

## **COUNCIL**

**11 OCTOBER 2018**

### **STATUTORY OFFICERS DISMISSAL PROCEDURES**

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#### **Summary**

This report proposes new arrangements for dealing with disciplinary action against the Council's Statutory Officers in order to comply with statutory requirements.

#### **1. Budget and Policy Framework**

- 1.1 The Council's Employment Rules stipulate that the Council's Statutory Officers (i.e. The Head of Paid Service, Monitoring Officer and Chief Finance Officer) may not be dismissed by the Council unless in accordance with the requirements of the Local Authorities (Standing Orders) England (Amendment) Regulations 2015.
- 1.2 Decisions on the arrangements needed to comply with these Regulations are a matter for Council.

#### **2. Background**

- 2.1 The Local Government Act 1972, the Local Government Finance Act 1988 and the Local Government and Housing Act 1989 require local authorities To designate officers as the "head of paid service", the "monitoring officer" and the officer "responsible for the administration of the authority's financial affairs" (called the "chief finance officer" or "section 151 officer"), each of whom has a personal statutory duty to report to Cabinet or Full Council in certain circumstances. Their duties are, in very broad terms, to prevent or highlight organisational, legal or financial problems. This Council has designated the Chief Executive, the Chief Legal Officer and the Chief Finance Officer to these respective roles.
- 2.2 As a result of the personal duties upon them, the post holders have a degree of statutory protection from dismissal or other disciplinary action. Before the 2015 Regulations referred to above, there was a requirement to appoint a Designated Independent Person (DIP) to undertake an investigation where disciplinary proceedings were contemplated against a Statutory Officer. The Council or a relevant Committee was obliged to consider that report before making a decision involving disciplinary sanction or dismissal of a Statutory Officer. Under the previous rules, only Full Council could dismiss the

Head of Paid Service. The Monitoring Officer and Chief Finance Officer could be dismissed by a Committee. The DIP procedures dated back to 1993 but the concept of statutory protection is a much older one.

- 2.3 In March 2015, the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 came into force. The Regulations changed the procedure which local authorities must follow before dismissing a Head of Paid Service, a Monitoring Officer or a Chief Finance Officer (the Statutory Officers). The Regulations required the Council to include in its Constitution, Standing Orders which deal with the appointment and dismissal of staff.
- 2.4 In August 2015 the Council agreed new Standing Orders to comply with the Regulations and agreed that a further report be submitted to a future meeting on arrangements to meet the requirement to establish an Advisory Panel (see paras 5.7-5.14 below) to advise the Council before any decision is taken to dismiss one of the Statutory Officers.
- 2.5 The Department for Communities and Local Government (DCLG) had cited issues of complexity and expense associated with the previous regime as the reasons for bringing forward this legislative change. The 2015 Regulations sought to introduce a new streamlined procedure while attempting to retain an independent check within the system by giving the 'Independent Persons' (IPs) appointed to support the Members' conduct framework a role in the disciplinary and dismissal process for these three officers.
- 2.6 The Council's Employment Rules were also revised in 2015 and are compliant with the 2015 Regulations. However, the Rules do not yet specify the specific procedures which the Council will adopt if disciplinary action is to be taken against one of the Statutory Officers. Nor does the Constitution currently contain the "machinery" required to operate the new procedures. This is because there has been uncertainty as to how the legislation ought to be applied in practice.
- 2.7 The 2015 Regulations, as drafted, raised some fundamental questions about their scope, an apparent conflict with the Localism Act (see paras 5.11-5.12 below) and how, if at all, an appeal against a decision to dismiss could be incorporated into the new arrangements. Additional uncertainty was caused by the fact that the previous DIP process was embedded within the terms and conditions for Chief Executives as set out in the JNC for Local Authority Chief Executives handbook. The latter has contractual effect where an authority has agreed to be bound by JNC terms and conditions. Until October 2016, when the JNC issued a new handbook, there was a scenario where the contractual obligations owed under JNC terms required different steps to be taken to those set out in the new Regulations. Although the Council is not bound by JNC terms and conditions, officers were monitoring what was happening and the procedures proposed in this paper are largely modelled on what is contained in the new JNC handbook.
- 2.8 To try and resolve these issues discussions have taken place with other Monitoring Officers through the Kent Secretaries Group who have sought clarification from the Government as well as instructing Counsel on several key issues. The Group has now reached a Kent wide view on the most appropriate way to implement the new arrangements.

### **3. The New Process for Dismissal**

3.1 The 2015 Regulations replaced the previous Designated Independent Person (DIP) arrangements with a new system. There is now no requirement to appoint a DIP where disciplinary action against a Statutory Officer is being considered and instead full Council must approve the dismissal of any of the Statutory Officers (previously this had only applied to the Head of Paid Service).

3.2 The Regulations stipulate that the following procedure must be followed before a Statutory Officer can be dismissed:

- The Council must invite a number of independent persons (“IPs”) to be appointed to a Panel. (These are the same independent persons who have been appointed to advise the Council on member conduct complaints under the Localism Act 2011.)
- The Council must appoint independent persons who have accepted such an invitation to a Panel at least 20 days before the Council takes a decision to approve the dismissal of a Statutory Officer.
- Full Council must then meet and, before a vote is taken on whether or not to approve the proposed dismissal, it must take into account any advice, views or recommendations of the Panel as well as the conclusions of any investigation and any representations made by the officer concerned.

3.3 DCLG were asked if the new arrangements were limited to dismissal on conduct grounds or whether they also applied in cases of dismissal due to ill-health or redundancy etc. DCLG have clarified that the procedures set out in paragraph 3.2 only apply to dismissal on disciplinary grounds. However, if one of the Statutory Officers was to request that these procedures be invoked where dismissal was proposed on grounds other than conduct then it is considered such a request should be agreed to.

3.4 Regulations define disciplinary action as follows: *“any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract.”*

### **4. The JNC for Local Authority Chief Executives Model Disciplinary Procedure**

4.1 The JNC October 2016 handbook contains a model disciplinary procedure. Whilst this procedure only applies to Heads of Paid Service subject to JNC terms and conditions, which Medway are not party to, it is recommended that these procedures should be followed (with some minor deviations) and also applied to the other Statutory Officers too (i.e. to the Monitoring Officer and Section 151 officer).

- 4.2 The main features of the JNC model procedure are:
- a) That there should be a standing Investigation and Disciplinary Committee which oversees any disciplinary process and determines the outcome. (In Medway this could be carried out by the Employment Matters Committee)
  - b) That any disciplinary investigation should be carried out by an Independent Investigator.
  - c) That there should be a Disciplinary Appeals Committee to consider any appeal against a decision of the Investigation and Disciplinary Committee to take any disciplinary action short of dismissal.
- 4.3 The model procedure suggests that any decision to suspend the Head of Paid Service should be made by a Committee, but that the power to make such a decision in urgent circumstances should be delegated to the Chairman of the Committee. However, this cannot lawfully be delegated to a single Member and as such is not recommended in this paper.
- 4.4 At present the Chief Executive and Directors have the power to discipline, suspend and dismiss employees *"in accordance with the Council's disciplinary procedure and capability procedures"*. However, in keeping with the principle of a consistent application of the protections to all of the Statutory Officers, it is proposed that the Employment Matters Committee be responsible for deciding whether or not to suspend a Statutory Officer. For the reasons set out above, it is also considered that there is no compelling case to delegate a power to suspend in urgent circumstances. A small amendment to this delegation is therefore suggested (**Appendix 3**) to make it clear that this power to discipline, suspend and dismiss employees must also be exercised in accordance with the Employment Rules.
- 4.5 The model procedure suggests that any suspension of the Head of Paid Service (and so, by extension, the Monitoring Officer and S151 officer) is reviewed after a period of two months by a Committee. In doing so it should consult with the Independent Investigator and consider any representations from the officer concerned.
- 4.6 The model procedure makes provision for the Investigation and Disciplinary Committee and the Disciplinary Appeals Committee to include a Cabinet Member. Although this is an option for the Council it is not recommended as these procedures are likely to be invoked rarely and adding a Cabinet Member to the Employment Matters Committee on a permanent basis would increase what is already a heavy workload for Members of the Cabinet. However, it would be possible for the Group Leader to use their power under the Local Government and Housing Act 1989 to allocate a seat on the Employment Matters Committee to a Cabinet Member in place of an existing Member of the same political group in the event that the Committee has to deal with an allegation regarding a disciplinary matter involving a Statutory Officer.
- 4.7 It is proposed that amendments are made to the Employment Rules to reflect the model procedure. The proposed amended Rules are attached as **Appendix 2**.

## **5. Proposals for Change**

### **a) Employment Matters Committee**

- 5.1 It is proposed that the terms of reference of the Employment Matters Committee be extended to include the power to decide whether any of the Statutory Officers should be suspended and to also determine whether any allegation against any of the Statutory Officers warrants investigation. It is recommended that when the Committee is exercising this power that, for consistency, unless a Member is unavoidably indisposed or conflicted, the same Members shall comprise the Committee until the matter has been dealt with fully. It is recommended that the same approach be applied to the Disciplinary Appeals Committee (see paragraphs 5.5-5.6 below).
- 5.2 The Committee may, if it considers it appropriate, appoint an Independent Investigator. The Committee will consider any report of the Independent Investigator and, if appropriate conduct a hearing. The Committee may determine that no action should be taken, that some action short of dismissal should be taken, or propose that the officer should be dismissed.
- 5.3 If the action taken is short of dismissal the officer should have the right to appeal that decision.
- 5.4 If the Employment Matters Committees recommends that the officer should be dismissed it will forward its proposal and the necessary information to the Independent Persons Panel. The Panel will consider the proposal and the necessary particulars and decide what advice, views or recommendations to make to full Council. Full Council will decide whether or not to dismiss the officer, having regard to any advice, views or recommendations of the Panel, the conclusions of any investigation, and any representations from the officer.

### **b) Disciplinary Appeals Committee**

- 5.5 It is proposed to set up a new appeals committee comprising three Members to determine any appeals by one of the statutory officers against a decision by the Employment Matters Committee to take disciplinary action short of dismissal.
- 5.6 A new committee is needed to hear any such appeals given that the Employment Matters Appeals Panel, as a sub-committee of the Employment Matters Committee, will comprise Members of the Committee who took the decision being appealed against.

### **c) The Independent Persons Panel**

- 5.7 It is recommended that a standing Independent Persons Panel should be established, comprising three Independent Persons (IPs) and a substitute IP, appointed in priority order in accordance with the Regulations. The Panel will be an advisory committee of the Council. The substitute would take the place of any IP who was unable to participate because he or she was not available at the time, or had a personal conflict of interest. The Council currently has two IPs. In line with the priority order set out in the 2015 Regulations the Council's two IPs would be invited to serve on the Panel first and then an

invitation would be extended to an IP from another authority in Kent. It is recommended that the Head of Democratic Services is authorised to make these invitations.

- 5.8 If a Council has fewer than two IPs, it must extend the invitation to one or more IPs from another authority. If more accept the invitation than are needed, then appointments must be made in the following priority order:
- An IP appointed by the Council who is on the electoral register in Medway
  - Any other IP appointed by the Council
  - An IP who has been appointed by another authority
- 5.9 At least two of the IPs who have accepted the invitation must be appointed, but there is no upper limit. They can be paid an allowance or expenses, but no more than they would receive for their Localism Act work. The appointment must be made at least 20 days before Council takes a decision to approve the dismissal of a Statutory Officer. At the full Council meeting, the authority must take into account any advice, views or recommendations of the Panel as well as the conclusions of any investigation and any representations made by the officer concerned.
- 5.10 The JNC for Local Authority Chief Executives (the JNC) has sought clarification from DCLG on whether the Panel referred to above should be comprised solely of independent persons or whether it can, or should, also include elected members. DCLG has indicated that the intention is that this Panel should consist solely of IPs “*so that independent scrutiny can be attained before a full council takes the final decision on a dismissal motion*”. The proposal is therefore to follow that approach as this emphasises the independence of the Panel while still ensuring Member involvement at every other stage of the process.
- 5.11 One of the difficulties in implementing the 2015 Regulations has been its apparent incompatibility with the Localism Act in relation to the appointment of independent persons. S. 28 (8) of the Localism Act provides that any independent person appointed to provide a view on councillor conduct issues is ineligible to be appointed to this position if they are a voting co-opted member of a committee of the council (and/or hold such a position at any time during the 5 years ending with the appointment). However, an independent person appointed to an Independent Persons Panel under the 2015 Regulations will become a voting co-opted member of a committee of the council. The Council could decide not to give them a vote but that is not recommended as it is difficult to see how the Panel can come to a view on a matter if Panel Members do not have voting rights.
- 5.12 Counsel’s advice is that, ultimately, the two pieces of legislation are not in irreconcilable conflict “*because appointment to an IP (i.e. the Independent Persons Panel) cannot itself be regarded as disqualifying an Independent Person (IP) from being such on the basis that the very appointment makes them a co-opted member*”. An IP appointed under the Localism Act is not excluded from continuing in this role by virtue of being appointed as a voting member of the Independent Persons Panel as on that logic they would be prevented from serving on the Panel as they would no longer be an independent person.

5.13 The Kent Secretaries Group have agreed in principle reciprocal arrangements whereby each Council is able to invite the IP of another council in Kent to serve on the Independent Persons Panel. This proposal is being explored with the Independent Persons and contact is being made with the Chair of their Forum to seek their agreement to this reciprocal arrangement. Therefore it would be possible for the Independent Persons Panel to comprise one or more IPs from other authorities.

5.14 The proposed revised Terms of Reference for the Employment Matters Committee, and the terms of reference for the Independent Persons Panel and the Disciplinary Appeals Committee are attached at **Appendix 1**.

## **6. Options**

6.1 The Council could establish a new standing Committee to carry out the additional functions proposed for the Employment Matters Committee.

6.2 The Council could include one or more elected members as part of the membership of the Independent Persons Panel, although this is not recommended (paragraph 5.10).

## **7. Advice and analysis**

7.1 The model procedure adopts a balanced approach to the need to set up a new disciplinary process, which will ensure that the Council has a fair process which is unlikely to be susceptible to successful challenge. It has taken over a year for the JNC to reach agreement on this process. Any attempt to seek local agreement to a different process is likely to cause further delay and it may be difficult to reach agreement. Any alternative process would have to be fair and comply with employment law, so it would be unlikely to be radically different from the model procedure.

7.2 The protection rules which apply to the Statutory Officers are an important means of ensuring good governance and maintaining high standards of legal, ethical and financial conduct and probity. The proposals in this report have been formulated in such a way that implements the 2015 Regulations, maintains those protections and governance safeguards while also minimising the costs and risks to the Council.

7.3 A flowchart detailing the processes for dealing with allegations in relation to disciplinary matters relating to the Council's Statutory Officers is attached at **Appendix 4**.

## **8. Employment Matters Committee – 5 September 2018**

8.1 The Employment Matters Committee considered this report on 5 September 2018.

8.2 Members considered a report which proposed new arrangements for dealing with disciplinary action against the Council's Statutory Officers in order to comply with statutory requirements.

8.3 The following issues were discussed:

#### 8.3.1 **Independent Persons**

It was clarified that the Independent Persons who would comprise the Independent Persons Panel had to be the same Independent Persons appointed by the Council for the purpose of advising on councillor conduct issues. They were appointed by full Council after applying for the position in response to a public advertisement.

#### 8.3.2 **Appeals**

Members were advised that the Statutory Officers could appeal any decision to take disciplinary action against them short of dismissal. As Council had to approve any proposal to dismiss then no appeal against a decision to dismiss was possible. However, as Council was effectively reviewing the process before a final decision was taken then effectively a form of appeal would take place at Council.

The procedures only applied in the case of dismissal on disciplinary grounds. Officers undertook to clarify where the decision would be taken to dismiss a Statutory Officer on the grounds of redundancy and whether an appeal against such a decision existed.

#### 8.3.3 **Decision making in cases of a need to urgently suspend**

The proposal in the report was that a decision to suspend one of the Statutory Officers would be a matter for the Employment Matters Committee. The report stated such a decision could not be delegated to the Chairman of the Committee. In the light of that and given it would seem inappropriate for a subordinate officer to take such a decision, a Member queried how an urgent decision could be made to suspend one of the officers in circumstances where the seriousness of the situation meant it was not feasible to wait for a meeting of the Committee to take place given that five days' public notice had to first be given. Officers confirmed that it would not be legally possible to delegate such a decision to the Chairman of the Committee or to the Leader. A formal meeting of the Committee would be needed (it could not take place virtually) but provided the meeting was quorate then a decision could be taken. The Access to Information rules contained an implicit power to convene meetings in cases where less than 5 days' notice had been given.

Although the proposal was that, for consistency, the power to suspend all three officers would rest with the Employment Matters Committee it would be possible to include provision for the Head of the Paid Service to suspend either the Chief Finance Officer or the Monitoring Officer in cases of urgency. Officers were asked to clarify what urgency powers existed to suspend the Chief Executive in cases of urgency.

Officers also advised that suspension was a neutral act and the authority could require one of the officers not to attend for work pending a formal decision to suspend.



#### 8.4 The Committee agreed to:

- a) ask officers to clarify the process for taking urgent decisions in circumstances where there is a need to urgently suspend the Statutory Officers, and:
- b) recommend the following to Council:
  - i) to extend the terms of reference of the Employment Matters Committee, as set out in Appendix 1 of the report;
  - ii) to appoint a Disciplinary Appeals Committee and agree its terms of reference, as set out in Appendix 1 of the report, and agree the Committee should comprise three Members of the Council appointed on a politically proportionate basis (Cons 2: Lab 1);
  - iii) to appoint an Independent Persons Panel, agree its terms of reference, as set out in Appendix 1 of the report, and agree that it should comprise three Independent Persons;
  - iv) to agree to pay a fee to Independent Persons appointed to the Independent Persons Panel equal to the agreed rate paid in respect of their role in advising a Council on Councillor Conduct issues;
  - v) to amend the Employment Rules, as set out in Appendix 2;
  - vi) to amend the Employee Delegation Scheme as set out in Appendix 3, including agreeing to delegate to the Head of Democratic Services authority to invite and appoint members to serve on the Independent Persons Panel as set out in paragraphs 5.7-5.9 of the report, and;
  - vii) to agree that where the Employment Matters Committee is considering allegations regarding disciplinary matters relating to the Designated Statutory Officers that, for consistency, unless a Member is unavoidably indisposed or conflicted, the same Members shall comprise the Committee until the matter has been dealt with fully and that the same principle shall apply to the Disciplinary Appeals Committee.

### **9. Assistant Director's comments**

#### **9.1 Independent Persons**

- 9.1.1 As discussed at the meeting of the Employment Matters Committee, the Independent Persons who will comprise the Independent Persons Panel are the same independent persons appointed by the Council to advise on councillor conduct matters.
- 9.1.2 A person may not be appointed as an Independent Person (i.e. to advise on councillor conduct issues) if that person:

- (a) is a member, co-opted member or officer of the Council or a parish/town council in Medway, or
- (b) is a relative, or close friend of such a person, or
- (c) has been a member, co-opted member or officer of the Council or a parish/town council in Medway in the previous 5 years.

9.1.2 The Council must advertise any vacancies for an Independent Person and applicants must submit an application form before they can be appointed. Only Full Council can make the appointment, which must be approved by a majority of Members of the Council.

## 9.2 Appeals

9.2.1 The procedures set out in this report only apply in the case of dismissal on disciplinary grounds. The Employment Matters Committee asked Officers to clarify where the decision would be taken to dismiss a Statutory Officer on the grounds of redundancy and whether an appeal against such a decision existed.

9.2.2 In accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 and Chapter 4, Part 8 (Employment Rules) of the Council's Constitution, dismissal of the Head of Paid Service, the S.151 Officer and the Monitoring Officer is a matter for Members. The dismissal of the Head of Paid Service is a matter for the Full Council which cannot be delegated and, as such, there can be no appeal against a decision taken by the Full Council. A decision to dismiss the S.151 Officer or the Monitoring Officer by a Committee of the Council would be subject to an appeal.

## 9.3 Decision making in cases of a need to urgently suspend

9.3.1 The Employment Matters Committee asked officers to clarify the decision making process in situations where there is a need to urgently suspend one of the Statutory Officers. As Members will no doubt appreciate such a situation will very rarely arise but it is a valid point which is important to address.

9.3.2 The proposals submitted to the Employment Matters Committee (see paragraph 5.1 above) were that, for consistency, the Committee would be given the power to suspend any of the Statutory Officers. Members accepted that such a decision could not be lawfully delegated to the Chairman of the Committee or any other Member but queried what would happen where the seriousness of a situation meant there was an urgent need to suspend one of the officers and it was not feasible to wait until the statutory five days' notice of a public meeting had been given. This is particularly an issue in the case of the Head of Paid Service as it would be possible for the latter to be given the power to suspend the Monitoring Officer or the S.151 Officer in a situation of urgency.

9.3.3 It is therefore recommended that the Chief Executive be given the explicit authority, following consultation with the Chairman of the Employment Matters Committee where practicable, to suspend the Monitoring Officer or the S.151 Officer in cases of urgency. If agreed the following additional amendment to the Employment Rules is suggested:

Add after paragraph 4.8

*“In cases of urgency the Head of the Paid Service may suspend the Chief Finance Officer or the Monitoring Officer, following consultation with the Chairman of the Employment Matters Committee where practicable whilst an investigation take place into alleged misconduct. The Head of the Paid Service shall, before deciding to suspend, invite the officer to make representations unless it is impractical to do so. The Employment Matters Committee shall review the suspension as soon as is practicable and in any event no later than two months following the original decision to suspend”.*

- 9.3.4 If there was an urgent need to suspend the Head of the Paid Service, the Council could rely on an implicit power in the Local Government (Access to Information) Act 1985 to convene a meeting of a Committee by giving shorter notice than the prescribed 5 clear days. The Act does not specify in what circumstances this provision can be relied on and, as such, it is rarely invoked because of the risk of challenge. If this provision was to be used then the Council would need to be able to demonstrate that it had used this power reasonably and for good reasons. The view of the Monitoring Officer is that this is a power the Council could justify relying on in circumstances where there was an urgent need to suspend the Head of the Paid Service. In any event, the proposed procedures require that any suspension must be reviewed every two months by the Employment Matters Committee and, for those meetings, the usual period of notice (i.e. 5 clear days) would be given.

## 10. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Reputational damage to the Council/financial loss/Employment Tribunal claim.	The new procedures are challenged as being unlawful or unfair. Decisions taken found to be unlawful.	<p>The proposed procedures have been agreed with Kent Monitoring Officers taking into account detailed advice from Counsel on key issues.</p> <p>These procedures are relatively new and untested. Issues may emerge in the context of national debate or as individual cases come forward. It will be possible for Council to make changes at a future date if necessary.</p>	D2

Council is unable to dismiss a Statutory Officer due to difficulties in establishing an Independent Persons Panel	Inability to appoint sufficient members to the Independent Persons Panel.  One of the Council's Independent Persons is unwilling or unable to be re-appointed due to their involvement with the Independent Persons Panel.	Reciprocal arrangements to appoint an IP from another authority have been agreed in principle.	D1
Difficulties in appointing or re-appointing an Independent Person to advise on councillor conduct issues.	A prospective Independent Person is unwilling to be appointed to advise on councillor conduct issues because of the additional responsibility of being called on to advise on an officer disciplinary matter.	Counsel's advice has been received. Reciprocal arrangements to appoint the IP from another authority in Kent have been agreed in principle.	D3
Failure to agree procedures which comply with the Regulations	The Council is vulnerable to claims if its processes do not fully comply with the legislation and its contractual obligations.	The proposals have been agreed with Kent Monitoring Officers following advice from Counsel on key issues. The procedures are in line with the JNC for Local Authority Chief Executives model procedures.	E2

## 11. Consultation

- 11.1 Consultation on the revised procedures has taken place with the Council's Statutory Officers. Due to the nature of the issue and the limited external impact of the Regulations it was not considered necessary to consult with the public.

## 12. Financial implications

- 12.1 The proposals will result in costs being incurred in relation to the appointment of an Independent Investigator and also if either the Disciplinary Appeals Committee or the Independent Persons Panel decides to commission external legal and professional advice. In addition, the Members of the Independent Persons Panel are entitled to receive a fee, which must not exceed the rate payable to that person in respect of their role in advising the Council on Councillor Conduct issues. Any costs will be met from within existing budgets.

## 13. Legal implications

- 13.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require local authorities to make or modify standing orders to include

certain provisions relating to staff and other matters. The Council amended the Employment Rules in August 2015 to comply with that requirement and the proposals in this paper are compliant with the 2015 Regulations.

13.2 The Independent Persons Panel is an advisory committee of the Council appointed under S.102 (4) of the Local Government Act 1972.

#### **14. Recommendations**

14.1 The Council is asked to agree the following:

- a) to extend the terms of reference of the Employment Matters Committee, as set out in Appendix 1;
- b) to appoint a Disciplinary Appeals Committee and agree its terms of reference, as set out in Appendix 1, and agree the Committee should comprise three Members of the Council appointed on a politically proportionate basis (Cons 2: Lab 1);
- c) to appoint an Independent Persons Panel, agree its terms of reference, as set out in Appendix 1, and agree that it should comprise three Independent Persons;
- d) to agree to pay a fee to Independent Persons appointed to the Independent Persons Panel equal to the agreed rate paid in respect of their role in advising a Council on Councillor Conduct issues;
- e) to amend the Employment Rules, as set out in Appendix 2 and also paragraph 9.3.4 above;
- f) to amend the Employee Delegation Scheme as set out in Appendix 3, including agreeing to delegate to the Head of Democratic Services authority to invite and appoint members to serve on the Independent Persons Panel as set out in paragraphs 5.7-5.9 of the report, and;
- g) to agree that where the Employment Matters Committee is considering allegations regarding disciplinary matters relating to the Designated Statutory Officers that, for consistency, unless a Member is unavoidably indisposed or conflicted, the same Members shall comprise the Committee until the matter has been dealt with fully and that the same principle shall apply to the Disciplinary Appeals Committee.
- h) to delegate to the Chief Executive the authority to suspend the S.151 Officer or the Monitoring Officer in cases of urgency, as set out in paragraph 9.33 above, and to also agree the subsequent addition to the Employee Delegation Scheme as detailed in paragraph 9.3.3.

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**Appendices**

Appendix 1 - Revised Chapter 3 (Part 2 – Responsibility for Council Functions) of the Constitution

Appendix 2 - Revised Chapter 4 (Part 8 – Employment Rules) of the Constitution

Appendix 3 - Revised Chapter 3 (Part 4 – Employee Delegation Scheme) of the Constitution

Appendix 4 - Disciplinary Procedure Flowchart

**Background papers**

None

**PART 2 - RESPONSIBILITY FOR COUNCIL FUNCTIONS****APPENDIX 1**

<b>Committee</b>	<b>Membership</b>	<b>Functions</b>	<b>Delegation of functions</b>
Appointments	Up to 6 members of the authority	The appointment of the Chief Executive and first and second tier posts and any others identified by the Employment Matters Committee.	
Appointments	Up to 8 members of the authority	The appointment of the Director of Children and Adult Services	
Audit	Up to 5 members of the authority chaired by a member free from other executive or scrutiny responsibilities	To provide independent assurance on the adequacy of the risk management framework and the associated control environment.  To provide an independent review of the Council's financial and non-financial performance.	
Councillor Conduct Committee	8 members of the authority	<ul style="list-style-type: none"> <li>• To promote and maintain high standards of conduct by Councillors, and voting and non-voting co-opted members.</li> <li>• To advise the Council on the adoption or revision of the Councillor Code of Conduct or on revision to the adopted arrangements for investigation or making decisions on complaints.</li> <li>• To monitor the operation of the Councillor Code of Conduct.</li> </ul>	

Committee	Membership	Functions	Delegation of functions
		<ul style="list-style-type: none"> <li data-bbox="762 230 1166 477">• To advise, train or arrange to train Councillors and voting and non-voting co-opted members on matters relating to the Councillor Code of Conduct.</li> <li data-bbox="762 521 1166 846">• The assessment against published criteria, investigation and hearing of allegations of Councillor misconduct and recommending any action which the Council has the power to take.</li> <li data-bbox="762 891 1166 1104">• The exercise of all of the above in relation to the Parish Councils wholly or mainly in its area and the members of those Parish Council.</li> <li data-bbox="762 1149 1166 1328">• The adoption of any procedures necessary in order to undertake any of the above functions.</li> <li data-bbox="762 1373 1166 1731">• To grant dispensations to Councillors and voting and non-voting co-optees to allow participation in debate and/or voting on any item in which they have a disclosable pecuniary interest or other significant interest.</li> </ul>	



Committee	Membership	Functions	Delegation of functions
Employment Matters	<p><i>Up to 7 members of the authority</i></p> <p><u>In relation to the consideration of allegations/issues regarding disciplinary matters relating to the Designated Statutory Officers of the Council, for consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.</u></p>	<p>To deal with all employment matters noting that the determination of the annual pay award is a matter for the Full Council if it exceeds the budgetary provision.</p> <p><u>To consider allegations /issues regarding disciplinary matters relating to the Head of Paid Service, the S.151 Officer and the Monitoring Officer.</u></p> <p><u>Members of the committee must have completed mandatory training in respect of the latter function.</u></p>	

Committee	Membership	Functions	Delegation of functions
<p><b><u>Independent Persons Panel</u></b></p>	<p><u>3 Independent Persons (IPs) appointed under section 28(7) of the Localism Act 2011 plus one reserve.</u></p> <p><u>To be appointed in the following priority order:</u></p> <ul style="list-style-type: none"> <li>• <u>An IP who has been appointed by the Council and who is on electoral roll in Medway</u></li> <li>• <u>Any other IP appointed by the Council</u></li> <li>• <u>An IP who has been appointed by another authority</u></li> </ul>	<p><u><i>To advise the authority on matters relating to the dismissal of the officers designated as the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer).</i></u></p>	

Committee	Membership	Functions	Delegation of functions
<p><u>Disciplinary Appeals Committee</u></p>	<p><u>3 Members of the Council.</u></p> <p><u>No Member who was a member of the Employment Matters Committee making the decision which is the subject of the appeal may serve as a member of the Disciplinary Appeals Committee.</u></p> <p><u>Members of the committee must have completed mandatory training.</u></p> <p><u>For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.</u></p>	<p><u>To hear and determine appeals brought by the Head of Paid Service, the S.151 Officer and the Monitoring Officer against any decisions made by the Employment Matters Committee to take disciplinary action short of dismissal</u></p>	

Committee	Membership	Functions	Delegation of functions
Governor Ad Hoc	4 members of the authority (note: The Council usually agrees to waive the requirements of political balance on this committee insofar as the overall calculation of allocation of seats on committees is concerned – the membership of the committee is comprised of the Group Whips and the relevant Portfolio Holder)	To consider the removal of Council appointed school governors as and when necessary.	
Health and Wellbeing Board	<p>Seven Councillors to be nominated by the Leader (who should not also be members of either the Health and Adult Social Care (HASC) or Children and Young People (CYP) Overview and Scrutiny Committees*). The requirements of political balance will not apply.</p> <p>Medway Healthwatch (statutory member) – one representative (who should not also be a member of either the HASC or CYP Overview and Scrutiny Committees*)</p>	To prepare the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy and to encourage an integrated approach in the planning and delivery of health and social care services as well as services related to the wider determinants of health.	

Committee	Membership	Functions	Delegation of functions
	<p>Director of Children and Adults Services (statutory member)</p> <p>Director of Public Health (statutory member)</p> <p>Deputy Director, Children and Adults Services (under the provision allowing the appointment of such other persons (or representatives of such other persons) as the local authority thinks appropriate)</p> <p>Medway Clinical Commissioning Group – three representatives (one statutory seat and two additional seats (under the provision allowing the appointment of such other persons (or representatives of such other persons) as the local authority thinks appropriate)</p>		

Committee	Membership	Functions	Delegation of functions
	<p>NHS England (Southeast) /Kent and Medway – one representative – under the provision allowing the appointment of such other persons (or representatives or such other persons) as the local authority thinks appropriate.</p> <p><b>(Note*</b> - Substitutes appointed to attend meetings of the Health and Wellbeing Board (HWB) may not also be members of the Health and Adult Social Care or Children and Young People Overview and Scrutiny Committees).</p>		

Committee	Membership	Functions	Delegation of functions
Licensing and Safety	Between 10 –15 members of the authority	<p><b>Taxi, gaming, alcohol, entertainment, food, scrap metal and miscellaneous licensing</b></p> <p>Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations, the Licensing Act 2003, Gambling Act 2005, and other licensing functions reserved by law to the Council's Licensing and Safety Committee and its Sub-Committees.</p> <p><b>Scrap Metal Dealers Act 2013</b></p> <p>To act in an advisory quasi-judicial capacity to the Chief Legal Officer, when considering representations from applicants for licences under the Scrap Metal Dealers Act 2013 where the authority is minded to refuse, vary or revoke a licence;</p> <p>To consider and make recommends to Cabinet on policy relating to the Scrap Metal Dealers Act 2013;</p>	Chief Executive
		<p><b>Health and safety</b></p> <p>Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.</p>	Chief Executive

<b>Committee</b>	<b>Membership</b>	<b>Functions</b>	<b>Delegation of functions</b>
		<p><b>Commons registration</b></p> <p>The registration of common land or town and village greens and to register the variation of rights of common as set out in Schedule 1 to the Functions Regulations.</p>	Chief Legal Officer
Planning	Up to 15 members of the authority	<p><b>Planning and conservation</b></p> <p>Functions relating to town and country planning and development management as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations).</p> <p><b>Highways use and regulation</b></p> <p>The exercise of powers relating to the regulation of the use of highways as set out in Schedule 1 to the Functions Regulations.</p>	<p>Director of Regeneration, Culture, Environment and Transformation</p> <p>Director of Regeneration, Culture, Environment and Transformation</p>
School Transport and Curriculum Appeals	Up to 7 members of the authority	Determining appeals regarding home to school transport and complaints regarding the curriculum.	
South Thames Gateway Building Control Joint Committee	4 members (one each from Medway, Canterbury Gravesham and Swale)	<p>Enforcement activity.</p> <p>Staffing matters (in accordance with Medway Council's policies and procedures).</p>	

- 1.1 The details of the onward delegation to employees are contained in part 4 of this chapter.
- 1.2 The terms of reference of the Committees established by the Council and their sub-committees are set out below:



## **Terms of reference for each committee**

### **1. Appointments Committee**

#### **1.1 Up to 6 members**

To appoint the Chief Executive and to appoint all first and second tier posts and any other posts identified by the Employment Matters Committee as requiring appointment by the Appointments Committee.

Note: The appointment of the Director of Public Health will comply with the Council's employment rules and also the requirements of the Health and Social Care Act 2012 and statutory guidance from the Department of Health, in relation to the joint role of Public Health England on behalf of the Secretary of State and an advisory appointments committee constituted in accordance with statutory guidance.

#### **1.2 Up to 8 members**

To appoint the Director of Children and Adult Services.

### **2. Audit Committee**

- To provide independent assurance on the adequacy of the risk management framework and the associated control environment, including consideration of the Council's approach to risk management and the assurance framework, the production of the annual governance statement, arrangements for delivering value for money and the Council's anti-fraud arrangements and anti-corruption measures;
- To receive reports in line with the Council's whistleblowing, anti-bribery, covert surveillance policies and anti-money laundering policies;
- To monitor the Council's compliance with its own published standards and to consider any proposals for changes to Financial Rules and Contract Rules;
- To monitor financial policies and processes, including endorsement of improvement plans to strengthen the control environment;
- To approve the annual governance statement;
- To approve the annual accounts;
- To scrutinise the Council's treasury management, investment strategy, minimum revenue provision policy statement along with treasury management practices and associated schedules and approve the annual treasury outturn;
- To discuss with the external auditor new accounting standards, changes to the reporting framework and the basis of the annual audit, including the content of performance work;
- To receive all reports by the external auditor including all performance reports and the annual audit letter;

- To oversee Internal Audit activity;
- To monitor the effectiveness of internal audit.
- To provide an independent review of the Council's financial and non-financial performance.

### **3. Councillor Conduct Committee**

- To promote and maintain high standards of conduct by Councillors and voting and non-voting co-opted members.
- To advise the Council on the adoption or revision of the Councillor Code of Conduct or on revision to the adopted arrangements for investigation or making decisions on complaints.
- To monitor the operation of the Councillor Code of Conduct.
- To advise, train or arrange to train Councillors and voting and non-voting co-opted members on matters relating to the Councillor Code of Conduct.
- The assessment against published criteria, investigation and hearing of allegations of Councillor misconduct and recommending any action which the Council has the power to take.
- The exercise of all of the above in relation to the parish Councils wholly or mainly in its area and the members of those parish Councils.
- The adoption of any procedures necessary in order to undertake any of the above functions.
- To grant dispensations to Councillors and voting and non-voting co-optees to allow participation in debate and/or voting on any item in which they have a disclosable pecuniary interest or other significant interest.

### **4. Employment Matters Committee**

- To consider and determine, where appropriate, matters concerning the employment of staff and their terms and conditions of employment or secondment and to determine the terms of the annual pay award provided it is within the approved budget;
- To advise on and determine policies concerning any staffing matter including equal opportunities and the allocation and utilisation of human resources within the authority;
- To advise on and determine arrangements for consulting and communicating with staff and trades unions;
- To hear and determine dismissal appeals relating to conduct, performance capability, some other substantial reason and ill-health capability;

- To grant exemptions for politically restricted posts.
- In relation to the Head of Paid Service, the S.151 Officer and the Monitoring Officer – the Designated Statutory Officers (the DSOs),
  - To consider allegations/issues regarding disciplinary matters relating to the Designated Statutory Officers of the Council and to authorise initial investigation.
  - To appoint an Independent Investigator (“II”) to investigate allegations of misconduct against any DSO and to commission reports from an II.
  - To determine appropriate action upon receipt of any preliminary investigation.
  - To decide whether to suspend a DSO and to review decisions taken to suspend a statutory officer.
  - To determine what action should be taken against a DSO following an investigation. This could include the following:
    - Take no further action.
    - Recommend informal resolution or other appropriate procedures.
    - Refer back to the Independent Investigator for further investigation and report.
    - Take disciplinary action against the DSO short of dismissal.
    - Propose dismissal of the DSO to the Council.
  - To refer any recommendation that a DSO should be dismissed to the Independent Persons Panel prior to being referred to Council for a determination in accordance with the Employment Rules.

## 5. Employment Matters Appeals Panel

- To hear and determine final appeals by employees on behalf of the Council relating to their conditions of service, discipline, performance or termination of employment. (Noting that appeals against disciplinary action short of dismissal affecting the Head of the Paid Service, the S.151 Officer and the Monitoring Officer will be dealt with by the Disciplinary Appeals Committee.)

### Independent Persons Panel

- To advise the Council on matters relating to the dismissal of the Head of the Paid Service, the S.151 Officer or the Monitoring Officer in accordance with the Employment Rules where the Employment Matters Committee propose to recommend the dismissal of one of the post holders.

The Panel is an advisory committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of the officers designated as the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer (together the “Designated Statutory Officers” or “DSOs”)

in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001.

The Panel must be convened having invited at least two of the Independent Persons appointed under section 28(7) of the Localism Act 2011 (to advise on Member conduct allegations) by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.

The Head of Democratic Services will invite the Council's current Independent Persons (being those persons appointed to advise on Member conduct complaints under the Localism Act 2011) and if necessary one or more of the Independent Persons of neighbouring authorities (following consultation with the Monitoring Officers of those authorities), to be considered for appointment to the Independent Persons Panel.

The Panel will be appointed by the Head of Democratic Services from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order:

- an Independent Person who has been appointed by the authority and who is a local government elector in the Council's area.
- any other Independent Person who has been appointed by the authority.
- an Independent Person who has been appointed by another authority or authorities.

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The Panel must be appointed at least 20 working days before any meeting of the authority to consider whether or not to approve a proposal to dismiss a DSO.

One or more reserve members will be appointed to the Panel from Independent Persons who have been appointed under section 28(7) of the Localism Act 2011 by the authority or by another authority or authorities. If more than one reserve member is available for the meeting then selection will be by the alphabetical order of their surnames so long as it does not conflict with the priority order set out above.

The appointment of a Panel Member to preside at the meeting will be the first item of business at each Independent Persons Panel meeting. Where there are equal votes cast at a meeting on any matter the Chairman may exercise a second or casting vote.

The quorum for a meeting shall be two members of the Panel.

For the avoidance of doubt, the Panel may commission and have access to external legal and professional advice.

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### **Disciplinary Appeals Committee**

To hear and determine appeals brought by the Head of Paid Service, the S.151 Officer and the Monitoring Officer (the Designated Statutory Officers (DSOs)) against any decisions made by the Employment Matters Committee to take disciplinary action short of dismissal.

### **Procedure for the Disciplinary Appeals Committee**

The DSO shall have the right to attend and be accompanied at the Committee Meeting which considers the appeal.

The Committee shall consider the appeal in accordance with the Council's normal procedure for dealing with appeals.

### **Access to Advice and Representation**

For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.

For the avoidance of doubt, if a DSO chooses to retain professional advice and/or representation at or in respect of any meeting of or hearing before the Committee, then the DSO in question shall be responsible for the cost of that advice or representation.

## **6. Governor Ad Hoc Committee**

- To consider the removal of Council appointed school governors as and when necessary.

## **7. Health and Wellbeing Board**

### **A. Operating principles**

In line with nationally agreed operating principles the Medway Health and Wellbeing Board (HWB) will seek to:

- (i) provide collective leadership to improve health and well-being across the local authority area, enable shared decision-making and ownership of decisions in an open and transparent way;
- (ii) achieve democratic legitimacy and accountability, and empower local people to take part in decision-making;
- (iii) address health inequalities by ensuring quality, consistency and comprehensive health and local government services are commissioned and delivered in the area; and
- (iv) identify key priorities for health and local government commissioning and develop clear plans for how commissioners can make best use of their combined resources to improve local health and well-being outcomes in the short, medium and long term.

### **B. Key functions**

- (i) To prepare the Joint Strategic Needs Assessment (JSNA) which identifies the current and future health and wellbeing needs of the local population and may address needs around wider determinants of health.
- (ii) To prepare a Joint Health and Wellbeing Strategy for Medway to meet the needs identified in the JSNA.
- (iii) To prepare the Medway Pharmaceutical Needs Assessment.
- (iv) To encourage persons who arrange for the provision of any health or social care services in the area to work in an integrated manner for the purpose of advancing the health and wellbeing of the people in Medway.
- (v) To encourage persons who arrange for the provision of any health related services (ie services that may have an effect on the health of individuals but are not health or social care services) in Medway to work closely with the Board.
- (vi) To encourage persons who arrange for the provision of any health or social care services in Medway and those who arrange for the provision of any health-related services in its area to work closely together.
- (vii) To provide advice, assistance or other support appropriate for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 (ie arrangements under which NHS bodies and local authorities agree to exercise specified functions of each other).
- (viii) To keep NHS commissioning plans under review to ensure they are taking into account the JSNA and local HWB Strategy, referring back to the Clinical Commissioning Group (CCG) or the NHS Commissioning Board where they do not.
- (ix) To advise Medway Council's Cabinet of its views on whether the local authority is discharging its duty to have regard to the JSNA and Joint Health and Wellbeing Strategy in discharging its relevant functions.
- (x) To involve users and the public in the work of the Board, as appropriate.
- (xi) To play a formal role in the annual assessment of the Medway Clinical Commissioning Group.
- (xii) To undertake any other functions assigned to Health and Wellbeing Boards in legislation.

Governance arrangements for the operation of the Medway Health and Wellbeing Board were agreed by Council on 25 April 2013.

- (i) **Appointment of Chairman and Vice Chairman:** The Chairman and Vice Chairman of the Board will be appointed at the first meeting of the Board after each Annual Council meeting, discounting the Joint Meeting of all Committees on the evening of Annual Council. The Chairman will be appointed from among the councillors serving on the Board.

- (ii) **Meetings:** The Board will meet a minimum of four times a year and be administratively supported by Medway Council's Democratic Services Team. Meetings will take place in public with provision for exclusion of the press and public where confidential or exempt information is likely to be disclosed.
  - (iii) **Sub-committees:** The Board may set up advisory sub-committees but any proposal to delegate the functions of the Board to a sub-committee or an officer (or from a sub-committee to an officer) insofar as this is permitted, shall be subject to agreement by the Council.
  - (iv) **Attendance:** The quorum for Board meetings will be a quarter of the membership and meetings may only proceed if at least one local authority member and one CCG representative are present. Substitutions are permitted with notification to the Democratic Services Officer ahead of the meeting.
  - (v) **Conduct of meetings:** Meetings will be conducted in accordance with the procedural rules applicable to Council meetings as appropriate.
  - (vi) **Voting:** All members of the Board will have the right to vote, subject to the law and procedures for registering and declaring interests which will require non-participation and withdrawal from meetings when conflicts of interest arise.
  - (vii) **Programming of business:** the Board will determine its own work programme and pre-agenda processes taking into account statutory requirements relating to notice of meetings and publication and availability of agenda papers and will use the templates and standards in place for reports to other Council committees.
  - (viii) **Communications and engagement:** the Board will develop a Communications and Engagement Strategy which will set out how the Board will engage with stakeholders and the public and how communications on behalf of the Board will be managed.
  - (ix) **Operational links:** the Board will work collaboratively with other partnership bodies including the Children's Trust, the Medway Safeguarding Children Board, the Adult Safeguarding Board and the Community Safety Partnership, taking into account the need for alignment between the Joint Health and Wellbeing Strategy and other key plans and strategies.
  - (x) **Overview and scrutiny:** the Board will be subject to overview and scrutiny and will respond to requests for information and representation at overview and scrutiny committees as appropriate.
  - (xi) **Review:** the terms of reference of the HWB and the governance arrangements will be kept under periodic review.
- (A) **Kent and Medway Joint Health and Wellbeing Board (Advisory Sub Committee of the Health and Wellbeing Boards of Medway Council and Kent County Council)**

## **Operating Principles**

- (a) The Kent and Medway Joint Health and Wellbeing Board is an advisory sub-committee which operates to encourage persons who arrange for the provision of any health or social care services in the area to work in an integrated manner and for the purpose of advising on the development of the Sustainability and Transformation Partnership (STP) Plans for Kent and Medway.
- (b) It will seek to:
  - i. Ensure collective leadership to improve health and well-being outcomes across both local authority areas, to enable shared discussion and consensus about the STP across the Kent and Medway footprint in an open and transparent way;
  - ii. Help to ensure the STP has democratic legitimacy and accountability, to seek assurance that health care services paid for by public monies are provided in a cost-effective manner.
  - iii. Consider the work of the STP and encourage persons who arrange for the provision of any health or social care services in the area to work in an integrated manner
  - iv. Take account of and advise on the wider statutory duties of Health and Social Care Partners.

## **Key Functions**

- (a) To consider and influence the work of the STP focussing on prevention, Local Care and wellbeing across Kent and Medway.
- (b) To consider and shape the development of Local Care within the STP which will impact on adult social care delivery in both authorities, advising the Kent and Medway Health and Wellbeing Boards accordingly.
- (c) To give advice to the STP in developing clear plans and business cases to assist commissioners in making best use of their combined resources to improve local health and well-being outcomes, particularly relating to the Local Care and Prevention work streams, making recommendations to the Kent and Medway Health and Wellbeing Boards on support that could be provided.
- (d) To keep NHS commissioning plans under review, insofar as they relate to STP Plans to ensure they are taking into account the Kent and Medway JSNAs and local HWB Strategies, referring back to the STP Programme Board and respective Kent and Medway Health and Wellbeing Boards where they do not.
- (e) To champion integration in local care delivery, including working with the STP to establish a Kent and Medway Local Care Board
- (f) To support the development of the Clinical Strategy



- (g) To ensure alignment of the Kent and Medway JSNAs with population health needs to inform the STP Case for Change and the associated Clinical Strategy
- (h) To consider and advise on the development of the STP Preventative work-stream given it is heavily focussed on Public Health functions within both upper-tier authorities
- (i) To consider and advise on the development of options for the local authorities' role in a Strategic Commissioner arrangement with Health – the engagement in which remains a matter for each of the local authorities.
- (j) To consider options for the Local Authority role in the development of Integrated Care Systems (previously known as Accountable Care Partnerships), the engagement in which remains a matter for each of the local authorities.

## **8. Licensing and Safety Committee**

- Functions relating to licensing and registration as set out in schedule 1 to the Functions Regulations, the Licensing Act 2003, Gambling Act 2005, Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009 and other licensing functions reserved by law to the Council's Licensing and Safety Committee and its Sub-Committees;
- To act in a quasi-judicial capacity to consider appeals that may require determination upon receipt of representation from an aggrieved party where a licence has either been refused, amended or revoked by officers and make decisions related thereto;
- To act in a quasi-judicial capacity to determine application of licences where there is substantial objection by other parties to the grant of a licence or where in the officer's opinion the issue is of a sensitive nature and make decisions related thereto;
- To act in an advisory capacity to the Chief Legal Officer, when considering representations from applicants for licences under the Scrap Metal Dealers Act 2013 where the authority is minded to refuse, vary or revoke a licence;
- To consider objectively other ad hoc matters relating to the licensing process which officers or the Council deems appropriate;
- To recommend to Council to determine a policy not to permit casinos, in accordance with section 166 of the Gambling Act 2005;
- To recommend to Council final approval of the Statement of Gambling Act Policy;
- To recommend to Council approval of the Statement of Licensing Policy;

- To consider and make recommends to Cabinet on policy relating to the Scrap Metal Dealers Act 2013;
- To recommend to Council approval of the Statement of Policy in respect of Sex Establishments and Sexual Entertainment Venues;
- Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.

Note: For the purpose of these terms of reference the term “licence” or “licensing” includes any such controlling measure such as permit, certificate or registration.

#### **(A) Licensing Sub-Committee**

- To determine hackney carriage private hire and other licensing and registration issues not covered by the Licensing Act 2003 nor the Gambling Act 2005.
- To act in an advisory quasi-judicial capacity to the Chief Legal Officer, when considering representations from applicants for licences under the Scrap Metal Dealers Act 2013 where the authority is minded to refuse, vary or revoke a licence.
- To determine applications for the registration of land as a town or village green, where representations have been received and not withdrawn.

#### **(B) Licensing Hearing Panel**

- To consider all Licensing Act 2003 matters;
- With regard to Licensing Act 2003 matters, to determine:
  - (i) an application for a personal licence if there is a police objection
  - (ii) an application for a personal licence with relevant unspent convictions
  - (iii) an application for a premises licence/club premises certificate, if relevant representation made
  - (iv) an application to vary a Designated Premises Supervisor, if there is a police objection
  - (v) an application for provisional statement, if a relevant representation made
  - (vi) an application to vary premises licence/club premises certificate, if a relevant representation made
  - (vii) an application for a minor variation to a premises licence or club premises licence, if a relevant representation is made
  - (viii) an application for transfer of premises licence, if there is a police objection

- (ix) applications for interim authorities, if there are police objections
- (x) an application to review premises licence/club premises certificate
- (xi) a decision to object when the local authority is a consultee and not the relevant authority considering the application
- (xii) a police objection to a temporary event notice.
- (xiii) whether to suspend, for a period of up to six months, or revoke a personal licence where a Personal Licence Holder has been convicted of a relevant offence or foreign offence, or has been required to pay an immigration penalty, on or after 6 April 2017.

Note: A relevant representation is one which relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives specified in the Licensing Act 2003.

- With regard to Gambling Act 2005 matters, to determine:
  - (i) applications for premises licences where representations have been received and not withdrawn
  - (ii) applications for a variation to a licence where representations have been received and not withdrawn
  - (iii) applications for a transfer of licence where representations have been received by the Commission
  - (iv) applications for a provisional statement where representations have been received and not withdrawn
  - (v) a review of a premises licence
  - (vi) applications for club gaming/club machine permits where objections have been made and not withdrawn
  - (vii) a cancellation of club gambling/club machine permits
  - (viii) a decision to give a counter notice to a temporary use notice.

### **(C) 1982 Act Hearing Panel**

- To determine any applications under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 where relevant representations have been received or where conditions have been proposed by officers but not accepted by the applicant.

### **9. Planning Committee**

- To determine all planning applications submitted pursuant to the Town and Country Planning Act 1990 (as amended), the Planning Listed Buildings and Conservation Areas Act 1990 and the Planning (Hazardous Substances) Act

1990, including those applications falling for decision under officer delegated powers which a Council member has requested to be referred for Committee determination, except that all applications recommended for approval in respect of development which is in fundamental conflict with the Development Plan or any approved proposals for amendment thereof shall be reserved for determination by the Council;

- To consider written objections received to Tree Preservation Orders made under Section 198 or 201 of the Town and Country Planning Act 1990 and notifications under Section 211 of that Act;
- To determine all applications for approvals required by a Development Order or by conditions imposed on the grant of a planning permission;
- To authorise the issue of Building Preservation Notices pursuant to Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 except that cases where the Director of Regeneration, Culture, Environment and Transformation and Chief Legal Officer, consider that compensation may be payable shall be referred to the Council;
- To exercise powers under the Town and Country Planning Act 1990 in relation to the service of Enforcement Notices and Stop Notices under Parts VII and VIII, Planning Contravention Notices under Section 171(c) and Breach of Condition Notices under Section 187(a) and to take all necessary further steps up to and including prosecution except that cases where the Director of Regeneration, Culture, Environment and Transformation and Chief Legal Officer, consider that compensation may be payable shall be referred to the Council;
- To exercise powers in relation to the service of Listed Building Enforcement Notices under the provisions of the Planning (Listed Buildings in Conservation Areas) Act 1990 and to take all necessary further steps up to and including prosecution;
- To recommend to the Council the making of Orders for the modification or revocation of planning permission;
- To issue Completion Notices under Section 94 of the Town and Country Planning Act 1990;
- To submit views on behalf of the Planning Authority in relation to the consultations under the Pastoral Measures 1968;
- To lodge objections in connection with Goods Vehicle Operators' Licences;
- To consider and approve/acknowledge planning obligations offered by developers under Section 106 of the Town and Country Planning Act 1990 (as amended by Section 12 of the Planning and Compensation Act 1991);
- To consider and determine development management issues in respect of the Channel Tunnel Rail Link/M2 Widening.

## **10. School Transport and Curriculum Appeals Committee**

- To determine appeals relating to the application of the Council's policy for assisting with transport for pupils and students at schools and colleges;
- To consider complaints regarding school curriculum and related matters.

## **11. South Thames Gateway Building Control Joint Committee**

- To exercise the powers and assume the responsibilities of the partner authorities in relation to building control under the Building Act 1984 and other related legislation;
- To implement the first Business Plan of the Joint Committee;
- To develop an annual Business Plan for approval by each partner authority and adoption and implementation by the Joint Committee;
- To make recommendations to each partner authority to provide resources as required to secure the delivery of the Business Plan and to support the aims and objectives;
- To prepare and submit as required all reports, business cases and supplementary information as may be required by central government and or any agency or organisation on behalf of central government in relation to the delivery of the Business Plan and/or to obtain additional funding to support the aims and objectives;
- To enter into dialogue with central government and/or any agency or organisation on behalf of central government to secure the delivery of the Business Plan and/or to obtain additional funding to support the aims and objectives;
- To consult with appropriate persons and to commission research and public opinion surveys into matters relevant to the aims and objectives and the Business Plan;
- To influence, advise and lobby central government and other agencies (whether locally, nationally and internationally) where this is felt to be consistent with the aims and objectives and the Business Plan.



## **PART 8 - EMPLOYMENT RULES**

### **1. Recruitment and appointment**

#### **1.1 Declarations**

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.
- (b) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

#### **1.2 Seeking support for appointment**

- (a) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (b) No Councillor will seek support for any person for any appointment with the Council.

### **2. Recruitment, appointment and dismissal of Director of Public Health**

- 2.1 Where the Council proposes to recruit, appoint or dismiss the Director of Public Health the process will comply with the Council's employment rules, together with the requirements of the National Health Service Act 2006 and relevant statutory guidance.

### **3. Recruitment of Head of Paid Service and Chief Officers**

- 3.1 Where the Council proposes to appoint a Chief Officer (within the meaning of the Local Authority (Standing Orders) Regulations 1993) and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
  - (a) draw up a statement specifying:
    - (i) the duties of the officer concerned; and
    - (ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified for it; and

- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
- 3.2 Where a post has been advertised as provided in Rule 3.1(b), the authority shall:
- (a) interview all qualified applicants for the post, or
  - (b) select a short list of such qualified applicants and interview those included on the short list.
- 3.3 Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with Rule 3.1(b).
- 3.4 The steps to be taken under paragraphs 3.1 – 3.3 may be taken by a committee, sub-committee or chief officer (within the meaning of the Local Authorities (Standing Orders) Regulations 1993) of the Council.
- 3.5 Every appointment of a person to a paid office or employment should be on merit, asset out in Section 7 of the Local Government and Housing Act 1989.

#### **4. Appointment and dismissal of, and disciplinary action against, staff**

- 4.1 Subject to paragraphs 4.2 and 4.14, appointment and dismissal of, and disciplinary action against, a member of staff must be done by the Head of Paid Service or by an officer nominated by the Head of Paid Service.
- 4.2 Paragraph 4.1 shall not apply to appointment or dismissal of, or disciplinary action against:
- (a) the officer designated as the Head of the authority's Paid Service;
  - (b) a statutory chief officer within the meaning of section 2 (6) of the Local Government and Housing Act 1989;
  - (c) a non-statutory chief officer within the meaning of section 2(7) of the Local Government and Housing Act 1989;
  - (d) a deputy chief officer within the meaning of section 2(8) of the Local Government and Housing Act 1989; or
  - (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer.

#### Appointment of Head of Paid Service

- 4.3 Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the Head of Paid Service, the Full Council must approve that appointment before



an offer of appointment is made to that person. That committee or sub-committee must include at least one Member of the Cabinet.

- 4.4 The Full Council may only make or approve the appointment of the Head of Paid Service where no material or well-founded objection has been made by any member of the Cabinet in accordance with the provisions of Part II of Schedule 1 of the Local Authorities (Standing Orders)(England) Regulations 2001.

#### Other Appointments

- 4.5 Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment of any officer referred to in 4.2 (a), (b), (c) or (d), at least one member of the Cabinet must be a member of that committee or sub-committee.
- 4.6 An offer of employment to any officer referred to in sub paragraphs (b) (c) or (d) of paragraph 4.2 shall only be made where no material or well-founded objection from any member of the Cabinet has been received in accordance with the provisions of Part II of Schedule 1 of the Local Authorities (Standing Orders)(England) Regulations 2001.
- 4.7 Appointment of an assistant to a political group pursuant to Section 9 of the Local Government and Housing Act 1989 shall be made in accordance with the wishes of that political group.

#### Disciplinary Action and Dismissal

- 4.8 The Employment Matters Committee may suspend tThe Head of Paid Service, Monitoring Officer and Chief Finance Officer ~~may be suspended~~ whilst an investigation takes place into alleged misconduct. Before deciding to suspend the Committee shall invite the officer to make representations unless it is impracticable to do so That suspension will be on full pay and last no longer than two months. The Committee shall continue to review any continuing suspension every two months. In carrying out such review the Committee shall consider any representations made by the officer.
- 4.9 Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the Head of Paid Service, as the authority's Chief Finance Officer, or as the authority's Monitoring Officer, the Full Council must approve that dismissal before notice is given to that person.
- 4.10 The Head of Paid Service, Monitoring Officer and Chief Finance Officer may not be dismissed by the Council unless in accordance with the requirements of the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015:
- (a) At least 20 days before the relevant Council meeting a Panel has been established for the purpose of advising on matters relating to the

dismissal and independent persons appointed under Section 28 (7) of the Localism Act 2011 have been invited to be appointed to the Panel and

- (b) ~~any~~Any advice, views or recommendations of the Panel, the conclusions of any investigation into the proposed dismissal and any representations from the relevant officer have been taken into account before the taking of the vote on whether or not to approve such a dismissal.
- 4.11 Subject to paragraph 4.9, where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of dismissal of any officer referred to in paragraph 4.2 ~~(a), (b), (c) or~~ (d), at least one member of the Cabinet must be a member of that committee or sub-committee.
- 4.12 A notice of dismissal to any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 4.2 shall only be made where no material or well-founded objection from any member of the Cabinet has been received in accordance with the provisions of Part II of Schedule 1 of the Local Authorities (Standing Orders)(England) Regulations 2001.
- 4.13 Councillors will not be involved in the disciplinary action (as defined by the Local Authorities (Standing Orders) (England) Regulations 2001) against any employee below Head of Paid Service, Monitoring Officer and Chief Finance Officer, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.
- 4.14 Nothing in paragraph 4.1 shall prevent a person from serving as a member of any Committee or Sub-Committee established by the Council to consider an appeal by:
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the Council; or
  - (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- 4.15 All employees (with the exception of the Head of Paid Service, Monitoring Officer and Chief Finance Officer) have a right of appeal to the Sub-Committee of the Employment Matters Committee against dismissal or summary dismissal.
- 4.16 The Head of Paid Service, Monitoring Officer and Chief Finance Officer have a right of appeal to the Disciplinary Appeals Committee against any decisions made by the Employment Matters Committee to take disciplinary action short of dismissal.

Reference:

Local Authorities (Standing Orders)(England) Regulations 1993  
Local Authorities (Standing Orders)(England) Regulations 2001  
Local Authorities (Standing Orders)(England) Regulations 2015  
Local Government and Housing Act 1989  
National Health Service Act 2006



**PART 4 - EMPLOYEE DELEGATION SCHEME**

<b>General scheme of delegation</b>	
<b>Description of delegation</b>	<b>Responsibility delegated from</b>
<b>1. General scheme of delegation to Chief Executive and directors</b>	
1.1 The Chief Executive should be responsible for management arrangements across the whole Council and directors shall have the responsibility to manage the department and service area for which they are responsible.	Council/ Leader/Cabinet
1.2 In managing the service all directors shall be authorised in their discretion to exercise such powers as may be provided by the relevant legislation including the service or receipt of notices, the making of agreements, the making, revoking or amending of orders, the authorisation of any action or the institution, defence or conduct of proceedings, appeals and enforcement byelaws, authorisation of named employees to enforce specific powers and making of grants or loans within the budget and policy framework. Where the areas of responsibility and powers of an employee refer to specific acts of parliament, regulations, orders or guidance any subsequent re-enactment or amendment of the same shall apply.	Council/ Leader/Cabinet
1.3 Where the Council is by law required to designate a proper officer, the Chief Executive and Directors are authorised to act as proper officers within their area of responsibility save for where a different proper officer is designated either by law or by this Constitution (see Appendix A to the Employee Delegation Scheme).	Council/ Leader/Cabinet
1.4 It is the responsibility of the Directors, Deputy Directors and Assistant Directors referred to in this scheme to delegate matters to ensure matters are dealt with at the appropriate level to maintain the balance between efficiency and control. Employees shall be under a duty to consult and, where appropriate, agree with other appropriate employees before exercising their delegated powers and to consult the Chief Executive in cases of doubt.	Council/ Leader/Cabinet
<b>2. Financial delegations</b>	
2.1 Directors may vire resources between their directorate budget heads, subject to the budget and policy framework rules and the financial rules.	Council/ Leader/Cabinet

<b>Description of delegation</b>	<b>Responsibility delegated from</b>
<p>2.2 The financial delegations permit directors to:</p> <ul style="list-style-type: none"> <li>• incur expenditure within approved revenue budgets and generate income;</li> <li>• sell items which become surplus to service;</li> <li>• write off irrecoverable debts in accordance with financial limits forming part of the Constitution;</li> <li>• enter into contracts subject to compliance with financial and contract rules;</li> <li>• commit variations to capital schemes in accordance with the financial rules;</li> <li>• accept the most economically advantageous tender.</li> </ul>	Council/ Leader/Cabinet
<p>2.3 A Director shall have authority to award without competition a contract where the particular needs of an individual (either an adult or a child) require a particular social care package, or where an individual has special educational needs which are only available from a particular provider in the opinion as appropriate of the Director of Children and Adults Services.</p>	Council
<b>3. Personnel delegations</b>	
<p>3.1 Directors may agree to reorganisations within their departments subject to there being:</p> <ul style="list-style-type: none"> <li>• no significant service policy implications or clear departure from existing Council policies;</li> <li>• no expenditure in excess of budget;</li> <li>• no growth in net expenditure beyond the current year;</li> <li>• no changes affecting directors or assistant directors;</li> <li>• consultation with the Chief People Officer.</li> </ul>	Council
<p>3.2 Appoint permanent staff (other than directors, deputy directors and assistant directors) in accordance with the approved structure and to appoint temporary staff as required.</p>	Council
<p>3.3 Agree the application of Job Share Schemes to posts.</p>	Council
<p>3.4 Agree extensions to sick pay, grant special leave and make maternity and paternity arrangements.</p>	Council
<p>3.5 To discipline, suspend and dismiss employees in accordance with the Council's disciplinary procedure and capability procedures <a href="#">and Employment Rules</a>.</p>	Council
<p>3.6 Pay gratuities in accordance with Council policy and the Local Government Pension regulations subject to the agreement of the Chief Executive.</p>	Council

<b>Description of delegation</b>	<b>Responsibility delegated from</b>
3.7 Authorise payments to staff temporarily undertaking additional duties, as provided for in the conditions of employment.	Council
3.8 Refer staff to the Council's occupational health service in appropriate circumstances and to take any consequential action required.	Council
3.9 Authorise ex-gratia payments to employees who incur loss or damage to their property whilst engaged in official duties up to a maximum of £250.	Council
3.10 Approve the attendance of employees at conferences and courses of training.	Council
3.11 Approve financial assistance for post-entry training.	Council
3.12 Providing the costs are met from existing budgets, to implement the outcome of job evaluation exercises in conjunction with the Assistant Director, Transformation.	Council
3.13 Authorise car allowances and to authorise payments in accordance with the conditions of employment and Council policy.	Council
3.14 Approve payments of reasonable out-of-pocket expenses for newly appointed employees.	Council
3.15 Authorise payments to recompense employees who are required to work on public holidays, when time off in lieu is not practicable.	Council
<b>4. Urgent action</b>	
<p data-bbox="202 1288 1169 1812">4.1 Matters reserved to Council: In relation to Council responsibilities, subject to consultation with the Leaders of all the groups which comprise at least 1/10<sup>th</sup> of the membership of the Council (or their nominees), and the provisions for urgent decisions which are contrary to any plan or strategy which has been approved or adopted by the Council or which are contrary to or not wholly in accordance with the budget approved by the Council (set out in Chapter 4, Part 3 of the Constitution), the Chief Executive and directors shall have the power to act on behalf of the Council in cases of urgency only where the urgent matter is of such a nature that it may be against the Council's interest to delay and where it is not practicable to obtain the approval of the Council.</p> <p data-bbox="301 1832 1169 1973">Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.</p>	Council

Description of delegation	Responsibility delegated from
<p>4.2 Matters reserved to Cabinet:</p> <p>In the event of there being no Leader, Deputy Leader or Cabinet Members, executive functions shall in the interim be carried out by the Chief Executive subject to the Access to Information Rules.</p>	Leader/Cabinet
<b>5. Departmental schemes of delegation</b>	
<p>5.1 Directors, Deputy Directors and assistant directors referred to in this scheme may delegate matters for which they are responsible to an appropriate employee. Where the employee is not within the delegating director/assistant director's department such delegation may only occur with the agreement of the proposed employee's director or assistant director.</p>	Council/ Leader/Cabinet
<b>Specific scheme of delegation</b>	
Description of delegation	Responsibility delegated from
<b>6. Chief Executive</b>	
<p>6.1 Corporate delegations:</p> <ul style="list-style-type: none"> <li>• To be responsible for policy development, the overall strategic direction of the Council and the governance of the Council save for matters which should be referred to the Council or the Leader/Cabinet;</li> <li>• To act as the Council's Head of Paid Service under section 4(1) of the Local Government and Housing Act 1989;</li> <li>• To represent the interests of the Council to the community, local interest groups and external agencies;</li> <li>• To resolve disputes between directorates.</li> <li>• To retain contract staff or appoint consultants on matters related to the management of the Council;</li> </ul>	<p>Council/ Leader/Cabinet</p> <p>Council</p> <p>Council/ Leader/Cabinet</p> <p>Council/ Leader/Cabinet</p> <p>Council/ Leader/Cabinet</p>
<p>6.2 Democratic Services:</p> <ul style="list-style-type: none"> <li>• To arrange appointments to outside bodies (other than officer appointments) in consultation with group whips to fill casual vacancies and make new appointments during the year;</li> <li>• To make any in-year changes to the membership of Cabinet advisory groups in consultation with group whips;</li> <li>• To arrange the appointment of officers to outside bodies.</li> </ul>	<p>Council</p> <p>Leader/Cabinet</p> <p>Council</p>
<ul style="list-style-type: none"> <li>• To add to the list of joint Committees, outside bodies, other bodies and charities in respect of indemnities for</li> </ul>	Council



Description of delegation	Responsibility delegated from
<p>members and officers (3684/09/2001);</p> <ul style="list-style-type: none"> <li>• To approve minor changes to Committee and Sub-Committee memberships in line with the wishes expressed by party groups and insofar as there is no change to the overall size of membership and political balance in each case;</li> <li>• To appoint independent people to serve on the Complaints Review Panels dealing with stage 3 adult and children's social care complaints subject to satisfactory completion of an application form by each prospective panel member and no objections from Group Whips to each appointment;</li> <li>• To require a report to Full Council when requested by the Chairman of the Overview and Scrutiny Committee on behalf of the committee in circumstances where the committee are of the opinion that an executive decision has been made and should have, but has not, been treated as a key decision.</li> <li>• To grant and supervise exemptions from political restrictions, in consultation with the Monitoring Officer.</li> </ul>	<p>Council</p> <p>Council</p> <p>Council</p> <p>Council</p>
<p>6.3 Civil protection and civil defence:</p> <ul style="list-style-type: none"> <li>• To approve and implement the Council's Emergency Plan and any amendments to it;</li> <li>• To approve and implement the Council's Civil Defence Plan and any amendments to it.</li> </ul>	<p>Leader/Cabinet</p> <p>Leader/Cabinet</p>
<p>6.4 Civic:</p> <ul style="list-style-type: none"> <li>• To accept gifts on behalf of the Council, make arrangements to host and fund visits by royal, foreign, civic, political, twinning and local dignitaries and personalities.</li> </ul>	
<p>6.5 Electoral registration:</p> <ul style="list-style-type: none"> <li>• To designate an adjoining polling district for a polling place where no suitable polling station is available within the original polling place.</li> </ul>	<p>Council</p>
<p>6.6 Members' allowances:</p> <ul style="list-style-type: none"> <li>• Dependent carers' allowances - To authorise payment of more than the maximum payable in circumstances where more than 18 hours care is required;</li> </ul>	<p>Council</p>
<ul style="list-style-type: none"> <li>• Conference expenses - To agree the nomination of Councillors to attend conferences in consultation with Party Group Whips and also to approve the attendance by Councillors at conferences where these do not appear</li> </ul>	<p>Council</p>

<b>Description of delegation</b>	<b>Responsibility delegated from</b>
<p>on the approved list, in liaison with Party Whips. This will only be considered in exceptional circumstances where it is clear the Council would be disadvantaged if there was no attendance.</p> <ul style="list-style-type: none"> <li>In consultation with party group leaders, to approve future annual increases in travel and subsistence rates, as long as these do not exceed the maximum thresholds stipulated by the Secretary of State and subject to available budget provision;</li> </ul>	Council
<p>6.7 Appointment and dismissal of senior officers</p> <ul style="list-style-type: none"> <li>To be responsible for the executive notification procedure for the appointment and dismissal of senior officers, as outlined in the Employment Rules (Chapter 4, Part 8 of the Constitution).</li> </ul>	Council
<b>Chief Legal Officer</b>	
<p>6.8 Information Governance</p> <ul style="list-style-type: none"> <li>To amend the council's Information Governance policies and guidance in compliance with current legislation and good practice.</li> </ul>	Council
<p>6.9 Democratic Services</p> <ul style="list-style-type: none"> <li>To act as the proper officer for the purposes of the access to information rules, including determination, in consultation with the Leader of the Council, of a response to any representations received about why a Cabinet meeting, or part of a Cabinet meeting, should be held in public following publication of a notice of intention to meet in private in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.</li> <li>in consultation with the Chairman, Vice-Chairman and spokespersons of the Health and Adult Social Care Committee and the Deputy Director, Children and Adults, to comment, if appropriate, on quality accounts submitted by provider trusts in future years</li> </ul>	Council
<p>6.10 Electoral registration:</p> <ul style="list-style-type: none"> <li>Manage the electoral registration and elections service in compliance with current legislation and the policies of the Council.</li> </ul>	Council
<p>6.11 Legal Services:</p> <ul style="list-style-type: none"> <li>Subject to budgetary cover and regular reports being made to Cabinet to determine liability and authorise payment in respect of claims against the Council as follows:</li> </ul>	Leader/Cabinet

Description of delegation	Responsibility delegated from
<p>(i) In consultation with the relevant director where the claim does not exceed £5,000;</p> <p>(ii) In consultation with the relevant director, the Chief Finance Officer and the relevant portfolio holder where the claim exceeds £5,000 but does not exceed £10,000</p> <ul style="list-style-type: none"> <li>• Institute, defend and conduct any legal proceedings and to make any representations affecting the property rights or interests of the Council or which the Council may be entitled to authorise, institute or defend. Proceedings shall only be instituted, defended or conducted with the approval of the relevant director and that regular reports be made on the conduct of proceedings;</li> <li>• Retain counsel, independent solicitors or consultants, where appropriate;</li> <li>• Give notices to quit and other notices or formal demands which are deemed requisite to serve in the interests of the Council.</li> <li>• To convey and lease houses and flats under the Right to Buy Scheme;</li> <li>• Sign discharges on behalf of the Council signifying repayment of a mortgage or discount;</li> <li>• The Chief Legal Officer to authorise employees to appear on behalf of the Council in the County Court and/or Magistrates' Court pursuant to Section 60 of the County Courts Act 1984 and Section 223 of the Local Government Act 1972.</li> <li>• Manage the Coroner's Service in compliance with current legislation and the policies of the Council.</li> </ul>	<p>Leader/Cabinet</p> <p>Leader/Cabinet</p> <p>Leader/Cabinet</p> <p>Leader/Cabinet</p> <p>Leader/Cabinet</p> <p>Leader/Cabinet</p> <p>Leader/Cabinet</p>
<p>6.12 Shared Legal Services</p> <ul style="list-style-type: none"> <li>• Management and delivery of legal services for Gravesham Borough Council jointly with the services provided for Medway Council.</li> </ul>	<p>Leader/Cabinet</p>
<p>6.13 Local Land Charges:</p> <ul style="list-style-type: none"> <li>• Manage the local land charges functions in compliance with current legislation and the policies of the Council.</li> </ul>	<p>Leader/Cabinet</p>
<p>6.14 Property:</p> <ul style="list-style-type: none"> <li>• Manage the Council's land and property resources in compliance with current legislation and Council policy;</li> <li>• Agree terms for the disposal or purchase of property. Where there is a disposal of a property to accept the highest tender/offer, provided that the assistant director is satisfied it is the best price reasonably obtainable;</li> </ul>	<p>Leader/Cabinet</p> <p>Leader/Cabinet</p>

Description of delegation	Responsibility delegated from
<ul style="list-style-type: none"> <li>• Within the financial limits delegated to the director, to agree terms and dispose of or purchase property;</li> </ul>	Leader/Cabinet
<ul style="list-style-type: none"> <li>• Grant, enter into, or vary the terms of leases or sub leases, where the consideration does not exceed £10,000 per annum on any single transaction or £20,000 after consultation with the relevant portfolio holders. Similarly to enter into and vary the terms of easements, licences, agreements, restrictive covenants or other rights or documents subject to the same financial limit;</li> </ul>	Leader/Cabinet
<ul style="list-style-type: none"> <li>• Approve the terms of short-term leases and licences of Council-owned properties on the Rochester, Strood and Chatham Riverside;</li> </ul>	Leader/Cabinet
<ul style="list-style-type: none"> <li>• Approve terms for the appropriation of land previously authorised by the Leader and Cabinet or Council as appropriate;</li> </ul>	Leader/Cabinet
<ul style="list-style-type: none"> <li>• Authorise the making of ‘well maintained’ payments, home loss payments and the payment of statutory compensation removal expenses and trade disturbance allowance to displaced owners and occupiers;</li> </ul>	Leader/Cabinet
<ul style="list-style-type: none"> <li>• To grant licences, tenancy agreements, or leases at the Innovation Centre Medway, on the best terms reasonably obtainable subject to these being for no more than seven years.</li> </ul>	Leader/Cabinet
<p><u>Direct Investment in Property</u></p>	Leader/Cabinet
<ul style="list-style-type: none"> <li>• In consultation with the Leader, Portfolio Holder for Resources and Chief Finance Officer to acquire, manage, let and dispose of suitable investment properties where funded from provision made for this purpose in the Council’s Capital Programme, and that the requirement to seek a Cabinet decision on any transactions exceeding £100,000 is waived only in respect of non-operational investment property transactions covered by this delegation.</li> </ul>	
<p>Note 1: A sum of £2m was added to the Capital Programme by the Council for this purpose on 15 October 2015. In addition, a sum of £20m was also added to the Capital Programme for this purpose on 12 October 2017. The threshold of £100,000 which triggers a requirement for a Cabinet decision does not apply for land and property transactions under this delegation.</p>	
<p>Note 2: A sum of £120m was added to the Capital Programme by the Council on 26 April 2018 for this purpose to fund a five year programme of development of twelve Council owned sites by Medway Development Company Ltd.</p>	
<p><u>Medway Growth (Joint Venture with Norse Property Services)</u></p>	Leader/Cabinet

Description of delegation	Responsibility delegated from
<ul style="list-style-type: none"> <li>To identify, declare surplus and dispose of assets at commercial rates, in consultation with the Leader, to the company in line with its Business Plan.</li> </ul>	
<p>6.15 Licensing* and Registration:</p> <p>*Please note that all licensing delegations currently with the Chief Legal Officer can also be exercised by Gravesham Borough Council's Assistant Director (Communities)</p> <ul style="list-style-type: none"> <li>Except where a decision is reserved to Full Council, to manage all licensing and registration functions of the Council including the licensing and registration of pleasure boats, hackney carriage and private hire, sex establishments, street and house to house collections, motor salvage, scrap metal dealers, street trading consents, common land and town or village greens and such other services as may be authorised.</li> <li>With regard to Licensing Act 2003 matters, to determine: <ul style="list-style-type: none"> <li>(i) An application for a personal licence, if no objection made;</li> <li>(ii) An application for a premises licence/club premises certificate, if no relevant representation made;</li> <li>(iii) An application for a provisional statement, if no relevant representation made;</li> <li>(iv) An application to vary a premises licence/club premises certificate, if no relevant representation made;</li> <li>(v) An application to vary a designated premises supervisor in all cases other than where there is a police objection;</li> <li>(vi) A request to be removed as a designated premises supervisor;</li> <li>(vii) An application for transfer of premises licence in all cases other than where there is a police objection;</li> <li>(viii) Applications for interim authorities in all cases other than where there is a police objection;</li> <li>(ix) A decision on whether a complaint is irrelevant, frivolous, vexatious, etc.</li> </ul> </li> </ul> <p>Note: A relevant representation is one which relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives specified in the Licensing Act 2003 (Council 9 December 2004 &amp; 22 November 2007).</p>	<p>Council Leader/Cabinet</p> <p>Council</p>
<ul style="list-style-type: none"> <li>With regard to the Licensing Act 2003 (Hearings) Regulations 2005 on matters to be referred to a Licensing Hearing Panel for determination: <ul style="list-style-type: none"> <li>(i) Subject to (ii), to agree to dispense with a hearing,</li> </ul> </li> </ul>	<p>Council / Licensing and Safety Committee</p>

Description of delegation	Responsibility delegated from
<p>and give notice to that effect to the parties, if all persons required by the Act have given notice that they agree that such a hearing is unnecessary.</p> <p>(ii) If the agenda for a meeting of a Licensing Hearing Panel to consider the matter has been despatched, to consult Panel members before agreeing to dispense with the hearing and cancelling the meeting.</p> <p>(iii) Subject to (i) and (ii), to determine the matter under the Act.</p> <p>(iv) Subject to (v), to extend the time limits provided within these Regulations, and give notice to the parties stating the period of the extension and the reasons for it, where this is considered to be necessary in the public interest.</p> <p>(v) If the agenda for a meeting of a Licensing Hearing Panel to consider the matter has been despatched and extending a time limit would require the Panel to meet on an additional specified date or dates, to consult Panel members before agreeing to such an extension.</p> <p>(vi) Subject to Notes 1 and 2, to agree to adjourn (or postpone) a hearing to a specified date or arrange for a hearing to be held on specified additional dates where this is considered necessary for the consideration of any representations or notice made by a party.</p> <p>(vii) To notify forthwith the parties of the date(s), time(s) and place(s) of any reconvened or additional meetings for the hearing.</p> <p>Note 1: Once the agenda for a meeting of a Licensing Hearing Panel has been despatched, unless the hearing is cancelled because it is no longer required, the meeting must commence at the specified time, date and venue, so that the Panel may determine to adjourn the meeting to a later specified date or dates.</p> <p>Note 2: Extending a time limit or adjourning/re-arranging a hearing to a later date or dates may not have the effect that: (a) an application will be treated as granted or rejected under paragraph 4(4), 7(3), 16(4), 19(3) or 26(4) of Schedule 8 of the Act; or (b) there would be a failure to determine a review of a premises licence following a closure order under section 167 of the Act within the</p>	

Description of delegation	Responsibility delegated from
<p>specified period.</p> <p>(viii) To disregard any information given by a party to the hearing or any person given permission to attend, which is not relevant to their application, representations or notice, and the promotion of the licensing objectives, having first given the submitting party an opportunity to indicate why they believe the information to be relevant to the hearing.</p> <p>(ix) Subject to (x), to take such steps he or she thinks fit to cure any irregularity resulting from a failure to comply with any provision of the Regulations before a determination is made, if he or she considers that any person may have been prejudiced as a result of the irregularity.</p> <p>(x) If the agenda for a meeting of a Licensing Hearing Panel to consider the matter has been despatched, to consult the Chairman or Vice-Chairman of the Licensing and Safety Committee before taking steps to cure the irregularity.</p> <p>(xi) To correct any clerical mistakes in any document recording a determination or errors arising in such document from an accidental slip or omission.</p> <p>(xii) To settle appeals prior to their consideration by the Magistrates Court, where this is in the interests of the Council, with the agreement of the members of the Licensing Hearing Panel that determined the application, and to inform all parties to the original hearing of the revised decision and the reasons for it.</p>	
<ul style="list-style-type: none"> <li>• With regard to the Gambling Act 2005, to determine: <ul style="list-style-type: none"> <li>(i) Fee setting (when appropriate);</li> <li>(ii) An application for a premises licence, where no representations received/representations have been withdrawn;</li> <li>(iii) An application for a variation to a licence, where no representations received/representations have been withdrawn;</li> <li>(iv) An application for a transfer of a licence, where no representations received from the Commission;</li> <li>(v) An application for a provisional statement, where no representations received/representations have been withdrawn;</li> </ul> </li> </ul>	

Description of delegation	Responsibility delegated from
<ul style="list-style-type: none"> <li>(vi) An application for club gaming/club machine permits, where no objections made/objections have been withdrawn;</li> <li>(vii) Applications for other permits;</li> <li>(viii) A cancellation of licensed premises gaming machine permits;</li> <li>(ix) The consideration of a temporary use notice (Council 7 December 2006).</li> <li>• With regard to the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009; <ul style="list-style-type: none"> <li>(i) To grant any applications for sex establishments and sexual entertainment venues whereby no representations have been received and the Assistant Director is able to agree suitable conditions with the applicant.</li> </ul> </li> <li>• With regard to the Scrap Metal Dealers Act 2013, to determine: <ul style="list-style-type: none"> <li>(i) Fee setting (when appropriate);</li> <li>(ii) Application for or renewal of a Site or Collector's licence, where no representations have been received from the applicant or where their representations have been withdrawn;</li> <li>(iii) Application for a variation to a licence, where no representations have been received from the applicant or where their representations have been withdrawn;</li> <li>(iv) To issue a closure notice on non-residential premises being used as a scrap metal dealer's site;</li> <li>(v) Application to the Magistrate's Court for a closure order;</li> <li>(vi) Termination of a closure order;</li> <li>(vii) Application to the Magistrate's Court to discharge a closure order;</li> <li>(viii) Revocation of a licence, where no representations have been received from the applicant or where their representations have been withdrawn;</li> <li>(ix) Consideration of an imposition of conditions;.</li> <li>(x) to determine applications, in consultation with the Licensing Sub-Committee, from applicants for licences under the Scrap Metal Dealers Act 2013 where the authority is minded to refuse, vary or revoke a licence and the applicant has given notice to the authority within the prescribed time that they require the opportunity to make</li> </ul> </li> </ul>	Leader/Cabinet



Description of delegation	Responsibility delegated from
<p>representations about the proposal.</p> <p>[Note: The functions outlined at (i) and (x) may not be sub-delegated, whilst those listed at (ii) to (ix) will be sub-delegated, in writing, to the appropriate licensing officer.</p>	
<ul style="list-style-type: none"> <li>• With regard to the registration of land as a town or village green: <ul style="list-style-type: none"> <li>(i) to determine any application for the registration of land as a town or village green where there are no objections received to the application;</li> <li>(ii) to hold public inquiries prior to the determination of applications where necessary and to instruct Counsel in relation to the same.</li> </ul> </li> </ul>	Council
<p>6.16 Contracts:</p> <ul style="list-style-type: none"> <li>• Contract Procedure Rules – To carry out executive functions delegated to the Monitoring Officer, as set out in the Contract Procedure Rules.</li> <li>• Exemptions and Exceptions to Contract Procedure Rules – To carry out functions delegated to the Monitoring Officer, as set out in paragraph 1.8 of the Contract Procedure Rules.</li> <li>• The Chief Legal Officer is authorised where appropriate to vary the terms and conditions of contract as specified in the contract rules.</li> </ul>	<p>Leader/Cabinet</p> <p>Council</p> <p>Leader/Cabinet</p>
6.17 Dispensations	
<ul style="list-style-type: none"> <li>• To consider and determine any requests for dispensations from Medway Members and voting and non-voting co-opted Members in cases where the timing of a request would make it impractical to convene a meeting of the Committee.</li> </ul>	Council/Councillor Conduct Committee
<b><u>Head of Democratic Services</u></b>	
<b><u>6.18 Independent Persons</u></b>	
<ul style="list-style-type: none"> <li>• <u>To invite Independent Persons to serve on the Independent Persons Panel.</u></li> <li>• <u>To appoint to the Independent Persons Panel Independent Persons who have accepted an invitation to be considered for appointment in accordance with the following priority order:</u></li> </ul>	<u>Council</u>



<b>Description of delegation</b>	<b>Responsibility delegated from</b>
<ul style="list-style-type: none"> <li>To set the Council Tax base, in consultation with the Portfolio Holder for Finance.</li> </ul>	Council
<p>6.19 Audit and Counter Fraud Service:</p> <p>Management and delivery of audit and counter fraud services for Gravesham Borough Council and Medway Council.</p>	Council Leader/Cabinet
<p>6.20 Contracts:</p> <ul style="list-style-type: none"> <li>To enter into contractual arrangements on behalf of the Council for all contracts involving the purchase of utilities (ie gas, water and/or electricity supply) on behalf of both the Council and schools. This delegation shall apply to both individual contracts let between the Council and the utility supplier, and where the Council enters into any Framework Agreement or Consortia Agreement for such supplies.</li> </ul> <p>NOTE: The Monitoring Officer has the same delegation, as set out in paragraph 1.9.7 of the contract procedure notes.</p>	Leader/Cabinet
<p>6.21 Benefit Fraud Sanction Policy</p> <p>To determine the award of administrative penalties in accordance with the criteria outlined in the Benefit Fraud Sanction Policy.</p>	Leader/Cabinet
<p>6.22 Medway Development Company Limited</p>	
<ul style="list-style-type: none"> <li>To provide, in consultation with the Leader, funding to the Company through state aid compliant loans, subject to appropriate due diligence to verify the Company's on-going viability and the viability of projects for which the loans are being provided and loan agreements between the Council and the Company setting out pre-conditions for draw down as well as performance measurements.</li> <li>To agree, in consultation with the Leader, the business case for each site and to release funding for the development of each site subject to financial due diligence and the availability of capital funding.</li> </ul>	Leader/Cabinet
<p>6.23 Medway Growth (Joint Venture with Norse Property Services)</p>	
<ul style="list-style-type: none"> <li>To release funding, in consultation with the Leader, to the Company for each agreed scheme in the Company's Business Plan subject to financial due diligence.</li> </ul>	Leader/Cabinet
<p><b>Director of Public Health:</b></p>	

<b>Description of delegation</b>	<b>Responsibility delegated from</b>
<p>6.24 Manage the public health service (spanning the three domains of health improvement, health protection and health care public health) in compliance with legislation and the policies of the Council. This includes the following specific responsibilities and such other public health functions as specified by the Secretary of State in regulations:</p> <ul style="list-style-type: none"> <li>• the preparation of the Annual Report on the health of the local population.</li> <li>• the council's duties to take steps to improve public health</li> <li>• Any of the Secretary of State's public health protection or health improvement functions.</li> <li>• functions in planning for, and responding to, emergencies that present a risk to public health.</li> <li>• co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders.</li> <li>• Responsibility for providing Healthy Start vitamins when the council provides or commissions a maternity or child healthcare clinic.</li> <li>• a duty to provide information and advice to the responsible bodies and to other relevant bodies within its area, with a view to promoting the preparation of appropriate local health protection arrangements by those bodies.</li> <li>• being responsible for their local authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications.</li> </ul>	Leader/Cabinet
<p>6.25 For the avoidance of doubt, the Chief Executive shall have all the delegations of a Director in respect of the Business Support Department. The Chief Legal Officer and Chief Finance Officer shall have all the delegations of an Assistant Director in respect of the Business Support Department.</p>	Council/ Leader/Cabinet
<p><b>7. Director of Children and Adults Services</b></p>	
<p>7.1 Manage the education service in compliance with current legislation and the policies of the Council.</p>	Leader/Cabinet
<p>7.2 Manage the children and families services in compliance with current legislation and the policies of the Council.</p>	Leader/Cabinet
<p>7.3 Services for elderly and disabled:</p> <ul style="list-style-type: none"> <li>• Manage the services for the elderly and disabled people in compliance with the current legislation and policies of the Council;</li> </ul>	Leader/Cabinet
<ul style="list-style-type: none"> <li>• Exercise the functions of the Council under the Community Care (Direct Payments) Act 1996 in accordance with the provisions of the proposed Medway</li> </ul>	Leader/Cabinet

<b>Description of delegation</b>	<b>Responsibility delegated from</b>
direct payments scheme.	
7.4 Mental health: <ul style="list-style-type: none"> <li>• Manage the services for adults with mental health problems in compliance with current legislation and policies of the Council.</li> </ul>	Leader/Cabinet
7.5 General: <ul style="list-style-type: none"> <li>• To consider and determine urgent matters in relation to individual cases in consultation with the Leader/Cabinet.</li> </ul>	Leader/Cabinet
7.6 Act as the ‘authorised officer’ for all contracts falling within the children and adults service.	Leader/Cabinet
7.7 Contracts: <ul style="list-style-type: none"> <li>• To award without competition a contract where a placement is sought for an individual with a registered care provider of their choice under the National Health Service and Community Care Act 1990.</li> </ul>	Council
7.8 Local Authority School Governors: <ul style="list-style-type: none"> <li>• To agree changes to the criteria for the appointment of Local Authority School Governors, in consultation with Group Whips, subject to the ability to refer to Full Council for decision in any instance where the Director of Children and Adults prefers not to exercise the delegated authority.</li> </ul>	Council
7.9 <b>Deputy Director, Children and Adults</b> <ul style="list-style-type: none"> <li>• To manage the Independent Reviewing Officer (IRO) service in compliance with current legislation and policies of the Council.</li> </ul>	Leader/Cabinet
<b>8. Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive</b>	
8.1 Planning: <ul style="list-style-type: none"> <li>• To manage the Council’s functions in relation to the planning function, listed building consent, building preservation, conservation areas, tree preservation, enforcement and planning contravention, purchase notices, high hedges and hedgerows in compliance with current legislation and Council policy.</li> </ul>	Council
<ul style="list-style-type: none"> <li>• To determine applications for planning permission except in the following circumstances:               <ul style="list-style-type: none"> <li>(i) Where the applicant is the Council and the proposed development is a major proposal or for non-operational purposes.</li> </ul> </li> </ul>	Council

Description of delegation	Responsibility delegated from
(ii) Where the applicant is a member of the Council or an officer directly or indirectly involved in the planning process.	Council
(iii) Where the Director of Regeneration, Culture, Environment and Transformation refers the application to the Planning Committee (eg where the proposals are a significant departure from the development plan or otherwise are of a strategic nature in the context of the Council's planning and development policies).	Council
(iv) Where the proposal has other major implications for the authority.	Council
(v) Where a member of the Council has within 21 days of the publication of the weekly list of planning applications requested that an application be determined by Committee. In these cases members should identify the material planning considerations to warrant consideration by Committee.	Council
(vi) Where a parish council has within 21 days of the publication of the weekly list of planning applications requested that an application be determined by Committee. In these cases Parish Councils should identify the material planning considerations to warrant consideration by Committee, otherwise the Director of Regeneration, Culture, Environment and Transformation will deal with the application.	Council
(vii) Where three or more relevant letters of representation are received (which may include letters from an Amenity Society but must also include at least two from separate households in the vicinity of the site) contrary to the proposed officer decision or where one letter of representation is received from a Parish Council or a Residents' Association/Society contrary to the proposed officer decision (except, in the case of a representation by a Parish Council or a Residents' Association/Society, where the Director of Regeneration, Culture, Environment and Transformation, in consultation with the Chairman and Spokesmen of the Planning Committee, is of the opinion that the representation contains no reasonable planning grounds supporting the representation).	Council
<ul style="list-style-type: none"> <li>To determine details reserved by conditions, minor amendments to proposals for which consent has been granted, applications for lopping or topping trees, to confirm or reject tree preservation orders where no more</li> </ul>	Council

Description of delegation	Responsibility delegated from
<p>than three representations are received from separate households contrary to the proposed decision, applications on the direction of the Secretary of State in respect of a trunk road, applications for Certificates of Lawfulness of existing or proposed use and to determine applications submitted pursuant to s.10 of the Planning (Hazardous Substances) Act 1990.</p> <ul style="list-style-type: none"> <li>• To contest planning appeals in accordance with Council or Committee policy including the appointment of appropriate legal and professional representatives.</li> <li>• To submit observations upon proposals outside the Medway area upon which the Council has been consulted subject to prior consultation with members representing the wards adjoining the proposed development.</li> </ul>	<p>Council</p> <p>Leader/Cabinet</p>
<p>8.2 Building control:</p> <p>To submit comments to the Secretary of the Joint Committee on the first draft of the Building Control Business Plan and on any proposed amendments (during the course of each year), in consultation with the Chief Finance Officer and the Council's representative on the South Thames Gateway Building Control Joint Committee.</p>	<p>Leader/Cabinet</p>
<p>8.3 Highways and traffic regulations:</p> <ul style="list-style-type: none"> <li>• To manage the highways, parking provision, public rights of way, traffic regulation, traffic calming, road safety and watercourse management services in compliance with current legislation and the policies of the Council.</li> <li>• With respect to the determination of requests for the approval of details submitted pursuant to the provisions of Schedule 6 of the Channel Tunnel Rail Link Act 1996: <ul style="list-style-type: none"> <li>(i) to determine plans and specifications submissions made pursuant to paragraph 15.</li> </ul> </li> </ul>	<p>Council/ Leader/Cabinet</p> <p>Leader/Cabinet</p> <p>Leader/Cabinet</p>
<ul style="list-style-type: none"> <li>(ii) to determine requests for the approval of details submitted pursuant to conditions attached to Construction Arrangements Approvals granted under paragraphs 16, 17, 23, 24 and 25 and requests for approval to amendments to matters subject to approval issued under the aforementioned paragraphs.</li> <li>(iii) the determination of restoration plans submitted</li> </ul>	<p>Leader/Cabinet</p> <p>Leader/Cabinet</p>

<b>Description of delegation</b>	<b>Responsibility delegated from</b>
<p>pursuant to the provisions of paragraph 19.</p> <p>(iv) the determination of additional details submitted pursuant to conditions imposed under paragraph 22(2).</p> <p>(v) the determination of all applications for the construction and working site vehicular access points.</p>	<p>Leader/Cabinet</p> <p>Leader/Cabinet</p>
<p>8.4 Public transport:</p> <ul style="list-style-type: none"> <li>• To manage the public transport regulation, public transport development and transport policies of the Council in compliance with current legislations and the policies of the Council.</li> </ul>	<p>Council/ Leader/Cabinet</p>
<p>8.5 Land:</p> <ul style="list-style-type: none"> <li>• To accept blight notices and to approve the purchase of land which is statutorily blighted by highway proposals, and to approve counter-notices where it is considered there is no such statutory obligation.</li> </ul>	<p>Leader/Cabinet</p>
<ul style="list-style-type: none"> <li>• To demolish properties (as part of any scheme approved by the Council).</li> </ul>	<p>Leader/Cabinet</p>
<p>8.6 Street naming and numbering:</p> <ul style="list-style-type: none"> <li>• To agree street naming and the naming or numbering of buildings.</li> </ul>	<p>Council</p>
<p>8.7 Gifts for the benefit of the public:</p> <ul style="list-style-type: none"> <li>• To accept gifts of seats, trees, etc. on behalf of the Council.</li> </ul>	<p>Leader/Cabinet</p>
<p>8.8 Tree donation:</p> <ul style="list-style-type: none"> <li>• To fix the fee for any tree donation scheme.</li> </ul>	<p>Leader/Cabinet</p>
<p>8.9 Buildings at risk:</p> <ul style="list-style-type: none"> <li>• To offer grant monies towards urgent repairs of buildings at risk in cases where they may have recently come into new ownership and would, therefore, not meet the normal criteria and where the director is satisfied that a grant is necessary to secure the repair of the building at risk.</li> </ul>	<p>Leader/Cabinet</p>
<p>8.10 Civil protection and defence:</p> <ul style="list-style-type: none"> <li>• To manage the emergency planning, civil protection and defence functions in compliance with current legislation and the policies of the Council.</li> </ul>	<p>Leader/Cabinet</p>
<p>8.11 Environmental health and trading standards matters:</p> <ul style="list-style-type: none"> <li>• To manage the services of public health, port-health, environmental health, food poisoning and infectious diseases, waste collection and management, street cleansing, health and safety, food safety, shops, markets</li> </ul>	<p>Council/ Leader/Cabinet</p>



<b>Description of delegation</b>	<b>Responsibility delegated from</b>
<p>and street trading, Sunday trading, trading standards, consumer protection, weights and measures (including the appointment of a named member of staff as the chief inspector of weights and measures, and a deputy if required, as required by section 72 of the Weights and Measures Act 1985), the appointment of the Proper Officer under the Public Health (Control of Diseases) Act 1984 and supporting regulations, litter, animal health and welfare, pest and dog control services, contaminated land, public conveniences, shopping trolleys, abandoned vehicles and materials on the highway, private drainage, and water supplies in compliance with current legislation and the policies of the Council.</p>	
<p>8.12 Planning and transport fees and charges:</p> <ul style="list-style-type: none"> <li>• To make minor adjustments to fees and charges, in consultation with the Leader of the Council and the Portfolio Holder for Front Line Services, during the financial year in line with government guidance as it emerges, within 5% of amount levels.</li> </ul>	Leader/Cabinet
<p>8.13 Museums:</p> <ul style="list-style-type: none"> <li>• Manage the museums and archiving services of the Council in compliance with current legislation and the policies of the Council.</li> </ul>	Leader/Cabinet
<p>8.14 Parks and open spaces and professional fun fairs:</p> <ul style="list-style-type: none"> <li>• To manage the parks, open spaces and country parks of the Council in compliance with current legislation and the policies of the Council.</li> </ul>	Leader/Cabinet
<ul style="list-style-type: none"> <li>• To determine applications for professional sideshows and amusements in open spaces or recreation grounds in the borough.</li> </ul>	Leader/Cabinet
<p>8.15 Allotments:</p> <ul style="list-style-type: none"> <li>• To manage the allotment service of the Council in compliance with current legislation and the policies of the Council.</li> </ul>	Leader/Cabinet
<p>8.16 Medway Partners for Growth Scheme:</p> <ul style="list-style-type: none"> <li>• Applications to the scheme to be considered and determined by the Assistant Director, Physical and Cultural Regeneration, in consultation with the Portfolio Holder.</li> </ul>	Leader/Cabinet
<p>8.17 Sports and leisure facilities, children's play activities and halls of the Council:</p> <ul style="list-style-type: none"> <li>• Manage the sports and leisure facilities, children's play activities and halls of the Council in compliance with current legislation and the policies of the Council.</li> </ul>	Leader/Cabinet

<b>Description of delegation</b>	<b>Responsibility delegated from</b>
8.18 Arts and entertainment: <ul style="list-style-type: none"> <li>• Manage the arts and entertainment services of the Council including the management of theatres in compliance with current legislation and the policies of the Council.</li> </ul>	Leader/Cabinet
8.19 Medway Park Car Park: <ul style="list-style-type: none"> <li>• The operation of the parking ticket reimbursement system to the Medway Park users.</li> </ul>	Leader/Cabinet
8.20 Libraries <ul style="list-style-type: none"> <li>• Manage the library and public information services of the Council in compliance with current legislation and the policies of the Council.</li> </ul>	Leader/Cabinet
8.21 Housing: <ul style="list-style-type: none"> <li>• Manage the housing service in compliance with current legislation and the policies of the Council; to include the management of shops, garages, and other ancillary buildings associated with the housing management function.</li> <li>• Review the allocation of two smaller properties in return for the release of a larger property and to allocate accommodation according to the merits of each case.</li> </ul>	Leader/Cabinet  Leader/Cabinet
8.22 Housing grants and loans: <ul style="list-style-type: none"> <li>• Exercise the function of the Council under the Housing (Grants, Construction and Regeneration) Act 1996 and the Regulatory Reform (Housing Assistance) Order 2002 and in accordance with any other relevant legislation and Council Policy.</li> <li>• Authorise the determination of hardship cases where improvement grant applicants have proved to be in receipt of housing benefit and or income support.</li> </ul>	Leader/Cabinet  Leader/Cabinet
<ul style="list-style-type: none"> <li>• Approve the payment of renovation grants, disabled facilities grants and home repair assistance, in accordance with the renovation grant policy and within the allocated resources in the approved capital programme.</li> <li>• Consider applications to waive repayment of renovation grants where an elderly or infirm person is disposing of the grant property to live permanently in a care home or to be cared for at a relative's home and to demand repayment of the full grant.</li> </ul>	Leader/Cabinet  Leader/Cabinet
8.23 HRA site programme	

<b>Description of delegation</b>	<b>Responsibility delegated from</b>
<ul style="list-style-type: none"> <li>That the Director of Regeneration, Culture, Environment and Transformation in consultation with the Portfolio Holder for Housing and Community Services adds further sites to the HRA site programme as they become available, if they are suitable and fulfil a value for money criteria.</li> </ul>	Leader/Cabinet
<p>8.24 Rent officer service:</p> <ul style="list-style-type: none"> <li>Manage the rent officer service in compliance with current legislation and the policies of the Council.</li> </ul>	Leader/Cabinet
<p>8.25 Flood Risk Management:</p> <ul style="list-style-type: none"> <li>To manage the Council's functions in relation to flooding and drainage in compliance with current legislation and policies of the Council (including without limitation the Land Drainage Act 1991, Flood Risk Regulations 2009 and the Flood and Water Management Act 2010).</li> </ul>	Leader/Cabinet
<p>8.26 Grant and project funding</p> <ul style="list-style-type: none"> <li>To submit applications for funding from Central Government, EU and other funding streams and enter into agreements with the provider of the funding (including for the avoidance of doubt Accountable Body agreements).</li> <li>To approve applications for funding from third parties in the public, private and/or voluntary sectors, make grants to successful applicants and enter into agreements with applicants setting out the terms and conditions on which the funding is provided.</li> </ul>	<p>Council/ Leader/Cabinet</p> <p>Council/ Leader/Cabinet</p>
<p>8.27 Communications:</p> <ul style="list-style-type: none"> <li>To deal with all matters in connection with the media and public relations including issuing press releases on behalf of the Council within the Council's procedures agreed from time to time.</li> </ul>	<p>Council</p> <p>Leader/Cabinet</p>
<p>8.28 Bereavement and Registration:</p> <ul style="list-style-type: none"> <li>Manage the burials, cremation and cemetery service in compliance with current legislation and the policies of the Council.</li> <li>Pursuant to Section 2 of the Parish Council's and Burial Authorities (Miscellaneous Provisions) Act 1970, to sign grants of exclusive rights of burial.</li> <li>Manage the registration of births, marriages and deaths in compliance with current legislation, guidance from the Registrar General and the policies of the Council.</li> </ul>	<p>Leader/Cabinet</p> <p>Leader/Cabinet</p> <p>Leader/Cabinet</p>
<p>8.29 Information technology:</p> <ul style="list-style-type: none"> <li>To manage the information and communications technology (ICT) services of the Council including the</li> </ul>	Leader/Cabinet

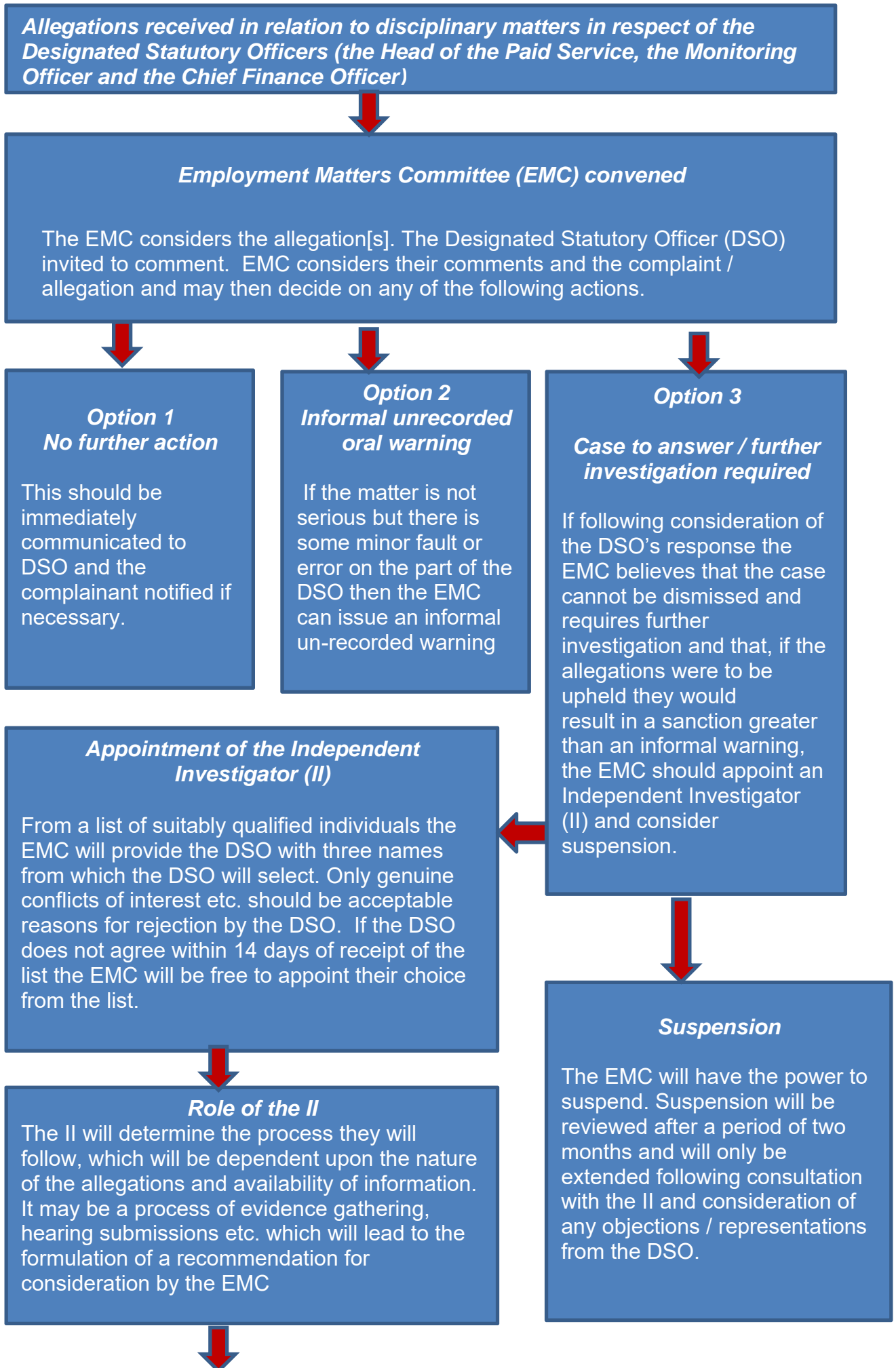
<b>Description of delegation</b>	<b>Responsibility delegated from</b>
<p>sale of spare computer time in compliance with current legislation and Council policy.</p> <ul style="list-style-type: none"> <li>• Establish an overall ICT strategy for the Council and to enforce the policies of the Council in respect of ICT procurement and implementation.</li> <li>• Dispose of surplus ICT equipment for the best price or lowest cost available.</li> </ul>	<p>Leader/Cabinet</p> <p>Leader/Cabinet</p>
<p>8.30 Complaints:</p> <ul style="list-style-type: none"> <li>• To handle complaints made against the Council (including Ombudsman complaints) and to settle complaints locally where the costs of settlement do not exceed £5,000.</li> </ul>	<p>Council/ Leader/Cabinet</p>
<p>8.31 Placing Objects on the Highway</p> <ul style="list-style-type: none"> <li>• To manage the Council's functions in relation to placing objects on the highway in compliance with current legislation and policies of the Council.</li> </ul>	<p>Council</p>
<p>8.32 Personnel</p> <ul style="list-style-type: none"> <li>• Agree every three years, suitably rounded, increases in the monetary value of the 25 year long service awards to non-teaching staff, in line with inflation.</li> <li>• Implement the Council's post-entry training scheme.</li> <li>• Negotiate and reach agreement on behalf of the Council on policies and procedures concerning the workforce.</li> <li>• Obtain the necessary statistical information to enable the Council to monitor the composition of its workforce in connection with the implementation of its equal opportunity and other policies.</li> </ul>	<p>Council</p> <p>Council</p> <p>Council</p> <p>Leader/Cabinet</p>
<ul style="list-style-type: none"> <li>• To agree minor changes to HR policies provided such changes:             <ol style="list-style-type: none"> <li>a) do not impact on a current condition of term of employment, process or entitlement;</li> <li>b) relate to an existing HR policy designated by the Employment Matters Committee as being within the scope of this delegation;</li> <li>c) have not been referred to the Committee for determination by a trade union, the Chairman or the Opposition Spokesperson of the Employment Matters Committee.</li> </ol> </li> </ul>	<p>Council/ Employment Matters Committee</p>
<p>8.33 Shared Human Resources (HR) Service</p> <ul style="list-style-type: none"> <li>• Management and delivery of HR services for Gravesham Borough Council jointly with the services provided for Medway Council.</li> </ul>	<p>Council</p>
<p>8.34 Medway Guide to Developer Contributions and Obligations</p>	<p>Leader/Cabinet</p>

<b>Description of delegation</b>	<b>Responsibility delegated from</b>
<ul style="list-style-type: none"><li>• To undertake, in consultation with the Portfolio Holder for Planning, Economic Growth and Regulation, the annual review of indexation of S106 contributions using the all items retail prices index (RPI) and update the Medway Guide to Developer Contributions and Obligations Supplementary Planning Document accordingly to come into effect on 1 April each year.</li></ul>	

- 4.1 So far as this scheme relates to delegations to employees for executive functions it is provisional pending confirmation by the Leader of the Council.



## Disciplinary Procedure for Local Authority Designated Statutory Officers



### ***Report by the II and consideration and decision by the EMC***

On completion of the investigation the II will prepare a report with recommendations and rationale for submission to the EMC.

The EMC will afford the DSO the opportunity for a hearing to allow the post holder to challenge the recommendations of the II, call witnesses etc.

The EMC may decide to call witnesses for clarification. The DSO and II should attend this meeting and both parties afforded the opportunity to summarise their case and will have the usual opportunities to present evidence and cross examine witnesses etc. Both parties will have the right to be represented at the hearing. The hearing should be conducted in accordance with the ACAS code of practice.



### ***Recommendation of the EMC***

Following either consideration of the report of the II or a full hearing of the case the EMC will essentially have the following options:

1. No case to answer
2. Recommend informal resolution or other appropriate procedures
3. Refer back to the II for further investigation
4. Disciplinary action short of dismissal
5. Propose dismissal



#### ***No case to answer***

Appropriate communication should be prepared in agreement with the DSO to ensure that as far as possible there is no damage to the post holder's reputation.



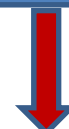
#### ***Action short of dismissal***

A decision to take action short of dismissal should be communicated in writing to the DSO with rationale for the decision. The DSO has the right to appeal to the Disciplinary Appeals Committee against this decision.



#### ***Recommendation to dismiss***

If there is a recommendation to dismiss, the reports of the EMC and the II should then be sent to Independent Panel (IP) for its consideration. The DSO may make written representation to the IP.







### ***Composition, role and process of the IP***

The IP will be a committee of the Council, appointed under section 102(4) of the Local Government Act 1972, and will comprise only independent persons (at least two) appointed under S28 (7) of the Localism Act 2011. Appropriate training should be provided to these independent members. Both parties should be present or represented\* at the meeting. The IP should receive any oral representations from the DSO in which case it should invite any response of behalf of the EMC to the points made, and may ask questions of either party. The IP should review the decision and prepare a report for Council. This report should contain clear rationale if they disagree with the recommendation to dismiss.

*\*The EMC should nominate a person to attend on its behalf. This will usually be the Chairman of the EMC.*



### ***Report to full Council***

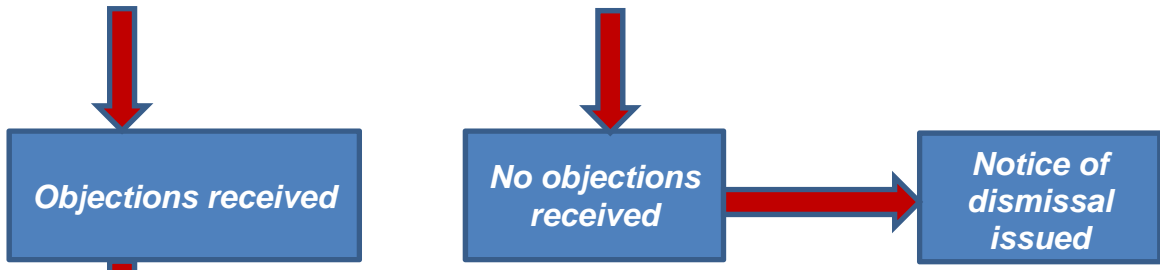
Following consideration by the IP a report will be presented to Council. This report should comprise the recommendation of the EMC, the IP's report and any comments on the recommendations for dismissal from the IP. In the light of this information, Council should consider the recommendation to dismiss. The DSO should be allowed to attend this meeting and address the Council. The IP may also be invited to attend to provide clarification if required. Following this consideration Council should either confirm or reject the recommendation to dismiss. It may at this stage impose a lesser sanction (in which case there would be no right of appeal)



### ***Notice of dismissal and Executive Notification Procedure***

The DSO will not be issued with the notice of the dismissal until:

- a) the Council has notified the proper officer of the name of the person who the Council wishes to dismiss and any other particulars which the Council considers are relevant to the dismissal
- b) the proper officer has notified every member of the executive of this information together with the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the executive to the proper officer; and
- (c) either—
  - (i) the Leader has, within the period specified, notified the Council that neither he nor any other member of the executive has any objection to the dismissal;
  - (ii) the proper officer has notified the Council that no objection was received by him within that period from the Leader; or
  - (iii) the Council is satisfied that any objection received from the Leader within that period is not material or is not well-founded.



***Dealing with objections to the dismissal***

If the EMC decides that any objection is relevant to the case (material) and based on evidence (well founded) then the Committee will need to act accordingly – for example, that further investigation is required.

The EMC will prepare a further report for Council.

***Council considers report from EMC***

Council considers the report from the EMC and decides whether or not to confirm the decision to dismiss or take action short of dismissal.

***Decision to dismiss confirmed.***

Notice of dismissal issued

***Decision to dismiss not confirmed***

***Take disciplinary action short of dismissal***