorised to make a formal response on behalf of the Council to any Government Consultation Paper, without reference first to the Cabinet, relevant Portfolio Holder or the relevant Committee provided that when the timescale does not allow for reference to a scheduled Cabinet or Committee meeting, Officers are authorised to respond, following consultation with the relevant member of the Cabinet (where the matter is an Executive function) or with the relevant Committee Chairman (where the matter is not an Executive function).
- 10.9 The powers delegated to Officers, other than the Chief Executive, in this scheme may also be exercised by the Chief Executive when he considers such action to be appropriate.
- 10.10 Any reference to any Act of Parliament shall include reference to regulations, subordinate legislation and European Union legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
- 10.11 Reference to any enactment, regulation, order or byelaw shall include any amendment, re-enactment or re-making of the same.
- 10.12 Any post referred to below shall be deemed to include any successor post or a post which includes within the job description elements relevant to any

particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.

11. Delegation to the Chief Executive

- (a) To be Head of the Paid Service.
- (b) The power to incur expenditure in the event of a civil emergency and to make orders under the Public Order Act 1986.
- (c) To manage the co-ordination of budget processes, including overall strategy, planning and information.
- (d) In cases of urgency, after consultation with the Leader and Deputy Leader of the Council [and the Leader(s) of the Opposition], to take any decision which could be taken by the Cabinet or by a Committee and to report such actions to Cabinet or Committee as appropriate.
- (e) To be the Returning Officer and Electoral Registration Officer for the Council.
- (f) To be the proper officer of the Council for the purposes of sections 83, 84 and 89 of the Local Government Act 1972 and regulation 3 of the Local Authorities (Executive Arrangements)(Access to Information) (England) Regulations 2000.
- (g) The power to authorise staff to carry out surveillance under the Regulation of Investigatory Powers Act 2000.
- (h) To be the proper officer of the Council for the purposes of Part II of the Local Authorities (Standing Orders)(England) Regulations 2001.
- (i) As Head of Paid Service, to exercise any powers delegated to another Officer except those in respect of which a specific professional qualification is required by statute.
- (j) The Chief Executive, or in his absence, the Community and Planning Services Director, the authority to give authorisation of a dispersal order under the Anti-Social Behaviour Act 2003 Part 4 (Sections 30 and 31).
- (k) Pursuant to enabling legislation this Council via its Chief Executive has received and shall discharge all the functions of Dartford Borough Council with regard to the Revenues and Benefits Service as may be more particularly identified in Schedule 1 of the Partnership Working Agreement and Dartford Borough Council have agreed to place at the disposal of Sevenoaks District Council for the purposes of those functions the services of officers employed by Dartford Borough Council.
- (l) Pursuant to enabling legislation this Council via its Chief Executive has received and shall discharge all the functions of Dartford Borough Council with regard to the Environmental Health Service as may be more particularly identified in the Partnership Working Arrangements and Dartford Borough Council have agreed to place at the disposal of Sevenoaks District Council

for the purposes of those functions the services of officers employed by Dartford Borough Council.

12. Delegation to Corporate Resources Director

- (a) To exercise all the powers of management in the best interests of the Council with regard to land and property owned by the Council including authorising action for possession of any land or property.
- (b) To acquire land that is necessary for the Council's current programme.
- (c) To exercise the proper administration of the Council's financial affairs which shall include issues of insurance, discretions as to rating, housing benefits and Council Tax under section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988.

This authority is limited in the following cases:

- (i) the approval of sums exceeding £10,000 being transferred from an agreed estimate to another purpose other than for which it was approved shall be subject to approval by the relevant Portfolio Holder(s); and
 - (ii) the writing off of debts exceeding £500 and rent arrears exceeding £500 shall be subject to approval by the Cabinet.
- (d) To institute and conduct legal proceedings where sufficient evidence exists when this is in the Council's interest or arising out of its functions and to take such action as he thinks appropriate with regard to any such proceedings as being in the Council's interest.
 - (e) To defend all proceedings brought against the Council including appeals against its decisions and to take such action as he thinks appropriate with regard to any such proceedings.
 - (f) To authorise Officers to represent the Council before all Courts and Tribunals.
 - (g) To have responsibility for the Council's general administration (including the sealing of documents), Committee structure and operation (including payment of Members' allowances and expenses) save that any adjustment to the Council's calendar of meetings as may be necessary shall only be exercised after consultation with the Leader of the Council or the appropriate Chairman or Chairmen.
 - (h) To be the proper officer of the Council for the purposes of sections 96, 225, 229 and Part VA, sections 115 and 146 of the Local Government Act 1972 and for the purposes of section 41 of the Local Government (Miscellaneous Provisions) Act 1976.
 - (i) To have the responsibility for taking care of all securities and title deeds of all property held in the name of the Council.

- (j) To manage central training and job evaluation.
- (k) To determine and issue guidelines to Officers for the management of human resources and in particular recruitment, training, conditions of service, rewards and discipline.

13. Delegation to the Community and Planning Services Director

Development Services

- (a) To exercise all the powers and duties of the Council as the Local Planning Authority (including the conduct of appeals) under all Town and Country Planning legislation, subject to the following exceptions:
 - (1) Where an application is submitted to Sevenoaks District Council for determination, it shall be referred to the Development Control Committee if any of the following apply.
 - (i) In the opinion of the Director of Community and Planning Services, the application is of a significant, controversial or sensitive nature.
 - (ii) It is proposed to determine an application which in the opinion of the said Director, would set a significant precedent.
 - (iii) A written request for consideration by the Development Control Committee, supported by an appropriate planning reason¹, has been received from a Member of the Council no later than 21 calendar days following despatch of the weekly list of planning applications on which such applications appear, or such lesser period as may be notified by the Director of Community and Planning Services in relation to any application where a decision could not otherwise be made by Committee before the statutory deadline for determination.

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

- (iv) A written request for consideration by the Development Control Committee, supported by an appropriate planning reason, has been received from a Member of the Council relating to an application in their Ward no later than seven calendar days following notification by the Director of Community and Planning Services of a proposed recommendation which is contrary to representations received in support of, or in objection to, an

¹ A 'Planning Reason' includes accordance with a relevant Development Plan Policy or a material planning consideration. The Head of Development Services or Development Control Manager will offer advice if necessary on an appropriate planning reason.

application from the Town or Parish Council for the area (subject to the arrival of such representations within the statutory consultation period).

- (v) An application known to have been submitted by, or on behalf of, a Member or an Officer of the District Council, or a member of their family².
- (2) Where the Council is a consultee to an application eg where an application is submitted to Kent County Council as the Mineral Planning Authority, the application shall be referred to the Development Control Committee if in the opinion of the Director of Community and Planning Services, it is of a significant, controversial or sensitive nature.
 - (3) Enforcement action shall be referred to the Development Control Committee if either of the following apply.
 - (i) A request for consideration by the Development Control Committee, supported by an appropriate planning reason, has been received from a Local Member ; or,
 - (ii) The Chairman or Vice Chairman of the Development Control Committee requires the case to be considered by the Development Control Committee.
- (b) To exercise all the Council's powers and duties with regard to Building Control under the Building Act 1984 and regulations made thereunder.
 - (c) To take all necessary action to secure compliance with the Building Act 1984 and regulations made thereunder, including the service of statutory notices.
 - (d) To institute, conduct and settle legal proceedings on behalf of the Council in any Court of Law, Tribunal or other body in respect of any breach or contravention of the Planning Acts Building Act 1984 and regulations made thereunder (including actions for injunctions).
 - (e) To take all necessary action to defend legal proceedings against the Council.
 - (f) To exercise all the Council's powers under the Criminal Justice and Public Order Act 1984.
 - (g) To exercise the functions of the Council with regard to environmental improvements and access to the Countryside.

Housing Services

- (a) To exercise all the functions of the Council as a housing authority, including

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

the responsibility for the Council's Housing Strategy and policies, the enabling role, the Homelessness and Housing advice service, standard and fitness of properties, Energy Conservation issues and the management of unauthorised encampments and of the Council's gypsy site.

- (b) The power to authorise Housing staff (Housing advice and Homelessness) under Part V11 Housing Act 1996, Housing Act 2002, Prevention from Eviction Act 1977, Police and Criminal Evidence Act 1984 and National Assistance Act 1948.
- (c) Acts including the Environmental Protection Act 1990, Prevention of Damage by Pests Act 1949, Public Health Act 1936, Public Health Act 1961, Houses, Grants, Construction and Regeneration Act 1996, Housing Act 1985, Housing Act 1996, Local Government and Housing Act 1989, Caravan Sites and Control of Development Act 1960, Building Act 1984, Home Energy Conservation Act 1995, Criminal Justice and Public Order Act 1994, Mobile Homes Act 1983, Caravans Sites Act 1968, Police and Criminal Evidence Act 1984, Mobiles Homes Act 1975, The Water Industry Act 1991, The National Assistance Act 1948, The Local Government (Miscellaneous Provisions) Act 1976 and The County of Kent Act 1981 etc.

Local Policy and Environment

To exercise all the powers of the Council as the local planning authority with regard to strategic and local planning policy, listed buildings and arboricultural matters under the Planning Acts.

Community Development

- (a) To be responsible for the implementation and co-ordination of the Council's duties and functions under the Crime and Disorder Act 1998, including the authorisation of seeking appropriate orders under the Act.
- (b) To manage the Council's contractual relationship with Sencio Community Leisure and to operate the Council's leisure facilities that are not under the management of the Leisure Trust, including seeking alternative management of leisure facilities or funding or assistance from the Lottery Arts Fund save that where support or rejection for such assistance arises from a town or parish council, the Local Member(s) shall be consulted.
- (c) In partnership, facilitate arts (arts development in partnership with Kent County Council) within Council policies and manage the Council's contractual relationship for the operation of the Stag (formerly known as Sevenoaks Playhouse).
- (d) To exercise co-ordination of all matters relating to sustainable development (Local Agenda 21) and other matters of environmental management and policy agreed by the Council.
- (e) To undertake the Council's involvement in Health Improvement Plans and general matters in relation to the implementation of Health Policy.

- (f) To be responsible for the implementation, with other partners, of the Sevenoaks District Community Plan on behalf of the Council.
- (g) The responsibility, with other parts, for the implementation of the Voluntary Sector Compact.
- (h) To facilitate youth development within the Council's policies.
- (i) To operate the Council's capital schemes in parishes.
- (j) In the absence of the Chief Executive, the Community and Planning Services Director has authority to give authorisation of a dispersal order under the Anti-Social Behaviour Act 2003 Part 4 (Sections 30 and 31).

Environmental and Operational Services

Direct Services

- (a) To operate the activities of Sevenoaks Direct Services.
- (b) To operate playgrounds to ensure health and safety requirements are met, and to seek alternative management of playgrounds as appropriate.
- (c) To monitor and review the Council's grounds maintenance contract and ensure corrective action is taken when required.
- (d) To deal with all matters relating to high hedges under Part 8 of the Anti-Social Behaviour Act 2003.
- (e) To deal with any matters relating to the powers contained in the Clean Neighbourhood and Environment Act 2005.

Environmental Services

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

Licensing

- (i) To authorise legal proceedings in respect of any contravention arising from the Licensing Act 2003, the Gambling Act 2005 and the Charities Act 2006.
- (j) To determine all applications for a personal license, where no objections

have been made

- (k) To determine all applications for a premises licence/club premises certificate, where no representations have been made.
- (l) To determine all applications for a provisional statement where no representations have been made.
- (m) To determine all applications to vary premises licences/club premises certificates where no relevant representations have been made.
- (n) To determine all applications to vary designated personal licence holders, except where there is a police objection.
- (o) To determine all requests to be removed as designated personal licence holders.
- (p) To determine all applications by way of Interim Authority Notices except where there is a police objection.
- (q) To determine whether representations submitted are irrelevant, frivolous, vexatious etc.
- (r) To determine all applications for Minor Variations to premises/club premises licences.
- (s) To determine all applications for removal of the mandatory condition to have a Designated Premises Supervisor at Community Premises.
- (t) To maintain the Licensing Register.
- (u) To exercise the Council's powers and duties in relation to the licensing of hackney carriages and private hire vehicles, including the licensing of vehicles, drivers and operators, the control of numbers of hackney carriages and the granting of permits for small buses.
- (v) To exercise all the Council's functions with regard to hypnotism street collections (including the variation of any conditions imposed on any licence).

14. Delegation to all Directors, Head of Development Services, Head of Environmental and Operational Services, Head of Customer and Information Services, Head of Housing Services and Head of Finance and Human Resources

To authorise staff to carry out covert surveillance or use a covert human intelligence source under the Regulation of Investigatory Powers Act 2000 in accordance with the Council's policies.