# DARTFORD BOROUGH COUNCIL

CONSTITUTION OF THE COUNCIL
(Collated Document)

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# DARTFORD BOROUGH COUNCIL

## CONSTITUTION OF THE COUNCIL

## PART 1 SUMMARY AND EXPLANATION

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# SUMMARY AND EXPLANATION

## 1.1 The Council's Constitution

**The Dartford Borough Council's** Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The term 'Constitution' refers to the 16 Articles which set out the basic rules governing the Council's business. More detailed procedures, codes of practice and rules and protocols are referred to in separate parts, with webpage links.

## 1.2 What's in the Constitution?

Article 1 of this Constitution commits the Council to community leadership in partnership with government, business, voluntary sector and the local community. In addition to providing vision and leadership for its communities, the Council is committed to delivering high quality services and securing continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency, and effectiveness (i.e. the duty of Best Value) and the delivery of efficient transparent and accountable decision-making.

Articles 2 - 16 explain the rights of citizens and how the key parts of the Council operate. These are:-

- Members of the Council (Article 2);
- Citizens and the Council (Article 3);
- The General Assembly of the Council (Article 4);
- Chairing the Council (Article 5);
- Overview and Scrutiny Committees (Article 6);
- The Executive (Leader/Cabinet style of local governance) (Article 7);
- Regulatory, Other Committees, Boards and Panels of the Council (Article 8);
- Audit Board - Standards Functions (Article 9);
- Area Committees and Forums (Article 10);
- Partnerships/Joint Arrangements (Article 11);
- Officers (Article 12);
- Decision Making (Article 13);
- Finance, Contracts and Legal Matters (Article 14);
- Review and Revision of the Constitution (Article 15);
- Suspension, Interpretation and Publication of the Constitution (Article 16).

## 1.3 How the Council Operates

The Council is composed of Councillors (also referred to as Members) elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have varied and powerful roles, as representatives of the local community, and as members of the General Assembly of the Council, the Cabinet, Overview and Scrutiny Committee, Crime and Disorder (Overview and Scrutiny) Committee and other Committees, Sub-committees, Boards and Panels of the Council and as representatives on Outside Bodies.

Councillors and [voting] Co-opted Members have to agree to follow the Member Code of Conduct [Part 6 of this Constitution] to ensure high standards in the way they undertake their duties. The Audit Board promotes and maintains high standards of conduct by Councillors (Borough and Parishes/Town) and [voting] Co-opted Members.

All Councillors meet together as the General Assembly of the Council, the sovereign body of the Council. Meetings of the General Assembly of the Council are open to the public, except where confidential and/or exempt matters are being discussed.

The functions of the General Assembly of the Council and the rules that govern the conduct of its meetings are described in Article 4 of this Constitution.

The Cabinet, Committees, Sub-committees, Boards and Panels have to work within Terms of Reference [Part 5 of this Constitution]. Terms of Reference specify the functions with which the General Assembly of the Council, Cabinet, Committees, Sub- committees, Boards and Panels are charged and define the limits of their authority.

The Council has adopted a Conflict Resolution Mechanism (set out in the Executive Procedure Rules in Standing Order 47 [Part 4 of this Constitution], for allowing disputes between the Cabinet and the General Assembly of the Council on matters related to the adoption of the Budget or the Policy Framework.

Decisions are taken by Members acting collectively. No arrangements have been made under this Constitution, to delegate functions to individual Ward Members.

The Code of Corporate Governance [Part 6 of this Constitution] describes the key principles underpinning the Council's arrangements for corporate governance. It also follows the 'CIPFA/SOLACE Framework Delivering Good Governance in Local Government' (revised in 2016/17), by which the Council measures its effectiveness in corporate governance.

### 1.4 Anti-bribery and Corruption

It is a criminal offence to offer, promise or provide – or request or accept - a bribe. It is also an offence for an organization to fail to prevent an incident of bribery committed either by itself or by someone associated with it in order to obtain or retain a business advantage.

The Council operates a strict no tolerance policy towards bribery in all its forms whether directly or through third parties. The Counter - fraud and Corruption Strategy [Part 9 of this Constitution] applies to all its employees and Members. It also applies to business partners who supply services to the Council, including agents and intermediaries.

The Council relies on the services of contractors, sub-contractors and consultants and will only do business with those who accept the terms of its Counter-fraud and Corruption Strategy or whose own policy sets standards to match the Council's standards.

### 1.5 Equality framework

The general public sector equality duty is set out in section 149(1) of the Equality Act 2010. The broad purpose of this duty is to integrate consideration of equality and good relations into the day-to-day business of public authorities and requires the Council to consider how it could positively contribute to the advancement of equality and good relations. It requires equality considerations to be reflected into the design of policies and the delivery of services, including internal policies, and for these issues to be kept under review.

In summary, the Council, must, in the exercise of its functions, have due regard to the need to:

(a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
(b) advance equality of opportunity between people who share a protected characteristic (as defined in the Act) and those who do not;
(c) foster good relations between people who share a protected characteristic and those who do not.

The Equality and Diversity Document Framework reflects the public sector equality duty and published accordingly.

The Council is under a legal duty to promote good community relations and stronger, more cohesive communities within its locality. The Equality Framework for Local Government 2020 emphasises the importance of strategic leadership – political and managerial – in improving equality outcomes. The Council has made an organisational commitment to the Framework, in terms of resource allocation,compliance with public duties, democratic engagement, scrutiny, service planning and procurement.

The overview and scrutiny process has a central role to play in ensuring equality issues are integral to the Council's performance and strategic aims.

## 2. HOW DECISIONS ARE MADE

### 2.1 The Executive part of the Council

(a) The executive part of the Council is the Cabinet, which is responsible for most day-

to-day decisions in particular, for proposing the policy framework and budget envelope to the General Assembly of the Council and for implementing the Council's policy framework and budget spend. The Cabinet is also the focus for community planning and leads the search for best value.

(b) The Leader of the Council decides the size of his/her Cabinet (subject to a maximum of ten, including the Leader and Deputy Leader – see Article 7.02.1) and appoints Cabinet members drawn from the majority group on the Council. The Leader may replace or remove Cabinet members at any time. The Leader will report to the General Assembly of the Council on all appointments and changes to the Cabinet.

(c) Executive functions are exercised collectively by the Cabinet or by a committee of the Cabinet, or by officers under delegated authority[1] or by any area committee or under joint arrangements. There is no single Member decision making.

(d) The Leader allocates specific roles and responsibilities to members of the Cabinet. These roles and responsibilities are referred to as 'portfolios' (with no decision making powers) [Article 7.02.8 of this Constitution refers].

(e) Decisions are supported by reasons and the reasons for those decisions are recorded and made publicly available together with background papers. When major decisions are to be discussed or made, these are published in the Cabinet's Regulation 9 Notice [Article 13.05 of this Constitution – Advance notification of Key Decisions] insofar as these decisions can be anticipated. Decisions must be made in line with the Council's overall policies and budget. Any proposed decisions which are outside the agreed resources i.e. budget envelope[2] or policy framework, will require the approval of the General Assembly of the Council.

In summary, accountable decision-making requires the following;

- for advance notice to be given of Key Decisions to be taken [Article 13.05];
- for the public to have enhanced access to papers and decision-making;
- for decisions to be recorded and published together with the reasons for the decisions and the background papers.

[1] Scheme of Delegations to Officers
[2] Agreed by the General Assembly of the Council at the Budget meeting

## 2.2. Overview and scrutiny

Overview and scrutiny in local government is an essential part of the Councillor's role as a representative of the people. The overview and scrutiny function is a statutory power and a duty. It enables non-Cabinet Councillors to hold the Cabinet to account through the scrutiny of decisions the Cabinet is planning to take, those it plans to implement and those that have already been taken/implemented, whilst the overview process plays a valuable role in developing policy.

The overview and scrutiny remit extends to the review and scrutiny of the actions of key local public service providers.

The scrutiny function is undertaken respectively, by the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, in accordance with Articles 6.03 and 6.04 and their Terms of Reference [Part 5 of this Constitution].

The overview function is also undertaken by the Overview and Scrutiny Committee, in accordance with Article 6.02 and its Terms of Reference [Part 5 of this Constitution].

Overview and scrutiny play important roles in ensuring the quality of services for example, by monitoring performance management systems, questioning the appropriateness of targets and the adequacy of resources.

### 2.3 Referral of matters for overview or scrutiny

The law states that any member of an overview and scrutiny committee may refer to their committee, any matter which is relevant to the functions of the committee. This Constitution extends this right to all Members, subject to the rules detailed in the **Protocols** of the Overview and Scrutiny Committee and Crime and Disorder (Overview and Scrutiny) Committee [Part 6 of this Constitution].

### 2.4 Councillor Calls for Action

Any member of the Council may, through the Councillor Calls for Action process[3], refer to the Overview and Scrutiny Committee any local government matter which is relevant to the functions of the Committee and to the Crime and Disorder (Overview and Scrutiny) Committee, any matter which is relevant to the discharge by the Dartford Community Safety Partnership, or the Council/Cabinet's crime and disorder/community safety functions.

### 2.5 Other Committees, Sub-committees, Boards and Panels of the Council

There are a number of regulatory functions (such as development control and licensing functions), which cannot be the responsibility of the Cabinet. These functions are delegated by the General Assembly of the Council to Committees, Boards and Panels in accordance with Terms of Reference [Part 5 of this Constitution].

[3] Referred to in the Protocols for Scrutiny Committee and Crime and Disorder(Overview and Scrutiny) Committee

## 2.6 Outside Bodies

The Council has relationships with a wide range of organisations e.g., trusts, charities, school governing bodies, industrial and provident societies and community associations to which the Council or Cabinet formally appoints elected members and/or Officers to represent the Council's interests. These appointments are known as 'outside body appointments.' which are reviewed annually to ensure that the aims and activities of those outside bodies remain relevant to the Council, its policies and priorities.

With the increasing emphasis on partnership working, Councillors, as community leaders, have an important role to fulfil in supporting and advising outside bodies. However, this can give rise to conflicts of interest, particularly where the organisation is seeking or receiving funding from the Council. Members always need to be clear about their roles and alert to potential conflicts of interest, in order to ensure transparency and public confidence in local democracy. Members are referred to the Guidance for Members on Outside Bodies [Part 11.4 of this Constitution].

## 2.7 Non-executive part of the Council

Cabinet Advisory Panels have been established to act as a sounding board and source of advice to the Cabinet and to enable backbench Members to participate in policy formulation pre-decision. These Panels are consultative forums with no decision-making powers and are advisory only i.e. reporting/recommending accordingly to the Cabinet.

## 2.8 Dispensations

The Audit Board may grant dispensations to individual Members with a disclosable pecuniary interest or prejudicial interest to participate in meetings where:

- without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
- the Board considers that the dispensation is in the interests of persons living in the Borough; or
- the Board considers that it is otherwise appropriate to grant a dispensation.

The Chief Officer and Director of Corporate Services may, in consultation with the Monitoring Officer, grant dispensations to individual Members with a disclosable pecuniary interest or prejudicial interest to participate in meetings where:

(i) so many members of the decision-making body have disclosable pecuniary interests or prejudicial interests in a matter that it would impede the transaction of the business; or

(ii) without a dispensation, no member of the Cabinet would be able to participate on a particular item of business.

### 2.9 Transitional arrangements post local elections

The Chief Officer and Director of Corporate Services is authorised from the 3rd day after the Borough whole-Council elections to the day of the post-election Annual Meeting (i.e. the first Annual Meeting to be held after Borough whole-Council elections take place), to deal with any urgent matters, subject to reporting on the use of this power to Councillors.

## 3. THE COUNCIL'S STAFF

Council employees are referred to as 'Officers'.

Officers are accountable to the Council as an organisation and serve all members of the Council. Officers give advice, implement decisions and manage the day-to-day delivery of the Council's services. Some Officers (the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer) have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

The Member/Officer Relations Protocol [Part 6 of this Constitution], governs the relationship between Officers and Members of the Council.

All Officers of the Council have a responsibility to act fairly, honestly, in good faith and in an impartial way to meet the specified objectives of the Council and must not place themselves in a position that would create the least suspicion of being influenced by improper motives.

The (non- statutory) Employee Code of Conduct [Part 6 of this Constitution], sets out the fundamental standards to be followed by all employees and seeks to promote honest and ethical conduct when acting on behalf of the Council.

## 4. CITIZENS' RIGHTS

Citizens have a number of rights in their dealings with the Council. These are set out in Article 3 of this Constitution. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

### 4.1 Rights

Citizens have the right to:

- Vote at local elections if they are registered;
- Contact their local Councillor about any matters of concern to them;
- Obtain a copy of this Constitution;
- Attend meetings of the Council, Cabinet, Sub-committees, Committees, Boards and Panels, except where confidential/exempt information is being discussed;
- Inspect agendas, reports and minutes of meetings of the Council, Cabinet, Committees, Sub-committees, Boards and Panels, but excluding confidential/exempt information;

- Submit a statutory petition for example to request a referendum on Council Tax increases or in relation to whether the Council should operate a certain form of governance arrangements;
- Submit non- statutory Petitions/ePetitions in accordance with the Petitions Guidelines, for a response on any matter relating to a function of the Council or, to an improvement in the economic, social or environmental well-being of the Borough to which any of the Council's partners contribute;
- By invitation, attend meetings of the Overview and Scrutiny Committee or Crime and Disorder (Overview and Scrutiny) Committee or at the Chairman's discretion, contribute to investigations or reviews undertaken by the Committees;
- Participate in Development Control Board meetings in accordance with the Board's Public Speaking Protocol;
- Participate in Licensing Sub-committee hearings in accordance with the Sub-committee's Rules of Procedure;
- Find out, from the Cabinet's Regulation 9 Notice, what key decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers and when;
- Complain to the Council about Council services – the Council encourages its customers through its Corporate Complaints Procedure to voice their concerns as an opportunity to put things right for the customer and to improve services;
- Complain to the Local Government & Social Care Ombudsman or Housing Ombudsman if they think the Council has not followed its procedures;
- Complain to the Monitoring Officer, if they have evidence which they think shows that a Councillor or [voting] Co-opted Member has breached the Member Code of Conduct;
- Inspect the Council's accounts and to make their views known to the external auditor;
- When vacancies are advertised, apply to become an Independent Person;
- When vacancies are advertised, apply to become a member of the Council's Independent Remuneration Panel or Co-opted Member of the Deed, Trust and Obligations Committee – [see Panel/Committee's Terms of Reference - [Part 5 of this Constitution].

### 4.2 Community engagement and social inclusion agenda

Changes in local government have meant a greater emphasis on community involvement. Community engagement provides citizens with opportunities to have a greater say in what happens in their community.

The Council may have a statutory duty to consult on specific areas of service delivery e.g. redevelopment proposals.

The Council is committed to extending its consultation beyond any statutory requirements and wants to ensure that its residents, its service users and all other interested parties have the opportunity to be involved in the development, prioritising and monitoring of Council services.

The Council has adopted a Consultation and Engagement Strategy which sets out the principles of community engagement. Every resident in the Borough has an

opportunity to participate in the development of this inclusive community focused framework.

For further information, see the LGA's guidance on 'Consulting residents'.

### 4.3 Statement of Openness

The Council will:

1. be open and transparent;
2. involve those concerned;
3. act proportionately and consistently;
4. base decisions on evidence;
5. allocate responsibility appropriately.

### 4.4 Access to information

Details of the rights of citizens to inspect agendas and reports, attend meetings and film, record, photograph and broadcast the proceedings of meetings in 'open session' are included in the Access to Information Procedure Rules detailed in Standing Orders (Procedural) [Part 4 of this Constitution].

For further information on your rights as a citizen to access to information, contact Democratic Services, Civic Centre, Home Gardens, Dartford, Kent DA1 1DR: Tel: 01322 343434: memberservices@dartford.gov.uk

DARTFORD BOROUGH COUNCIL

CONSTITUTION OF THE COUNCIL

## PART 2 ARTICLES OF THE CONSTITUTION

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# ARTICLE 1 - THE CONSTITUTION

## 1.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## 1.02 The Constitution

This Constitution and all its supporting policies, procedures, guidance etc. is the Constitution of **The Dartford Borough Council.**

## 1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision- making;
- help Councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create a powerful and effective means of holding decision-makers to public account;
- ensure that no one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
- provide a means of improving the delivery of services to the community; and
- ensure that the governance arrangements deliver efficient, transparent and accountable decision-making.

## 1.04 Interpretation and review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option which it thinks is closest to the purposes stated above.

The process for the review of the Constitution, is set out in Article 15.

# ARTICLE 2 - MEMBERS OF THE COUNCIL

## 2.01 Composition and eligibility

### (a) Composition

The Council will comprise forty two (42) Councillors (also called Members). The Local Government Boundary Commission for England conducts electoral reviews with aim to deliver electoral equality for voters in local elections, and recommend ward boundaries that ensure all councillors represent approximately the same number of electors. Reviews also aim to deliver effective and convenient local government, and ensure that ward boundaries

reflected the interests and identities of local communities.

## 2.01 Eligibility

Only registered voters of the Borough or those living or working in the Borough (or such other persons as may be qualified under legislation), will be eligible to hold the office of Councillor. Owning or leasing land in the Borough is not in itself a sufficient qualification and neither can mere political activism be considered as 'work'.

## 2.02 Election and terms of Councillors

### Election of the whole Council every four years

The regular election of Councillors will be held on the first Thursday in May every 4 years (beginning in 2003). The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

## 2.03 Roles and functions of all Councillors

1. All Councillors represent their constituents and play an important role in consulting their communities on the development of policy and leading on the community planning process and other local initiatives for example, on community safety and local cultural strategies.

2. In accordance with Part 1, section 2.7 of this Constitution, Councillors can "feed-in" the views of the community they represent on matters such as policy development, decision-making, the setting up of new performance targets etc.

## 2.04 Key roles

Councillors:

(a) collectively, be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
(b) contribute to the good governance of the Council, be involved in decision-making and actively encourage community participation and citizen involvement in decision-making;
(c) represent their communities including the interests of their ward and of individual constituents;
(d) respond to constituents' enquiries and representations fairly and impartially;
(e) deal with individual casework and act for constituents in resolving particular concerns or grievances;
(f) balance different interests identified within their ward and represent their ward as a whole;
(g) represent the Council on other bodies in accordance with Part 1, section 2.6 of this Constitution; and
(h) maintain the highest standards of conduct and ethics.

## 2.05 Rights and duties

(a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of

their functions and in accordance with the law.

(b) Councillors will not make public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence, to anyone other than a Councillor or Officer entitled to know it.

'Confidential' and 'exempt' information are defined in the Access to Information Rules detailed in Annex 1, Standing Orders (Procedural) [Part 4 of this Constitution].

### 2.06 Conduct

Councillors and [voting] Co-opted Members will at all times, observe the Member Code of Conduct, the Member/Officer Relations Protocol and other codes and protocols which may be agreed from time to time, set out in Part 6 of this Constitution.

### 20.07 Allowances

Councillors and Co-opted Members will be entitled to receive allowances in accordance with the Members' Allowances Scheme [Part 8 of this Constitution].

The Council is obliged to establish and maintain an Independent Remuneration Panel which will broadly have the functions of providing the Council with advice on its Members' Allowances Scheme, the amounts to be paid and the pensionability of allowances, where relevant, in accordance with the Panel's Terms of Reference [Part 5 of this Constitution].

## ARTICLE 3 – CITIZENS AND THE COUNCIL

### 3.01 Citizens' Rights

Citizens have the following rights;

- Vote at local elections if they are registered;
- Contact their local Councillor about any matters of concern to them;
- Obtain a copy of this Constitution;
- Attend meetings of the General Assembly of the Council, Cabinet, Committees, Boards and Panels, except where confidential/exempt information is likely to be disclosed and the meeting is therefore held in private;
- Inspect agendas, reports and minutes of meetings of the General Assembly of the Council, Cabinet, Committees, Boards and Panels, but excluding confidential/exempt related information;
- Submit statutory petitions, for example, to request a referendum on Council Tax increases or in relation to whether the Council should operate a certain form of governance arrangements;
- Submit non- statutory Petitions/ePetitions in accordance with the Petitions Guidelines, for a response on any matter relating to a function of the Council or, to an improvement in the economic, social or environmental well-being of the Borough to which any of the Council's partners contribute;
- By invitation and/or at the Chairman's discretion, attend meetings of the

Overview and Scrutiny Committee or Crime and Disorder (Overview and Scrutiny) Committee or at the Chairman's discretion to contribute to investigations or reviews undertaken by the Committees, in accordance with the Committees' Protocols in Part 6 of this Constitution;

- Participate in Development Control Board meetings in accordance with the Board's Public Speaking Protocol in Part 6 of this Constitution;
- Participate in Licensing Sub-committee hearings in accordance with the Sub- committee's Rules of Procedure;
- Find out, from the Cabinet's Regulation 9 Notice, what key decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers and attend meetings of the Cabinet when key decisions are being considered except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- Complain to the Council about Council services – the Council encourages its customers through its Corporate Complaints Procedure in Part 11 of this Constitution to voice their concerns as an opportunity to put things right for the customer and to improve services;
- Complain to the Local Government & Social Care Ombudsman, Housing Ombudsman or local ward members if they think the Council has not followed its procedures;
- Complain to the Monitoring Officer, if they have evidence which they think shows that a Councillor or [voting] Co-opted Member has breached the Member Code of Conduct in Part 6 of this Constitution;
- Inspect the Council's accounts and to make their views known to the external auditor;
- When vacancies are advertised, apply to become an Independent Person;
- When vacancies are advertised, apply to become a member of the Council's Independent Remuneration Panel or Co-opted Member of the Deed, Trust and Obligations Committee;
- Request and receive information held by the Council subject to the exemptions in Freedom of Information Act 2000 or exceptions in the Environmental Information Regulations 2004.

### 3.02 Citizens' responsibilities

Citizens must observe the law and not be violent, abusing or threatening to Councillors, Co-opted Members or Officers and must not wilfully harm property (including chattels) owned by the Council, Councillors or Officers.

## ARTICLE 4 - THE GENERAL ASSEMBLY OF THE COUNCIL

### 4.01 Meanings

**(a) Policy Framework**

The **'policy framework'** means the following policies, plans and strategies to be adopted by the General Assembly of the Council:

*NB: In accordance with Standing Order 46, the Cabinet may formulate the policies, plans and strategies for approval by the General Assembly of the*

*Council.*

### Statutory

- Approval to designate an area within the Borough of Dartford as a Neighbourhood Area
- Approval of Local Plan documents, from the publication stage onwards (excluding SPDs)
- Decision to make or refuse to make a Neighbourhood Development Plan
- Gambling Policy Statement
- Pay Policy Statement
- Statement of Licensing Policy

### Local choice

Statutory or non-statutory policies, plans and strategies, which the General Assembly of the Council may decide, should be adopted by it, as a matter of local choice:

- Corporate Plan
- Environmental Health Enforcement Policy

**(b) Budget Framework**

The '**budget framework'** means and includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits and more specifically, the:

- Annual Budget, including:

i. Capital Strategy;
ii. Investment Strategy;
iii. Capital Programme Strategy;
iv. Treasury Management Strategy,

- Medium Financial Plan,

approved by the General Assembly of the Council.

*NB: In accordance with Standing Order 46, following the required consultation, the Cabinet will put forward its firm proposals on the budget, for decision by the General Assembly of the Council.*

See the list of documents comprising the Policy and Budget Frameworks

**(c) Council Tax base and setting of Council Tax**

The council tax base is set by the General Assembly of the Council and relates to the estimated revenues generated by residential properties. Council tax is set based on the net level of costs to be borne, after all costs and revenue are taken into account.

**(d) Housing Land Transfer**

Excepting 'Housing Land Transfers', all housing functions are the responsibility of the Cabinet, as delegated, in accordance with table 3, Responsibilty for Functions [Part 3 of this Constitution].

'Housing Land Transfer' means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993, or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

Applications to the Secretary of State respectively, to join the annual disposals programmes and transfer housing land, must be authorised by the General Assembly of the Council, before being sent to the Secretary of State.

## 4.02 Functions of the General Assembly of Council Leader and Cabinet form of local governance

Only the General Assembly of the Council will exercise the following functions:

- To appoint the Leader of the Council for a four [4] year term and remove (through a vote of no confidence) the Leader;
- To receive and note the size of the Cabinet, note the appointments to the Cabinet made by the Leader of the Council, allocate executive functions to the Cabinet; and determine the Terms of Reference of the Cabinet;
- To receive and note the establishment of committee(s) of the Cabinet;
- To consider and establish Committees, Sub-committees, Boards, Panels and other bodies, except where the power to appoint a sub-committee is vested by law in a committee;
- To confirm the size and membership of the political groups on the Council;
- To adopt the Rules of Substitution for Committees, Sub-committees, Boards and Panels;
- To note the appointment of representatives to Outside Bodies and liaison groups unless the appointment is a Cabinet function or has been delegated by the General Assembly of the Council;
- To make, amend or revoke Standing Orders (Procedural), Contract Standing Orders and Financial Regulations, unless the function has been delegated by the General Assembly of the Council;
- To agree and/or amend the Scheme of Delegations to Officers, unless the function has been delegated by the General Assembly of the Council, or in relation to Cabinet functions, delegated by the Cabinet;
- To adopt, amend or revoke the Members' Allowances Scheme under Article 2.07 of this Constitution;
- To change the name of the area, confer the title (by a resolution passed by not less than two-thirds of the Members present and voting) of Honorary Alderman or Freedom of the Borough;
- To determine the levels and pensionability of Councillors' allowance;
- To authorise applications to the Secretary of State for housing land transfers of housing stock;
- To adopt the Council's Member Code of Conduct;
- To make or confirm the appointment of the Head of Paid Service and other Statutory Officers;
- To dismiss the Head of Paid Service and other Statutory Officers;
- To make appointments to Boards, Committees, Panels, Sub-committees, Joint and Area Committees, unless the appointment is a Cabinet function or where

the power to appoint a sub-committee is vested by law in a committee and the membership of the sub-committee is taken from the membership of the parent committee;

- To deal with functions relating to electoral matters and change in governance arrangements;
- To make, amend, revoke, re-enact or adopt bylaws and promoting or opposing the making of local legislation or personal Bills;
- To deal with resolutions of maladministration (on an Ombudsman report), unless the function has been delegated by the General Assembly of the Council;
- On the recommendation of the Audit Board, to adopt and amend this Constitution, unless the function has been delegated, as detailed in Article 15;
- To consider any matters referred to the General Assembly of the Council for decision, in accordance with its Terms of Reference;
- To consider other matters reserved by law to the General Assembly of the Council.

### 4.03 Council meetings

There are three types of Council meetings:

(a) The Annual Meeting;
(b) Ordinary Meetings;
(c) Extraordinary Meetings,

and they will be conducted in accordance with the Council Procedure Rules detailed in Standing Orders (Procedural) [Part 4 of this Constitution].

### 4.04 Responsibility for functions

The General Assembly of the Council will maintain the Responsibility for Functions tables [Part 3 of this Constitution], setting out the responsibilities for its functions which are not the responsibility of the Cabinet.

The Cabinet will maintain the Responsibility for Functions tables [Part 3 of this Constitution], setting out the responsibilities for its functions which are not the responsibility of the General Assembly of the Council.

## ARTICLE 5 – CHAIRING THE GENERAL ASSEMBLY OF THE COUNCIL

### 5.01 Mayor Making

The person entrusted with authority to regulate the General Assembly of the Council meetings, is usually styled the ‘chairman of the council’ or the mayor, in the case of those councils that have been permitted to retain their borough status.

The title of 'mayor' was derived through the Council being granted borough status on 21 June 1977[4] and falls to a Councillor who is elected annually to the office of Mayor.

Mayor making is regarded as an important civic and ceremonial event. The election of the Mayor is not decided by the electorate, but by a majority of the Councillors present and voting at the Annual Meeting of the Council in May.

At the Annual Meeting, the Mayor appoints his/her Deputy Mayor. The appointment is noted by the Council.

The Mayor is addressed as 'The Worshipful the Mayor of Dartford'. The Deputy Mayor is addressed as 'The Deputy Mayor'.

### 5.02 Role and function of the Mayor

The Mayor is the **First Citizen** of the Borough of Dartford.

The Mayor and in his/her absence, the Deputy Mayor have the following roles and functions;

1. To uphold and promote the purposes of this Constitution and to interpret the Constitution where necessary;
2. To preside over meetings of the General Assembly of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. To ensure that meetings of the General Assembly of the Council are forums for the debate of matters of concern to the local community and the place at which Members

   who are not on the Cabinet or hold office of committee Chairmen are able to hold Cabinet members and committee Chairmen to account;
4. Together with all members of the Council, to promote public involvement in the Council's activities;
5. To be the conscience of the Council;
6. To attend such civic and ceremonial functions as the Council and the Mayor determines appropriate.

The Mayor and Deputy Mayor are de facto, 'chairman and vice chairman' of the Council. In accordance with sections 3(1A) and 5(1A) of the Local Government Act 1972, the Mayor and Deputy Mayor cannot be appointed to the Cabinet.

## ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

### 6.01 Terms of Reference and Protocols

The General Assembly of the Council will appoint overview and scrutiny committees set out in the left hand column of the table below, to discharge the functions conferred by legislation in relation to the matters set out in the right hand column of the same table and as more detailed in the Committees' Terms of Reference [Part 5 of this Constitution].

To achieve enhanced accountability and transparency of the decision making process, effective overview and scrutiny is essential. Therefore, the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee are key elements of the Council's executive arrangements and the main way by which Cabinet, partner organisations etc. are held to account in public, for the discharge of their functions. These Committees are also key mechanisms for enabling Councillors to represent the views of their constituents and other organisations, to the Council and/or Cabinet and hence, to ensure that these views are taken into account in policy development.

The rules for how the overview and scrutiny committees set out in the left hand column of the table below operate, are as set out in the Committees' Protocols [Part 3 of this Constitution].

| Committee | Scope |
|---|---|
| **Overview and Scrutiny Committee**<br><br>**Overview and Scrutiny Committee Protocol (June 2024)** | The review of any matter in accordance with the following overarching principles:<br><br>(a) relating to the provision of and/or delivery of Council services to the local community;<br>(b) in which the Council has an interest, subject to the Council being in a position to reasonably influence the outcome for the benefit of the local community;<br>(c) which has an adverse impact on |
| | the delivery of Council services. |
| | To scrutinise and monitor the performance of the Cabinet, Officers and partner authorities in implementing decisions in line with the Council's policy and budget framework, in accordance with the following overarching principles:<br><br>(a) relating to the provision of and/or delivery of Council services to the local community;<br>(b) in which the Council has an interest, subject to the Council being in a position to reasonably influence the outcome for the benefit of the local community;<br>(c) which has an adverse impact on the delivery of Council services. |

| | |
|---|---|
| **Crime and Disorder (Overview and Scrutiny) Committee**<br><br>**Crime and Disorder (Overview and Scrutiny) Committee Protocol (June 2024)** | Scrutiny inter alia of:<br>• decisions and/or actions of the Dartford Community Safety Partnership (DCSP) and its partners;<br>• any other local crime and disorder matter related to the Cabinet's crime and disorder/community safety functions;<br>• community safety related local improvement targets;<br>• the DCSP's annual strategic assessment;<br>• the DCSP's partnership plan;<br>• Councillor Calls for Action (on crime and disorder/community safety matters only). |
| | |

The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, support the work of the Council and Cabinet as a whole. The Committees take an independent role (through Terms of Reference agreed by the General Assembly of the Council and Protocols agreed by the Committees) in the Council's efforts to improve continuously the performance of its services and functions and the policies and strategies within which the Council operates, including the functions of partner organisations, such as the DCSP. The Overview and Scrutiny Committee may be consulted by the General Assembly of the Council or Cabinet on forthcoming issues and the development of policy.

**6.02** **The Overview and Scrutiny Committee** – in accordance with its Terms of Reference, can only discharge the overview functions and no other functions of the Council.

**6.03** **The Overview and Scrutiny Committee** - in accordance with its Terms of Reference cannot discharge any other function of the Council other than the scrutiny function. This is to ensure there is a clear separation between the discharge of functions and the scrutiny of functions.

**6.04** **The Crime and Disorder (Overview and Scrutiny) Committee –** in accordance with its Terms of Reference, can only discharge overview and scrutiny functions relating to crime and disorder/community safety.

'Crime and disorder' is defined as including forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment or the misuse of drugs, alcohol and other substances.

The 'core' responsible authorities comprising the DCSP include local authorities, fire and rescue authorities, police authorities, the police force and clinical commissioning groups and probation service. Other partners may also sit on the DCSP.

The Crime and Disorder (Overview and Scrutiny) Committee must meet at least once in a twelve month period.

**Overview and scrutiny roles**

**6.05 Community and stakeholder involvement in scrutiny and review**

Policy development, scrutiny and review, benefit from input from all key stakeholders including the local community and other local public, private and voluntary organisations. The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, pay particular attention to obtaining views from "hard to reach" groups such as minority, ethnic communities and people with disabilities.

The General Assembly of the Council may appoint co-opted members to committees [Standing Order 48(5)] – people from the community with specific expertise and knowledge to advise the committees and/or assist the committees with specific tasks
e.g. co-opting a police authority member onto the Crime and Disorder (Overview and Scrutiny) Committee when policing matters are being considered.

The views of tenants may also be sought through a variety of consultation mechanisms, for example by inviting tenants (or their representatives) to attend to answer questions and discuss issues or by co-opting tenants' representatives (without voting rights) onto the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee.

### 6.06 Health scrutiny/review

The NHS is made up of multiple organisations (e.g. clinical commissioning groups, primary care organisations and community trusts) and is a key partner with local government in shaping and delivering public services. The Council's overview and scrutiny processes may review and scrutinise any matter relating to the planning,

provision and operation of the health service in the Borough of Dartford, in accordance the scope referred to in Article 6.01 above.

### 6.07 Councillor Calls for Action

Councillor Calls for Action (CCfAs), are designed as a formal means whereby any Councillor:

(a) through the Overview and Scrutiny Committee, can raise on behalf of a constituent, or on their own initiative, any local government matter (other than a crime and disorder/community safety matter), relevant to the Council's functions;
(b) through the Crime and Disorder (Overview and Scrutiny) Committee, can raise on behalf of a constituent, or on their own initiative, a crime and disorder/community safety matter, relevant to the functions of the DCSP or any other local crime and disorder matter relevant to the Council's/Cabinet's functions.

Issues raised under a CCfA must be genuine, significant and persistent community concerns and where the usual channels for raising the concern e.g. Council Officers, Cabinet etc. have been unsuccessful. As such, a Member's agreement to championing a CCfA through the scrutiny process, is generally seen as a measure of last resort, once other approaches have been exhausted.

Within their Terms of Reference, the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee will consider (as a measure of last resort), Councillor Calls for Action, in accordance with their respective Protocols [Part 6 of this Constitution].

### 6.08 Requirement to attend before overview and scrutiny committees

Subject to reasonable notice, and within the limits referred to in their respective Protocols, the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, may require the attendance of Cabinet members, Council Officers and representatives from responsible authorities and other organisations, in order to answer questions.

### 6.09 Duty to consider and respond to overview and scrutiny reports and recommendations

The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee may report and make recommendations to the General Assembly of the Council, Cabinet and the responsible authorities.

Responsible authorities are under a duty to consider and respond to information requests from the Committees and under a further duty, to have regard to the Committees' reports and recommendations.

### 6.10 Membership

The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee are appointed by the General Assembly of the Council, with each Committee comprising a number of Councillors (with an appropriate political balance in membership) who hold office for a municipal year, commencing with the Annual Meeting of the Council in May.

No Members may be involved in scrutinising or reviewing a decision in which they have been directly involved – see the rules detailed in Articles 11.04.1 and 11.04.2.

Cabinet members may not be members of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee. No more than one Cabinet member may be a member of the Overview and Scrutiny Committee.

Within the rules defined in Standing Order 48 and/or Terms of Reference, the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee may appoint sub-committees and delegate any of their functions to their sub-committees. Sub-committee membership (usually taken from the membership of the parent committee) will normally reflect the political balance of the Council.

On the recommendation of the Overview and Scrutiny Committee, the General Assembly of the Council may appoint persons (other than members of the Council) to these Committees or their sub-committees. Such persons are referred to as co-opted members and have no voting rights and are also excluded from discussions and decision making on matters before the Committees which are considered confidential or exempt.

The Crime and Disorder (Overview and Scrutiny) Committee may, subject to the General Assembly of the Council's agreement, co-opt additional members to serve on the Committee or its sub-committee, subject to the following:

(i) a person co-opted to serve on the Committee/sub-committee will not be entitled to vote on any particular matter, unless the Committee so determines.

(ii) a co-opted person's membership may be limited to the exercise of the Committee's/sub-committee's powers in relation to a particular matter or type of matter.

(iii) the Committee may only co-opt an employee, officer or member of the responsible authorities or co-operating body comprising the DCSP to serve on the Committee/sub-committee, providing this person:

(a) is not the chairman or vice chairman of the DCSP or the nominated representative/member or substitute of the responsible authorities and/or co- operating body; and
(b) is not a Cabinet member (or an executive member of Kent County Council).

The membership of a person co-opted to serve on the Committee/sub-committee, may be withdrawn at any time by the Committee.

The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee must meet in public except where confidential and/or exempt matters are being discussed. The Committees report annually to the General Assembly of the Council on their workings.

### 6.11 The Party Whip

The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee are required to hold decision makers to account. Whipping is incompatible with the scrutiny functions and whipping is discouraged see [refer to Standing Order 48(8) [Part 4 of this Constitution], for the rules on declaring the existence of a whip etc.

## ARTICLE 7 - THE EXECUTIVE

### 7.01 The Role of the Executive (the Cabinet)

The Cabinet (meaning the Leader of the Council and such other Members of the Council as the Leader may appoint) will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. The Cabinet may however, make arrangements to delegate some matters to a Cabinet Committee or to Officers.

The Cabinet and its members have wide ranging leadership roles in;

- Leading the community planning process and the search for best value with input and advice from the Overview and Scrutiny Committee and any other persons as appropriate;
- Leading the preparation of the Council's policies and agreeing the detailed budget i.e. spend against the agreed budget envelope;
- Taking in - year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the General Assembly of the Council;
- Being the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs;
- Ensuring that the Council successfully discharges its overall responsibilities for the activities of the organisation as a whole, with input and advice from the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee and any other persons or advisory bodies as appropriate;
- Ensuring that the Council and its partners have a strong understanding of the

local economy;
- Contributing to an economic vision and strategy for the Borough;
- Playing a part in community and business engagement; Ensure effective partnership structures are in place; and
- Providing strong civic leadership to drive economic development.

The Cabinet responds to any recommendations and reports from the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee. Where recommendations differ from the Cabinet's policy, the Cabinet must justify the differences and its actions and or change its policy, where necessary, seeking approval from the General Assembly of the Council. The Cabinet aims to respond to the needs and aspirations of local communities, seeking to resolve conflicts through clear leadership.

## 7.02 Leader with Cabinet

### 7.02.1 Form and Composition

The Council has adopted a Leader and Cabinet form of local governance. The Cabinet consists of the Leader of the Council together with at least two but no more than 9 Councillors appointed to the Cabinet by the Leader. The size of the Cabinet is determined by the Leader[8].

The Council at its Annual Meeting in May, notes the size of the Cabinet and notes the appointments to the Cabinet by the Leader.

### 7.02.2 Leader of the Council

The Leader will be a councillor of the Borough of Dartford elected by the Council to the position of Leader, at the first Annual Meeting of the Council following Borough whole-Council elections or, if not elected at the Annual Meeting, at the first ordinary meeting of the Council following the Annual Meeting or, the next ordinary meeting of the Council following the resignation, dismissal or vacation of office by the Leader. The Leader will hold office until:

(a) he/she resigns from office; or
(b) he/she is no longer a councillor except where the Leader fails to be returned as a Councillor following an ordinary election of all Councillors, when unless the Leader resigns, is disqualified or is otherwise removed from office he/she will continue as Leader until the day of the Annual Meeting;
(c) he/she is removed from office by resolution of the General Assembly of the Council; or
(d) he/she is otherwise disqualified by law.

### 7.02.3 Deputy Leader of the Council

The Leader will appoint a member of the Cabinet to the position of Deputy Leader of the Council. The Deputy Leader will hold office until the end of the term of office of the Leader or until:

(a) he/she resigns from office; or
(b) he/she is no longer a councillor; or
(c) the Leader in his/her absolute discretion, removes him/her from office, upon written notice to the Chief Officer and Director of Corporate Services; or

(d) he/she is otherwise disqualified by law.

The Deputy Leader will have authority to exercise the Leader's powers only in the event that the Leader is unable to act at any time or the office of Leader is vacant.

### 7.02.4 Other Cabinet members

Only Councillors may be appointed to the Cabinet by the Leader of the Council. There may be no co-optees and no deputies or substitutes for Cabinet members (refer to Article 7.02.7).

Neither the Mayor nor Deputy Mayor may be appointed to the Cabinet and members of the Cabinet (including the Leader of the Council) may not be members of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee. The membership of the Overview and Scrutiny Committee may not consist of more than one Cabinet member.

Cabinet members will hold office until:

(a) they resign from office; or
(b) they are no longer councillors; or
(c) they are removed from office, either individually or collectively, by the Leader,
upon written notice to the Chief Officer and Director of Corporate Services; or
(e) they are otherwise disqualified by law.

### 7.02.5 Absence of Leader and/or Deputy Leader/and or Cabinet members

If, for any reason, the Leader is unable to act or the office of the Leader is vacant and the Deputy Leader is unable to act or the office of the Deputy Leader is vacant, the Cabinet will either collectively act in the Leader's place or must arrange for a member of the Cabinet to act in his/her place.

If, for whatever reason there is a vacancy in the office of Deputy Leader, the Leader will appoint another Deputy Leader from among the Cabinet members.

In the event of there being no Leader, Deputy Leader or Cabinet members, Cabinet functions will in the interim, be discharged by the Chief Officer and Director of Corporate Services, subject to the Access to Information Procedure Rules in Standing Orders (Procedural) [Part 4 of this Constitution].

### 7.02.6 Filling vacancies in the Cabinet

If a vacancy occurs in the office of a Cabinet member, the Leader of the Council will fill the vacancy and report the appointment to the Chief Officer and Director of Corporate Services for report to the next ordinary meeting of the General Assembly of the Council.

### 7.02.7 Substitution/Co-option

Allowing for substitution of Cabinet members would reduce transparency and blur accountability. The Cabinet is therefore not able to have formal substitute or deputy members who are not themselves members of the Cabinet. For the same reason, the Cabinet has no powers to co-opt other Councillors or anyone else onto the Cabinet.

The Cabinet may invite anybody it considers appropriate to attend meetings and to speak

on behalf of an absent member of the Cabinet. However, that person would not be able to take formal decisions. It is considered that such a role would help provide an effective link between the Cabinet and other Councillors and could be an effective development role for some Councillors. It would obviously be inappropriate for a Councillor assisting the Cabinet in such circumstances, to also be a member of the Scrutiny Committee or the Crime and Disorder (Overview and Scrutiny) Committee dealing with matters on which he/she has assisted the Cabinet.

The Cabinet takes an inclusive approach to its work, particularly policy development, by consulting with other Councillors, the Overview and Scrutiny Committee the Crime and Disorder (Overview and Scrutiny) Committee and the wider local community.

### 7.02.8 Portfolios allocated to Cabinet members

Portfolios (i.e. roles and responsibilities but excluding decision making) are allocated by the Leader to individual Cabinet members to facilitate the day-to-day management and/or operational activities of the Cabinet. The list of portfolios is received (and noted) by the General Assembly of the Council at the Annual Meeting and is open to public inspection. The Leader may alter the portfolios and allocations/distribution of portfolios within the Cabinet at any time, but subject to the alterations being reported to the General Assembly of the Council and the amended list of portfolios being open to public inspection.

### 7.02.9 Delegation outside the Cabinet

The Cabinet may delegate any of its functions to Officers. Such delegations are a way of ensuring more efficient decision-making and of preventing the Cabinet from becoming overwhelmed by a large volume of very detailed managerial, operational and professional matters. It is essential that Cabinet members have sufficient time to focus on broad strategic issues.

The Cabinet may make arrangements for its functions to be discharged by area committees, forums or another local authority or discharged jointly with one or more other local authorities.

The Scheme of Delegations to Officers [Part 3 of this Constitution] is agreed by the General Assembly of the Council (for Council functions) and Cabinet (for executive functions). Delegations to Officers (both by the General Assembly of the Council and

by the Cabinet), set out the functions and relevant financial thresholds (where applicable), within which delegations are exercised.

Where functions, which are the responsibility of the Cabinet, are delegated to Officers or other structures outside of the Cabinet, the Cabinet remains accountable to the Council through the Overview and Scrutiny Committee, for the discharge of those functions and to the Crime and Disorder (Overview and Scrutiny) Committee, for the discharge of the Council's crime and disorder/community safety functions. The Cabinet is therefore accountable for both its decisions to delegate a function and the way that the function is being carried out.

The Cabinet will appoint the Committees, Sub-committees, Boards and Panels set out in table 3, 'Responsibility for Functions' [Part 3 of this Constitution], to discharge the Cabinet functions described in column 3 of that table.

Decisions of the Cabinet and its appointed committees etc. will be in public, except where confidential and/or exempt matters are being discussed.

### Charitable land holdings

The Council has a number of charitable land holdings (Kidd Legacy at Central Park, Hesketh Park and the Children's Playing Field and Recreation Ground at Savoy Road). As sole trustee, the Council has overall control of these charities and the charities' property and funds. Under the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000 (as amended) and Section 13(2) of the Local Government Act 2000 (as amended), a local authority's charity function is discharged by Cabinet.

To avoid inherent conflicts of interest between the Council's role as local authority and its role as trustee of the charities and to safeguard the charities' Objects, the Council has established a trustee committee known as 'The Deed, Trust and Obligations Committee' (comprised of elected councillors and [voting] co-optees (lay persons)) to operate and manage the charities' affairs (reporting to Cabinet). This Committee has adopted a Conflicts of Interest Policy (approved by the Charity Commission) which is intended to assist the Committee in identifying conflicts, to avoid conflicts arising at all and, where conflicts do arise, to assist the Committee to manage those conflicts in order to avoid perceived and actual problems occurring.

### 7.02.10 Decision making by the Cabinet

Executive functions are exercised by the Cabinet collectively or by a committee of the Cabinet or by Officers under delegated authority or by any area committee, forum or under joint arrangements.

No individual Cabinet member has the authority to take decisions on behalf of the Council and/or the Cabinet.

Decisions of the Cabinet are subject to rigorous public scrutiny through the Overview and Scrutiny Committee and in relation to crime and disorder/community safety, through the Crime and Disorder (Overview and Scrutiny) Committee. These Committees, in accordance with their Protocols, [Part 6 of this Constitution] are able to require Cabinet Members and Council Officers to attend before the Committee to answer questions about decisions (before and after implementation) taken by the Cabinet and/or Officers under delegated authority.

### 7.02.11 Officer Support

Officers work for and serve the Council as a whole. The Cabinet will respect the political neutrality of Officers.

### 7.02.12 Conflict resolution

The Leader of the Council and members of the Cabinet will not be removed from office as part of normal procedures for resolving conflicts between the Council and the Cabinet.

## ARTICLE 8 – REGULATORY, OTHER COMMITTEES, BOARDS AND PANELS

### 8.01 Regulatory committees

Local authorities are not just service providers – they also act as regulators. This involves Councillors in regulatory roles (e.g. Development Control Board) being appointed to membership of the regulatory committees, by the General Assembly of the Council.

The General Assembly of the Council will appoint the regulatory committees set out in table 2.1, 'Responsibility for Functions' [Part 3 of this Constitution], to discharge the functions described in column 3 of that table.

The Monitoring Officer arranges training for Councillors undertaking regulatory responsibilities. In these roles, Councillors are required to act independently and are not subject to party group whip.

### 8.02 Other committees, sub-committee, boards and panels

The General Assembly of the Council will appoint the Committees, Sub-committees, Boards and Panels set out in table 2.2, 'Responsibility for Functions' [Part 3 of this Constitution], to discharge the non-Cabinet functions described in column 3 of that table.

Decisions of regulatory and other committees etc. will be in public, except where confidential and/or exempt matters are being discussed.

## ARTICLE 9 – AUDIT BOARD - STANDARDS FUNCTIONS

### 9.01 Ethical framework

The Council has a lead responsibility for its own standards and must have in place arrangements to deal with this responsibility.

The Council is required to adopt a code of conduct for its Councillors and [voting] Co- opted Members which, when viewed as a whole, must be consistent with the following principles — (a) selflessness; (b) integrity; (c) objectivity; (d) accountability; (e) openness; (f) honesty; (g) leadership' (i.e. the Nolan principles of standards in public life). This code contains a set of provisions that guides Members towards the standards of behaviour expected of them when in office. The Council has scope to tailor its adopted code to meet its own local circumstances.

The Council's ethical framework provides clear rules for Councillors and [voting] Co- opted Members and puts in place a rigorous mechanism for tackling any infringements.

### 9.02 Member Code of Conduct

Confidence in local democracy is essential to an open and inclusive society. This can only be achieved when those serving their communities adhere to – and can be held accountable for the high standards expected of them.

The Council's adopted Member Code of Conduct describes, in a clear and simple way, how Members should conduct themselves when acting in their capacity as a Member or [voting] Co-opted Member of the Council.

### 9.03 Audit Board

As standards have numerous linkages with the wider scope of corporate governance, the Audit Board's Terms of Reference include the discharge of the Council's standards functions.

The Audit Board provides independent assurance of the adequacy of the Council's control and risk management framework and the associated control environment. The Board undertakes independent scrutiny of the Council's financial and non-financial performance and

oversees the financial reporting process. The Board receives reports from both internal and external audit, approving the audit programmes and ensuring sufficient resources to deliver the internal audit service.

The Audit Board has an important role in strengthening and maintaining high standards of conduct within the Council.

## 9.04 Roles and functions of the Audit Board

The Audit Board will have the roles and functions relating to ethical governance as set out in its Terms of Reference [Part 5 of this Constitution]. In summary, the Audit Board, with the support and guidance of the Monitoring Officer:

- promotes and maintains high standards of conduct by Councillors (Borough and Parish/Town) and [voting] Co-opted Members;
- monitors and reviews the ethical governance framework;
- through the Monitoring Officer's Annual Report, supports the assurance statements included or to be included, in the Annual Governance Statement;
- through the Board Chairman's Section 56B Local Government Act 2000 (as amended) Annual Report to the General Assembly of the Council, provides the Council with confidence that robust arrangements are in place and that the Board continues to develop and improve management and reporting arrangements to satisfy itself that its approach to ethical governance is both adequate and effective in practice;
- advises, trains or arranges training for Councillors and [voting] Co-opted Members on matters relating to the Member Code of Conduct;
- advises, trains or arranges training for Parish/Town Councillors on matters relating to their codes of conduct;
- grants dispensations in accordance with its Terms of Reference.

## 9.05 Sub-committee of the Audit Board

**Hearing Panel** - established by the Audit Board for the purposes of determining Member Code of Conduct and Parish/Town Council code breach complaints, following an investigation. The Hearing Panel will have the Terms of Reference as set out in Part 5 of this Constitution.

**Membership of the Hearing Panel -** There is no requirement for fixed membership or a fixed Chairman of the Hearing Panel. Subject to ensuring no conflicts of interest, a form of 'floating' or 'pool' membership comprising three Members (politically balanced), drawn from the membership of the Audit Board, is the Council's preferred option.

The quorum for a meeting of the Hearing Panel is three [3] Members, for the duration of the meeting.

## 9.06 Independent Person

Under the provisions of the Localism Act 2011, the Council is required to appoint at least one Independent Person to assist it in promoting and maintaining high standards of conduct amongst all its Councillors, Co-opted Members and Parish/Town Councillors.

An Independent Person will be consulted by the Monitoring Officer on the decision to investigate complaints. The Independent Person may be consulted on other standards

matters, including by the Councillor who is the subject of an allegation.

Under the Standing Orders (England) Regulations 2001 (as amended), the final decision to dismiss a Statutory Officer must be by resolution of the General Assembly of the Council, having first considered amongst other matters, the advice, views or recommendations of the Statutory Officer Advisory Panel whose member composition, must include at least two Independent Persons (with voting rights), where the independent investigator's report recommends dismissal.

## ARTICLE 10 – AREA COMMITTEES AND FORUMS

### 10.01 Area Committees

The Council may appoint area committees and forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

Area committees or forums can take many forms and undertake a variety of roles, for example, they can be made up of Councillors, representatives from other public, private and voluntary sector bodies in the area and members of the public or they can be made up of Councillors only. Area committees or forums can be purely advisory and consultative bodies or they can have delegated functions and budgets.

The Council will consult with relevant Parish and Town Councils and the Chairmen of relevant Parish/Town meetings when considering whether and how to establish area committees. The objective will be to establish a partnership approach to strengthen local focus and action to help give local communities a real input into decisions which affect them.

### 10.02 Form, composition and function

The General Assembly of the Council and the Cabinet may appoint area committees to discharge their respective functions and where they do so, the committees' functions will be reflected in terms of reference, including the application of protocols which prevent an area committee from making a decision which significantly affects a part of the Council's area (in respect of which that committee does not have functions) or all of the Council's area.

If the General Assembly of the Council and Cabinet chose to establish area committees, the committees may be decision-making bodies or consultative forums with no decision-making powers.

The General Assembly of Council may delegate non-Cabinet functions to area committees and the Cabinet may delegate Cabinet functions (see Article 10.03 of this Constitution). If both are delegated to the same area committee, the agendas for the meeting must make it clear whether the decisions required relate to Cabinet functions or not. The General Assembly of the Council and if relevant, the Cabinet will continue to have powers to discharge the functions which are the subject of area committeearrangements. This ensures that there is sufficient flexibility so that if the General Assembly of the Council or the Cabinet need to exercise the powers (for example in consequence of the exercise of another power), then they have the ability to do so.

Accountability for the discharge of functions for which the General Assembly of the Council or Cabinet are responsible will remain with the General Assembly of the Council or Cabinet,

eventhough they choose to delegate functions to area committees.

Through their Terms of Reference and Protocols [Part 5 of this Constitution], the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, are able to hold the Cabinet to account, both for the decision to delegate out a particular function and for the outcome of so delegating, i.e. the actual discharge of the function.

Functions which are to be discharged by an area committee, must be exercised in accordance with the Council's policy framework.

The composition of area committees and sub-committees need not reflect the political balance of the Council as a whole, if all of the voting members on the committee/sub-committee represent wards within its area and the area does not exceed two fifths of the total for the Council by reference to population or area.

Area Committees may include voting co-optees, if the committee is appointed exclusively to discharge functions relating to;

- Corporate Property Management;
- Housing Management (of 1,500 or one quarter of the Council's stock whichever is the less);
- Promotion of tourism;
- Festival Management;
- Joint County/District functions discharged by a joint committee.

### 10.03 Delegations

If the General Assembly of the Council and the Cabinet resolve to establish area committees, details of the functions delegated to these committees will be referred to in the terms of reference, including the composition and membership of the committees, budgets and any limitations on delegation.

In deciding to delegate decision making to area committees, the General Assembly of the Council and/or Cabinet will need to be clear that doing so will not adversely affect the quality of local services or the efficiency, transparency and accountability of decision making and that the arrangements will deliver best value. The General Assembly of the Council and where applicable, Cabinet will remain and be seen to remain, accountable for those functions and the clear, accountable, corporate leadership of the Council.

### 10.04 Membership of area committees - conflicts of interest

(a) **Scrutiny -** the rules detailed in Article 11.04.1 apply.

(b) **General policy reviews -** the rules detailed in Article 11.04.2 apply.

### 10.05 Area Committees – Access to Information

Area committees will comply with the Access to Information Rules detailed in Standing Orders (Procedural) [Part 4 of this Constitution].

Agendas and notices for area committee meetings which deal with functions of both the General Assembly of the Council and Cabinet, will state clearly which items relate to the General Assembly of the Council and which relate to the Cabinet.

### 10.06 Cabinet members on area committees

A Cabinet member may serve on an area committee, if otherwise eligible to do so as a Councillor.

### 10.07 Present position

The Council has not appointed area committees.

## ARTICLE 11 – PARTNERSHIPS/JOINT ARRANGEMENTS

### 11.01 Partnership/joint working

Partnership working between local, public, private and voluntary sector bodies is essential for the effective delivery of services and for effective communication between such bodies, for example as part of the community planning process.

The Code of Practice for Effective Joint Working Arrangements:

- outlines the principles of good partnership governance;
- defines a partnership and what constitutes a 'major' and 'minor' partnership;
- identifies why the Council enters and engages in partnerships;
- details tools for identifying, managing, supporting and reviewing partnership arrangements.

The Chief Officer and Director of Corporate Services maintains an overview of the Partnerships' Register which is a comprehensive record of the Council's involvement in all 'major' and 'minor' partnerships. Links to the Council's major/minor partnership arrangements are as inserted in tables 4.2 and 4.3, Responsibilty for Functions [Part 3 of this Constitution].

### 11.02 Arrangements to promote well-being

The General Assembly of the Council or the Cabinet (where the function is an executive function) may, in order to promote the economic, social or environmental well-being of the Borough:

(a) enter into arrangements or agreements with any person or body;
(b) co-operate with, or facilitate or co-ordinate the activities of, any person or body;
(c) exercise on behalf of that person or body any functions of that person or body.

The need for sustainable, socially-inclusive communities is central to the Council's aim of enhancing local quality of life and health.

Local people provide a powerful voice in planning local approaches to economic, social and environmental well-being and in holding core public services and Councillors to account.

The key to an effective community strategy is successful partnership working and community involvement throughout the process. At every stage, all Councillors have important roles to play.

The Council may, jointly with others, set up a local partnership to fulfil specific objectives e.g. the Dartford Community Safety Partnership.

### 11.03 Joint arrangements

(a) The General Assembly of the Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or to advise the local authorities on matters of joint interest or to discharge functions. Such arrangements may involve the appointment of joint committees with these other local authorities

(b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions, on matters of joint interest or to discharge functions Such arrangements may involve the appointment of joint committees with these other local authorities.

(c) Where joint arrangements involve a joint committee to discharge a number of functions, some of which are the responsibility of the Cabinet and some of which are the responsibility of the General Assembly of the Council, appointment of members to the joint committee to represent the Council will be made by the General Assembly of the Council, with the agreement of the Cabinet.

Where the General Assembly of the Council appoints only one Member to the joint committee, that Member may be, but need not be, a Cabinet member. Where more than one Member is appointed, at least one of them will be a Cabinet member. The political balance rules will apply to appointments made in these circumstances.

(d) Except as set out in paragraph (e) below, the Cabinet may only appoint Cabinet members to a joint committee.

(e) The Cabinet may appoint Members to a joint committee from outside the Cabinet in the circumstances described below and the political balance rules will not apply to such appointments:

- where the joint committee has functions only in respect of a part of the area of one of the local authorities which is smaller than two-fifths of that local authority (either by area or population). In this case the Cabinet may appoint to the joint committee any Councillor who is a member for an electoral division or ward which is wholly or partly contained within the area in respect of which the joint committee has functions; and
- where the joint committee is between a county council and a single district

council and has functions only in respect of the area of the district. In this case, the executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area of the district.

In accordance with an agreement made between Kent County Council and Dartford Borough Council, the Dartford Joint Transportation Board (the JTB) (a non-statutory forum), has been established by the Cabinets of Kent County Council and Dartford Borough Council. The JTB advises the Cabinets on decisions to be taken by the relevant Cabinet in relation to functions specified in the agreement. Further, details of the JTB's Constitution are set out in table 4.1.B, Responsibility for Functions [Part 3 of this Constitution].

(f) Details of any joint committees, including on onward limits on delegations (if any) are as set out in table 4.1.A, Responsibility for Functions [Part 3 of this Constitution].

(g) The number of members of a joint committee from each of the participating local authorities is a matter for negotiation between those local authorities.

(h) Joint committees may delegate to their sub-committees or to Officers.

(i) Effective communication and exchange of information between the Council and any joint committee/joint arrangement is achieved through Member participation in the meetings of the committee/joint arrangement and through the receipt by the Council of the minutes of the proceedings of the committee/joint arrangement which may be scrutinised by the Overview and Scrutiny Committee (in relation to Cabinet functions), or the Crime and Disorder (Overview and Scrutiny) Committee (in relation to crime and disorder/community safety matters).

### 11.04.1 Cross membership of area/joint committees *and* the Overview and Scrutiny Committee *or* Crime and Disorder (Overview and Scrutiny) Committee – conflicts of interest

It is a fundamental principle of accountability that a Councillor cannot scrutinise his/her own decisions.

If the Overview and Scrutiny Committee or the Crime and Disorder (Overview and Scrutiny) Committee is scrutinising decisions or actions of an area/joint committee of which the Councillor is a member, unless a dispensation has been granted, he/she must declare an interest, not participate in any discussion of, or vote taken on, the matter at the meeting and withdraw from the meeting room when the matter is under discussion.

### 11.04.2 Cross membership of area/joint committees *and* the Overview and Scrutiny Committee

If the Overview and Scrutiny Committee is reviewing a policy relating generally to an area/joint committee on which that Member also serves, as a member of the Overview and Scrutiny Committee, the Member must declare an interest, but need not withdraw from the meeting room when the matter is under discussion.

## 11.05 Access to Information

(a) The Access to Information Rules detailed in Standing Orders (Procedural), [Part 4 of this Constitution] apply.

(b) If all the members of a joint committee are members of the executive in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

(c) If a joint committee contains members who are not members of the executive of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

## 11.06 Delegation to and from other local authorities

(a) The General Assembly of the Council may delegate non-executive (i.e. non-Cabinet) functions to another local authority or, in certain circumstances, to the executive of another local authority.
(b) The Cabinet may delegate Cabinet functions to another local authority or to the executive of another local authority in certain circumstances.
(c) The decision whether or not to accept a delegation of a General Assembly of the Council function or a Cabinet function from another local authority is reserved to the General Assembly of the Council, unless otherwise delegated.
(d) The Council and/or Cabinet continue to have the power to discharge the functions which are the subject of joint committee arrangements.
(e) Functions which are the responsibility of the Cabinet and which are to be discharged under joint arrangements, must be exercised in accordance with the policy framework set by the General Assembly of the Council.

In accordance with arrangements between Kent County Council and Dartford Borough Council, Kent County Council has delegated to Dartford Borough Council, powers relating to the enforcement of parking control in the Borough of Dartford. Further details of the arrangements are set out in table 4.4, Responsibility for Functions [Part 3 of this Constitution].

Sevenoaks District Council and Dartford Borough Council have agreed to participate in an administrative partnership model, to facilitate the joint delivery of some of their functions, with a view to their more economical, efficient and effective discharge. Further details of the arrangements are set out in table 4.4, Responsibility for Functions [Part 3 of this Constitution].

## 11.07 Contracting out

(a) The General Assembly of the Council and Cabinet (for executive related functions) may contract out to another body or organisation functions which may be exercised by an Officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements, where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making function.

(b) In deciding to contract out a function for which it is responsible, the General

Assembly of the Council or Cabinet (as relevant) must satisfy itself that contracting out a function will not adversely affect efficiency, transparency and accountability in respect of the discharge of those functions and that the arrangements will deliver best value and/or value for money.

### 11.08 Scrutiny of joint arrangements/contracting out

Within their Terms of Reference [Part 5 of the Constitution], the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee are able to hold the Cabinet to account both for the decision to delegate or contract out a particular function and for the outcome of the delegation i.e. the actual discharge of the function.

### 11.09 Partnership/joint working governance arrangements

Any existing or future partnership/joint arrangements entered into by the Council will be in accordance with the Code of Practice for Effective Joint Working Arrangements /Partnerships Register [Part 6 of this Constitution].

## ARTICLE 12 – OFFICERS

### 12.01 Terminology

The use of the word 'Officers' means all employees and staff (professional and manual), engaged by the Council to carry out its functions, including individuals engaged under short term and agency contracts.

The Council organises Officer support for the different roles within its organisation following a number of broad key principles with a view to delivering more efficient and effective services:

- All Officers are employed by and accountable to, the Council as a whole;
- Support from Officers is needed for all the Council's functions and the roles of the General Assembly of the Council, the Cabinet, Overview and Scrutiny Committee, Crime and Disorder (Overview and Scrutiny) Committee, other Committees, Sub-committees, Boards, Panels and individual Members representing their communities etc.;
- Day to day managerial and operational decisions remain the responsibility of the Head of Paid Service, Directors and Heads of Service (as appropriate);
- The Council seeks to avoid potential conflicts of interest for Officers arising from the separation of the executive and scrutiny roles; and
- All Officers have access to training and development to help them support effectively, the various Member roles and the executive and scrutiny arrangements of the Council.

The Head of Paid Service considers how to resource Officer support to ensure all Councillors can effectively represent their communities.

The roles, responsibilities and rights of Officers and Members are set out in the Member/Officer Relations Protocol [Part 6 of this Constitution].

The appointment of staff, and determination of the terms and conditions on which they are employed (including procedures for their dismissal), is a function the General Assembly of the Council, delegated to the Head of Paid Service (see Article 12.02 (b) and (c) and Article 12.03).

Appointment of Officers is not the Cabinet's responsibility.

### 12.02 Management Structure

The Leadership Team comprises the Chief Officer and Director of Corporate Services, Director of Housing and Public Protection and Director of Growth and Community.

The Chief Officer and Director of Corporate Services is Head of Paid Service.

The Monitoring Officer and Section 151 are not members of the Leadership Team. However, they meet fortnightly with the Leadership Team.

The Leadership Team is not a decision-making body and its meetings are not held in public.

## Discharge of functions

### (a) Designation of Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) and appointment of Directors

On the recommendation of the Statutory Officer Advisory Panel, the General Assembly of the Council will engage persons for the posts, functions and areas of responsibility specified in tables 5.1 and 5.3, Responsibility for Functions [Part 3 of this Constitution].

The General Assembly of the Council will appoint the Returning Officer and Electoral Registration Officer.

### (b) Appointment of Officers

Appointment of Officers (other than Statutory Officers, Directors, Returning Officer and Electoral Registration Officer), is the responsibility of the Head of Paid Service.

### (c) Officer Structure

The Head of Paid Service determines and publicises a description of the overall departmental structure of the Council, showing the management structure and deployment of its Officers [Part 10 of this Constitution].

### 12.03 Functions of the Head of Paid Service

The core roles of the Head of Paid Service:

- to have overall corporate management and operational responsibility (including overall management responsibility for all staff);
- to provide professional advice to all parties in the decision making process (General Assembly of the Council, Cabinet, overview and scrutiny and other committees);
- together with the Monitoring Officer, responsible for a system of record keeping for all the Council's decisions; and

- to represent the Council[11]on partnership and external bodies (as required by the Council).

The Head of Paid Service has delegated authority to co-ordinate the discharge of the Council's employment functions, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

The Head of Paid Service is responsible for the preparation and publication of the Council's annual Pay Policy Statement which outlines its approach to the pay of its employees and in particular, the pay of its senior staff.

**Restrictions on Functions -** The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer (Section 151 Officer), if a qualified accountant.

### 12.04 Functions of the Monitoring Officer

The Monitoring Officer performs a key function in ensuring lawfulness and integrity in the operation of the Council's decision-making process including investigation and reporting on issues that embrace all aspects of the Council's functions.

The Monitoring Officer has a key role in promoting and maintaining high standards of conduct within the Council, in particular, through provision of support to the Audit Board and the Hearing Panel.

In order for the Monitoring Officer to carry out his/her statutory duties and powers, the Council will need to ensure that he/she has access as necessary to meetings and papers.

The statutory duties and powers of the Monitoring Officer include:

#### (a) Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of this Constitution and ensure that it is accessible by Members, Officers and the public.

#### (b) Ensuring lawfulness and integrity of decision - making

After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the General Assembly of the Council[13]or to the Cabinet, in relation to a Cabinet function, if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented, until the report has been considered by the General Assembly of the Council.

#### (c) Conducting investigations Member Code of Conduct

The Monitoring Officer will discharge those functions as ascribed to him/her under the Arrangements for dealing with Code of Conduct Breaches [Part 6 of this Constitution].

### (d) Proper Officer for access to information

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant Officer reports and background papers, are made publicly available as soon as possible.

### (e) Advising whether Cabinet decisions are within the budget and policy framework

In consultation with the Section 151 Officer, the Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Council's Budget and Policy Framework.

### (f) Providing general advice

The Monitoring Officer will provide general advice to Borough Members, on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues.

### (g) Contributing to corporate management

The Monitoring Officer contributes to the corporate management of the Council, in particular, through the provision of professional governance advice.

### (h) Parish/Town Councils

The Monitoring Officer is available to give advice to the Parish/Town Councils on matters concerning their codes of conduct and to discharge those functions as ascribed to him/her under the Arrangements for dealing with Code of Conduct Breaches [Part 6 of this Constitution].

### (i) Register of Members' Interests & Gifts & Hospitality

The Monitoring Officer is responsible for establishing and maintaining a Register of Members' Interests and a Gifts and Hospitality Register (over £100) for Borough Councillors. The duty in relation to the Register of Members' Interests extends to the Registers for Parish/Town Councillors. The Borough and Parish/Town Councils Registers are available for inspection and published on the Dartford Borough Council's website.

**Restrictions on post -** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service. The duties of the Monitoring Officer must be carried out personally, but can be carried out by a deputy nominated by him/her in cases of absence or illness. It is the function of the Monitoring Officer to appoint a deputy, not the Council.

## 12.05 Functions of the Chief Finance Officer (Section 151 Officer)

The Chief Finance Officer is also known as the 'Section 151 Officer'.

The Chief Finance Officer's key roles include providing advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members of the Council.

[15] Section 5(7) - Local Government and Housing Act 1989

The Chief Finance Officer also has an important role in the financial management of the Council in particular by:

### (a) Ensuring lawfulness and financial prudence of decision making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer reports to the General Assembly of the Council or to the Cabinet (in relation to Cabinet functions) and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully[16].

### (b) Administration of financial affairs

The Chief Finance Officer has responsibility for the administration of the financial affairs of the Council.

### (c) Contributing to corporate management

The Chief Finance Officer contributes to the corporate management of the Council, in particular, through the provision of professional financial advice.

### (d) Providing general advice

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

### (e) Give financial information

The Chief Finance Officer provides financial information to the media, members of the public and the community.

**Restrictions on post** - The duties of the Chief Finance Officer (apart from the administration of the financial affairs of the Council) must be carried out personally, but can be carried out by an Officer nominated by him/her in cases of absence or illness.

## 12.06 Duty to provide sufficient resources to the Monitoring Officer and Finance Officer

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

## 12.07 Data Protection Officer (DPO)

The Council is required to appoint a Data Protection Officer. The DPO's minimum tasks

are:

- to inform and advise the organisation and its employees about their obligations to comply with the Data Protection Legislation[18];
- to monitor compliance with the Data Protection Legislation, including managing internal data protection activities, advise on data protection impact assessments and train staff;
- to be the first point of contact for supervisory authorities and for individuals whose data is processed (employees, customers etc.); and
- to report to the Leadership Team.

The Head of Legal Services is appointed Data Protection Officer.

### 12.08 Conduct

Officers are subject to a non-statutory Employee Code of Conduct [Part 6 of this Constitution], which is included in Officers' terms and conditions of employment. Officers will comply with the Code of Conduct and the Member/Officer Relations Protocol [Part 6 of this Constitution].

Officers' contracts include a right of appeal against grievance, dismissal or disciplinary proceedings, where this forms part of the disciplinary, capability, grievance and related procedures of the Council.

### 12.09 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules detailed in Standing Orders (Procedural) [Part 4 of this Constitution].

### 12.10 Politically restricted posts

The law aims at ensuring the political impartiality of local government staff. The Council is required to maintain an up to date list of its politically restricted posts which fall into five categories of local government officer. The list is open to public inspection:

- first category - posts individually identified in the legislation;
- second category - posts defined by their relationship to others;
- third category – posts, where the duties have certain characteristics described in the legislation;
- fourth category - posts to which duties have been delegated under the Scheme of Delegations to Officers.

The third and fourth categories of posts have to be included in lists prepared and maintained by the Council. There is no requirement to keep a list of those posts deemed to be politically restricted by virtue of the first category that do not also fall within the remit of the third category.

The effect of including a Council employee on the list of politically restricted posts, debars that individual from having any active political role either in or outside the workplace, in particular:

(a) standing for candidature for public elected office, unless the employee resigns prior to announcing his/her candidature;
(b) acting as an election agent or sub-agent for any candidate for election;
(c) holding office in a political party;
(d) canvassing at elections (not restricted to the Borough of Dartford);
(e) speaking or writing publicly (other than in an official capacity) with the intention of affecting public support for a political party (does not include the display of a poster or other document at the postholder's home or in their car or other personal possessions).

The cumulative effect of these restrictions is to limit the incumbents of politically restricted posts, to bare membership of political parties, with no active participation within the party permitted.

The responsibility for granting exemptions from political restriction is with the Head of Paid Service, in consultation with the Monitoring Officer (s3A Local Government and Housing Act 1989 (as amended)) (see the guidance on Politically Restricted Posts [Part 10 of this Constitution].

### 12.11 Overview and Scrutiny

Officers may be required to attend the Overview and Scrutiny Committee and Crime and Disorder (Overview and Scrutiny) Committee to answer questions, in accordance with the Committees' Protocols [Part 6 of this Constitution].

### 12.12 Senior Information Risk Owner (SIRO)

The Chief Officer and Director of Corporate Services is the appointed SIRO and leads on and champions a culture of good information management, owns the overall information risk policy and procedures and advises the Council's senior management on information risk.

The role of the SIRO is as detailed in the Records Management Policy.

## ARTICLE 13 – DECISION MAKING

### 13.01 Responsibility for decision making

Terms of Reference and the Scheme of Delegations to Officers are the up-to date records detailing responsibility for particular types of decisions or decisions relating to particular areas or functions.

### 13.02 Principles of decision making

All decisions of the Council will be made in accordance with the following principles;

- Proportionality (i.e. the action taken is proportionate to the desired outcome);
- Due consultation and on the professional advice of Officers;
- Respect for human rights (Human Rights Act 1998);
- Due regard to the public sector equality duty (s149 Equality Act 2010);
- A presumption in favour of openness;
- Clarity of aims and desired outcomes; and

- An explanation of what options were considered and giving reasons for the decision.

### 13.03 Types of decision

**(a) Decisions reserved to the General Assembly of the Council**

Decisions relating to functions listed in Article 4.01 and Article 4.02 of this Constitution, will be made by the General Assembly of the Council.

**(b) Cabinet Key Decisions**

The legislative definition of a key decision is as follows (based on a 2-stage test); An

executive decision which in the opinion of the decision taker is likely:-

- to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or

- to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.

The General Assembly of the Council will, at the budget meeting, agree the limits above which items are significant. These agreed limits will be published.

**NB:** The General Assembly of the Council is able to set different thresholds for different services or functions, bearing in mind the overall budget for those services and functions and the likely impact on communities of each service or function.

### 13.04 Indicative thresholds for Key Decisions

- Any Cabinet decision which is likely to give rise to expenditure or savings above such thresholds as agreed by the General Assembly of the Council (refer to Article 13.03(b) of this Constitution) will be treated as a key decision.
- A Cabinet decision which is likely to have a significant impact on two or more wards is a key decision. (In considering whether a decision is significant, the Cabinet or an Officer under delegated authority) will need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the Council to a significant number of people living or working in the locality affected. It will be for the Cabinet to decide, in any one case, whether a decision to be taken is likely to involve significant expenditure).
- Any decision made by the Cabinet in the course of developing proposals to the General Assembly of the Council to amend the policy framework and budget will be a key decision.
- Where the Cabinet has been granted authority by the General Assembly of the Council to amend any aspect of the policy framework (i.e. in year amendments) then any decision to do so will also be a key decision.

Key decisions may be delegated to Officers, in accordance with the Scheme of Delegations to Officers [Part 3 of this Constitution].

The Cabinet (or an Officer under delegated authority) may only make a key decision in

accordance with the requirements of the Executive Procedure Rules detailed in Standing Orders (Procedural) [Part 4 of this Constitution].

Key decisions which have significant effects within the community need to be identified and properly consulted on. People must be informed of the forthcoming decision in sufficient time for them to exercise their rights to see the relevant papers and to respond to any consultation process.

### 13.05 Advance notification of Key Decisions

The Cabinet is responsible for delivering the Council's policy framework through taking decisions collectively in respect of functions which are the responsibility of the Cabinet or through delegation of decisions to Officers, particularly for day-to-day operational and management decisions and to area/joint committees etc.

Any decisions taken need to be consistent with the agreed policy framework and budget and need to take into account the needs and aspirations of the local community. The Council is therefore required to give advance notice (a Regulation 9 Notice[20]) of any key decisions to be taken.

The Regulation 9 Notice gives an indication of those key decisions which it is known the Cabinet will need to consider, as well as relevant decisions which will be delegated by the Cabinet to Officers or devolved structures.

The Regulation 9 Notice is available for inspection on the Council's website and at the Council offices together with relevant papers (excluding draft documents and exempt or confidential information).

### 13.06 Urgent Key Decisions

In cases of special urgency, the Regulation 9 Notice may be dispensed with, but only where the decision maker (i.e. Leader of the Council where the key decision is being taken by Cabinet or where the key decision is being taken by an Officer under delegated authority, the Officer taking the decision) has obtained the agreement of the Chairman of the Overview and Scrutiny Committee or (on matters related to crime and disorder), the Crime and Disorder (Overview and Scrutiny) Committee, that the taking of the key decision cannot reasonably be deferred by the decision maker. If the Chairman of the Overview and Scrutiny Committee or Crime and Disorder (Overview and Scrutiny) Committee is unable to act, then the Mayor (or in the Mayor's absence, the Deputy Mayor) must agree that the taking of the decision cannot reasonably be deferred by the decision maker.

The Leader of the Council will submit at least one annual report to the General Assembly of the Council on how often the urgency procedure under Standing Order 54(9) [Part 4 of this Constitution] has been used, together with the reasons for the decision(s) and why the matter(s) was urgent.

If a particular decision is not included on the Regulation 9 Notice or in the view of the Cabinet, a particular decision was not to be regarded as a key decision, the Overview and Scrutiny Committee/Crime and Disorder (Overview and Scrutiny) Committee (as appropriate) may, on taking a contrary view, require the Cabinet to make a report to the General Assembly of the Council on the decision and the reason why it was not regarded as a key decision.

Where a key decision is taken by the Cabinet or by an Officer under delegated authority, any report (excluding draft reports) and relevant background information (but excluding

confidential/exempt information) will be placed in the public domain.

Decisions are taken on the basis of completed reports.

The special urgency provision will not be invoked only by reason of a failure to finalise reports in time to allow the normal procedures to be followed.

Subject to the rules on exempt and confidential information, key decisions will be taken by the Cabinet in public.

### 13.07 Recording and publishing of decisions

Subject to the rules on confidentiality and exempt information:

1. decisions taken by the General Assembly of the Council, Cabinet, Boards, Committees, Panels and joint committees; and
2. excluding administrative/operational decisions, decisions taken by Officers under the Scheme of Delegations relating to the grant of a permission or licence; and

3. excluding administrative/operational decisions, decisions taken by Officers under the Scheme of Delegations that affect an individual's legal rights either in a positive or detrimental manner; and
4. decisions taken by Officers under the Scheme of Delegations to Officers to award a contract or incur expenditure which, in either case, exceeds the key decision threshold; and
5. key decisions taken by Officers under delegated authority,

will be recorded and published as soon as reasonably practicable after the decision(s) is taken. The record will include reasons for the decision, background documents and any relevant interests which any of the Members involved have, together with any dispensations granted by the Audit Board or the Chief Officer and Director of Corporate Services, in consultation with the Monitoring Officer.

All decisions taken by the Council, Cabinet, Boards, Panels etc. are based on sound professional advice from Officers including advice from the Monitoring Officer and Chief Finance Officer, where appropriate.

Except in cases of urgency, decisions affecting third parties will not be acted upon before they have been properly recorded and if initiated, the operation of the Call-in procedure detailed in the Overview and Scrutiny Committee's or Crime and Disorder (Overview and Scrutiny) Committee's Protocol, fully completed.

The Openness of Local Government Bodies Regulations 2014 are designed to make local authorities more transparent to their local communities. Regulation 7 requires that certain types of officer decisions are recorded and made available to the public.

### 13.08 Decision making by the General Assembly of the Council

Subject to Article 13.12 of this Constitution, the General Assembly of the Council meeting will follow the Council Procedure Rules detailed in Standing Orders (Procedural) [Part 4 of this Constitution], when considering any matter.

### 13.09 Decision making by the Cabinet

Subject to Article 13.12 of this Constitution, the Cabinet will follow the Executive Procedure Rules detailed in Standing Orders (Procedural) [Part 4 of this Constitution], when considering any matter.

### 13.10 Decision making by the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee

The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee will follow the Overview and Scrutiny Procedures Rules detailed in Standing Orders (Procedural) [Part 4 of this Constitution], when considering any matter.

### 13.11 Decision making by other Committees, Sub-committees, Boards and Panels established by the Council

Subject to Articles 13.12 and 13.13 of this Constitution, other Committees, Sub-committees, Boards and Panels of the Council will follow those parts of the Council Procedure Rules detailed in Standing Orders (Procedural) [Part 4 of this Constitution], as apply to them.

### 13.12 Decision making by Council bodies acting as tribunals

The Council, a Member or an Officer acting at a tribunal or in a regulatory manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person, will follow a procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the Human Rights Act 1998.

### 13.13 Member training and regulatory functions

Only Members and substitutes who have received the appropriate training, may participate in the decision making of the Development Control Board, Licensing Committee, Licensing Sub-committee, Hearing Panel, Appeals Panel and the Deed, Trust and Obligations Committee.

## ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

### 14.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with Financial Regulations [Part 7 of this Constitution], as may be amended from time to time by the Section 151 Officer, under the Scheme of Delegations to Officers.

### 14.02 Contracts

Every contract made by the Council will comply with Contract Standing Orders [Part 7 of this Constitution].

### 14.03 Legal proceedings

Through the Scheme of Delegations to Officers [Part 3 of this Constitution], Officers are authorised to institute, to defend or participate in any legal proceedings in any case where

such action(s) is necessary, to give effect to decisions of the Council or in any case, where it is considered that such action is necessary, to protect the Council's interests.

## ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION

### 15.01 Monitoring and review

Monitoring and review of this Constitution to ensure that its aims and principles are given full effect, will be on an annual basis, on the Monitoring Officer's Annual Report to the Audit Board or under the Scheme of Delegations to Officers [Part 3 of this Constitution]. Reviews may also be triggered by Member requests to the General Assembly of the Council, external feedback (example from the Ombudsmen), recommendations of the Statutory Officers or decision of the General Assembly of the Council.

### 15.02 Protocol for monitoring and review of the Constitution by the Audit Board

A key role for the Audit Board is to be aware of the strengths and weaknesses of the Constitution and to make recommendations to the General Assembly of the Council for ways in which the Constitution could be amended, in order better to achieve the purposes set out in Article 1. In undertaking this task, the Audit Board may;

1. Observe meetings of different parts of the Member and Officer structure;
2. Undertake an audit trail of a sample of decisions;
3. Record and analyse issues raised with the Board, by Members, Officers, the public and other relevant stakeholders; and
4. Compare practices in the Council with those in other comparable authorities, or national examples of best practice.

### 15.03 Changes to the executive arrangements

Changing the form of the executive arrangements detailed in this Constitution, will require the Council to consult with local electors and other interested parties and the Council will have to consider the extent to which the changes [if implemented], are likely to assist in securing continuous improvement in the way in which the Council's functions are exercised having regard to combination of economy, efficiency and effectiveness (i.e. the duty of Best Value).

Proposals to change from Leader/Cabinet to an elected mayor form, requires a referendum.

Any changes to the Council's executive arrangements detailed in this Constitution, will require the Council to follow any guidance on consultation issued by the Secretary of State on consultation.

Changes to executive arrangements may be prompted not from internal reviews and evaluation of the Council's governance, but from changes in public opinion triggering a mayoral referendum.

The General Assembly of the Council is the decision making body for changes to the form of executive.

### 15.04 Constitution amendments

**(a) Approval**

(i) Subject to paragraph (ii) below, amendments to this Constitution will only be approved by the General Assembly of the Council, after consideration of the proposal by the Audit Board responsible for monitoring and reviewing constitutional matters.

(ii) The Council may from time to time delegate the function of amending this Constitution to Officers.

Amendments which give effect to internal reviews, evaluation of the Council's governance, any decision of the Council or changes in the law and amendments such as to correct errors, Officer titles, clarifying where Officer responsibility for the discharge of functions lays etc., will be made by the Monitoring Officer, pursuant to the Scheme of Delegations to Officers, subject to the core elements and the intent of this Constitution remaining unaltered.

**(b) Changes prompted from internal reviews and evaluation of the Council's governance etc.**

There will be no requirement to consult with local electors and other interested persons in the Borough where changes are prompted by the amendments referred to, in (ii) above.

## ARTICLE 16 - INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

### 16.01 Suspension of the Constitution

**(a) Limit to suspension**

The Articles of this Constitution may not be suspended. With the exception of mandatory Standing Orders specified below, any Standing Order of the Council may be suspended by the General Assembly of the Council, to the extent permitted within Standing Orders and the law.

**(b) Procedure to suspend**

A motion to suspend any Standing Order at a General Assembly of the Council meeting, will not be moved without notice, unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

**(c) Standing Orders not capable of suspension**

The following Standing Orders (Procedural) may not be suspended;

| | |
|---|---|
| S.O.13(4) | Recording of votes in minutes; |
| S.O.15(1) | Submission of minutes to next ordinary meeting; |
| S.O.15 (2) | Signing minutes as correct record; |
| S.O.19 | Declaration of Member interests; |
| S.O.30(2) | Recording of votes; |
| S.O.43 | Interpretation of Standing Orders; |

| | |
|---|---|
| S.O.47 | Conflict Resolution Mechanism; |
| S.O.60 | Recruitment/Appointment of Statutory Officers & Directors; |
| SO.62 & | Disciplinary action in respect of Statutory Officers |
| | Directors; |
| S.O.63 | Disciplinary action in respect of staff other than Statutory Officers & Directors. |

### 16.02 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the General Assembly of the Council, will not be challenged at any meeting of the General Assembly of the Council. Such interpretation will have regard to the purposes of this Constitution, in Article 1.

### 16.03 Publication

(a) The Chief Officer and Director of Corporate Services will provide a printed copy of this Constitution to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office, on the Member first being elected to the Council.

(b) The Monitoring Officer will publish an electronic copy of this Constitution on the Council's website.

**PART 1** - Summary and Explanation
**PART 2** - Articles of the Constitution
**PART 3** – Responsibility For Functions
**PART 4** - Standing Orders
**PART 5** – Terms of Reference
**PART 6** – Codes and Protocols
**PART 7** – Financial Regulations
**PART 8** – Members Allowances
**PART 9** – Probity, Propriety
**PART 10 –** Employees, Management/Staffing Structure, Joint Working Partnerships
**PART 11 -** Other

DARTFORD
BOROUGH COUNCIL

CONSTITUTION OF THE COUNCIL

# PART 3 RESPONSIBILITY FOR FUNCTIONS

Reviewed and amended under delegated authority [GAC 16.07.2012 [Min.No.35]] Reviewed and amended under the Managing Director's delegated authority – 16 December 2013 Reviewed and amended under the Managing Director's delegated authority – 1 May 2014 Reviewed and amended under the Managing Director's delegated authority – 10 February 2015 Reviewed and amended under the Managing Director's delegated authority – 14 June 2016 Reviewed and amended under the Managing Director's delegated authority – 22 February 2019 Reviewed and amended under the Managing Director's delegated authority – 23 July 2019
Reviewed and amended under the Chief Officer and Director of Corporate Service's delegated authority- 10 May 2021 Reviewed and amended under the Chief Officer and Director of Corporate Service's delegated authority- 2 July 2021 Reviewed and amended under the Chief Officer and Director of Corporate Service's delegated authority- 16 May 2022 Reviewed and amended by the Monitoring Officer – 20 February 2023

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## 3.1 RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

| Function | Decision making body | Membership | Delegation of functions |
|---|---|---|---|
| | | | |
| 1. The obtaining of information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 | Cabinet | Elected members of the Council of the political group on the Council forming the administration | As may be specified in the Scheme of Delegations to Officers |
| 2. The discharge of any function relating to contaminated land (excluding regulatory, consent or enforcement functions) | Cabinet | Elected members of the Council of the political group on the Council forming the administration | As may be specified in the Scheme of Delegations to Officers |
| 3. Control of pollution (excluding regulatory, consent and enforcement functions), and management of air quality | Cabinet | Elected members of the Council of the political group on the Council forming the administration | As may be specified in the Scheme of Delegations to Officers |
| 4. Service of statutory Nuisance Abatement Notices | Cabinet | Elected members of the Council of the political group on the Council forming the administration | As may be specified in the Scheme of Delegations to Officers |
| 5. Inspection of the Council's area to detect any Statutory Nuisance | Cabinet | Elected members of the Council of the political group on the Council forming the administration | As may be specified in the Scheme of Delegations to Officers |
| 6. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area | Cabinet | Elected members of the Council of the political group on the Council forming the administration | As may be specified in the Scheme of Delegations to Officers |
| 7. Investigation of any complaint as to the existence of a Statutory Nuisance | Cabinet | Elected members of the Council of the political group on the Council forming the administration | As may be specified in the Scheme of Delegations to Officers |
| 8. The consideration of a **draft** strategic policy/plan as set out in the Article 4.01 of this Constitution | Cabinet | Elected members of the Council of the political group on the Council forming the administration | As may be specified in the Scheme of Delegations to Officers |
| | | | |

## RESPONSIBILITY FOR REGULATORY FUNCTIONS

| Committee | Membership | Functions | Delegation of functions |
|---|---|---|---|
| | | | |
| 1 Development Control Board | Elected members of the Council (politically balanced) of whom no more than one may be a Member of the Cabinet | Functions relating to town and country planning and development control as specified in the Board's Terms of Reference | As may be specified in the Scheme of Delegations to Officers |
| 2. Licensing Committee | Elected members of the Council | Functions relating to licensing as specified in the Committee's Terms of Reference | As may be specified in the Scheme of Delegations to Officers |
| 3. Licensing Sub-committees | Elected members of the Council taken from membership of the parent Licensing Committee | Functions as specified in the Sub-committees' Terms of Reference | As may be specified in the Scheme of Delegations to Officers |
| | | | |

## RESPONSIBILITY FOR NON-EXECUTIVE (CABINET) FUNCTIONS

| Decision making body | Membership | Function | Delegation of functions |
|---|---|---|---|
| 1.Appeals Panel | Elected members of the Council (politically balanced) | The functions and responsibilities specified in the Appeals Panel's Terms of Reference relating to statutory officer misconduct sanction appeals | As may be specified in the Scheme of Delegations to Officers |

| | | | |
|---|---|---|---|
| 2. Audit Board | Elected members of the Council (politically balanced) | To review the adequacy of the system of internal audit control in all major aspects of the Council's operations including risk and financial affairs as specified in the Board's Terms of Reference.<br><br>To discharge the Council's ethical governance duties/standards functions as specified in the Board's Terms of Reference | As may be specified in the Scheme of Delegations to Officers |
| 3. Electoral Provisions Sub-committee | Elected members of the Council (politically balanced) | The body making recommendations to the General Assembly of the Council on electoral matters as specified in the Sub-committee's Terms of Reference | As may be specified in the Scheme of Delegations to Officers |
| 4. Hearing Panel | Elected members of the Council (politically balanced) | To hear and determine allegations/complaints that Borough Councillors, Parish or Town Councillors or Co-opted Members have failed, or may have failed, to comply with the Code of Conduct and to determine the outcome of complaints in accordance with the adopted 'Arrangements for Dealing with Code of Conduct Breaches | As may be specified in the Scheme of Delegations to Officers |
| 5. Independent Remuneration Panel | Co-opted Members | The body making recommendations to the General Assembly of the Council on the Members' Allowances Scheme as specified in the Panel's Terms of Reference in Part 3 of this Constitution | |
| 6. Statutory Officer Advisory Panel | Elected members of the Council (politically balanced) and where applicable, two independent persons | The interviewing and disciplinary body in relation to Statutory Officers as specified in the Panel's Terms of Reference | |
| | | | |
| 7.Treasury Management Panel | Elected members of the Council (politically balanced) | Overseeing the Council's treasury management functions | As may be specified in the Scheme of Delegations to Officers |
| | | | |

## RESPONSIBILITY FOR EXECUTIVE (CABINET) FUNCTIONS

| Who is responsible | Membership | Function | Onward limits on Delegations |
|---|---|---|---|
| The Cabinet (collectively sitting as a committee) | Elected members of the Council of the political group on the Council forming the administration | The functions and responsibilities specified in the Cabinet's Terms of Reference and discharge of any function under a local Act **other than a non- executive function** specified or referred to in regulation 2 or Schedule 1, of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) | No delegations to individual Members |
| Appeals Panel | Elected members of the Council (politically balanced) | The functions and responsibilities specified in the Appeals Panel's Terms of Reference relating to **grants**' applications | As may be specified in the Scheme of Delegations to Officers |
| Cabinet Advisory Panels (A and B respectively) | Elected members of the Council (politically balanced) | The functions and responsibilities specified in the Cabinet Advisory Panels' Terms of Reference as set out in Part 3 of this Constitution | |
| Deeds, Trust and Obligations Committee | Elected members of the Council (politically balanced) and independent lay persons | The functions and responsibilities specified in the Deed, Trust and Obligation Committee's Terms of Reference relating to the management of the Council's charitable land holdings as set out in Part 3 of this Constitution | As may be specified in the Scheme of Delegations to Officers |
| Joint Transportation Board – a non-statutory forum | Elected members of the Council (politically balanced), Kent County Councillors and Parish/Town Council representatives | The functions and responsibilities associated with advising on highways and transportation works etc. as set out in Part 3 of this Constitution | As may be specified in the Scheme of Delegations to Officers |

| | | | |
|---|---|---|---|
| Grants Approval Panel | Elected members of the Council (politically balanced) | The functions and responsibilities specified in the Grants Approval Panel's Terms of Reference relating the consideration, approval or rejection of applications under the Council's Community Grants Scheme as set out in Part 3 of this Constitution | As may be specified in the Scheme of Delegations to Officers |
| Housing Advisory Board ( no-decision – recommending to Cabinet) | Elected members of the Council and members of the former Tenants & Leaseholders Liaison Group and the Residents' Consultation Group | The functions and responsibilities specified in the Board's Terms of Reference relating to the oversight of and an advisory role on housing related matters as set out in Part 3 of this Constitution | As may be specified in the Scheme of Delegations to Officers |

## JOINT COMMITTEES

| Joint Committee | Membership | Function | Onward limits on Delegations |
|---|---|---|---|
| Eltham Crematorium (Section 101(5) Local Government Act 1972 and Section 20 Local Government Act 2000) | Cabinet member | To exercise all the functions, powers and duties of each of the Constituent Councils (London Borough of Greenwich, London Borough of Bexley and Dartford Borough Council) and Crematoria Authorities under the provisions of the Cremation Acts 1902 and 1952 as it relates to Eltham Crematorium and any subsequent relevant legislation | |
| Kent and Medway Police and Crime Panel | Cabinet member | Scrutinises the police and crime commissioner, promotes openness in the transaction of police business and supports the police and crime commissioner in the effective exercise of their functions | |
| PATROL (Parking and Traffic Regulations Outside London) (Section 101(5) Local Government Act 1972 and Section 20 Local Government Act 2000) | Elected member of the Council | To provide a national joint committee of councils having SPA/PPA areas for the purpose of appointing independent adjudicators and providing fair, consistent and equitable adjudication for appellants and councils in line with government advice | |

## JOINT ARRANGEMENTS

| Joint Arrangements | Membership | | Function | Onward limits on Delegations |
|---|---|---|---|---|
| Joint Transportation Board | Elected members of the Council (politically balanced), Kent County Councillors and Parish/Town Council representatives | A non-statutory forum | The functions and responsibilities associated with advising on highways and transportation works etc. | As may be specified in the Scheme of Delegations to Officers |
| Sevenoaks District Council and Dartford Borough Council | | Partnership Agreement dated 26 May 2022 | Joint working arrangements for Internal Audit, Fraud and Revenues and Benefits | See 4.4 below |

| | |
|---|---|
| **(MAJOR PARTNERSHIPS)** | **As specified in the Partnerships' Register** |
| **(MINOR PARTNERSHIPS)** | **As specified in the Partnerships' Register** |

**Delegations to and from other authorities**

| Parties to arrangements | | Delegations | Onward limits on Delegations |
|---|---|---|---|
| Kent County Council and Dartford Borough Council | Memorandum of Understanding – 2/10/2000 | Delegation of various powers relating to the enforcement of on-street parking in the Borough of Dartford | As may be specified in the Scheme of Delegations to Officers |
| Sevenoaks District Council and Dartford Borough Council | Partnership Agreement dated 26 May 2022 | Joint working arrangements for Internal Audit, Fraud and Revenues and Benefits | As may be specified in the Scheme of Delegations to Officers |

OFFICER ROLES **- The following roles are underpinned by the fundamental principles of political neutrality and service to the whole Council:**

## Leadership Team

| Post | Functions and Areas of Responsibility |
|---|---|
| Chief Officer and Director of Corporate Services | Responsible for Business Continuity, Democratic Services, Elections, Finance, Human Resources, Information Technology, Internal Audit, Legal Services, Revs and Bens and Treasury Management<br><br>Provision of professional advice to the General Assembly of the Council, the Cabinet, Policy Overview Committee, Scrutiny Committee, Crime and Disorder (Overview and Scrutiny) Committee and other Committees, Boards, and Panels<br><br>Representing the Council on Partnerships and External Bodies (as required by statute or the Council) |
| | |
| Director of Housing and Public Protection | Responsible for Bereavement Services, Climate Change & Biodiversity, Community Safety, Emergency Planning, Enforcement, Environmental Health, Housing (Landlord Function), Parking Services, Parks, Waste & Recycling and Private Sector & Strategic Housing<br><br>Representing the Council on Partnership and External Bodies (as required by statute or the Council) |
| Director of Growth and Community | Responsible for Asset Management, Building Control, Business Support, Communications, Community Development, Corporate Performance, Corporate Policy, Culture, Customer Services, Economic Development, Elders Forum, Emergency Planning, Events, Health, Land Charges, Leisure, Markets, Major Projects, Planning, Property Information/GIS and Youth Council.<br><br>Representing the Council on Partnership and External Bodies (as required by statute or the Council) |

## Posts with specific roles and responsibilities

| | |
|---|---|
| Chief Officer and Director of Corporate Services | Electoral Registration Officer |
| Electoral Services Manager | Deputy Electoral Registration Officer |
| Chief Officer and Director of Corporate Services | Returning Officer |
| Chief Officer and Director of Corporate Services | Senior Information Risk Officer (SIRO) |
| Head of Legal Services | Data Protection Officer (DPO) |
| Head of Legal Services | Senior Responsible Officer (RIPA) |
| | |

## Statutory Officer roles

| POST | DESIGNATION |
|---|---|
| Chief Officer and Director of Corporate Services | Head of Paid Service |
| | |
| Head of Finance | Chief Finance Officer (Section 151 Officer) |
| | |
| Head of Legal Services | Monitoring Officer |

## Proper Officer functions

| APPOINTMENTS |
|---|
| As may be specified in the Scheme of Delegations to Officers |
| |

## 3.2 SCHEME OF DELEGATIONS TO OFFICERS

## SCOPE

1.1 The functions which Dartford Borough Council are responsible for are either executive or non-executive.

**Non-executive functions:** are those specifically required by statute or designated by the Council i.e. the General Assembly of the Council (GAC) to be non-executive functions. These will be exercised by either the GAC, or by committees, boards, panels appointed by the GAC, or by officers.

**Executive functions:**
are all those functions which will be exercised by either the Cabinet collectively, or a committee or sub-committee of the Cabinet or by officers.

1.2 This Scheme of Delegations to Officers shall be interpreted in accordance with the relevant provisions of the Local Government Act 2000, in particular Section 13 (functions which are to be the responsibility of the executive) and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

1.3 Any arrangements made by virtue of this Scheme of Delegations are not to prevent the GAC, Cabinet, committee or board by whom the arrangements are made, from exercising those functions.

1.4 This Scheme of Delegations has been approved in its totality by both the GAC and by the Cabinet and no delegation contained within it shall be treated as invalid by reason of it being incorrectly classified as a GAC function instead of a Cabinet function or vice versa.

1.5 This Scheme may be amended from time to time in any manner as is considered appropriate:

(1) in relation to Council functions:

(a) by the GAC; or
(b) by the relevant committee, sub-committee or board insofar as it relates to functions discharged by that committee, sub-committee or board; or
(c) by Directors under delegated authority.[1]

(2) in relation to executive functions:
(a) by Cabinet; or
(b) by Directors under delegated authority[2].

## GENERAL PRINCIPLES

1.6 Under this Scheme, the GAC, in pursuance of powers under Sections 101, 151 and 270 of the Local Government Act 1972 and the Cabinet, in pursuance of powers under Sections 14(3)(b) & (5) of the Local Government Act 2000 and all other powers enabling, delegates to the Directors and service heads, to the extent of their respective powers, the functions referred to in this Scheme at Annexes 1 and 2.

1.7 This Scheme delegates powers and duties within broad functional descriptions and

[1]Annual Meeting 25.05.11 Min.No.25 (Managing Director)/Directors – reviewed September 2024
[2]Cabinet 21.04.11 Min.N o. 167/Directors – reviewed September 2024

includes powers and duties under all legislation present and future within those descriptions and all powers and duties including those relating to the employment of staff incidental to that legislation, as well as authorising the affixing of the Common Seal, the institution, defending or participating in any legal proceedings in any case where such action(s) is necessary, to give

effect to decisions of the GAC and the Cabinet or in any case, where it is considered that such action is necessary, to protect the Council's interests.

1.8 This Scheme includes the power for the GAC and the Cabinet to delegate functions to officers of other local authorities and to appoint or designate any officer as an 'authorised officer', 'inspector', 'person duly authorised' or similar, under any of the legislation or functions specified in this Scheme.

1.9 All powers delegated under this Scheme shall, so far as the power itself is exercisable by the GAC only under an agency agreement pursuant to Section 101 of the Local Government Act 1972 or by the Cabinet pursuant to Section 19 of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), be exercised in accordance with the terms of such agency agreement.

1.10 The action of an officer under a delegated power shall be deemed to be the act of the GAC or the Cabinet (as the case may be).

1.11 Nothing in these delegated powers shall restrict the powers or duties placed upon any officer by statute.

1.12 The exercise of the powers and functions delegated by this Scheme shall without prejudice to any specific delegation or authorisation set out and subject to any express conditions/exclusions/limitations/notes specified, be taken to include power to do anything incidental or conducive to the discharge of such functions, including administrative and procedural acts, exercising discretion, making determinations and imposing, amending, deleting, revoking, enforcing conditions, limitations, restrictions or other terms on any approval, consent licence, permission or registration.

1.13 Any reference to any Act, Rule, Order or Regulation shall be taken as including a reference to that Act, Rule, Order or Regulation as re- enacted replaced or modified from time to time. References to any statutory provision shall include a reference to any subordinate or secondary legislation made under or taking effect under it from time to time.

## LIMITATIONS

1.14 Any exercise of delegated powers under this Scheme or any other scheme of delegation shall comply with:

(a) any statutory restrictions;
(b) the Constitution;
(c) the following Standing Orders:
- Standing Order 37 - Delegation of Urgent and Routine Matters
- Standing Order 42 - Disposal of Property
- Standing Orders 49 - 54 - Access to Information Procedure Rules
- Standing Order 55 - Motions Affecting Persons Employed by the Council
- Standing Order 57 – Key Decisions
- Standing Orders 46 - 47 - Budget and Policy Framework Procedure Rules
- Standing Orders 59 - 63 - Officer Employment Procedure Rules

(d) Contracts Standing Orders;
(e) Financial Regulations;
(f) the Budget and Policy Framework and any other plans and strategies approved by the GAC or Cabinet;
(g) the Employee Code of Conduct, the Member Code of Conduct or such other codes as may be in place from time to time;
(h) the Code of Practice on Local Authority Publicity;
(i) the agreed arrangements for recording decisions; and

(j) any additional conditions imposed either by the GAC, Cabinet or by statute or any statutory code of conduct.

1.15 The exercise of the powers delegated under this Scheme or any other scheme of delegation involving the incurring of expenditure, is subject to there being sufficient approved provision within budgets to cover the expenditure.

1.16 Before exercising any delegated powers, consideration shall be given to:

(a) human rights implications under the Human Rights Act 1998, to ensure that individual rights and freedoms are consciously balanced with the GAC's and Cabinet's obligations and duties;

(b) the public sector equality duty under the Equality Act 2010, to ensure that equality considerations are embedded into day-to-day decision-making.

1.17 To ensure that Councillors have adequate opportunity to comment on and be involved in the decision-making process where appropriate, the exercise of delegated powers under this Scheme or pursuant to a GAC or Cabinet resolution, may require that the delegation be exercised in consultation with the Cabinet Chairman or Portfolio Member etc.

## MATTERS NOT DELEGATED

1.18 This Scheme does not delegate any matter:

(a) reserved by law or by the Constitution to the GAC or the Cabinet;
(b) which may not by law, be delegated to an officer;
(c) any matter expressly reserved to a committee, board or panel by the Constitution, Standing Orders or Financial Regulations, or withdrawn from delegation by this Scheme or by a committee, board or panel;
(d) any power to make an order for the compulsory acquisition of land;
(e) any power to acquire land in advance of requirements;
(f) any power to confirm any order, or to issue or grant any permission, consent, licence or other determination, which is the subject of a statutory right of objection that has been duly exercised.

## DELEGATIONS

1.19 For the purposes of this Scheme, the GAC and Cabinet arrange for their respective functions (Annexes 1 and 2) to be discharged by Directors and service heads.

1.20 The delegations apply to those functions, which have not, by virtue of the Constitution and/or Standing Orders or any other instrument, been reserved to the GAC or Cabinet and any committees, sub-committees, panels or boards thereof.

1.21 Delegations set out in this Scheme are in addition to any delegations referred to in the Constitution and/or Standing Orders.

1.22 Directors and service heads are delegated all those powers necessary to act within this Scheme, including the expenditure of money within the financial limits referred to in the Scheme of Delegations to Officers.

1.23 Apart from those powers set out in this Scheme which have been generally or specifically delegated to Directors and service heads, any remaining functions which have not been specifically reserved to the GAC, Cabinet or any committees, sub-committees, boards or panels thereof, are delegated to Directors and service heads.

1.24 In respect of any matter falling within the parameters of this Scheme, Directors may

further delegate to and authorise officers by designation, to exercise any of the powers delegated to them under this Scheme or any other applicable scheme of delegation, in so far as is legally permissible and in so far as not already delegated by virtue of the Constitution and/or Standing Orders. Such further delegations and authorisations shall be recorded in a sub-delegations scheme (the 'Sub-delegations'). Directors may at any time arrange for the transfer/reallocation of functions to, from and within their respective Directorates, as they consider appropriate.

1.25 Directors may further authorise officers by designation, within their Directorates to exercise any of the powers delegated to them under this Scheme or any other applicable scheme of delegation, in so far as is legally permissible and in so far as not already delegated by virtue of the Constitution and/or Standing Orders. Such further authorisations shall be recorded in the Sub-delegations.

1.26 All delegated powers shall be exercised in the name of the relevant Director but this

~~1.27~~ shall be without prejudice to the right of an officer to exercise such powers in their name where professional standards so require e.g. the issue of a report on the Council's land transactions by the Council's qualified valuer or the institution of legal proceedings by the Head of Law.

**Statutory Officers**

1.28 The functions of the Head of Paid Service, Monitoring Officer and Section 151 Officer are set out in Part 2, Article 12 of the Constitution. So far as not specified by legislation, the Head of Paid Service, Monitoring Officer and Section 151 Officer are delegated all powers necessary to carry out their statutory functions.

**Proper Officer functions**

1.29 Pursuant to Section 270(3) of the Local Government Act 1972, Directors are appointed 'proper officers' as described in specified sections of relevant Acts of Parliament or regulations. Directors may nominate or designate an officer to act as proper officer or deputy proper officer for any specified functions. Any such nomination or designation shall be recorded in the Sub- delegations.

Adopted by Cabinet – 21 April 2011 [Min.No.167]
Adopted at the Annual Meeting – 25 May 2011 [Min.No.25]
Adopted by Cabinet – 7 September 2017 [Min.No.52]
Adopted by the GAC – 20 November 2017 [Min.No.50]
Reviewed under delegated authority- 15 June 2020
Reviewed and adopted by Cabinet -22 July 2021 [Min. No.34]
Reviewed and adopted by the GAC – 26 July 2021[Min.No.37]
Reviewed under delegated authority - 1 April 2023
Reviewed under delegated authority 17 September 2024

# ANNEX 1: THE DELEGATED FUNCTIONS – GENERAL ASSEMBLY OF THE COUNCIL (GAC)

The Council delegates the following general functions to Directors and service heads to be exercised in respect of non-executive functions of the Council as set out in the Sub-delegations.

| (1) | (2) |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **COUNCIL FUNCTIONS** | |
| **Local Authorities (Functions and Responsibilities)(England) Regulations 2000 - Schedule 1 (as amended)** | |
| **Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018** - licensing functions | As set out in Environmental Health Sub – delegations |
| **Business and Planning Act 2020 –** pavement licences | As set out in Licensing and Gambling Sub – delegations |
| **Caravan Sites and Control of Development Act 1990** | |
| Section 1 – institution of legal proceedings | As set out in Legal Services Sub – delegations |
| Section 3(3) - site licensing | As set out in Housing Solutions & Private Sector Housing Team Sub-delegations |
| **Anti-Social Behaviour Act 2003** - Part 8 (Sections 69, 70, 71 & 74) - high hedges complaints | As set out in Planning Services Sub – delegations |
| **Dangerous Wild Animals Act 1976** – Section 1 - licensing functions | As set out in Environmental Health Sub – delegations |
| **Food Safety Act 1990** - Section 19 – registration & licensing premises | As set out in Environmental Health Sub – delegations |
| **Gambling Act 2005** | |
| Sections 29, 30, 39 and 350 - information exchange, occasional use notices, and disapplication functions | As set out in Licensing and Gambling Sub – delegations |
| Section 346 - institution of legal proceedings | As set out in Legal Services Sub-delegations |
| **Health Act 2006** – Part 1 Chapter 1 (Sections 6(5), 7(4), 8(4), 10(3), 10(5)), paras 13, 15 & 16 of Schedule 1, & para 1 of Schedule 2 & regulations - enforcement and penalty notices | As set out (as applicable) in:<br>Enforcement Services Sub-delegations<br>Environmental Health Sub-delegations<br>Licensing and Gambling Sub – delegations |

| (1) | (2) |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **COUNCIL FUNCTIONS** | |
| **Local Authorities (Functions and Responsibilities)(England) Regulations 2000 - Schedule 1 (as amended)** | |
| **Health and Safety at Work etc. Act 1974** (functions relating to health and safety at work (to the extent that those functions are discharged otherwise than in the Council's capacity as an employer) & powers of entry | As set out in Environmental Health Sub-delegations |
| Section 19 – appointment of inspectors | As set out in Environmental Health Sub – delegations |
| Section 33 - institution of legal proceedings | As set out in Legal Services Sub-delegations |
| **Hedgerow Regulations 1997 –** protection of hedgerows | As set out in Planning Services Sub – delegations |
| **Housing Grants, Construction and Regeneration Act 1996 –** Section 52(4) – repayment of grants | As set out in Financial Services Sub – delegations |
| **Hypnotism Act 1952** | |
| Sections 2(3) & 3 - Institution of legal proceedings | As set out in Legal Services Sub-delegations |
| Sections 1 & 2 - licensing hypnotism performances | As set out in Licensing and Gambling Sub – delegations |
| **Licensing Act 2003 –** licensing functions | As set out (as applicable) in:<br>Building Control Sub-delegations<br>Environmental Health Sub-delegations<br>Legal Services Sub-delegations<br>Licensing and Gambling Sub – delegations<br>Planning Services Sub-delegations |
| **Local Authorities (Referendums) (Petitions) (England) Regulations 2011** - Regs 4 & 5 – Proper Officer functions | As set out in Electoral Registration Sub-delegations |
| **Local Government Act 1972 –** Sections 86 & 91(1) – declaration of casual vacancy & filling inquorate Parish/Town Committee vacancies | As set out in Electoral Registration Sub-delegations |
| **(1)** | **(2)** |
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **COUNCIL FUNCTIONS** | |

| **Local Authorities (Functions and Responsibilities)(England) Regulations 2000 - Schedule 1 (as amended)** | |
|---|---|
| **Local Government Act 1972** – Sections 112 & 151 - appoint staff & determine the terms and conditions on which they hold office (including procedures for their dismissal) | As set out (as applicable) in:<br>Financial Services Sub-delegations<br>Democratic Services Sub-delegations |
| **Local Government Act 2000** - Section 92 - make payments or provide other benefits in cases of maladministration etc. | As set out in Leadership Team Sub-delegations |
| **Local Government (Miscellaneous Provisions) Act 1976** – Sections 47, 48, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62 & 79<br>licensing of hackney carriages and private hire vehicles | As set out (as applicable) in:<br>Environmental Health Sub-delegations<br>Licensing and Gambling Sub – delegations |
| **Local Government (Miscellaneous) Provisions Act 1982** | |
| Schedule 4 – institution of legal proceedings | As set out in Legal Services Sub – delegations |
| Part III & Schedule 4 – licensing of market and street trading | As set out (as applicable) in:<br>Markets Sub – delegations |
| Sections 2, 4, 13, 14, 15, 16 & 17 –<br>Licensing of sex shops, premises for acupuncture, tattooing, ear-piercing and electrolysis | As set out (as applicable) in:<br>Environmental Health Sub – delegations<br>Licensing and Gambling Sub – delegations |
| Section 41 – lost & uncollected property | As set out in Building Management Sub-delegations |
| **Localism Act 2011** | As set out (as applicable) in:<br>Leadership Team Sub – delegations<br>Democratic Services Sub-delegations<br>Planning Services Sub-delegations |
| **Noise and Statutory Nuisance Act 1993** - Schedule 2 - granting consent for the operation of loudspeakers | As set out in Environmental Health Sub – delegations |
| **(1)** | **(2)** |
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **COUNCIL FUNCTIONS** | |
| **Local Authorities (Functions and Responsibilities)(England) Regulations 2000 - Schedule 1 (as amended)** | |

| | |
|---|---|
| **Planning Hazardous Substances) Act 1990** - Sections 9(1) & 10 – determination of applications for hazardous substances consent, and related powers | As set out in Planning Services Sub – delegations |
| **Planning (Listed Buildings and Conservation Areas) Act 1990 –** Sections 3(1), 4(1), 38, 48 & 54 – service of building preservation notices, repairs notices & enforcement notices | As set out in Planning Services Sub – delegations |
| **Planning Hazardous Substances) Act 1990** - Sections 9(1) & 10 – determination of applications for hazardous substances consent, and related powers | As set out in Planning Services Sub – delegations |
| **Police & Crime Commissioner Elections Regulations 2012**<br>**Police & Crime Commissioner Elections Order 2022 –** PCC elections | As set out in Electoral Registration Sub – delegations |
| **The Political Parties, Elections and Referendums Act 2000** | As set out in Electoral Registration Sub – delegations |
| **Public Health Act 1936** – Section 269(1) – licensing the use of moveable dwellings & camping sites | As set out in Environmental Health Sub – delegations |
| **Representation of the People Act 1983 –** Sections 8, 9D, 28(1)(a) & 35(1) – Officer appointments | As set out in Electoral Registration Sub – delegations |
| **Safety of Sports Grounds Act 1975** – dealing with safety certificates | As set out in Environmental Health Sub – delegations |
| **Town and Country Planning Act 1990** | |
| Sections 171E, 187, 187A(9), 187B, - institution of legal proceedings and application for injunction<br><br>Sections 172, 173A, 183, 187A, 215(1), & 330 – service of enforcement notices & requisition for information | As set out in Legal Services Sub – delegations |
| Sections 70A, 70C, 106, 171C, 171E, 171BA, 171BB, 172, 172A,173A,174,178,183(1), 187A, 187B, 191(4), 192(2), 193(7), 196A, 198, 215(1), 219, 225,& 330 – decline to determine application for planning permission, enter into agreement regulating development or use of land, various enforcement functions, preservation of trees, maintenance of land & requisition for information etc. | As set out in Planning Services Sub-delegations |
| Section 225 – removal or obliteration of placards or posters | As set out in Enforcement Services Sub – delegations |



| **(1)** | **(2)** |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **COUNCIL FUNCTIONS** | |
| **Local Authorities (Functions and Responsibilities)(England) Regulations 2000 - Schedule 1 (as amended)** | |

| | |
|---|---|
| **Town and Country Planning (General Permitted Development) Order 1995**<br>**Town and Country Planning (General Permitted Development) Order 2015**<br><br>Parts 6, 7, 24 & 31 - make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights | As set out in Planning Services Sub-delegations |
| **Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 2011**<br><br>**Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 2017** – establish need or otherwise for EIAs | As set out in Planning Services Sub-delegations |
| **Town and Country Planning (Tree Preservation) Regulations 2012** | As set out in Planning Services Sub-delegations |
| **Town & Country Planning (Permission in Principle) (Amendment) Order 2017** | As set out in Planning Services Sub-delegations |
| **Town Police Clauses Act 1847** | |
| Section 21 - applications for street parties and processions | As set out in Enforcement Services Sub – delegations |
| Institution of legal proceedings | As set out in Legal Services Sub – delegations |
| The relevant Sections of the Act relating to the licensing of Hackney Carriages and Private Hire Vehicles | As set out in Licensing and Gambling Sub-delegations |
| **Voter Identification Regulations 2022 –** issue of Voter Authority Certificates | As set out in Electoral Registration Sub-delegations |
| **Zoo Licensing Act 198**1 – Section 1 – licensing functions | As set out in Environmental Health Sub – delegations |
| | |
| **Other Functions not referred to in regulations or this Schedule** | |
| Any function which is not specified in the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended) or any subsequent regulations and this Schedule | Unless retained by the GAC, a committee, board or panel of the GAC |

# ANNEX 2: THE DELEGATED FUNCTIONS – CABINET

The Cabinet delegates the following general functions to Directors and service heads to be exercised in respect of executive functions of the Council as set out in the Sub-delegations:

| (1) | (2) |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** [1] | |
| **Accounts and Audit Regulations 2015 -** sign statement of accounts | As set out in Finance Sub – delegations |
| **Allotments Acts 1922 – 1950** – enter into agreements | As set out in Waste and Parks Sub – delegations |
| **Animals Act 1971 –** removal of horses | As set out in Enforcement Services Sub – delegations |
| **Animal Health Act 1981 –** control of animal diseases and welfare of animals | As set out in Enforcement Services Sub – delegations |
| **Animal Welfare Act 2006** | |
| Section 30 – institution of legal proceedings | As set out in Legal Services Sub – delegations |
| The relevant provisions of the Act relating to the welfare of animals & powers of entry | As set out in Environmental Health Sub – delegations |
| **Anti-Social Behaviour Act 2003** | |
| Institution of legal proceedings | As set out in Legal Services Sub – delegations |
| Section 14 -- demotion of secure tenancies | As set out in Housing (Landlord Function) Sub-delegations |

[1] Any function of a local authority which is not specified in regulations is to be the responsibility of the executive of the authority under executive arrangements



| (1) | (2) |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |

| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
|---|---|
| **Anti-Social Behaviour Act 2003** | |
| Part 6 (Sections 48 – 52 & 68) – issue of defacement remedial notices, fixed penalty notices & high hedge remedial notices & demotion of secure tenancy | As set out (as applicable) in:<br>Enforcement Services Sub – delegations<br>Environmental Health Sub – delegations<br>Housing (Landlord Function) Sub - delegations |
| **Anti-Social Behaviour, Crime and Policing Act 2014** | |
| Institution of legal proceedings | As set out in Legal Services Sub – delegations |
| Parts 1, 2, 4 & 6 – exercise of certain functions relating to injunctions, criminal behaviour orders, community protection, community remedies & fixed penalty notices | As set out (as applicable) in:<br>Enforcement Services Sub-delegations<br>Environmental Health Sub – delegations<br>Housing (Landlord Function) Sub-delegations<br>Parking Services Sub-delegations |
| **Assets of Community Value (England) Regulations 2012** | As set out (as applicable) in:<br>Leadership Team Sub – delegations<br>Legal Services Sub-delegations |
| **Building Act 1984** | |
| Sections 8-11,14- 16,18-33, 35, 36, 47, 50(8), 52(5), 56, 59, 72, 74, 75, 77, 78, 79, 81, 95, 96, 99 & 113 –<br>approve or refuse dispensations, pass, reject or rescind plans, require conformity tests, discharge functions related to initial notices, demolition orders, closure orders & dangerous structures, requisitions for information, obstruction to private sewers & powers of entry | As set out (as applicable) in:<br>Building Control Sub-delegations<br>Environmental Health Sub-delegations<br>Legal Services Sub-delegations |
| Section 76, Parts II, III & IV - service of statutory notices & discharge of functions listed in 'other provisions about buildings' and 'general' | As set out (as applicable) in:<br>Environmental Health Sub – delegations |
| **(1)** | **(2)** |
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |

| | |
|---|---|
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Building (Approved Inspectors etc.) Regulations 2010** – Regulations 10, 14, 16, 19 & 22 – functions relating to plans & certificates | As set out in Building Control Sub-delegations |
| **Building (Local Authority Charges) Regulations 2010** – Regulations 3, 4, 6, 7, 8 , 11, 12 – functions relating to the Standard Fee Scheme | As set out in Building Control Sub-delegations |
| **Building Regulations 2010** – Regulations 13, 14 15, 16, 17, 18, 29 & 46 - functions relating to plans, building notices, completion certificates, energy ratings, sampling & testing | As set out in Building Control Sub-delegations |
| **Caravan Sites and Control of Development Act 1960** | |
| Section 1 – institution of legal proceedings | As set out in Legal Services Sub – delegations |
| Functions relating to the control of caravan sites (excluding Section 3(3) (see Council functions)) & powers of entry | As set out in Housing Solutions & Private Sector Housing Team Sub-delegations |
| **Christmas Day (Trading) Act 2004** | As set out in Environmental Health Sub – delegations |
| **Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022** | As set out in Parking Services Sub – delegations |
| **Civil Procedure Rules –** Statement of Truth & offers to settle | As set out in Legal Services Sub – delegations |
| **Clean Air Act 1993** | As set out (as applicable) in:<br>Environmental Health Sub – delegations<br>Legal Services Sub – delegations |
| **(1)** | **(2)** |
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |

| | |
|---|---|
| **Clean Neighbourhoods and Environment Act 2005** | |
| Institution of legal proceedings under relevant Sections of the Act | As set out in Legal Services Sub – delegations |
| Sections 6(1) (fixed penalty notices), & Parts 3 (Section 18 & 19 – dropping litter offences), 4 (graffiti and defacement) 5 (waste), 7 (noise) &9 (other statutory duties) | As set out (as applicable) in:<br>Enforcement Services Sub – delegations<br>Environmental Health Sub – delegations |
| **Commonhold and Leasehold Reform Act 2002 -** functions relating to residential property (Council housing) management | As set out in Housing (Landlord Function) Sub – delegations |
| **Communications Act 2003 -** functions relating to requests to remove public pay phones | As set out in Planning Services Sub – delegations |
| **Community Infrastructure Levy Regulations 2010** | As set in in Planning Services Sub-delegations |
| **Conservation of Habitat & Species Regulations 2010 –** determining Appropriate Assessments | As set in in Planning Services Sub-delegations |
| **Control of Dogs Order 1992** | |
| Article 3 - institution of legal proceedings | As set out in Legal Services Sub – delegations |
| The relevant Articles of the Order relating to wearing of dog collars & seizure of dogs | As set out in Environmental Health Sub – delegations |

Delegations/Cabinet Delegated Functions

| **(1)** | **(2)** |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Control of Horses Act 2015** | As set out (as applicable) in:<br>Enforcement Services Sub – delegations<br>Environmental Health Sub –delegations |
| **Control of Pesticides Regulations 1986** | As set out in Environmental Health Sub – delegations |
| **Control of Pollution Act 1974** | |

| | |
|---|---|
| Section 62 – institution of legal proceedings | As set out in Legal Services Sub – delegations |
| Section 23 & Part III – functions relating to prohibition of parking to facilitate street cleaning, noise & powers of entry | As set out (as applicable) in:<br>Enforcement Services Sub – delegations<br>Environmental Health Sub –delegations |
| **Control of Pollution (Amendment) Act 1989** - Section 5B(2) – issue of fixed penalty notices | As set out in Enforcement Services Sub – delegations |
| **Council Tax (Administration and Enforcement) Regulations) 1992** - Part VI, Regulation 49 – administration and enforcement of Council Tax | As set out (as applicable) in:<br>Finance Sub-delegations<br>Revenues Sub-delegations |
| **Council Tax/Housing Benefit -** administration of benefits (including assessment, payments, overpayments, excess payments, subsidy, appeals, civil penalties, administration penalties, discretionary housing payments)<br><br>Social Security Contributions and Benefits Act 1992<br>Social Security Administration Act 1992<br>Social Security (Consequential Provisions) Act 1992<br>Child Support, Pensions and Social Security Act 2000<br>Welfare Reform Act 2007<br>Tribunals, Courts and Enforcement Act 2007<br>Welfare Reform Act 2012 | As set out in Benefits Sub-delegations |

Delegations/Cabinet Delegated Functions

| (1) | (2) |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Council Tax Reduction Schemes (Detection of Fraud & Enforcement)(England) Regulations 2013 –** Regulation 12 & 13 – issue of civil penalties | As set out in Revenues Sub-delegations |
| **Countryside and Rights of Way Act 2000** | As set out in Environmental Health Sub – delegations |
| **County of Kent Act 1981** | |

| | |
|---|---|
| Sections 18, 30(3) (4) & (5) & Section 80 – issue of notices for renumbering and renaming streets and properties and brown tail moth | As set out (as applicable) in:<br>Environmental Health Sub – delegations<br>Legal Services Sub-delegations<br>Property Information Sub-delegations |
| Sections 53 - access for Fire Services | As set out in Building Control Sub-delegations |
| **Criminal Justice and Public Order Act 1994** – Sections 77 & 78 – enforcement functions relating to unauthorised campers on land & powers of entry | As set out in Enforcement Services Sub – delegations |
| **Dangerous Dogs Act 1991** | |
| Section 3 - institution of legal proceedings | As set out in Legal Services Sub-delegations |
| Sections 3, 4 & 5 – functions relating to keeping dogs under control, disqualification and destructions orders & powers of entry | As set out in Environmental Health Sub – delegations |
| **Dangerous Wild Animals Act 1976** – discharge of functions (other than Section 1 - see Council delegations) | As set out in Environmental Health Sub – delegations |
| **Data Protection Act 2018 and UK GDPR** | As set out in Leadership Team Sub – delegations<br>As set out in Legal Services Sub-delegations |
| **Dogs Act 1871** – laying a civil complaint in the Magistrates' Court for dog destruction | As set out in Legal Services Sub-delegations |



| **(1)** | **(2)** |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Dogs (Fouling Of Land) Act 1996 – Borough of Dartford Dogs (Fouling of Land) Order 1998** | As set out (as applicable) in:<br>Environmental Health Sub – delegations<br>Enforcement Services Sub-Delegations<br>Legal Services Sub-delegations<br>Waste and Recycling Sub-delegations |
| **Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020** | As set out Housing Solutions & Private Sector Housing Team Sub-delegations |

| | |
|---|---|
| **Energy Efficiency (Private Rented Property)(England & Wales) Regulations 2015** | As set out Housing Solutions & Private Sector Housing Team Sub-delegations |
| **Enforcement of Parking Contraventions (England) General Regulations 2007** – functions detailed in the Agency Agreement for the Enforcement of Parking Control | As set out in Parking Services Sub – delegations |
| **Environment Act 1995** – Section 108 & Parts IV & V – air quality functions & powers of entry | As set out (as applicable) in:<br>Enforcement Services Sub – delegations<br>Environmental Health Sub – delegations |
| Sections 46(3), 47(2), 59, 92, 93, 94 – functions relating to commercial and industrial waste, litter abatement, clearing notices, litter control notices & issue of fixed penalty notices | As set out in Waste and Parks Sub – delegations |
| Sections 33, 34A(2), 47(2), 47ZA(2), 59, 71,88, 92, 93, 94, 94A(2), 149(1), Schedules 3& 3(A) & parts I, IIA, III & VI - pollution control, contaminated land, statutory nuisances, stray dogs, fixed penalty notices & powers of entry | As set out (as applicable) in:<br>Enforcement Services Sub – delegations<br>Environmental Health Sub – delegations |
| **Environmental Damage (Prevention And Remediation) (England) Regulations 2015** | As set out in Environmental Health Sub – delegations |



| **(1)** | **(2)** |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Environment Protection Act 1990 -** Sections 23, 24, 33, 34, 78M, 78M(5), 80, 81(5), 87, 88, 92, 92C, 93, 94A(2) – institution of legal proceedings | As set out (as applicable) in:<br>Environmental Health Sub – delegations<br>Legal Services Sub-delegations<br>Waste & Recycling Sub-delegations |
| **Food and Environment Protection Act 1985** | |
| Section 21 - institution of legal proceedings (pesticides & contamination of food) | As set out in Legal Services Sub-delegations |
| The relevant Sections of the Act relating to powers of entry and enforcement (pesticides & contamination of food) | As set out in Environmental Health Sub – delegations |

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| **Food Information Regulations 2014** | As set out in Environmental Health Sub – delegations |
| **Food Safety Act 1990** | |
| Parts II & III - institution of legal proceedings | As set out in Legal Services Sub-delegations |
| The relevant Sections of the Act relating to the enforcement of food safety functions (excluding Section 19 (see Council functions)) & powers of entry | As set out in Environmental Health Sub – delegations |
| **Food Safety and Hygiene (England) Regulations 2013** | |
| The relevant regulations relating to the institution of legal proceedings | As set out in Legal Services Sub-delegations |
| The relevant Sections of the Act relating to the issue of notices & orders, procuring samples & powers of entry | As set out in Environmental Health Sub – delegations |
| **Freedom of Information Act 2000 –** qualified person | As set out (as applicable) in:<br>Leadership Team Sub-delegations<br><br>Legal Services Sub-delegations<br>Monitoring Officer Sub-delegations |
| **General Food Regulations 2004** | As set out in Environmental Health Sub – delegations |



| **(1)** | **(2)** |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Guard Dogs Act 1975** – functions relating to the licensing of guard dogs | As set out in Environmental Health Sub – delegations |
| **Health Act 2006** - Part 1 Chapter 1 – enforcement & issue of fixed penalty notices | As set out in Enforcement Services Sub – delegations |
| **Health and Social Care Act 2012** | As set out in Environmental Health Sub – delegations |
| **Homelessness Reduction Act 2017** | As set out in Housing Solutions & Private Sector Housing Team Sub – delegations |
| **Housing Act 1985** | |

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|---|---|
| Sections 82A, 140, 141 & 154(2) – institution of legal proceedings | As set out in Legal Services Sub-delegations |
| Schedule 16 – adjustment of mortgage interest rates | As set out in Finance Sub-delegations |
| Parts II, III, IV, V,VI, X & XI - provision of housing accommodation, housing the homeless, functions relating to secure tenancies, right to buy, repair notices, HMOs & powers of entry | As set out (as applicable) in:<br>Housing (Landlord Function) Sub – delegations<br>Housing Solutions & Private Sector Housing Team Sub-delegations |
| **Housing Act 1996** | |
| Sections 127, 128, 143D, 143E, 153A – 153E – institution of legal proceedings and application for injunction | As set out in Legal Services Sub-delegations |
| Sections 153(A), (C & (E) & Parts VI & VII – introductory & demoted tenancies, allocation of Council properties and garages | As set out in Housing (Landlord Function) Sub – delegations |
| **Housing Act 2004** – functions relating to housing conditions, issue of licences for HMOs, service of orders & notices, institution of legal proceedings & powers of entry | As set out (as applicable) in:<br>Legal Services Sub-delegations<br>Housing (Landlord Function) Sub-delegations<br>Housing Solutions & Private Sector Housing Team Sub-delegations |
| **(1)** | **(2)** |
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Housing and Planning Act 2016 –** Section 172 – compulsory acquisition and surveys of land etc. | As set out in Land and Property Assets Sub – delegations |
| **Housing Grants Construction and Planning Services Act 1996** – Part I – improvements and repairs grants | As set out in Housing Options & Private Sector Housing Team Sub-delegations |
| **Land Compensation Act 1961** – Section 17 – certificates of appropriate alternative development | As set out in Planning Services Sub – delegations |
| **Land Compensation Act 1973** | |

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|---|---|
| Sections 29 & 37 - compensation and disturbance payments | As set out (as applicable) in:<br>Land and Property Assets Sub – delegations<br>Legal Services Sub-delegations |
| Section 29 - discretionary payments for displacement of Council tenant | As set out in Housing (Landlord Function) Sub – delegations |
| **Land Drainage Act 1991** - Section 25 – maintaining watercourse flows | As set out in Environmental Health Sub – delegations |
| **Landlord and Tenant Acts and Agricultural Holdings and Related Acts – settlement of claims** | As set out in Land and Property Assets Sub – delegations |
| **Law of Property Act 1925** – Section 146 – rights of entry or forfeiture | As set out (as applicable) in:<br>Legal Services Sub-delegations |
| **Leasehold Reform, Housing and Urban Development Act 1993** – Sections 1, 56, 69, 76 & 108 – grant of freeholds & long leases to qualifying tenants, agreements for estate management schemes & rent to mortgage | As set out in Housing (Landlord Function) Sub – delegations |
| **Licensing Act 2003** | As set out in Land & Property Sub-delegations |



| **(1)** | (2) |
|---|---|
| **Provision of Act or Statutory Instrument** | Limitations/Exclusions/Notes |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Licensing and Management of Houses in Multiple Occupation and Other House (Miscellaneous Provisions) Regulations 2006** | As set out in Housing Options & Private Sector Housing Team Sub-delegations |
| **Local Authorities' Cemeteries Order 1977** – functions relating to the management of cemeteries | As set out in Cemeteries Sub-delegations |
| **Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012** – access to information (public meetings) | As set out (as applicable) in<br>Leadership Team Sub – delegations<br>Democratic Services Sub – delegations |

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| **Local Authorities (Goods and Services) Act 1970 -** Functions relating to the supply of goods and services & the carrying out of suitable work for public bodies | As set out (as applicable) in:<br>Leadership Team Sub-delegations<br>Land and Property Assets Sub – delegations |
| **Local Authorities (Standing Orders) Regulations 2001 (as amended) – proper officer appointment** | As set out in Human Resources Sub-delegations |
| **Local Government Act 1972** | |
| Sections 83(1), 96(1), 96(2), 115(2), 123, 146(1), 214, 222, 223 & 237 – appointed officer functions, issue of open space land disposal notices, deeds of grant for exclusive rights of burial, application for injunctions, institution of legal proceedings for breach of byelaws & dealing with RIPA applications | As set out (as applicable) in:<br>Enforcement Services Sub – delegations<br>Environmental Health Sub - delegations<br>Financial Services Sub-delegations<br>Legal Services Sub-delegations<br>Democratic Services Sub-delegations<br>Monitoring Officer Sub-delegations |
| Sections 138 & 222 – incur expenditure & grant loans & apply for injunctions | As set out in Leadership Team Sub-delegations |
| **Local Government Act 2003** | As set out in Environmental Health Sub – delegations |
| **Local Government and Housing Act 1989** | |
| Sections 119(8) & 164 – determine right to buy applications & repayments of grants & exemptions from politically restricted posts | As set out (as applicable) in:<br>Leadership Team Sub-delegations |



| **(1)** | **(2)** |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Local Government Finance Act 1988** – Sections 89 & 120 – functions relating to the collection fund & refund of overpayments | As set out (as applicable) in:<br>Finance Sub-delegations<br>Revenues Sub-delegations |
| **Local Government Finance Act 1992** – write-offs and institution of winding up/bankruptcy proceedings and administration of the prescribed (pension age) and local (working age) Council Tax Reduction Scheme | As set out in:<br>Benefits Sub-delegations<br>Finance Sub-delegations |

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| **Local Government Finance Act 2012 -** administration of the prescribed (pension age) and local (working age) Council Tax Reduction Scheme | As set out in Benefits Sub-delegations |
| **Local Government (Miscellaneous Provisions) Act 1976** | |
| Sections 23, 16, 33 & 35 – dangerous trees, requisitions for information & removal of obstructions from private sewers & restoration of continuation of supply of water, gas & electricity | As set out in:<br>Environmental Health Sub – delegations<br>Housing Solutions & Private Sector Housing Team Sub-delegations<br>Waste and Parks Sub-delegations |
| **Local Government (Miscellaneous Provisions) Act 1976** | |
| Sections 16 & 20 & Part II –institution of legal proceedings<br>Section 41 – lost & uncollected property | As set out in:<br>Building Management sub-delegations<br>Legal Services Sub – delegations |

Delegations/Cabinet Delegated Functions

| (1) | (2) |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Local Government (Miscellaneous Provisions) Act 1976** | |
| Sections 16, 33, 68 & remaining Sections of Part II (excluding Sections 47, 48, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62 & 79 – ( see Council functions)), requisitions for information, restoration or continuation of supply of water, gas and electricity | As set out (as applicable) in:<br>Environmental Health Sub - delegations<br>Licensing and Gambling Sub – delegations<br>Housing Solutions & Private Sector Housing Team Sub-delegations |
| **Local Government (Miscellaneous) Provisions Act 1982** | |
| Part VIII – institution of legal proceedings | As set out in Legal Services Sub – delegations |

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|---|---|
| Sections 29 & 41 & Parts IV & VIII– issue of notices for lost & uncollected property on Council premises, functions related to control of refreshment premises, acupuncture, tattooing, ear-piercing and electrolysis & powers of entry | As set out (as applicable) in:<br>Building Management Sub - delegations<br>Environmental Health Sub - delegations<br>Housing (Landlord Function) Sub – delegations |
| **Local Government Act 2000** – Sections 2 & 19 &scrutiny reports | As set out (as applicable) in:<br>Leadership Team Sub-delegations<br>Democratic Services Sub-delegations |
| **Local Land Charges Act 1975, Local land Charges Rules 1977 & Local Authorities (England) (Charges for Property Searches) Regulations 2008** | As set out in Land Charges Sub-delegations |
| **Mobile Homes (Requirement For Manager Of Site To Be Fit And Proper Person) (England) Regulations 2020** | As set out in Housing Solutions and Private Sector Housing Sub-delegations |
| **Money Laundering Regulations 2007 –** appointed officers | As set out in Financial Services Sub-delegations |

Delegations/Cabinet Delegated Functions

| **(1)** | (2) |
|---|---|
| **Provision of Act or Statutory Instrument** | Limitations/Exclusions/Notes |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Neighbourhood Planning (General) Regulations 2012 –** Regulations 5A, 6,7,14-19 | As set out in Planning Services Sub-delegations |
| **Noise Act 1996** | |
| Section 4 - institution of legal proceedings | As set out in Legal Services Sub – delegations |
| The relevant Sections of the Act relating to the control of **noise** emitted from dwellings at night & forfeiture and confiscation of equipment & powers of entry | As set out (as applicable) in:<br>Environmental Health Sub - delegations<br>Licensing and Gambling Sub – delegations |
| **Noise and Statutory Nuisance Act 1993** | |
| Sections 3 & 5 - institution of legal proceedings | As set out in Legal Services Sub – delegations |

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| Schedule 3 and other relevant Sections of the Act relating to loudspeaker noise in streets (excluding Schedule 2 (see Council functions)) & powers of entry | As set out in Environmental Health Sub – delegations |
| **Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 -** write off of debts | As set out (as applicable) in:<br>Finance Sub – delegations<br>Revenues Sub-delegations |
| **Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment & Miscellaneous Provisions) Regulations 1991 (as amended)** | As set out in Revenues Sub – delegations |
| **Non-Domestic Rating (Payment of Interest) Regulations 1990) –** write off of debts | As set out (as applicable) in:<br>Finance Sub – delegations<br>Revenues Sub-delegations |
| **Official Feed And Food Controls (England) Regulations 2009** | As set out in Environmental Health Sub – delegations |



| **(1)** | **(2)** |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Pesticides Act 1998** – enforcement of pesticide control measures | As set out in Environmental Health Sub – delegations |
| **Planning Act 2008** | As set out in Planning Services Sub-delegations |
| **Planning Hazardous Substances) Act 1990 & Planning (Hazardous Substances) Regulations 2015** | |
| **Sections 23, 24, 24A, 24(8), 26AA & 36B - institution of legal proceedings** | As set out in Legal Services Sub – delegations |
| **Relevant Sections of the Act relating to enforcement & powers of entry (excluding Sections 9(1) & 10 (see Council functions))** | As set out in Planning Services Sub – delegations |
| **Planning (Hazardous Substances) Regulations 2015** – powers of entry | As set out in Planning Services Sub – delegations |

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| **Planning (Listed Buildings and Conservation Areas) Act 1990 –** Sections 9, 39, 43, 74 & 88 – functions relating to legal proceedings, enforcement notices, conservation area consents & powers of entry | As set out in Planning Services Sub – delegations |
| **Plant Protection Products (Sustainable Use) Regulations 2012** | As set out in Environmental Health Sub – delegations |
| **Poisons Act 1972** | As set out in Environmental Health Sub – delegations |
| **Police & Criminal Evidence Act 1984** | As set out in Environmental Health Sub – delegations |

Delegations/Cabinet Delegated Functions

| **(1)** | (2) |
|---|---|
| **Provision of Act or Statutory Instrument** | Limitations/Exclusions/Notes |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Police Reform & Social Responsibility Act 2011 – Part 2** | As set out in Licensing & Gambling Sub – delegations |
| **Pollution Prevention and Control Act 1990 –** issue permits & powers of entry | As set out in Environmental Health Sub – delegations |
| **Prevention of Damage by Pests Act 1949** | |
| Sections 4, 5 & 9 – service of statutory notices and functions relating to carrying out works in default & powers of entry | As set out in Environmental Health Sub – delegations |
| Section 26 - institution of legal proceedings | As set out in Legal Services Sub – delegations |
| **Prevention of Social Housing Fraud Act 2013 – Regulation 4** and power to prosecute for unlawful subletting of Council secure tenancies and assured tenancies of social landlords, including recovery of Unlawful Profit Orders | As set out (As applicable) in:<br>Housing (Landlord Function) Sub-delegations<br>Legal Services Sub – delegations |
| **Protection from Eviction Act 1977** | As set out in Housing Solutions & Private Sector Housing Team Sub-delegations |

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| **Public Health Acts (Amendment) Act 1907** - Section 31 – issue of notices for fencing lands adjoining streets | As set out (as applicable) in:<br>Enforcement Services Sub – delegations<br>Environmental Health Sub –delegations |
| **Public Health Act 1925** - Section 17 – street naming functions | As set out in Property Information Sub – delegations |
| **Public Health Act 1936** | |
| Sections 45, 50, 51, 52, 83 – institute legal proceedings | As set out in Legal Services Sub-delegations |
| Section 50 – overflowing and leaking cesspools | As set out in Environmental Health Sub-delegations |

Delegations/Cabinet Delegated Functions

| **(1)** | **(2)** |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Public Health Act 1936** | |
| The relevant Sections of the Act relating to the Council's public health functions (excluding Section 269(1) (see Council functions)) & powers of entry | As set out in Environmental Health Sub – delegations |
| **Public Health Act 1961** | |
| Section 17 – repair of drains and remedy stopped up drains | As set out in:<br>Environmental Health Sub-delegations |
| The relevant Sections of the Act relating to the Council's public health functions | As set out in Environmental Health Sub – delegations |
| **Public Health (Control of Disease) Act 1984** | |
| Part IIA – Applying for Orders, institution of legal proceedings, functions relating to control of diseases, disposal of dead bodies, canal boats & general and miscellaneous functions & powers of entry | As set out (as applicable) in;<br>Cemeteries Sub – delegations<br>Environmental Health Sub - delegations<br>Legal Services Sub – delegations |

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| **Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014** - enforcement | As set out in Housing Solutions & Private Sector Housing Sub – delegations |
| **Refuse Disposal (Amenity) Act 1978** | |
| Sections 2(A)(1) and other relevant Sections of the Act – issue of notices for removal of vehicles and functions relating to abandoned vehicles and refuse, issue of fixed penalty notices & powers of entry | As set out (as applicable) in: Enforcement Services Sub-delegations<br>Housing (Landlord Function) Sub – delegations<br>Waste and Recycling Sub – delegations |

Delegations/Cabinet Delegated Functions

| (1) | (2) |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Regulation of Investigatory Powers Act 2000** – Sections 28 & 29 – authorise covert surveillance operations & use of CHIS | As set out in Leadership Team Sub-delegations |
| **Regulation of Investigatory Powers (Communications Data) Order 2010 –** obtaining postal & telecommunications data to prevent crime & disorder | As set out in Leadership Team Sub – delegations |
| **Regulatory Reform (Housing Assistance) Order 2002** – grants' application functions | As set out in Housing Solutions & Private Sector Housing Team Sub-delegations |
| **Representation of the People (England and Wales) Regulations 2001** - Regulation 23 – institution of legal proceedings for failure to register | As set out in Legal Services Sub – delegations |
| **Road Traffic Regulation Act 1984 & Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996** – making road traffic orders and institution of legal proceedings for on-street & off street parking offences | As set out (as applicable) in:<br>Legal Services Sub – delegations<br>Planning Services Sub-delegations |

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| **Safety of Sports Grounds Act 1975 (other than dealing with safety certificates – see Council functions)** | As set out in Environmental Health Sub – delegations |
| **Scrap Metal Dealers Act 2013** | As set out in Licensing Sub – delegations |
| **Secure Tenants of Local Housing Authorities (Right to Repair) Regulations 1994 –** determination of applications from tenants | As set out in Housing (Landlord Function) Sub – delegations |



| (1) | (2) |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Smoke and Carbon Monoxide Alarm (England) Regulations 2015** | As set out in Housing Solutions & Private sector Housing Team Sub – delegations |
| **Sunbeds (Regulation) Act 2010** | |
| Section 7 – enforcement functions relating to the use or supply of tanning devices that use artificial ultra-violet radiation; and for connected purposes & powers of entry | As set out in Environmental Health Sub – delegations |
| Section 8 – institution of legal proceedings | As set out in Legal Services Sub – delegations |
| **Sunday Trading Act 1994** | |
| Schedules 1, 2 & 3 - functions relating to regulating shop opening hours and ancillary matters, powers of entry & institution of legal proceedings | As set out in:<br>Environmental Health Sub – delegations<br>Legal Services Sub – delegations |
| **Town and Country Planning Act 1990 –**<br>Section 225 – removal of illegal placards or posters<br>Sections 288 and 325 – statutory review and notice of intended entry | As set out in:<br>Legal Services Sub-Delegations<br>Planning Services Sub-delegations |
| **Town and Country Planning (Control of Advertisements) (England) Regulations 2007** | As set out in Planning Services Sub-delegations |

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| **Town and Country Planning (Environmental Impact Assessment) Regulations 2011** | As set out in Planning Services Sub-delegations |
| **Town and Country Planning (Environmental Impact Assessment) Regulations 2017** | As set out in Planning Services Sub-delegations |
| **Town Police Clauses Act 1847 – Section 21 – applications for street parties & processions** | As set out in Enforcement Sub – delegations |
| **Trade In Animal And Related Products Regulations 2011** | As set out in Environmental Health Sub – delegations |



| **(1)** | **(2)** |
|---|---|
| **Provision of Act or Statutory Instrument** | **Limitations/Exclusions/Notes** |
| **CABINET FUNCTIONS** | |
| **Pursuant to Schedule 2 - Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) & Section 13(2) Local Government Act 2000)(as amended)** | |
| **Traffic Management Act 2004 – Dartford Borough Council (Off Street Parking Places) (Amendment No.1 Order) 2020issue of fixed penalty notices, enforcement and administration of parking schemes within the Borough** | As set out in Parking Services Sub – delegations |
| **Traffic Management Act 2004** | |
| Part 6 - proceedings in relation to moving traffic offences. | As set out in Legal Services Sub – delegations |
| **Tribunals, Courts & Enforcement Act 2007 –** Schedule 12 – taking control of goods to recover unpaid sums | As set out in Revenues Sub-delegations |
| **Value Added Tax Act 1994 –** Schedule 10 – opt to tax land | As set out in Finance Team Sub - delegations |
| **Water Industry Act 1991** - Sections 77, 78, 79, 80, 82 & 85 – functions relating to the sampling of water supplies, service of notices and requisitions for information & powers of entry | As set out in Environmental Health Sub – delegations |
| **Water Resources Act 1991** | As set out in Environmental Health Sub – delegations |
| **Wildlife and Countryside Act 1981** | As set out in Environmental Health Sub – delegations |

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| **Zoo Licensing Act 198**1 – powers of entry | As set out in Environmental Health Sub – delegations |

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| **Placing of staff at disposal of other authorities -** enter into agreements with other local authorities for the placing of staff at the disposal of those other authorities in relation to Cabinet functions | As set out in Leadership Team Sub-delegations |
| **Other Functions not referred to in regulations or this Schedule** | |
| Any function which is not specified in the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended) or any subsequent regulations and this Schedule | To Cabinet or, a committee, board or panel of Cabinet |

# DARTFORD BOROUGH COUNCIL

## CONSTITUTION OF THE COUNCIL

## PART 4 PROCEDURAL STANDING ORDERS

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23.04.2001 Min.No.186
12.12.2002 Min.No.95
15.12.2003 Min.No.115(2)
26.07.2004 Min.No.54(8)
24.10.2005 Min.No.85
30.07.2007 Min.No.56
27.07.2009 Min.No.49
07.06.2010 Min.No.35
13.12.2010 Min.No.85
25.05.2011 Min.Nos.31 & 43
16.07.2012 Min.No.35
23.06.14 Min.No.95
29.07.14 Min.No.114
15.12.14 Min.No.144
13.07.15 Min.No.40
14.01.19 Min.No.89

Amendments to these Standing Orders under the delegated authority of the Managing Director - 10.09.2012 Amendments to these Standing Orders – Audit Board 26.09.2012 [Min.No.22]
Amendment to these Standing Orders under the delegated authority of the Managing Director – 16.12.2013 [GAC Min.No.80] Amendment to these Standing Orders under the delegated authority of the Managing Director - 7 September 2015 Amendment to these Standing Orders under the delegated authority of the Managing Director – 15 August 2019
Amendment to these Standing Orders under SO38 – 14.04.2020
Amendments to these Standing Orders under Director delegated authority – 15 June 2020 Amendments to these Standing Orders under Director delegated authority – 28 July 2020
Amendments to these Standing Orders under the Chief Officer and Director of Corporate Services' delegated authority – 10 May 2021 Amendments to these Standing Orders under the Chief Officer and Director of Corporate Services' delegated authority – 23 February 2022
Amendments to these Standing Orders under the Chief Officer and Director of Corporate Services' delegated authority – 16 May 2022 Amendments to these Standing Orders under the Chief Officer and Director of Corporate Services' delegated authority – 28 June 2022
Amendments to these Standing Orders under the delegated authority of the Monitoring Officer - 23 February 2023

## 1. MEETINGS AND PROCEEDINGS OF THE COUNCIL

1.1 Annual Meeting

The Council holds its Annual Meeting (with the order of business as specified in Standing Order 7);

I. in a year of ordinary elections of councillors, on the 8th day after the retirement of councillors unless the Council fixes another day within 21 days' immediately following the day of retirement;

II. in any other year, on a day fixed by the Council either in March, April or May, normally the second Wednesday in May.

2.2 Ordinary Meetings

III. In addition to the Annual Meeting, the Council holds other meetings i.e. ordinary meetings for the transaction of general business specified in Standing Order 8.

NB: The Budget Setting meeting will be considered an ordinary meeting.

IV. The dates and times of ordinary meetings of the Council are fixed by the Council, usually at the Annual Meeting.

1.3 Extraordinary Meetings

V. An extraordinary meeting of the Council may be convened either by the Mayor on his/her own initiative or by the Mayor on being presented with a requisition signed by five Members of the Council.

VI. Where the Mayor convenes an extraordinary meeting following a requisition signed by five Members of the Council, the Mayor will ensure that the notice and summons to the meeting are given within 7 days of the date of the requisition (NB: This Standing Order is not to be interpreted as meaning that the meeting itself must take place within that period).

VII. Subject to consultation with and agreement of all the Group Leaders, and the rules detailed in paras. (b) and (f) of this Standing Order, the requisition may request that the meeting be held on a particular date.

VIII. The Mayor may exercise his/her discretion as to the date of the meeting. In exercising this discretion, the Mayor will not delay unduly in convening the meeting.

IX. Upon the Mayor's refusal or neglect to convene a meeting, the meeting may be convened by five Members of the Council – not necessarily those who signed the requisition, whenever they themselves determine and the rules detailed in paragraphs (b) and (f) of this Standing Order will apply.

X. The business to be conducted will be restricted to the specified item(s) on the agenda with no consideration of previous minutes or reports from the Cabinet, Committees, Sub-committees, Boards and Panels.

1.4 Specific Purpose Meetings

The Council may hold a meeting for a purpose required by law or on the resolution of the Council or on the request of the Monitoring Officer and/or Chief Finance Officer for the purposes of presenting their statutory reports.

1.5 Venue and Time of Meetings of the Council

Meetings are held at the Civic Centre, Home Gardens, Dartford at 7.00pm (or at such other venue or time as the Proper Officer may determine in consultation with the Leader of the Council).

1.6 Notice of Public Meetings

Public notice of the time and place of every meeting of the Council:

XI. must be given at least five clear days' before the meeting (five weekdays, i.e. five periods of 24 hours running from midnight to midnight excluding the day documents become available and the day on which the meeting is held), or if the meeting is summoned or convened on less than five clear days' notice, then at the time it is summoned or convened;

XII. must detail the date and time and the place of the meeting;

XIII. must be displayed in a conspicuous or prominent place at the Civic Centre, Dartford and published on the Council's website; and

XIV. in the case of an extraordinary meeting;

(i) must specify the business to be transacted/dealt with and;

(ii) must be signed by the Member(s) of the Council who has called the meeting, or

XV. in the case of an ordinary, specific purpose or Annual Meeting, signed by the Proper Officer.

1.7 Summons

A summons to attend a Council meeting must give the date, time, and place of the meeting and state the business to be transacted and must be signed by the Proper Officer and sent to every member of the Council at least five clear days' before the meeting (five weekdays i.e. five periods of 24 hours running from midnight to midnight excluding the day documents become available and the day on which the meeting is held) either by post, or left at the usual place of residence of Members, or to another address which has been notified to the Proper Officer.

1.8 Other Business

No other business will be transacted at a meeting of the Council other than the list of items which are specified in the summons. Exceptions to this rule apply only in the following circumstances:

XVI. where a copy of the agenda including the item (or a copy of the item) is open to public inspection for at least five clear days' before the meeting, (five weekdays i.e. five periods of 24 hours running from midnight to midnight excluding the day documents become available and the day on which the meeting is held), or where the meeting is called on less than five clear days' notice, from the time the meeting is convened or summoned; or

XVII. any other business which is considered urgent under these Standing Orders, in which case the reason must be specified in the minutes of the meeting and in relation to urgent private Cabinet meetings, publicised in accordance with Standing Order 45 (6)(iii).

1.81 A meeting of the Council will not be invalidated because of failure to serve a summons on any member of the Council.

## 2. THE MAYOR

a) The Mayor will be elected each year at the Annual Council meeting by the Council from among the Councillors of the Borough.

b) Unless the Mayor resigns or becomes disqualified, he/she will continue in office until his/her successor has made a declaration of acceptance of office to act as Mayor.

c) The Mayor will continue to be a member of the Council notwithstanding the rules relating to the retirement of councillors as set out in Sections 7 and 26 of the Local Government Act 1972.

d) The Mayor cannot be a Cabinet member.

2.1 Election of Mayor at Annual Meeting

I. Election of the Mayor will be the first item of business at the Annual Meeting.

II. The person presiding at the meeting will be the Mayor elected the previous year. If he/she is not present, the Deputy Mayor will preside. If neither is present then another Member will preside, chosen by the Council from Councillors who are not members of the Cabinet.

III. If the person presiding at the meeting is no longer a member of the Council, he/she may not vote in the election of the Mayor unless;

(i) he/she is the retiring Mayor or the Deputy Mayor still in office, and;

(ii) where there is an equality of votes, he/she must give a casting vote.

2.2 The Deputy Mayor

IV. The Mayor will at the Annual Meeting, appoint a Deputy Mayor.

V. Unless the Deputy Mayor resigns or becomes disqualified, he/she will continue in office until his/her successor has made a declaration of acceptance of office to act as Deputy Mayor.

VI. The Deputy Mayor will continue to be a member of the Council notwithstanding the statutory provisions relating to the retirement of councillors referred to in paragraph (3) of this Standing Order.

VII. The matters detailed in paragraph (5) (b) and (c) of this Standing Order for the election of the Mayor applies equally to the appointment of the Deputy Mayor.

VIII. The Deputy Mayor cannot be a Cabinet member.

IX. Anything authorised or required to be done by, to or before the Mayor may be done by, to or before the Deputy Mayor.

## 3. CHAIRMAN OF MEETING OF THE COUNCIL

a) The Mayor if present, will preside at a meeting of the Council and in his/her absence, the Deputy Mayor.

b) If neither the Mayor nor the Deputy Mayor is present, another Member will preside chosen by the Council from Councillors who are not members of the Cabinet (Standing Order 8(1)(a) refers).

## 4. ELECTION OF LEADER OF THE COUNCIL AND TERM OF OFFICE

a) The Leader will be a councillor of the Borough of Dartford elected by the Council to the position of Leader, at the first Annual Meeting of the Council following Borough whole-Council elections or, if not elected at the Annual Meeting, at the first ordinary meeting of the Council following the Annual Meeting or, the next ordinary meeting of the Council following the resignation, dismissal or vacation of office by the Leader. The Leader will hold office until:

I. he/she resigns from office; or
II. he/she is no longer a councillor; or
III. he/she is removed from office by resolution of the Council in accordance with Standing Order 4A; or
IV. he/she is otherwise disqualified by law.

b) During his/her term of office, the Leader will continue to hold office as a councillor and accordingly, any enactment which provides for earlier retirement as a councillor will not apply.

c) The election of the Leader will be conducted by the Mayor on the basis of nominations being made and seconded and put to the vote. In the event of

there being more than two nominations and no one candidate receiving an absolute majority of votes of all Members present and voting, there will be a second vote solely between the two candidates with the largest number of votes. Where there is an equality of votes, the Mayor must give a casting vote. The candidate with the larger number of votes will be elected Leader of the Council.

4A. REMOVAL OF LEADER OF THE COUNCIL

(1) A motion to remove the Leader of the Council will be by notice of motion in accordance with Standing Order 10(8).

(2) The rules of debate in Standing Order 16 will not apply. The Leader of the Council will be entitled to speak last. The mover of the motion will be entitled to a second or closing speech immediately before the Leader of the Council.

(3) The Leader of the Council will be removed from office on a simple majority of those Members present and voting. The Leader of the Council will be entitled to vote on the motion.

(4) If a motion to dismiss the Leader of the Council is carried, it takes effect immediately.

4B. DEPUTY LEADER OF THE COUNCIL

(1) The Deputy Leader of the Council will be appointed by the Leader of the Council. When appointed, the name will be notified to the Proper Officer for report to the Council at the first available opportunity.

(2) The Deputy Leader will hold office until the end of the term of office of the Leader of the Council or until:

(a) he/she resigns from office; or
(b) he/she is no longer a councillor; or
(c) the Leader in his/her absolute discretion, removes him/her from office, upon written notice to the Proper Officer; or
(d) he/she is otherwise disqualified by law.

(3) The Deputy Leader will have authority to exercise the Leader of the Council's powers only in the event that the Leader is unable to act at any time or the office of Leader is vacant.

(4) If, for whatever reason there is a vacancy in the office of Deputy Leader, the Leader will appoint another Deputy Leader from among the Cabinet members and the rule relating to notification to the Proper Officer referred to in paragraph(1) of this Standing Order will apply.

4C. ABSENCE OF LEADER AND DEPUTY LEADER

If, for whatever reason both the Leader and Deputy Leader are unable to act or both positions are vacant, the Cabinet will either collectively act in the Leader's place or will arrange for a Cabinet member to act in the place of the Leader.

4D. CABINET MEMBERS

(1) Only Councillors may be appointed to the Cabinet by the Leader of the Council. There may be no co-optees and no deputies or substitutes for Cabinet members. Neither the Mayor nor Deputy Mayor may be appointed to the Cabinet and Cabinet members (including the Leader and Deputy Leader) may not be members of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee. [This deleted – see previous sentence].

(2) Cabinet members will hold office until:

(a) they resign from office; or
(b) they are no longer councillors; or
(c) they are removed from office, either individually or collectively, by the Leader, upon written notice to the Proper Officer;
(d) they are otherwise disqualified by law.

(3) If a vacancy occurs in the office of a Cabinet member, the Leader of the Council will fill the vacancy and report the appointment to the Proper Officer for report to the Council at the first available opportunity.

(4) Cabinet members can only be removed from the Cabinet by the Leader of the Council.

## 5. THE SHADOW LEADER AND DEPUTY SHADOW LEADER

a) The Shadow Leader and the Deputy Shadow Leader will be appointed by the Members forming the largest party in opposition on the Council.

b) When appointed, all the names will be notified to the Proper Officer for report to the Council at the first available opportunity.

## 6. QUORUM FOR THE MEETING OF THE COUNCIL

a) No business will be transacted at a meeting of the Council unless at least one quarter of the whole number of members of the Council (the total number of seats) are present. The requisite numbers of Members must be present throughout the meeting.

b) If, the number of Members present is below the quorum, the Mayor may at the expiry of 15 minutes (or such other period as he/she may decide) after the appointed hour, declare that the meeting of the Council will not take place. The consideration of all business which is on the agenda will be postponed to the next meeting of the Council whether ordinary or extraordinary and if extraordinary, by majority view of those Members present.

c) (a) If during any meeting of the Council, the absence of a quorum iis drawnto the attention of the Mayor, the Proper Officer will ring the division bell for one minute and he/she will then count the number of Members present. The Mayor will announce the absence of a quorum and will immediately adjourn the meeting and set a time for the meeting to restart.

(b) If the number of Members present remains below the quorum, the meeting will end and consideration of the remaining business which is on the agenda of the meeting will be postponed to the next meeting of the Council, whether ordinary or extraordinary and if extraordinary, by majority view of those Members present.

d) If more than one third of the Members of the Council become disqualified at the same time, then, until the number of Members in office is increased to not less than two thirds of the whole number of Members of the Council, i.e. seats - the quorum will be determined by reference to the number of Members remaining qualified instead of by reference to the whole number of Members.

NB: Paragraph (4) of this Standing Order is intended to meet the situation where a considerable number of Members i.e. more than one third are disqualified: if seats are vacant for other reasons (by reason of death or resignation) then these can be taken into account in calculating the total number of Members but Members who have died or resigned clearly must not be counted with Members who are disqualified.

## 7. ORDER OF BUSINESS AT THE ANNUAL MEETING

a) The order of business at the Annual Meeting of the Council will be as follows;

I. Election of Mayor;

II. Notification by the Mayor of the appointment of Deputy Mayor;

III. Election of the Leader of the Council;

IV. To receive and note the appointments of Deputy Leader of the Council, Shadow Leader and his/her Deputy and [Leader of the Swanscombe and Greenhithe Residents' Association and his/her Deputy???];

V. To receive and note the size of the Cabinet and receive a report as to the appointments made to the Cabinet by the Leader of the Council and receive the list of Portfolios and the allocations/distribution of Portfolios (with no decision making) by the Leader of the Council to Members of the Cabinet;

VI. To appoint the Overview and Scrutiny Committee and such other Committees, Sub-committees, Boards and Panels as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Cabinet functions;

VII. Any other business specified in the notice convening the meeting.

b) No other business will be transacted at the Annual Meeting.

## 8. ORDER OF BUSINESS AT ORDINARY MEETINGS

a) Unless the Council otherwise determines in accordance with paragraph(2) of this Standing Order, the order of business at every meeting of the Council other

than a special meeting (the Annual Meeting, an extraordinary meeting or a meeting convened for a specific purpose) will be;

I. to choose a member of the Council to preside in the absence of the Mayor and Deputy Mayor (refer to Standing Order 3(2) (Chairman of meeting of the Council));

II. to deal with any business required by law to be done before any other business;

III. to receive any declarations of interest and to note the interest(s) and term(s) of the Grant of Dispensation(s);

IV. to approve as a correct record and sign the minutes of the last meeting of the Council although, it should be noted that if a copy of the minutes has already been circulated to every member of the Council before the date of issue of the summons to attend the meeting of the Council, the minutes will be taken as read.

NB: Refer to Standing Order 476 (Conflict Resolution Mechanism in relation to matters of policy and budget setting) for implementation of decisions of the Council.

V. Mayor's announcements (limited to urgent/necessary matters subject to the total time taken with Mayor's announcements not exceeding 5 minutes);

VI. to dispose of business (if any) remaining from the last meeting of the Council;

VII. Leader of the Council announcements (limited to urgent/ necessary matters and subject to the total time taken in Leader's announcements not exceeding 10 minutes);

VIII. To receive Political Group Leaders questions to and answers from the Leader of the Council/Cabinet Member(s) under Standing Order 14;

IX. to consider motions under Standing Order 10 in the order received;

X. (where applicable) "That the Council go into committee and that the rules of procedure for committees do apply" [The only Cttee rules referred to are those relating to O & S] (NB: without prejudice to the rules relating to the Guillotine, reports from Officers will be considered in Committee unless otherwise stipulated);

NB: The Council in Committee - The Leader of the Council will consult with the Leaders of the Political Groups on the Council on the item(s) for inclusion (i.e. budget and/or policy framework issues) on the agenda and/or whether the item(s) are better suited for debate at an extraordinary meeting of the Council. The decision to accept an item(s) for inclusion on the agenda will be at the Leader of the Council's discretion and his/her decision will be final.

XI. (where applicable) "That the Council do reconvene";

XII. to consider reports (not minutes) of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee for debate;

NB: These reports must be at the request of and agreed in advance by the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee;

XIII. to consider reports (not minutes) of other Committees, Sub-committees, Boards, Panels and Officers for debate;

XIV. to receive minutes of the Cabinet marked for decision/recommendations only;

XV. to receive minutes of Committees, Sub-committees, Boards and Panels marked for decision/recommendations only;

XVI. to receive reports (not minutes) on the business of joint arrangements and external organisations;

XVII. to receive minutes of the Cabinet under Standing Order 16(14) as follows;

- minutes reserved for full debate by Political Groups on the Council;
- minutes reserved by ward Members.

XVIII. to authorise the sealing of documents;

XIX. to consider other business, (if any) specified in the summons for the meeting.

b) The order of business (with the exception of items (a), (b), (c) and (d) referred to in paragraph (1) of this Standing Order) may be altered at the discretion of the Mayor to give precedence to an urgent item of business not included in the agenda for the meeting.

**c) Guillotine**

I. Where a Council meeting is still in progress at 10pm the Mayor will;

(i) at the first convenient opportunity, draw the attention of Members to the time and to the requirements of this Standing Order;

(ii) specify any remaining business which, in the Mayor's opinion, is of such a nature as to justify an adjournment or extension of the meeting until 10.30pm;

(iii) with the exception of any business specified in paragraph (ii) of this Standing Order, put to the vote (as a whole and not individually) and without discussion any business remaining to

be dealt with, which will be deemed to have been agreed as recommended and any (written) motions and questions will fall;

(iv) following approval of the motion referred to in paragraph (iii) of this Standing Order, deal with the items specified in paragraph (ii) of this Standing Order;

(v) in the event of having specified any business as justifying an adjournment to another day (any such business will be limited to urgent matters and the Mayor's decision will be final), to declare the meeting adjourned to such a day and time as the Mayor may direct or to the next ordinary meeting of the Council or, if there is no such business, close the meeting.

II. The Mayor may extend the meeting beyond 10.30pm upon the vote of the majority of the Members present and actually voting.

III. If the business of the meeting has not been concluded by 10.30pm and the meeting is not extended in accordance with paragraph (b) of this Standing Order, the Mayor may interrupt the meeting (the Member speaking must immediately sit down) and call for the vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion. Any business remaining to be dealt with will be put to the vote in accordance with the rules detailed in paragraph (a)(iii) of this Standing Order or the Mayor may specify any business as justifying an adjournment in accordance with the rules detailed in paragraph (v) of this Standing Order.

IV. (i) The 'guillotine ' rules detailed in this Standing Order will apply to the following meetings of the Council:

- Ordinary Meetings;
- Extraordinary Meetings;
- Specific Purpose Meetings.

(ii) An Extraordinary or Specific Purpose Meetings may be convened on the same night as and on the rising of an Ordinary meeting (which ordinary meeting will be subject to the rules detailed in this Standing Order) and the Mayor may upon the vote of the majority of the Members present and actually voting, agree to conclude the Extraordinary or Specific Purpose Meeting at an appointed time.

(iii) If the Extraordinary or Specific Purpose Meeting is not concluded at the appointed time, the rules detailed in paragraph (c) of this Standing Order relating to interruption, calling for an immediate vote etc. will apply.

## 9. PETITIONS/ePETITIONS

a) Petitions/ePetitions will be dealt with in accordance with the Ordinary Petitions Guidelines (Part 11).

b) Any member of the Council may at an ordinary meeting of the Council present a petition on behalf of the lead petitioner which:

I. deals with an issue relating to the Council's responsibilities/functions; and/or

II. deals with anything relating to an improvement in the economic, social or environmental well-being of the Borough to which any of the Council's partners (e.g. Dartford Community Safety Partnership) could contribute.

c) The presentation of a petition in accordance with paragraph (2) of this Standing Order will be limited to the giving of a brief indication of the content of the petition. No speech or debate will be allowed on the petition. The petition will be dealt with in accordance with paragraph(1) of this Standing Order.

## 10. MOTIONS WHICH NEED TO BE SUBMITTED IN WRITING BEFORE THE MEETING OF THE COUNCIL

a) If a Member(s) wishes to move a motion at a Council meeting (other than the motions listed in Standing Order 11), the Member(s) must give notice of the motion in writing to the Proper Officer not later than noon on the day prior to publication of the Agenda, such deadline dates to be advised to Members in advance. The motion must be signed by the Member(s) giving the notice and must state for which meeting of the Council the notice is given.

b) The Proper Officer will;

(i) record the time and date and number each notice of motion in the order received. A record of each motion will be kept in a book, which may be inspected by Members of the Council;

(ii) set out in the summons for the Council meeting all motions which comply with the requirements of paragraph. (1) of this Standing Order, in the order that they have been received, unless the Member(s) giving the notice has in writing either withdrawn it or has stated a wish to move it at a future meeting of the Council.

c) Motions must relate to some matter(s) where the Council has powers or duties or which affect the whole or part of the Borough or some or all of its inhabitants.

d) A motion will only be moved by the Member(s) who gave the notice or by another Member authorised on his/her behalf.

e) If notice of motion has been given for any meeting of the Council and that motion is neither moved (for whatever reason) nor referred to the Cabinet, a Committee, Sub-committee, Board or Panel in accordance with paragraphss. (6)(a) or (6)(b) of this Standing Order, unless postponed by the consent of the Council, the notice will lapse and the motion will be treated as withdrawn and will not be moved without further notice being given in accordance with paragraph (1) of this Standing Order.

f) Where a notice of motion has been given in relation to some matter within the Terms of Reference of the Cabinet, a Committee, Sub-committee, Board or Panel, the motion may;

I. upon being moved and seconded, stand referred without discussion to the Cabinet or relevant Committee, Sub-committee, Board or Panel;

or

II. upon being moved and seconded, stand referred without discussion to such other Committee, Sub-committee, Board or Panel as the Council may decide;

or

III. the Mayor considers that it would be convenient and helpful to the dispatch of business, provided that where the motion relates to a Cabinet function, the motion must upon being moved and seconded, stand referred without discussion to the Cabinet.

g) Where a motion has been referred to the Cabinet, a Committee, Sub-committee, Board or Panel, the mover of the motion will be given notice of the date and time of the meeting by the Proper Officer and will have the right to attend the meeting and will be given an opportunity to explain the motion.

## 11. 'MOTION OF NO CONFIDENCE'

I. A motion of no confidence which would have the effect of removing the Leader of the Council (whether following a successful vote of no confidence or otherwise) will not be deemed to have been duly given for the purposes of this Standing Order unless it is signed by five members of the Council and indicates the reasons for the motion.

II. A motion of no confidence will take precedence over any other item of business but is otherwise subject to the same rules as other motions under this Standing Order 10.

III. A motion of no confidence will not be amended but may be withdrawn.

IV. A motion of no confidence will not be treated as an urgent item under Standing Order 1.(8)(b).

## 12. MOTIONS AND AMENDMENTS WHICH DO NOT NEED TO BE SUBMITTED IN WRITING BEFORE THE MEETING OF THE COUNCIL

The following motions and amendments do not need to be submitted in writing before the meeting of the Council. They should however be proposed and seconded:

a) To appoint a Chairman or Vice-Chairman or to appoint a person to preside at the meeting at which the motion is made (refer to Standing Order 3(2) (Chairman of meeting of the Council));

b) Motions relating to the accuracy of the minutes;

c) That an item of business specified in the summons has precedence (change in order of business);

d) Remission or reference to the Cabinet, a Committee, Sub-committee, Board or Panel;

e) Motions to refer a petition (which has been presented to the Council) to the Cabinet, a Committee, Sub-committee, Board or Panel for consideration;

f) Appointment of the Cabinet, a Committee, Sub-committee, Board or Panel or Members thereof, occasioned by an item mentioned in the summons to the meeting;

g) Adoption of reports and recommendations of the Cabinet, Committees, Sub-committees, Boards or Panels or Officers and any consequential resolutions/motions;

h) That leave be given to withdraw a motion;

i) Motions extending the time limit for speeches;

j) Amendments to motions;

k) "That the debate be now adjourned";

l) "That the Council, Cabinet, Committee, Sub-committee, Board or Panel do now adjourn";

m) “That the Council go into committee and that the rules of procedure for committees do apply”; [See comment above – re rules of procedure for committees]

n) “That the Council, Cabinet, Committee, Sub-committee, Board or Panel do now re-convene”;

o) Motions authorising the sealing of documents;

p) Motions under Standing Order 40(2) (Suspension of Standing Orders without Notice);

q) Motions to exclude the public from a Council, Cabinet, Committee, Sub-committee, Board or Panel meeting, where there is likely to be a disclosure of exempt or confidential information in accordance with Standing Orders 49 and 53;

r) Motions to exclude the public from a meeting where there is likely to be disclosure of information relating to persons employed by the Council (Standing Order 55) (Motions affecting persons employed by the Council);

s) Motion to exclude the press;

t) That a Member named under Standing Order 18 (Disorderly Conduct) stop speaking or leave the meeting;

u) Motions giving consent of the Council, Cabinet, Committee, Sub-committee, Board or Panel where consent is required under these Standing Orders;

v) Motions under Standing Order 8(3)(a)(iii) - to put to the vote and without discussion any business remaining to be dealt with;

The following motions may not be moved or seconded by the proposer or seconder of the motion or amendment under discussion when either of these motions are put;

w) "That the Council, Cabinet, Committee, Sub-committee, Board or Panel proceed to the next business";

x) "That the question be now put".

## 13. RESCISSION OR AMENDMENT OF PRECEDING RESOLUTION OF COUNCIL

a) (a) A proposal to rescind or amend a resolution of the Council passed within the preceding six months must be treated as an original motion unless it arises out of a report.

NB: Any objection/challenge by the Cabinet against a decision of the Council must be raised in accordance with Standing Order 47 (Conflict Resolution Mechanism in relation to Matters of Policy and Budget Setting ).

(b) Notice of motion to rescind or amend a resolution will be by notice, in writing and bearing the names of at least one third of the Members of the Council following the procedure detailed in Standing Order 10(1) (Motions which need to be submitted in writing before the meeting of the Council).

b) (a) An unsuccessful motion (one which has been rejected within the preceding six months) cannot be revived unless a further notice of motion is submitted in accordance with paragraph 1(b) of this Standing Order.

(b) It is not open to any member of the Council to propose a similar motion within a further period of six months, when any motion to rescind or amend a resolution of the Council has been disposed of by the Council.

c) This Standing Order does not apply to motions moved in pursuance of a recommendation(s) of the Cabinet, a Committee, Sub-committee, Board or Panel.

## 14. VOTING IN COUNCIL

a) All questions coming or arising before the Council will be decided only upon the vote of the majority of the Members present and actually voting.

b) Except where a requisition is made under paragraph (3) of this Standing Order the method of voting at meetings of the Council will be by show of hands.

c) Before a vote is taken on questions coming or arising before the Council, any five Members present at the meeting of the Council may "on requisition" require that the voting on any question be by roll call and recorded so as to show whether each Member present and voting gave a vote for or against the question and the name of any Member present and not voting will also be recorded.

d) Immediately after a vote is taken at a meeting of the Council any Member present may require that the minutes of the meeting record whether he/she cast his/her vote for or against the question or whether he/she abstained from voting.

e) If there is an equality of votes (whether or not the voting includes a vote by the Mayor) the Mayor will have a second or casting vote.

f) Voting on Appointments

If there are two or more people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

14.1 Budget Decision Meeting

(a) The Chief Officer and Director of Corporate Services (or nominee) shall call upon each Member present to state whether he/she casts his/her vote for or against the decision or whether he/she abstains from voting.

(b) Immediately after a vote is taken, there shall be recorded in the minutes of the meeting, the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

## 15. QUESTIONS AT COUNCIL MEETINGS

a) Political Group Leader Questions on Notice of the Leader of the Council or Member(s) of the Cabinet

I. Subject to the rules detailed in this Standing Order, a Political Group Leader (or nominee) may at any meeting of the Council ask the Leader of the Council or a Member(s) of the Cabinet (such Member(s) to be nominated by the Leader of the Council) questions (each question being encapsulated in no more than fifty words) on any matter relating to the powers or duties of the Council or on any matter which affects the Borough and its inhabitants or on any matter which falls within the Terms of Reference of the Cabinet.

II. The Political Group Leaders will give notice (in accordance with paragraph (e) of this Standing Order) of no more than three questions (per Political Group Leader) for any meeting of the Council.

III. The total time taken at any meeting of the Council in discussion of all questions (including the supplementary questions under paragraph. (7) of this Standing Order) and answers received under this Standing Order will not exceed twenty minutes.

IV. Questions raised under this Standing Order will be dealt with in the following order;

[1]Has the meaning set out in the Local Authorities (Standing Orders)(England) Regulations 2001 (as amended)

- from the Political Group on the Council forming the largest party in opposition on the Council;
- from the Political Group on the Council forming the smallest party on the Council;
- from the Political Group(s) on the Council forming the administration on the Council.

} alternating at each ordinary meeting of the Council

V. Questions under this Standing Order must be raised on notice in writing to Member Services before 12 noon on the Thursday before the meeting of the Council and will indicate the general nature of the comments to be made.

15.1 Scope of Questions

The Proper Officer may reject (and his/her decision will be final) any question raised under paragraph (1) of this Standing Order and paragraph (14)(2) of Standing Order 16 (Cabinet Minutes Reserved by ward Members) if the question;

VI. is not about a matter for which the Council has a responsibility or which affects the Borough and its inhabitants;

VII. is defamatory, frivolous or offensive;

VIII. is substantially the same as a question which has been put at a meeting of the Council in the past six months;

NB: There must be a change in circumstances to warrant the same question being raised and being accepted by the Proper Officer.

IX. requires the disclosure of confidential or exempt information.

b) Every question will be put and answered without discussion but the person to whom the question has been put may decline to answer it.

c) An answer to a question may take the form of;

I. a direct oral answer or;

II. where the answer to the question cannot conveniently be given orally, a written answer will be circulated to all Members of the Council;

III. a reference to information contained in some publication of the Council.

d) Questions and answers under this Standing Order will not be recorded in the minutes of the meeting of the Council at which the questions were put and answered, but will be printed and a copy of the questions and answers will be deposited in the Members' Room.

15.2 Urgent Business

With the permission of the Mayor, a member of the Council may put to him/her

or the Leader of the Council or the Chairman of any Committee, Sub-committee, Board or Panel one question relating to urgent business (even though due notice of the question has not been given in accordance with paragraph

(1)(e) of this Standing Order). A written copy of any urgent question must be delivered to the Proper Officer not later than 10 o'clock in the morning of the day of the meeting of the Council.

15.3 Supplementary Question

A Member asking a question under this Standing Order may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds detailed in paragraph (2) of this Standing Order.

## 16. MINUTES

a) Subject to Standing Order 47 (Conflict Resolution Mechanism) relating to decisions of the Council, minutes of every meeting of the Council, Cabinet, a Committee, Sub-committee, Board or Panel will be drawn up and recorded in a Minute Book (loose leafed and consecutively numbered) by the Proper Officer and will be submitted for confirmation to the next succeeding meeting of the body concerned.

b) The Mayor (in the case of a meeting of the Council) or the Chairman (in the case of a meeting of the Cabinet, a Committee, Sub-committee, Board or Panel) will ask whether he/she may sign the minutes as a correct record and on assent of the Members present, will sign the minute book and initial each loose leaf.

c) Minutes which have been drawn up and entered in the minute book and confirmed in accordance with paragraph (1) of this Standing Order will be admissible as evidence. Furthermore, until the contrary is proved, the body concerned will be deemed to have been duly constituted and to have power to deal with the matters referred to in the minutes and the Members present deemed to have been duly qualified.

d) No motion or discussion will be allowed upon the confirmation of minutes except as to their accuracy and then only by motion specifying the amendments thought to be necessary. As soon as any motion has been disposed of (or if no motion is moved) the Mayor/Chairman will sign the minutes subject to any amendments set out in any motion and approved by the body concerned.

e) If following the signing of the minutes, inaccuracies are discovered, the inaccuracy will be reported to the next succeeding meeting of the body concerned and corrected by resolution.

f) Minutes, or a copy of the minutes of meetings of the Council, Cabinet, a Committee, Sub-committee, Board or Panel

I. (excluding so much of the minutes which disclose exempt or confidential information) will be open to public inspection without payment, for a period of 6 years beginning with the date of the meeting.

II. will be available during office hours for inspection by any member of the Council but subject to the provisions detailed in Standing Order 54 (Inspection of Documents by Members).

g) The Proper Officer will produce a record/statement of every decision taken at a Council, Cabinet, Committee, Sub-committee, Board or Panel meeting. The record/statement will identify:

I. The reasons for the decision; and

II. Any alternative options considered and rejected; and

III. Any declarations of interest.

h) Draft minutes of a meeting of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee will be circulated to the Committees' respective Chairman and Shadow Chairman and any other Member(s) of the Committees who requests a copy.

## 17. RULES OF DEBATE FOR COUNCIL MEETINGS

17.1 Motions and Amendments

I. All motions and amendments must be proposed and seconded.

II. Unless notice has already been given in accordance with Standing Order 10, the Mayor may request that a motion or amendment (other than Standing Order 11(1), (8) and (11); paragraph (11) of this Standing Order 16 and Standing Order 18) be put in writing and handed to him/her before it is further discussed or put to the meeting.

17.2 Seconder's Speech

A Member who seconds a motion or an amendment, does not have to speak immediately, but may reserve his/her right to speak until later in the debate, as long as the debate has not been closed under paragraph (11) of this Standing Order.

17.3 Standing when Speaking

(a) When a Member is speaking he/she will stand (unless disabled from doing so) and address the Mayor. If two or more Members stand up, or indicate that they wish to speak, the Mayor will call on one of them to speak and the other Members must then sit.

(b) While a Member is speaking, the other Members will stay sitting down, unless they are standing to raise a point of order, or to give a personal explanation.

17.4 Content and length of Speeches

a) A Member must only speak on the subject under discussion, in personal explanation or on a point of order (refer to paragraph (12) of this Standing Order). A mover of a motion must limit his/her speech to no longer than 5 minutes. Any other speech will not be longer

than 3 minutes. The Council may at its discretion, allow a speaker to speak for longer.

b) When a Member can speak again on a Motion

A Member who has spoken on any motion (and for this purpose each separate minute of the Cabinet, a Committee, Sub-committee, Board, Panel or joint committee or any group of minutes being taken together will be regarded as a separate motion) must not speak again until the debate on the motion has finished, except in the following circumstances:-

I. to speak once on an amendment moved by another Member;

II. to move a further amendment if the motion has been amended since the Member last spoke;

III. to speak on the main issues if the Member's first speech was on an amendment moved (whether carried or not) by another Member;

IV. he/she is using his/her right of reply under paragraphs (9) or (11) of this Standing Order;

V. he/she is speaking on a point of order or to give information;

VI. he/she is giving a personal explanation;

VII. to move or speak on a procedural motion set out in paragraph (10) (b), (i) and (j) of this Standing Order;

VIII. questions/comments of the Leader of the Council to matters raised by Members on minutes of a Committee, Sub-committee, Board, Panel or joint arrangements.

17.5 Amendments to Original Motions

a) An amendment (a formal proposal to vary the terms of an original motion before it is adopted by the meeting) must relate to the motion and will be either:

I. to leave out words or;

II. to leave out words and insert or add others; or

III. to insert or add words.

b) An amendment must be pertinent and relevant to the original motion and must be within the scope of the meeting.

c) An amendment which tries to omit, insert or add words to the original motion must not introduce a new proposal into or negative the original motion if, the same effect could be achieved by voting against the motion.

17.6 Debate on Amendment

a) The Mayor will put an amendment which has been moved and seconded unless:

(i) it is outside the scope of the meeting or beyond the Council's power;

(ii) it bears no relation to the original motion or subject matter;

(iii) it is incompatible with a decision previously taken at the same meeting;

(iv) it is intended only to impede the transaction of business.

b) Each amendment must be voted on separately.

c) Only one amendment can be moved and discussed at a time. No further amendment will be moved until Members have dealt with the amendment under discussion although the Mayor may allow more than one amendment to be discussed at a time (but not voted on) if he/she believes that it would help the conduct of the Council's business, but each amendment must be voted on separately.

d) If an amendment is lost, other different amendments can be moved on the original motion.

e) If an amendment is carried, the original motion as amended (now referred to as the substantive motion) will replace the original motion. Any further amendment may be moved on the substantive motion.

17.7 Alteration of Motions

a) In the course of discussion on a motion - or even before discussion commences the proposer may wish to make an alteration which he/she thinks might make the motion more acceptable to Members and with the permission of the Council (given without comment) the proposer may:-

I. alter a motion which he/she has given notice of;

II. with the permission of his/her seconder alter a motion which he/she has moved and

III. in either (a) or (b) the alteration must comply with the rules governing amendments (refer to paragraphs (6)(1) - (3) of this Standing Order).

b) Withdrawing a Motion or Amendment

The mover of a motion or amendment (i.e. the person who proposes a motion or amendment) may withdraw it with the permission of his/her seconder and of the Council (given without comment). After the mover has asked for permission to withdraw the motion or amendment, no Member may speak on the motion or amendment unless permission to withdraw has been refused.

c) Right of Reply at Close of Debate

(1) The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote.

(2) If an amendment is moved, the mover of the original motion also has a right to reply at the close of the debate on the amendment, but will not speak on the amendment at any other time.

(3) The mover of the amendment has a right to reply to the debate on his/her amendment immediately before the mover of the original motion.

d) Motions which may be moved during Debate

When a motion is under debate, the only other motions which may be moved (either singly or combined and with any necessary added words) are:

i. to amend the motion;
ii. to adjourn the meeting;
iii. to adjourn the debate;
iv. to postpone considering the motion;
v. that the subject of debate should be referred back to the Cabinet, a Committee, Sub-committee, Board or Panel;
vi. to go on to the next business;
vii. that the question can now be put immediately to the vote;
viii. that a Member should not be heard;
ix. by the Mayor, that a Member should leave the meeting i.e. disorderly behaviour (Standing Order 18);
x. to exclude the public and/or press (Standing Orders 49, 53 and 55);
xi. a closure motion (paragraph (11) of this Standing Order);
xii. that the Council go 'into committee and that the rules of procedure relating to committees do apply';
xiii. that the Council do reconvene.

e) Closure Motions

At the end of any speech in relation to a motion or amendment under debate, the following closure motions may be moved without comment;

i. "That the Council proceed to the next business"

1. by any Member who has not spoken on the original motion and provided no one else is speaking at the time;

2. if seconded, the Mayor providing he/she is satisfied that the matter before the meeting has been fully discussed, will then put the closure motion "that the Council proceed to the next business" to the vote.

ii. "That the question be now put"

1. by any Member who has not spoken on the original motion and provided no one else is speaking at the time;

2. if seconded, the Mayor will, providing he/she feels that the matter before the meeting has been fully discussed, put the closure motion "that the question be now put" to the vote and if the closure motion is carried, the Mayor will give the mover of the original motion the right to reply under paragraph (9) of this Standing Order and then put the original motion to the vote.

iii. "That the debate be adjourned"

"That the meeting be adjourned"

1. by any Member other than the mover or seconder of the original

motion or the mover or seconder of any amendment or formal motion in relation to it;

2. if seconded, the Mayor will, providing he/she feels that the matter before the meeting has not been fully discussed and has no reasonable prospect of being fully discussed at the meeting, will put the closure motion "that the debate be adjourned" or "that the meeting be adjourned" to the vote without giving the mover of the original motion a right to reply.

17.7 Points of Order and Personal Explanation

Points of Order

(a) A point of order must only be about an irregularity or impropriety in the constitution or conduct of the meeting i.e. must relate to procedure only.

(b) A Member may raise a point of order at any time without notice. It must, however, be raised immediately the alleged irregularity or impropriety becomes apparent and the Member will be entitled immediately to stand up and address the Mayor and will say which Standing Order or legal point has been broken or infringed and the Member's speech must be limited to a point of order.

(c) The Member whose speech has been interrupted in accordance with paragraph (1)(b) of this Standing Order must stop speaking, sit down and allow the Mayor to make a decision.

(d) The Mayor will make a decision on a point of order and this decision will be conclusive and final i.e. it will not be open to discussion.

Personal Explanation

(e) A Member may find that he/she has made a mis-statement which has been quoted by a later speaker or that the latter has misunderstood or misquoted him/her. In such circumstances the Member will be entitled immediately to rise on point of explanation and to interrupt the speaker for a few moments while he/she (the Member) makes the desired correction.

(f) A personal explanation must only be about a Member's earlier speech which has given rise to a misunderstanding or misquote in the debate.

(g) The Mayor will make a decision on a personal explanation and this decision will be conclusive and final i.e. it will not be open to discussion.

17.8 Respect for Chair

Whenever the Mayor rises during a debate, any Member who is standing will sit down, and the Council will be silent.

17.9 Cabinet Minutes Reserved;

(1) By Political Groups

(a) The Political Groups will notify the Democratic Services Manager which Cabinet minutes (other than matters marked for decision by the Council) they wish to debate before 12.00 noon on the Thursday before the meeting of the Council. The notice will indicate the general nature of the comments to be made.

(b) Minutes marked for decision or reserved by a Political Group are minutes reserved for full debate.

(c) The Mayor will invite Members to speak or move a motion on each minute reserved by a Political Group in the order in which they appear on the agenda.

NB: A motion cannot seek to amend or reverse a Cabinet decision(s) but may seek to request the reconsideration of a decision(s) by the Cabinet.

(2) By ward Members

(a) Any individual ward Member may reserve a Cabinet minute(s) (which will not be a minute raised for full debate as detailed in paragraph (14)(1)(b) of this Standing Order) by giving notice (written or verbal) to the Democratic Services Manager before 12.00

noon on the Thursday before the meeting of the Council. The notice will indicate the general nature of the question to be raised which must relate to a matter which affects the Member's ward and its residents.

(b) The Mayor will take minutes reserved by ward Members in the order they appear on the agenda and will invite the ward Member(s) who reserved the minute and if applicable any other Member with a ward interest in the matter, to speak.

(c) No motion or amendment may be proposed on a minute reserved by a ward Member under this Standing Order and the total time taken at any meeting of the Council in dealing with each minute (including a supplementary question raised under Standing Order 14(7)) will not exceed two minutes.

(d) The rules detailed in Standing Order 14 paragraphs (3), (4), (5), (6) and (7) and Standing Order 16(4) will apply to questions raised under this Standing Order 16(14)(2).

(3) The Mayor will conclude the debate by asking the Chairman of the Cabinet to reply.

(4) No discussion will be permitted on any minute, which is not reserved in

accordance with this Standing Order.

## 18. RECORD OF ATTENDANCES

The names of all Members present at meetings of the Council, Cabinet a Committee, Sub-committee, Board or Panel will be recorded.

## 19. DISORDERLY CONDUCT

19.1 Member(s) of the Council

I. The Mayor (in the case of a meeting of the Council) or a Chairman (in the case of a meeting of the Cabinet, a Committee, Sub-committee, Board or Panel) is entitled to call upon any disorderly Member to behave properly.

II. If a Member continues to misbehave by: -

(i) persistently disregarding the ruling of the Mayor, or the Chairman;

(ii) behaving irregularly, improperly or offensively (which includes smoking during the meeting);

(iii) purposely obstructing the Council's business; or

(iv) repeating himself/herself or using offensive language in his/her speech;

the Mayor or Chairman or any other Member may move "that the Member named be not further heard". If seconded, the motion will be put to the vote and determined without discussion.

III. A motion in the terms "that the Member named be not further heard" will only apply to the item that is being discussed at that time.

IV. If the Member continues to misbehave following a motion being carried in the terms referred to in paragraph (1)(b) of this Standing Order the Mayor or Chairman will:

(i) either move "that the Member named do leave the meeting". This motion will not require seconding but will be put to the vote and decided without comment and if carried, the Member will leave the meeting immediately; or

(ii) adjourn the meeting for such a period, as they may at their discretion consider appropriate.

19.2 General Disturbance by an Individual(s) other than a Member

V. In the event of general disturbance which in the opinion of the Mayor (in the case of a meeting of the Council) or the Chairman (in the case of a meeting of the Cabinet, a Committee, Sub-committee, Board or Panel)

disrupts the meeting or makes it impossible to deal with the business on the agenda, the Mayor or Chairman may, in addition to any other powers which he/she may have under these Standing Orders and/or by law (the public's right of access to meetings is without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour) order that any part of the Council Chamber (or other meeting place) which is open to the public be cleared of members of the public and the Mayor or Chairman may, without debate, adjourn the meeting for any length of time that they at their discretion, consider appropriate.

VI. If a member(s) of the public interrupts the proceedings or misbehaves at any meeting of the Council, Cabinet, a Committee, Sub-committee, Board or Panel the Mayor or the Chairman will;

(i) warn the person to stop interrupting and to behave properly;

(ii) if the person continues to interrupt or misbehave, order him/her to leave the Council Chamber or other meeting place and;

(iii) if the person refuses to leave, the Mayor or the Chairman will have him/her removed from the meeting.

VII. In the case of persistent interruptive and/or disturbance by a member(s) of the public, the Mayor or Chairman may adjourn without debate, the meeting for any length of time that they at their discretion, consider appropriate.

## 20. RECORDING, FILMING, PHOTOGRAPHING, BROADCASTING AND/OR ORAL COMMENTARY BY THE PRESS AND/OR PUBLIC

I. Any person who records, films, photographs, broadcasts or uses other communication methods in such a way as to be disruptive to the conduct of the meeting or the decision making process, will be asked by the Mayor or the Chairman to desist from such behaviour with immediate effect. Standing Order 18(2) will be applied where the person fails to comply with the Mayor or Chairman's instruction.

II. Oral commentary during a meeting is prohibited. Any person who contravenes this Standing Order, will be asked by the Mayor or the Chairman to desist from such behaviour with immediate effect. Standing Order 18(2) will be applied where the person fails to comply with the Mayor or Chairman's instruction.

## 21. INTERESTS OF MEMBERS IN MATTERS UNDER DISCUSSION

a) A Member with a disclosable pecuniary interest or prejudicial interest in a matter to be considered, or being considered at a meeting must:

I. disclose the interest; and

II. explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to paragraph 4 of this Standing Order 19); and unless he/she has been granted a dispensation:

III. not participate in any discussion of, or vote taken on, the matter at the meeting; and

IV. withdraw from the meeting room whenever it becomes apparent that the business is being considered; and

V. not seek improperly to influence a decision about that business.

b) Unless a dispensation has been granted, where a Member with a disclosable pecuniary interest or prejudicial interest in a matter under discussion, chooses to participate in the discussion and vote, the Mayor/Chairman may refuse to count the 'vote' of the Member concerned, for the 'vote' will have been cast illegally and cannot be considered to be a vote at all.

c) The Mayor/Chairman may request that a Member declare a disclosable pecuniary interest or prejudicial interest in a matter under discussion, and, leave the room, should he/she have reason to believe that the provisions of the Member Code of Conduct and/or this Standing Order 19 are being breached. The Mayor/Chairman may apply the rules in Standing Order 18 relating to 'disorderly conduct'.

d) Where a disclosable pecuniary interest or a prejudicial interest has been agreed by the Monitoring Officer as being a sensitive interest, the Member need only disclose the existence of the interest but not its nature.

21.1 Notification of Interests

(a) The Monitoring Officer must be notified of any disclosable pecuniary interest before the end of 28 days beginning with the day a Member becomes a member or voting co-opted member of the Council, or before the end of 28 days beginning with the day on which the Member Code of Conduct takes effect (whichever is the later). In addition, a Member must, before the end of 28 days beginning with the day they become aware of any new disclosable pecuniary interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.

(b) Members are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office as Councillors/Co-opted Members. Interests must be recorded and capable of audit.

(c) Members attending meetings to present petitions, will declare any interests in the manner specified in this Standing Order 19.

21.2 Council 2 Arrears

(d) A Member who is two months or more in arrears with his/her council tax payments must promptly declare the nature and existence of the interest and although entitled to participate in the discussion, may not vote at any Council or Cabinet meeting, on any matter affecting:

- the setting of the Council's budget or
- the setting of the Council's council tax or
- the administration including penalties and enforcement of council tax or
- any other matter which is concerned with a financial decision.

(e) It is the responsibility of any Member who is two months or more in arrears with his/her council tax payments to declare the fact and it is a criminal offence not to do so and to vote on any matter specified in this paragraphs(a)-(d) above.

## 22. INTERESTS OF OFFICERS IN CONTRACTS AND OTHER MATTERS

a) Officers must follow the Council's Employee Code of Conduct set out in Part 6 of the Constitution (and in the Employee Handbook) relating to disclosures of personal, pecuniary and non-pecuniary interests which could bring about conflict with the Council's interests.

b) Officers of the Council are under a legal duty to disclose their interests (which not only includes pecuniary interests but also extends to situations where any material benefit might be obtained), in any contract, grant, proposed contract or other matter which is to be or has been considered by the Council, Cabinet, a Committee, Sub-committee, Board or Panel.

c) Officers must immediately disclose their interest(s) to the Monitoring Officer. The interest(s) will be recorded in the Declarations of Officers' Interests Register and the Register may be inspected during normal office hours, by members of the Council, internal/external auditors, Statutory Officers, Directors, heads of service and other officers nominated by Directors.

d) Where an Officer submits a report to a meeting on a matter in which he/she has already declared an interest, the Officer must state that a declaration of the interest has already been made to the Monitoring Officer and give brief details of it, in a separate paragraph at the commencement of the report.

e) Where an Officer advises orally, a meeting of the Council, Cabinet, a Committee, Sub-committee, Board or Panel on a contract, grant, proposed contract or other matter and has declared an interest in that matter, then the Officer must remind the meeting orally of that interest.

f) This Standing Order will not apply to a contract of employment between the Council and an Officer, or the tenancy of a dwelling provided by the Council.

g) Officers are forbidden, under colour of their office or employment, to exact or accept any fee or reward other than their appropriate remuneration. Any fee or reward will include such things as unauthorised commissions, gifts, presents or bribes.

h) Officers are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office. Interests must be recorded and capable of audit.

## 23. SEALING OF DOCUMENTS

a) Safekeeping

The Common Seal of the Council will be kept in a safe place and in the custody of the Chief Officer and Director of Corporate Services.

b) Sealing

The Common Seal must not be attached to any document unless it gives effect to:-

I. a decision or resolution of the Council, Cabinet, a Committee, Sub-committee, Board or Panel, or

II. a decision by an Officer exercising delegated powers pursuant to the Scheme of Delegations to Officers.

c) Witnessing

I. The Head of Legal Services (and in their absence, any other Officer of the Council nominated by the Proper Officer) will sign on behalf of the Council, where appropriate, any orders, deeds, or documents necessary to give effect to any decisions/recommendations of the Council, Cabinet, a Committee, Sub-committee, Board or Panel.

II. An entry of every document sealed will be made in the Sealing Register, numbered consecutively and signed by the person who witnesses the seal.

## 24. INSPECTION OF LAND, PREMISES, ETC

Members will not issue any order for works which are being carried out by or on behalf of the Council unless they are specifically authorised to do so, by the Council, Cabinet, a Committee, Sub-committee, Board or Panel. Membership of the Council does not give Members any right to inspect or to enter any land or premises which the Council has by law, the power or duty to inspect or enter.

## 25. APPOINTMENT OF THE CABINET, COMMITTEES, SUB-COMMITTEES BOARDS, PANELS AND JOINT COMMITTEES

(1) The Council at the Annual Meeting, receives and notes the size of the Cabinet and appoints the Committees, Sub-committees, Boards and Panels and will specify and agree Terms of Reference. The Council or a Committee (where a committee has the legal power of appointment), may at any other time, appoint such other Committees, Sub-committees, Boards and Panels as is necessary to carry out the work of the Council or Committee.

(2) The Council at the Annual Meeting, will specify the number of Members to be appointed to Committees, Sub-committees, Boards and Panels and will note the appointments to membership made in accordance with the wishes of the political groups on the Council and may specify their term of office.

(3) The Council may appoint a joint committee with one or more local authorities or their

executives, to discharge functions that are not executive functions.

(4) Where joint arrangements involve a joint committee to discharge a number of functions on behalf of the Council, some of which are the responsibility of the Cabinet and some of which are the responsibility of the Council as a whole, appointment of Members to the joint committee will be made by the Council, with the agreement of the Cabinet. Where the Council appoints only one Member to the joint committee, that Member may be, but need not be, a Cabinet member. Where the Council appoints more than one Member, at least one of them will be a Cabinet member. The political balance rules will apply to appointments made in these circumstances.

(5) The Cabinet may appoint a joint committee with one or more local authorities to exercise Cabinet functions. Except as set out in paragraph (6) of this Standing Order, the Cabinet will only appoint Cabinet members to a joint committee.

(6) The Cabinet may appoint Members to a joint committee from outside the Cabinet in the following circumstances and the appointments need not reflect the political composition of the Council as a whole:

a. where the joint committee has functions only in respect of a part of the area of one of the local authorities which is smaller than two-fifths of that local authority (either by area or population). In this case, the Cabinet may appoint to the joint committee any Councillor who is a member for an electoral division or ward which is wholly or partly contained within the area in respect of which the joint committee has functions; and

b. where the joint committee is between a County Council and the Council and has functions only in respect of the area of the Borough. In this case the executive of the County Council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the Borough.

(7) The Leader of the Council will determine appointments as to membership of the Cabinet. The Council will note the appointments to the Cabinet as determined by the Leader of the Council.

(8) Members of the Cabinet may be removed either individually or collectively by the Leader of the Council, under notice to the Proper Officer. Vacancies in the Cabinet will be dealt with in accordance with the rules detailed in Standing Order 32 (Filling vacancies in the Cabinet).

(9) Members selected for membership of the Cabinet, Committees, Sub-committees, Boards, Panels and joint committees will hold office until the next Annual Meeting of the Council, unless one of the provisions detailed in Standing Order 34 (Duration of Offices) applies.

(10) The Council, or, on the recommendation of a Committee, may resolve that persons, who are not elected members of the Council, be appointed as voting or non-voting members (co-optees), assessors and advisers to its Committees, Sub-committees, Boards and Panels.

(11) The Council may at any time terminate or suspend the membership of an individual Member (voting and non-voting) on Committees, Sub-committees, Boards and Panels before the expiration of the term for which he/she has been appointed.

(12) A Member who ceases to be a member of the Council will also cease to be a member of the Cabinet, Committee, Sub-committee, Board, Panel or joint committee to which he/she was appointed. For the purposes of this Standing Order, membership of the

Council will not cease because of retirement of a Member(s) providing he/she is re-elected a member of the Council not later than the day of his/her retirement.

(13) In the year of the Borough elections, the Council will at the Annual Meeting either;

(i) For the particular municipal year or until successors have made their declarations of acceptance of office, appoint Chairman and Vice-Chairman as required and Members to serve on its Committees, Sub-committees, Boards, Panels and on any other Committee, Sub-committee, Board, Panel or joint committee established under Standing Order 25 and note the appointments to the Cabinet, made by the Leader of the Council; or

(ii) Approve the procedure under which such appointments will be made and will direct accordingly.

(14) In any other year (not being the year of the Borough elections) the appointments referred in Standing Order 25 will be made by the Council at the Annual Meeting for the ensuing municipal year.

## 26. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES, SUB-COMMITTEES, BOARDS AND PANELS

The 'Rules for Substitution on Standing Committees, Sub-committees, Boards and Panels' will apply as detailed in Standing Order 25.

## 27. CONSTITUTION OF THE CABINET, COMMITTEES, SUB-COMMITTEES, BOARDS AND PANELS

The Standing Committees of the Council will be as set out in column 1 of the table and will consist of the numbers of Members specified in column 2:

| | |
|---|---|
| Cabinet (executive function) | Consisting of 7 elected Members (the Leader of the Council and 6 other Councillors)*<br><br>No Co-optees, Substitutes or<br><br>Deputies Quorum (3)<br><br>**The Local Government Act 2000 section 11, limits the number of councillors who can be on Cabinet to ten and prevents the Mayor or Deputy Mayor from being a member of Cabinet* |
| Cabinet Advisory Panel A (executive function) | Consisting of 50% (or nearest number) of [non-Cabinet] elected Members<br><br>Substitution permitted<br><br>Quorum (5) |
| Cabinet Advisory Panel B (executive function) | Consisting of 50% (or nearest number) of [non-Cabinet]<br><br>elected Members Substitution permitted<br><br>Quorum (5) |

| | |
|---|---|
| Overview and Scrutiny Committee | Consisting of 17 elected Members who are not<br>Cabinet members Substitution permitted<br>Quorum (5) |
| Crime and Disorder (Overview and Scrutiny) | Consisting of 8 elected Members who are not Cabinet members |

| | |
|---|---|
| Committee | Substitution permitted<br>Quorum (3) |
| Audit Board (non-executive function) | Consisting of 9 elected Members who may also be Cabinet members*<br>**Chairman of the Audit Board not to be a Cabinet or Scrutiny Committee member*<br>*The Cabinet Portfolio Holder for Finance may attend as an Observer*<br>Substitution permitted<br>Quorum (3) |
| Hearing Panel (non-executive function and regulatory) | Consisting of 3 elected Members of the Audit Board (politically balanced)<br>Substitution (subject to relevant training) not permitted once a hearing has commenced<br>Quorum (3) |
| Treasury Management Panel (executive function) | Consisting of 7<br>elected Members<br>*The Cabinet Portfolio Holder for Finance may attend as an Observer.*<br>Substitution permitted (subject to relevant training) Quorum (2) |
| Development Control Board (non-executive function and regulatory) | Consisting of 17 elected Members of whom no more than one may be a Cabinet member<br>Substitution permitted (subject to relevant training)<br>Quorum (5) |

| | |
|---|---|
| Licensing Committee (non-executive function) | Consisting of up to 15 elected Members who may also be Cabinet members Substitution permitted<br><br>Quorum (4) |
| Licensing Sub-committee (non-executive function and regulatory) | Consisting of 3 elected Members who may also be Cabinet members<br><br>Substitution (subject to relevant training) not permitted once a hearing has commenced or been adjourned<br><br>Quorum (3) |
| Appeals Panel (non-executive function and regulatory) | Consisting of 5 elected Members who may also be Cabinet members<br><br>Substitution (subject to relevant training) not permitted once a hearing has commenced or been adjourned<br><br>Quorum (3) |
| Statutory Officer Advisory Panel | Consisting of 5 elected Members of whom at least 1 must be Cabinet member<br><br>Substitution (subject to relevant training) not permitted for meetings which are adjourned or once a hearing has commenced<br><br>Quorum (3) [including 1 Cabinet member]<br><br>Dismissal: membership of the Panel to be extended to include at least two Independent Persons when the independent investigator's report recommends dismissal<br><br>Quorum (5) [including 1 Cabinet member and 2 Independent Persons] |

| | |
|---|---|
| Electoral Provisions Sub-committee | Consisting of 10 elected Members who may also be Cabinet members Substitution permitted<br><br>Quorum (3) |
| Independent Remuneration Panel | Consisting of 3 Co-opted Members<br><br>Substitution not permitted<br><br>Quorum (3) |
| Joint Transportation Board (non-statutory forum) | Consisting of:<br><br>6 [DBC] elected Members who may also be Cabinet members 6 [KCC] elected Members who may also be Cabinet members 2 Parish/Town Council representatives<br><br>Substitution permitted |

| | |
|---|---|
| | Quorum (4) including 2 DBC and 2 KCC elected Members |
| Deed, Trust and Obligations Committee (executive function) | Consisting of 9 elected Members who may also be Cabinet members and 5 Co-opted Members<br><br>In situations where all elected Councillors on the Committee are conflicted, the quorum is three (3) [voting] co-opted members<br><br>Substitution not permitted<br>Quorum (3) |
| Grants Approval Panel | Consisting of 5 elected Members who may also be Cabinet<br><br>members Substitution permitted<br>Quorum (3) |

a) The Cabinet, Committees, Sub-committees, Boards and Panels will not have the power to make decisions in relation to any function which is specifically reserved to the Council by law.

b) The Cabinet may invite any Member it considers appropriate to attend its meetings to speak on behalf of an absent Cabinet member. This person would, however, not be able to take part in the decision-making process or count towards the quorum of the Cabinet.

c) Subject to Standing Orders 6 and 28 (Quorum of the Cabinet , Committees, Sub-Committees, Boards and Panels), the validity of the proceedings of meetings of the Council, Cabinet, Committees, Sub-committees, Boards, and Panels will not be affected where Members are required by the Member Code of Conduct and/or Standing Orders, to disclose an interest and withdraw from the meeting.

## 28. SPECIAL MEETINGS OF THE CABINET, COMMITTEES, SUB-COMMITTEES AND BOARDS

a) A special meeting of the Cabinet, or a Committee, Sub-committee, Board or Panel may be called for a specific purpose at any time by the Chairman of the relevant body, on the request of at least the prescribed number of Members forming the quorum, as detailed in Standing Order 28 (Quorum);

and delivered in writing to the Proper Officer.

b) The special meeting will be convened by the Proper Officer and a summons to attend the meeting of the Cabinet, Committee, Sub-committee, Board or Panel will be sent to every member of the relevant body and will set out the business to be considered at the meeting and subject to the requirements of these Standing Orders relating to the consideration of urgent items, no business other

than that set out in the summons will be considered.

c) In cases of urgency, the Proper Officer may call a special meeting of the Cabinet, a Committee, Sub-committee, Board or Panel.

## 29. BOARDS, PANELS AND SUB-COMMITTEES

a) The Cabinet and a Committee of the Council may appoint boards, panels or sub-committees to undertake specific functions identified respectively by legislation, the Cabinet or the Committee.

b) The Chairman and the Vice-Chairman of the Cabinet and the Chairman and Vice-Chairman of the Committee will, unless they signify otherwise, be ex-officio Members of any Board, Panel or Sub-committee appointed respectively, by the Cabinet and the Committee and will be full members of the Board, Panel or Sub-committee, able to speak and vote.

## 30. QUORUM OF THE CABINET, COMMITTEES, SUB-COMMITTEES, BOARDS AND PANELS

(a) The quorum for a meeting of the Cabinet, Committees, Sub-committees, Boards and Panels, will be one quarter of the whole of the number of Members on the relevant body provided that a quorum will not comprise less than 3 Members, unless the Chief Officer and Director of Corporate Services is of the opinion that, by reason of special circumstances, the quorum should be 2 Members.

(b) The requisite numbers of Members must be present throughout the meeting.

(c) The rules detailed in Standing Order 6 will apply for meetings of the Cabinet, Committees, Sub-committees, Boards and Panels which become inquorate.

## 31. VOTING IN CABINET, COMMITTEES, SUB-COMMITTEES, BOARDS OR PANELS

a) Voting at any Cabinet, Committee, Sub-committee, Board or Panel meeting is by a show of hands.

b) Recording of Votes

Where immediately after a vote is taken at a meeting of the Cabinet, a Committee, Sub-committee, Board or Panel, any Member may ask that the minutes of the meeting record whether he/she cast his/her vote for or against the question or whether he/she abstained from voting.

c) Equality of Votes

If there is an equality of votes (whether or not the voting includes a vote by the Chairman), the Chairman will have a second or casting vote.

d) This Standing Order applies to Committees, Sub-committees, Boards and Panels appointed under Section 101 and 102 of the Local Government Act 1972.

## 32. CABINET, COMMITTEE, SUB-COMMITTEE, BOARD AND PANEL MINUTES

(a) Standing Order 15 (Minutes) of these Standing Orders will apply to Cabinet, Committee, Sub-committee, Board and Panel minutes.

(b) Minutes of the Cabinet will be produced/circulated within six clear days' (not counting the day of the meeting or the day of delivery) following the meeting of the Cabinet.

## 33. ELECTION OF CHAIRMAN AND VICE–CHAIRMAN OF THE CABINET, COMMITTEES, SUB-COMMITTEES, BOARDS AND PANELS

a) This Standing Order does not apply to the election of any Chairman or Vice-Chairman who holds that office ex officio.

b) If the Chairman or Vice-Chairman of the Cabinet, a Committee, Sub-committee, Board or Panel is not elected by the Council under the procedure detailed in Standing Order 23, paragraphs (9) and (10), the Cabinet, a Committee, Sub-committee, Board or Panel will before the start of any business at its first meeting, fill that office.

c) If a casual vacancy occurs in the office of Chairman or Vice- Chairman of the Cabinet, a Committee, Sub-committee, Board or Panel for which the original appointment was made by the Council, the Proper Officer will report the vacancy to the next ordinary meeting of the Council, who will either fill the vacancy or direct accordingly. In any other case, the vacancy must be filled as soon as possible by the Cabinet, a Committee, Sub-committee, Board or Panel concerned.

## 34. FILLING VACANCIES IN THE CABINET

a) If a vacancy occurs in the office of the Leader of the Council, the vacancy will be reported the Council who will either fill the vacancy or direct accordingly.

b) If a vacancy occurs in the office of a Member(s) of the Cabinet, the Leader of the Council will fill the vacancy and report the appointment to the Council.

## 35. PRESIDING AT MEETINGS OF THE CABINET, COMMITTEES, SUB-COMMITTEES, BOARDS AND PANELS

a) The Chairman of the Cabinet, a Committee, Sub-committee, Board or Panel must preside at the meeting if he/she is present.

b) If the Chairman is absent from the meeting of the Cabinet, then the Vice-Chairman will preside and where the Chairman of a Committee, Sub-committee, Board or Panel is absent from the meeting, then the Vice- Chairman (or where there are two Vice-Chairmen), the senior Vice-Chairman will preside.

c) Subject to paragraph(2) of this Standing Order 33, if neither the Chairman nor the Vice-Chairman/Vice -Chairmen are present at Cabinet, Committee, Sub-committee, Board and Panel meetings, another voting elected Member of the body concerned, present at the meeting, will be chosen by the body to preside (Standing Order 11(1) (Motions and amendments which do not have to be submitted in Writing) refers.

d) If the Chairman leaves the Chair without leaving the meeting, then he/she will

be treated as absent from the meeting.

## 36. DURATION OF OFFICES

Subject to the requirements of law and to paragraph (2) of this Standing Order, a person appointed to the office of Chairman, Vice-Chairman or member of the Cabinet, a Committee, Sub-committee, Board or Panel, or to represent the Council on Outside Bodies will, notwithstanding the expiry of the municipal/Council year for which he/she was formally appointed, continue to hold office until a successor is appointed, unless;

(a) he/she ceases to be a Member or a Co-opted member of the Council;

(b) he/she ceases to be a member of the outside body to which he/she has been appointed;

(c) the appointment to or membership of a Committee, Sub-committee, Board or Panel is terminated by the Council or the relevant Committee, Board or Panel;

(d) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension);

(e) he/she is removed from the Cabinet by the Leader of the Council;

(f) he/she is removed from office (where the appointment was made the Council), by resolution of the Council.

## 37. ATTENDANCE OF MEMBERS AT CABINET, A COMMITTEE, SUB-COMMITTEE, BOARD OR PANEL MEETING OF WHICH THEY ARE NOT MEMBERS

a) Subject to the rules detailed in this Standing Order, Members of the Council have a general right to attend as an observer, the public part of the meetings of the Cabinet and any Committee, Sub-committee, Board or Panel of which he/she is not a member.

b) (a) Subject to paragraph(d) of this Standing Order, any Member may, on the giving of 24 hours' notice in writing to the Democratic Services Manager, be entitled to request to speak on any item(s) on the agenda of a Cabinet or any other Committee, Sub-committee, Board or Panel meeting of which they are not a member, providing they do not have a disclosable pecuniary interest or prejudicial interest in the item and subject to the Chairman being satisfied that the item directly affects the ward which the Member represents. The decision to accept such a request will be at the Chairman's discretion and his/her decision will be final.

(b) The requirement to give 24 hours' notice referred to in paragraph (a) of this Standing Order, will not apply to urgent items of business not included in the agenda for the meeting.

(c) Permission to speak in accordance with this Standing Order does not entitle the Member to any voting rights.

(d) Any Member may make written relevant representations in their own right or on behalf of their constituents to the Licensing Sub- committee,

within the specified period after notice of the application is published by the Council (as licensing authority). Having made those written representations and providing the Member does not have a disclosable pecuniary interest or prejudicial interest in the application, they can appear at the Licensing Sub-Committee hearing in the same way as the responsible authorities/interested parties.

c) A member of the Council who has moved a motion which has been referred to the Cabinet, a Committee, Sub-committee, Board or Panel will be given notice of the date and time of the meeting by the Proper Officer and will have the right to attend the meeting and given an opportunity to explain the motion.

d) A Member with a disclosable pecuniary interest or prejudicial interest in any matter under discussion at a Council, Cabinet, Committee, Sub-committee, Board or Panel meeting, may not attend the meeting as an observer.

## 38. STANDING ORDERS TO APPLY TO THE CABINET, COMMITTEES, SUB-COMMITTEES, BOARDS AND PANELS

The following Standing Orders will apply with any necessary modifications, to the Cabinet, Committee, Sub-committee, Board and Panel meetings: -

| | | |
|---|---|---|
| a) | S.O.1(5) | Venue and time of meetings of the Council |
| b) | S.O.1(6) | Notice of Public Meetings |
| c) | S.O.1(7) | Summons |
| d) | S.O.3 | Chairman of the Meeting of the Council |
| e) | S.O.6 (3) and (4) | Quorum of Council |
| f) | S.O.10 | Motions on Notice |
| g) | S.O.11 | Motions without Notice |
| h) | S.O.13 | Voting |
| i) | S.O.14 | Questions at Council Meetings |
| j) | S.O.15 | Minutes |
| k) | S.O.16 | Rules of Debate (except paragraph (3); “Standing when Speaking") |
| l) | S.O.17 | Record of Attendances |
| m) | S.O.18 | Disorderly Conduct |
| n) | S.O.19 | Interests of Members |
| o) | S.O.40 | Suspension of Standing Orders |
| p) | S.O.49 | Admission of Public to Meetings |
| q) | S.O.51 | Public Inspection of Papers |
| r) | S.O.52(5) | Tabling/Submission of Additional Documents before a Meeting |
| s) | S.O.55 | Motions affecting Persons employed by the Council |

## 39. DELEGATION OF URGENT AND ROUTINE MATTERS

a) (a) The Council will delegate to the Proper Officer (and in his/her absence, other members of the Leadership Team) the authority to act in respect of any function of the Council which in his/her opinion is urgent or of a routine nature, subject however, to this delegated authority being exercised in consultation with the Mayor.

(b) Cabinet will delegate to the Proper Officer (and in his/her absence, other members of the Leadership Team) the authority to act in respect of any function of the Cabinet which in his/her opinion is urgent or of a routine nature, subject however, to this delegated authority being exercised in consultation with the Cabinet Chairman or Vice- Chairman.

(c) Where action is taken under this Standing Order 37(1)(a) or (b), the Officers must report the action taken, including a note of the circumstances which made it necessary, to the next ordinary meeting of the Council or Cabinet (as appropriate).

b) (a) The Council will delegate to each member of the Leadership Team, the authority to act in respect of any function of the Council delegated to a Committee, Sub-committee, Board or Panel which in his/her opinion is either urgent or of a routine nature, subject however to the delegation being exercised in consultation with the Chairman or Vice- Chairman of the Committee, Sub-committee, Board or Panel responsible for the function in accordance with Terms of Reference.

(b) Cabinet will delegate to each member of the Leadership Team, the authority to act in respect of any function of the Cabinet delegated to a Committee, Sub-committee, Board or Panel which in his/her opinion is either urgent or of a routine nature, subject however to the delegation being exercised in consultation with the Chairman or Vice-Chairman of the Committee, Sub-committee, Board or Panel responsible for the function in accordance with Terms of Reference.

(c) Where action is taken under this Standing Order 37(2), Officers must report the action taken, including a note of the circumstances which made it necessary, to the next meeting of the Committee, Sub-committee, Board or Panel responsible for the function in accordance with Terms of Reference.

c) The arrangements under this Standing Order are in addition to and without prejudice to the powers of a Committee to arrange for the discharge of any of its functions by a Sub-committee, Board, Panel or an Officer.

d) Nothing in these Standing Orders will imply that any Member is empowered to make any decision alone, or that decisions may be taken or Council functions delegated other than in accordance with Section 101 Local Government Act 1972 (which permits delegation to Committees, Sub-committees, Boards and Panels and Officers but not to individual Members).

e) The provisions of Standing Order 52 (Inspection of Background Papers) apply with appropriate modifications to action taken under this Standing Order.

## 40. FINANCIAL ADMINISTRATION

a) The Cabinet, Committees, Sub-committees, Boards and Panels of the Council will observe the Council's Financial Regulations insofar as they relate to the activities under their control.

b) Every Officer of the Council will comply with the Council's Financial Regulations and any other financial procedures made by the Council, or approved by the Chief Officer and Director of Corporate Services.

c) Directors (or their representative(s)) have individual responsibility for the accountability and control within their respective Directorates, of staff, and the security, custody and control of all other resources including plant, buildings, materials, cash and stores.

## 41. VARIATION AND REVOCATION OF STANDING ORDERS

a) With the exception of Standing Orders 14(d), 16(b), 21.(a).(I) to (v) inclusive, 21.5, 44, 51, 55 and 57, these Standing Orders may be added to and any Standing Order may be varied or revoked without notice by a resolution of the Council (if at least one half of the whole number of Members of the Council are present) or on advance notice of motion under Standing Order 10 (Motions and amendments which need to be submitted in writing before the meeting of the Council).

b) Any motion under this Standing Order when proposed and seconded will stand adjourned without discussion to the next ordinary meeting of the Council.

## 42. SUSPENSION OF STANDING ORDERS

a) Subject to paragraph (2) of this Standing Order and with the exception of Standing Orders 14(d), 16(b), 21.a (I) to (v) inclusive, 31(b), 45, 51, 55 and 57, any Standing Order may be suspended (i.e. where the Council, Cabinet, a Committee, Sub-committee, Board and Panel decide by resolution that for a special purpose or for a period of time, one or other of these Standing Orders will be of no effect) by advance notice of motion under Standing Order 10 (Motions and amendments which need to be submitted in writing before the meeting of the Council) or by the Council if at least one half of the whole number of Members of the Council are present.

b) A Standing Order may be suspended in whole or in part for any item of business and suspension will only be for part of or the duration of the meeting.

c) The Articles of the Constitution may not be suspended.

## 43. STANDING ORDERS AND CONSTITUTION TO BE GIVEN TO MEMBERS

a) Members of the Council on declaring acceptance of office will receive from the Proper Officer a printed copy of these Standing Orders, the Constitution and any other legal material that regulates the proceedings and business of

the Council. Members will be notified of any changes to these Standing Orders and/or the Constitution.

b) Members will sign a statement to acknowledge that they have received a copy of these Standing Orders and the Constitution and agree to be guided by their provisions.

## 44. DISPOSAL OF PROPERTY

The disposal of land and property shall comply with the Policy on the Disposal of Surplus and Underused Land and Property owned by the Council.

## 45. INTERPRETATION OF STANDING ORDERS

a) The Mayor's (in the case of a meeting of the Council) or Chairman's (in the case of a meeting of the Cabinet, a Committee, Sub-committee, Board or Panel) ruling on the application or the meaning of these Standing Orders, or as to any proceedings of the Council will not be challenged. The interpretation will be fully recorded in the minutes.

b) Reference in these Standing Orders to any legislation will include any subsequent amendments or replacements to the legislation.

c) In these Standing Orders the terms;

I. 'Proper Officer' refers either collectively or individually to the Officer appointed for a particular purpose by the Council and as referred to in the Scheme of Delegations to Officers and/or the Constitution.

II. 'Leadership Team Members' and 'Leadership Team Member' refers, either collectively or individually to the Chief Officer and Director of Corporate Services, the Director of Housing and Public Protection and the Director of Growth and Community.

III. 'Senior Officers' means staff graded "M" with management responsibilities or such other staff as may be nominated by the Directors from time to time.

## 46. MINUTES

The rules detailed in Standing Order 15(6) will apply as it relates to the minutes of the meetings of the Council, Cabinet, a Committee, Sub-committee, Board and Panel.

## 47.EXECUTIVE PROCEDURE RULES

47.1 LEADER WITH CABINET FORM

a) Discharge of Executive (Cabinet) Functions

I. The executive functions will be discharged by the Cabinet as a whole in accordance with the Cabinet's Terms of Reference agreed by the Council.

II. The Cabinet may delegate responsibility for an executive function to an

Officer, and to an area committee/joint arrangements.

III. Delegation of an executive function under paragraph (b) of this Standing Order does not prevent the discharge of the delegated function by the Cabinet.

b) Delegations outside the Cabinet

I. The Scheme of Delegations to Officers (Part 3 of the Constitution) contains the details relating to delegations of Cabinet functions to Officers. The Scheme is subject to adoption by the Council and may only be amended by the Council.

II. Part 3 of the Constitution (Responsibility for Functions), contains the details relating to delegations of executive functions outside the Cabinet to area committees/joint arrangements.

c) Allocation of Portfolios by the Leader of the Council

I. The Leader of the Council has within his/her discretion the right to allocate/distribute Portfolios (i.e. roles and responsibilities but excluding decision-making) to individual Cabinet Members to facilitate the day-to-day management and/or operational activities of the Cabinet. The Leader may alter the allocations/distribution of Portfolios from time to time.

II. The list of Portfolios and the allocations/distribution of Portfolios to Members of the Cabinet by the Leader of the Council will be received (and noted) by the Council and is open to public inspection.

III. The Leader of the Council may at his/her discretion amend the list of Portfolios from time to time subject to any amendments being reported to the Council 'for noting'. The amended list of Portfolios will be open to public inspection.

IV. No individual Cabinet member has the authority to take decisions on behalf of the Council and/or the Cabinet.

d) Cabinet Arrangements

(1) The Proper Officer will maintain;

(a) a register stating the name and address of every Cabinet member and the ward which he/she represents. The register will also specify the functions delegated to the Cabinet under its Terms of Reference.

(b) a list of the powers to the Cabinet which are exercised by Officers under delegated authority and pursuant to the Scheme of Delegations to Officers. This list will state the title of the Officer(s).

(c) a written summary of the rights of the public and press to attend meetings of the Cabinet.

(2) This Standing Order will not apply to delegations to Officers for a period not exceeding 6 months.

(3) The register and the list will be open to public inspection and Standing Order 52(6)(a) (providing copies of or extracts from a document) will apply.

e) Conflicts of Interest

I. Members of the Cabinet will comply with the Member Code of Conduct as set out in Part 6 of the Constitution.

II. If every Cabinet member has a conflict of interest, the Cabinet may delegate the function to an Officer or to another body outside the Cabinet responsible for executive functions, for example a committee of the Cabinet.

III. If the exercise of a Cabinet function has been delegated to an Officer under the Scheme of Delegations to Officers or otherwise by resolution or to a structure outside the Cabinet, and a conflict of interest arises, then the function will be exercised by the Cabinet.

IV. Where the exercise of a Cabinet function has been delegated to an Officer under the Scheme of Delegations to Officers or otherwise by resolution, a Cabinet member with a conflict of interest in any subsequent decision or action to be taken by the Officer, may be consulted by the Officer, provided the Head of Paid Service has granted a dispensation permitting the Member to be consulted.

f) Notice of Private Cabinet Meetings

(i) 'Private Meeting' for the purpose of this Standing Order means a Cabinet meeting, or part of a Cabinet meeting during which the press and public are excluded in accordance with Standing Order 49(1).

Public notice of every private meeting:

(a) must be given at least twenty eight clear days' before the meeting (twenty eight calendar days (including weekends and bank holidays, but excluding the day of publication of the notice and the day on which the private meeting is held);

(b) must detail the date and time and the place of the private meeting;

(c) must be displayed in a conspicuous or prominent place at the Civic Centre, Dartford and published on the Council's website; and

(d) include a statement of reasons for the private meeting.

(ii) A further public notice of the private meeting:

(a) must be given at least five clear days' before the meeting (five weekdays, i.e. five periods of 24 hours running from midnight to midnight excluding the day documents become available and the day on which the private meeting is held);

(b) must detail the date and time and the place of the private meeting;

(c) must be displayed in a conspicuous or prominent place at the Civic

Centre, Dartford and published on the Council's website; and

(d) include a statement of reasons for the private meeting;

(e) must detail the representations received by the Proper Officer about why the meeting should be held in public and a statement of the Proper Officer's response to such representations.

(iii) Urgency of Private Cabinet Meeting

(a) Where the date by which the private meeting must be held makes compliance with this Standing Order impracticable, the meeting may only be held in private where the Proper Officer has obtained agreement from the Chairman of the Overview and Scrutiny Committee, or, if the Chairman of the Overview and Scrutiny Committee is unable to act, the agreement of the Mayor or Deputy Mayor, that the meeting is urgent and cannot reasonably be deferred.

(b) Following the agreement referred to in paragraph(a) above of the Chairman of the Overview and Scrutiny Committee or Mayor/Deputy Mayor, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred will be published on the Council's website.

g) Presiding at Cabinet Meetings

The rules detailed in Standing Order 31 (Election of Chairman and Vice-Chairman of the Cabinet, Committees, Sub-committees, Boards and Panels) will apply.

h) Order of Business at Cabinet Meetings

I. Unless the Cabinet otherwise determines in accordance with paragraph (b) of this Standing Order, the order of business at every meeting of the Cabinet will be;

(i) to receive any declarations of interest and to note the interest(s) and term(s) of the Grant of Dispensation(s);

(ii) to approve as a correct record and sign the minutes of the last meeting of the Cabinet;

(iii) to receive matters referred by the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee or by the Council for consideration/reconsideration in accordance with the rules detailed in Standing Orders 46(2)(d)(iv).

(iv) to consider reports from the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee; and

(v) to consider matters set out on the agenda for the meeting which will indicate which are key decisions and which are not, in accordance with Standing Order 57(1) (Definition of Key Decision).

II. The order of business (with the exception of items (i) and (ii) referred in paragraph (a) of this Standing Order, may be altered at the discretion of the Chairman of the Cabinet to give precedence to an urgent item of business not included in the agenda for the meeting.

III. Consultation

IV. All reports to the Cabinet relating to the budget and policy framework will contain details of the nature and extent of the consultation with stakeholders, the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee and the outcome of the consultation.

V. Reports about other matters will set out the details and outcome of the consultation as appropriate.

VI. The level of consultation required will be appropriate to the matter under consideration.

Placing Items on the Cabinet Agenda

VII. Where the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee or the Council have resolved that an item be considered by the Cabinet, the Proper Officer will ensure that the item is placed on the agenda of the next available meeting of the Cabinet.

VIII. There will be a standing item on the agenda of each meeting of the Cabinet for consideration of reports from the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, but limited to one per Committee.

IX. Any member for the Council may ask the Leader of the Council to place an item (limited to one) on the agenda of a Cabinet meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered and he/she will be invited to attend the meeting.

X. The Monitoring Officer and/or the Chief Finance Officer or the Head of Paid Service may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties.

Giving account at the Cabinet

The Cabinet may invite any person(s) to attend a meeting to contribute to any particular decision or series of decisions or to act as advisors or assessors to assist the Cabinet in its decision making. Advisors and assessors have no voting rights.

## 47. BUDGET AND POLICY FRAMEWORK

The Framework for Executive (Cabinet) Decisions

The Council will be responsible for the adoption of its budget and policy frameworks as set out in Article 4 of the Constitution. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

Process for Developing the Framework

I. The Cabinet will publicise by including in the Regulation 9 Notice (Standing Order 57 (Key Decisions)) a timetable for making proposals to the Council for the adoption of any policy, plan, strategy or budget that forms part of the budget and policy frameworks and its arrangements for consultation after publication of those initial proposals. The Chairman of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee will also be notified. The consultation period will in each instance be no less than 8 weeks.

NB: The timetable may also be available for inspection at the Council offices and on the Council's website.

II. The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee have responsibility within their respective terms of reference for fixing their own work programme and may investigate, research or report in detail to the Cabinet with policy recommendations before the end of the consultation period referred to in paragraph (a) of this Standing Order.

III. At the end of the eight-week period, the Cabinet will then draw up firm proposals having regard to the responses to the consultation referred to in paragraph (a) of this Standing Order. The Cabinet will take any response from the Overview and Scrutiny Committee and/or the Crime and Disorder (Overview and Scrutiny) Committee into account in drawing up firm proposals for submission to the Council and the Cabinet's report to the Council will reflect the comments made by consultees including the y Overview and Scrutiny Committee's and/or the Crime and Disorder (Overview and Scrutiny) Committee's proposals and the Cabinet's response.

IV. Once the Cabinet has approved the firm proposals, the Proper Officer will refer these proposals at the earliest opportunity to the Council for decision. In reaching a decision, the Council;

(i) may adopt the Cabinet's proposals without amendment;

(ii) accepts the Cabinet's proposals but subject to amendment;

(iii) may substitute its own proposals for those of the Cabinet;

(iv) refer the proposals back to the Cabinet for further consideration.

V. If the Council accepts the recommendation of the Cabinet without

amendment, it may make a decision which has immediate effect. The decision will be decided upon the vote of the majority of the Members actually present and voting.

VI. If the Council accepts the Cabinet's proposals subject to amendments, or substitutes its own proposals in place of those of the Cabinet, in either case, the decision will be referred to as an in-principle decision and subject to paragraph (g) of this Standing Order will only become effective i.e. be implemented on the sixth working day after the meeting of the Council at which the in-principle decision was made.

VII. The rules detailed in Standing Order 47 (Conflict Resolution Mechanism in relation to matters of Policy and Budget Setting) will apply to in-principle decisions of the Council.

VIII. (i) The decisions of the Council referred to in paragraphs (e) and (f) of this Standing Order will be made public and a copy of the decision(s) will be given to the Leader of the Council.

(ii) The notice of decision will be dated and will state either that the Council's decision will be effective immediately (refer to paragraph (e) of this Standing Order) or will become effective on the expiry of the sixth working day after the meeting of the Council unless the Leader of the Council objects/challenges the decision in that period in accordance with the rules detailed in Standing Order 47 (Conflict Resolution Mechanism).

(iii) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet in accordance with paragraphs (5) and in (6) of this Standing Order. Any other changes to the policy and budgetary framework are reserved to the Council.

b) Decisions outside the Budget or Policy Framework (Departure Decisions)

I. A Cabinet decision which is contrary to the policy framework or contrary to or not wholly in accordance with the budget approved by the Council is referred to as a "Departure Decision".

II. Urgency is defined as any matter of immediate urgency (i.e. where any delay in the decision-making would prejudice the Council's or the public's interests) making the prompt exercise of the powers of the Cabinet in consultation with the relevant Director and the Monitoring Officer/Chief Finance Officer desirable and/or necessary and which cannot await the next meeting of the Cabinet or the next ordinary meeting of the Council.

III. If the Cabinet wishes to make a Departure Decision, advice must be sought from the Monitoring Officer and/or the Chief Finance Officer as to whether the proposed decision would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget.

IV. If the advice of the Monitoring Officer and/or the Chief Finance Officer is that the Cabinet decision would be contrary to the budget and/or policy

framework, then the Departure Decision must be referred to the Council for decision, unless the Departure Decision is a matter of urgency, in which case the rules detailed in paragraph (4) (Urgent Departure Decisions) of this Standing Order will apply.

c) Urgent Decisions outside the Budget or Policy Framework (Urgent Departure Decisions)

I. The Cabinet may take an urgent decision which is contrary to the policies or budget approved or adopted by the Council (an Urgent Departure Decision) but only if the Chairman of the Overview and Scrutiny Committee agrees in writing that the decision is urgent and reasonable. If the Chairman of the Overview and Scrutiny Committee or (on crime and disorder matters) the Chairman of the Crime and Disorder (Overview and Scrutiny) Committee is not available (for whatever reason) then the Mayor (or in the Mayor's absence, the Deputy Mayor) must agree in writing that the decision is urgent and reasonable.

II. If the Chairman of the Overview and Scrutiny Committee/Crime and Disorder (Overview and Scrutiny) Committee Chairman refuses to act in accordance with paragraph (a) of this Standing Order then the Urgent Departure Decision may be referred on a report of the Cabinet to an Extraordinary meeting of the Council.

III. The Cabinet must as soon as reasonably practicable after making the Urgent Departure Decision in accordance with paragraph (a) of this Standing Order provide the Council with a report explaining the decision, the reasons for it and the reasons for urgency.

IV. The rules detailed in paragraphs (3) and (4) of this Standing Order will apply to Urgent Departure Decisions taken by Officers, area committees/joint arrangements discharging Cabinet functions.

d) Virement

Budgets and virement rules will be agreed annually by the Council at the Budget meeting. The virement rules are included in Financial Regulations (Part 7 of the Constitution).

e) In-year Changes to the Policy Framework

No changes to any policy and strategy which make up the policy framework may be made by the Cabinet except where those changes relate to;

(i) a closure or discontinuance of a service or part of a service to meet a budgetary constraint;

(ii) necessary to ensure compliance with the law, ministerial direction or government guidance;

(iii) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council, following consultation, but where the existing policy document is silent on the matter under consideration;

(iv) where the Council delegates in-year amendment responsibilities to the Cabinet.

f) Call-in of Decisions outside the Budget or Policy Framework

(1) Where the Overview and Scrutiny Committee or (on crime and disorder matters), the Crime and Disorder (Overview and Scrutiny) Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then the Committee will seek advice from the Monitoring Officer and/or Chief Finance Officer.

(2) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report will be to the Cabinet with a copy to every member of the Council.

(3) The Cabinet must meet (regardless of whether the decision is delegated or not) to decide what action to take in respect of the Monitoring Officer's/Chief Finance Officer's report and to prepare a report to the Council in the event that the Monitoring Officer and/or the Chief Finance Officer conclude that the decision was a Departure Decision and to the Overview and Scrutiny Committee or (on crime and disorder matters), the Crime and Disorder (Overview and Scrutiny) Committee, if the Monitoring Officer and/or the Chief Finance Officer conclude that the decision was not a departure.

(4) If the decision has yet to be made or has been made but not yet implemented and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee or (on crime and disorder matters), the Crime and Disorder (Overview and Scrutiny) Committee, may refer the matter to the Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.

(i) An Extraordinary meeting of the Council may be called in accordance with the rules detailed in Standing Order 1(3). At the meeting, the Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer.

(ii) The Council may either;

(a) Endorse the Cabinet decision or proposal as falling within the existing budget and policy framework. No further action will be required save that the decision of the Council will be minuted and circulated to all Members of the Council in the normal way;

or

(b) Amend the Council's Financial Regulations or policy concerned or take any other action considered appropriate to encompass the decision or proposal of the Cabinet and agree to the decision with immediate effect. No further action will be required save that the decision of the Council will be minuted and circulated to all Members of the Council in the normal way;

or

(c) Where the Council accepts that the Cabinet decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget and does not amend the existing framework to accommodate the decision or proposal, the Council will require the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Chief Finance Officer.

(5) The rules detailed in Standing Order 46(2)(h)(i) (making decisions public) will apply to decisions of the Council under paragraph 7(4)(ii) of this Standing Order.

## 48. CONFLICT RESOLUTION MECHANISM IN RELATION TO MATTERS OF POLICY AND BUDGET SETTING

a) The rules detailed in this Standing Order will apply to decisions referred to in Standing Order 46(2)(f) (in-principle decisions).

b) Minutes of the meeting of the Council will be produced and provided to the Leader of the Council and the Monitoring Officer within five working days' of the meeting of the Council.

c) In-principle decisions of the Council relating to matters of policy and budget setting will take effect, i.e. be implemented on the sixth working day after the meeting of the Council at which the in-principles decision(s) was made.

d) Subject to the restrictions detailed in paragraph (9) of this Standing Order, within the six working days' referred to in paragraph (3) of this Standing Order and before the in-principle decision of the Council takes effect, the Leader of the Council may object to/challenge the in-principle decision of the Council in writing, i.e. in report form, to the Monitoring Officer giving reasons.

e) The in-principle decision(s) once objected to/challenged, will stand as suspended until the next ordinary meeting of the Council.

f) The Council at its next ordinary meeting will reconsider the in-principle decision(s) in the light of the Leader of the Council's objection/challenge and may:

I. adopt the Cabinet’s proposals without amendment;

II. in relation to policy matters, overturn the Leader of the Council’s objection (or make amendments) upon the vote of the majority of those Members present and actually voting.

III. in relation to budget setting matters, overturn the Leader of the Council’s objection (or make amendments) upon the vote of the majority of those Members present and actually voting;

IV. insist on its in-principle decision (i.e. approve a different decision which does not accord with the recommendation of the Cabinet) upon the vote of the majority of those Members present and actually voting.

g) Following reconsideration of the in-principle decision(s) in accordance with paragraph (6) of this Standing Order, the in-principle decision(s) will take effect, i.e. be implemented immediately.

h) In-principle decisions of the Council may only be the subject of objection/challenge once.

i) Once implemented in accordance with paragraph (7) of this Standing Order, the in- principle decision will be published in accordance with the rules detailed in Standing Order 46(2)(h)(i) (making decisions public).

j) This Standing Order will not apply to:

I. the removal from office of Members of the Cabinet, or in respect of Cabinet functions where the law requires that only the Cabinet can take the decisions (or delegate them) so long as the decisions are in accordance with the Council's approved policy framework and budget.

II. decisions of the Council which are required to be taken by law within a specified timescale.

## 49. OVERVIEW AND SCRUTINY

This Standing Order must be read in conjunction with the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee Protocols.

I. The Council will have a Overview and Scrutiny Committee and a Crime and Disorder (Overview and Scrutiny) Committee as set out in Part 2, Article 6 of the Constitution to perform respectively, overview and scrutiny functions on behalf of the Council.

II. The appointment of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee will be in accordance with the rules detailed in Standing Order 23 (Appointment of the Cabinet, Committees, Sub-Committees, Boards and Panels).

III. The Terms of Reference of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee will be specified and agreed by the Council.

IV. The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee may arrange for some of their work to be handled by informal Member working groups/panels. Whilst such informal bodies cannot substitute for the Committees or exercise the formal powers associated respectively with overview and scrutiny (which are the preserve of those Committees and their sub-committees), the working groups/panels may contribute to or inform the overview or scrutiny process.

V. With the exception of Cabinet members, members of the Council may be members of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee. However, no Member may be involved in scrutinising a decision or action which he/she has been directly involved.

b) Constitution of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee

The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, will be constituted in accordance with the rules detailed in Standing Order 25 (Constitution of the Cabinet, Committees, Sub-committees, Boards and Panels).

c) Chairing Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee Meetings

The rules detailed in Standing Order 31 (Election of Chairman and Vice-Chairman of the Cabinet, Committees, Sub-committees, Boards and Panels) will apply.

d) Appointment of Overview and Scrutiny Sub-Committee and Crime and Disorder (Overview and Scrutiny) Sub-Committee

I. Subject to the rule detailed in paragraph(d) of this Standing Order, the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, may appoint sub-committees/task groups as is necessary to carry out the work of the Committees. These sub-committees/task groups will only deal with cross-cutting themes and will be appointed for a fixed period, on the expiry of which the sub-committee(s) will cease to exist.

II. Appointments of sub-committees and their discontinuance will be regarded as a change(s) to the Constitution and the rules detailed in Article 15.04(a)(i) of the Constitution will apply and Part 3 (Responsibility for Functions) of the Constitution will be amended accordingly.

III. The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee may delegate any of their functions to their respective sub-committees.

IV. With the exception of the Licensing Sub-committee, Assessment Sub-committee, Review Sub-committee and Hearing Sub-committee, sub-committee membership (taken from the parent Committee), will normally reflect the political balance of the Council.

e) Co-optees

(b) Subject to the following rules, the Overview and Scrutiny Committee may recommend to the Council, the appointment/co-option of additional persons as voting or non-voting co-optees to the Committees or their sub-committees:

(i) a co-opted person's membership may be limited to the exercise of the Committees'/sub-committees' powers in relation to a particular matter or type of matter;

(ii) the membership of the person co-opted to serve on the Committees/sub-committees, may be withdrawn at any time by the Committees;

(iii) permission for voting rights must be granted by the Council in advance.

(b) The Crime and Disorder (Overview and Scrutiny) Committee may recommend to the Council, the appointment/co-option of additional

persons to serve on the Committee or its sub-committee, subject to the following;

(i) a person co-opted to serve on the Committee/sub-committee will not be entitled to vote on any particular matter, unless the Committee so determines and subject to the Council's permission in advance.

(ii) a co-opted person's membership may be limited to the exercise of the Committee's/sub-committee's powers in relation to a particular matter or type of matter.

(iii) the Committee may only co-opt an employee, officer or member of the responsible authorities or co-operating body comprising the Dartford Community Safety Partnership to serve on the Committee/sub-committee, providing this person:

(a) is not the chairman or vice chairman of the Partnership or the nominated representative/member or substitute of the responsible authorities and/or co-operating body; and

(b) is not a Cabinet member (or an executive member of Kent County Council).

(iv) the membership of a person co-opted to serve on the Committee/sub-committee, may be withdrawn at any time by the Committee.

(c) Voting Co-optees will comply with the Member Code of Conduct set out in Part 6 of the Constitution.

(d) The rules detailed in Standing Order 54(4) will apply.

f) Meetings and Quorum of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee

The rules detailed in these Standing Orders as set out in the Council Procedure Rules and the Access to Information Procedure Rules will apply.

g) Work Programme

The Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee will be responsible for setting their own work programme and in doing so, the Committees will take into account the minority interest views held by members on the Committees.

h) The Party Whip

I. The 'party whip' means any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that

councillor shall speak or vote on any matter before the Council or any Committee, Sub-committee, Board or Panel or the

application or threat to apply any sanction by the group in respect of that councillor “should he/she speak or vote in any particular manner”.

II. When considering any matter in respect of which a member of the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee is subject to a party whip, the Member must declare the existence of the whip and the nature of it before the commencement of the Committee’s deliberations on the matter. The declaration and the detail of the whipping arrangements will be recorded in the minutes of the meeting.

i) Order of Business at Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee Meetings

I. Unless the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee and their sub-committees otherwise determine in accordance with paragraph (b) of this Standing Order, the order of business at every meeting of the Committee/sub-committee will be;

(i) Declarations of interest (including whipping declarations) and noting the interest(s) and term(s) of the Grant of Dispensation(s);

(ii) Minutes of the last meeting;

(iii) Responses of the Cabinet to reports of the Committee/sub-committee; and

(iv) The business otherwise set out on the agenda for the meeting.

II. The order of business (with the exception of items (i) and (ii) referred to in paragraph (a) of this Standing Order) may be altered at the discretion of the Chairman to give precedence to an urgent item of business not included in the agenda for the meeting.

(c) Composite Motions

Any consequential composite motions (a substantive motion made up of separate parts) arising out of a report and/or recommendation to the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, will be dealt with as follows;

(i) The Chairman may request that a composite motion be put in writing;

(ii) Each part of the motion will be dealt with as a separate motion and will be voted on separately;

(iii) The rules detailed in Standing Order 16 (except paragraph (3) "Standing when Speaking" will apply with any necessary modifications.

j) Giving Account at Overview and Scrutiny Committee and the Crime and Disorder

(Overview and Scrutiny) Committee

The rules detailed in the Committees' respective Protocols will apply.

ACCESS TO INFORMATION PROCEDURE RULES

## 50. ADMISSION OF PUBLIC TO MEETINGS

a) Members of the public, including the press[2], have a right to attend any meeting of the Council, Cabinet, a Committee, Sub-committee, Board or Panel unless they are excluded (either for the whole or part of the meeting) because;

I. confidential information under paragraph (2) of this Standing Order might be disclosed during an item of business on the agenda; or if,

II. one or more specified categories of exempt information set out in Annex 1 of these Standing Orders would be disclosed;

III. of general disturbance under Standing Order 18(2).

b) Confidential Information

I. There is a legal requirement on the Council, Cabinet, a Committee, Sub-committee, Board and Panel to exclude the public and the press where the transaction of business on the agenda is likely to involve the disclosure of confidential information. Exclusion of the public may be by resolution but it is sufficient for the Mayor (in the case of a meeting of the Council) or Chairman (in the case of a meeting of the Cabinet, a Committee, Sub-committee, Board or Panel) to ask the public and the press to withdraw so that confidential information can be dealt with.

II. "Confidential Information" means:-

(i) information given to the Council by a Government department upon terms which prevent its disclosure to the public; or

(ii) information which is prohibited from being disclosed to the public under legislation (other than the Data Protection Act 2018) or by a court order.

c) Exempt Information

I. In cases where one or more specified categories of exempt information set out in Annex 1 of these Standing Orders applies, the Proper Officer will be required to consider the public interest test i.e. whether it is in the interests of the public to release some or all of the information even where such disclosure would cause harm to a specific interest. Annex 1 of these Standing Orders identifies the specified categories of exempt information where the public interest test must be applied.

NB: The public interest test involves considering the circumstances of each particular case and the specified category that covers the information. The balance will lie in favour of disclosure, in that exempt information may only be withheld if the public interest in withholding the information is greater than the public

interest in releasing it.

II. The Council, the Cabinet, a Committee, Sub-committee, Board or Panel or an Officer under delegated authority may decide to disclose otherwise exempt information detailed in Annex 1 in the public interest even where such a disclosure could cause harm to a specific interest.

III. The Council, Cabinet, a Committee, Sub-committee, Board or Panel may by resolution exclude the public and the press from a meeting (they have a discretion in the matter) if it is likely that the information within one of the specified categories of exempt information referred to in Annex 1 of these Standing Orders would be disclosed. The resolution will identify the proceedings or part of the proceedings to which it applies and state the description of the exempt information, which gives rise to the exclusion of the public and the press.

d) Where a Sub-committee, Board or Panel is conducting regulatory business for example considering an application for a music and dancing licence, the proceedings will be conducted in public (unless a private hearing is necessary for one of the reasons specified in Article 6 of the Human Rights Act 1998) until the parties have concluded their representations when the Chairman will advise the meeting that Members of the Sub-committee, Board or Panel will retire to consider the representations which have been made and will either, reassemble shortly to announce their decision or that the decision will be communicated to the parties in due course. In the circumstances, there is no resolution to exclude the public and the press.

e) The legal obligation upon the Council, Cabinet, a Committee, Sub-committee, Board or Panel to admit the public and the press to their meetings is "without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting" as referred to in Standing Order 18(2) (Disorderly Conduct).

[2] Includes citizen journalists, bloggers, social commentators, film crews as well as more traditional print media

6) Filming, photographing, recording, broadcasting and oral commentary

(i) The press and public may, during the whole or part of a meeting of the Council, Cabinet, Committees, Sub-committees, Board and Panels that is open to the public:

(a) film, photograph, record and broadcast the proceedings;

(b) use other means for enabling persons not present at the meeting, to see or hear proceedings, as it takes place or later;

(c) in *writing only*, report or provide commentary on the proceedings, so that the written report or written commentary is available, as the meeting takes place or later, to persons not present at the meeting.

(ii) The making of an *oral* report or *oral* commentary on the proceedings at a meeting, by the press and/or public is not permitted, as this would be disruptive

to the good order of the meeting.

(iii) If it is resolved to exclude the press and public in accordance with paragraph (2)(a) or paragraph (3)(c) of this Standing Order, in conjunction with this, all rights to film, photograph, record and broadcast the meeting will be rescinded and recording equipment used for the purpose of reporting the meeting, removed from the meeting room.

(iv) Where a member of the public is permitted to address a meeting, the Mayor (in the case of a meeting of the Council) or Chairman (in the case of a meeting of the Cabinet, a Committee, Sub-committee, Board or Panel), will ask the individual to give their express permission to being filmed, recorded, photographed or appear in a broadcast. Where permission is refused, the Mayor or Chairman will instruct that, whilst the person is addressing the meeting, any recording, filming, photographing, broadcast or the use of other communication methods, cease with immediate effect. Failure of any person to comply with this instruction will be deemed to constitute disruptive behaviour in accordance with Standing Order 18(2).

(i) In the event that the activity is carried out in a manner that disrupts and/or interferes with the proper conduct of the meeting, the Mayor or the Chairman may at any time withdraw consent to film, record, photograph, broadcast or to the use of other communication methods. The Mayor or Chairman's ruling is final.

(7) Notice of Meetings

Public notice must be given of the time and place of every meeting of the Council, Cabinet, a Committee, Sub-committee, Board or Panel. The notice must comply with the rules set out in Standing Order 1(6) (Meetings and Proceedings of the Council) and Standing Order 45(6) (Notice of Private Cabinet Meetings).

(8) The rules detailed in this Standing Order do not affect any more specific rights to information contained elsewhere in the Constitution or the law.

## 51. INSPECTION OF MINUTES AND OTHER DOCUMENTS AFTER MEETINGS

a) After a meeting of the Council, Cabinet, a Committee, Sub-committee, Board or Panel, the following documents will be open to inspection by members of the public and the press without charge, at the Civic Centre for a period of six years beginning with the date of the meeting:-

I. The minutes of the public part of the meeting and those dealing with any part when the public has been excluded although in these cases, the minutes will have been produced in a way which does not disclose exempt information (as defined in Standing Order 53 and Annex 1 of these Standing Orders) which caused the public to be excluded in the first place (refer to paragraph (2) of this Standing Order);

II. a copy of the agenda for the meeting; and

III. a copy of any report (or part of a report) for an item discussed when the meeting was open to the public.

b) The Proper Officer will prepare a written summary of that part of the meeting where the public has been excluded and the summary will provide the public and the press with a reasonably fair and coherent report without disclosing any exempt information.

c) Where a document is open to public inspection any person including the press may, subject to copyright restrictions;

I. make copies of or extracts from the documents; or

II. require the Council on the payment of a reasonable fee to supply within a reasonable period following request, a photocopy of or extracts from the document.

d) Paragraphs(1), (2) and (3) of this Standing Order will apply to the record/statement of every decision taken at a public part of a Cabinet meeting.

e) Inspection of Accounts (Local Audit and Accountability Act 2014)

A local government elector (or representative) for the Borough of Dartford has a right to;

I. inspect during office hours and without payment, the Council's statement of accounts and reports prepared by the Auditor and also has a right to see all books, deeds, contracts, bills, vouchers and receipts relating to the audited accounts.

II. make copies of or extracts from the accounts and/or other documents without payment; or

(i) require the Council on the payment of a reasonable fee to supply within a reasonable period following request, a photocopy of or extracts from the accounts and/or other documents.

(ii) question the Auditor about the accounts.

## 52. PUBLIC INSPECTION OF AGENDA AND CONNECTED REPORTS

a) Copies of the agenda for a meeting of the Council, Cabinet, a Committee, Sub-Committee, Board or Panel and subject to paragraph (2) of this Standing Order, copies of any report for the meeting must be open to public and press inspection at the Civic Centre for at least five clear days' before the meeting (five weekdays, i.e. five periods of 24 hours running from midnight to midnight excluding the day the documents become available and the day on which the meeting is held) except:

I. where the meeting is convened at shorter notice, copies of the agenda and the reports will be open to inspection from the time the meeting is convened; and

II. where an item is added to the agenda which is open to public inspection, copies of the item (or the revised agenda) and copies of any report relating to that item will be open to public inspection from the time the item is added to the agenda.

b) The Proper Officer may exclude from the copies of reports the whole or any part of an item(s) which contains confidential/ exempt information which is to

be discussed at a meeting or part of a meeting where the public and the press are excluded in accordance with Standing Orders 49 (Admission of Public to Meetings) and 55 (Motions affecting persons employed by the Council). In such cases, the copy of the relevant part of the item must be marked “Not for Publication” with a statement identifying the specified category of exempt or confidential information (refer respectively to Annex 1 and Standing Order 49(2)) which is relied on, for excluding the public and the press during the discussion of the item to which the report relates.

c) Nothing in this Standing Order requires copies of any agenda, item or report to be made available for public and press inspection before copies have been made available to members of the Council.

d) Consideration of Items at Meetings

An item of business must not be considered at a meeting of the Council, Cabinet, a Committee, Sub-Committee, Board or Panel unless either:

I. a copy of the agenda including the item or a copy of the item has been made available for public inspection as described in paragraph (1) of this Standing Order; or

II. the Chairman of the meeting (for Council meetings, the Mayor in consultation with the Leader of the Council) agrees that the item should be considered at the meeting as a matter of urgency because of special circumstances, which must be specified in the minutes.

e) (a) Where a meeting or part of a meeting of the Council, Cabinet, a Committee, Sub-committee, Board or Panel is open to the public, including the press, copies of the agenda for the meeting and subject to paragraph (2) of this Standing Order, copies of any reports for the meeting must be handed out to the public and press present at the meeting.

(b) On payment of postage and/other charges, the press must be sent on request:

(i) a copy of the agenda for any meeting of the Council, Cabinet, a Committee, Sub-committee, Board or Panel and, subject to paragraph (2) of this Standing Order, a copy of any report(s) for the meeting and further statements or particulars which indicate the nature of the item(s) in the agenda;

(ii) if the Proper Officer feels it appropriate, copies of any other documents supplied to Members of the Council for a particular item(s).

## 53. INSPECTION OF BACKGROUND PAPERS

a) “Background Papers” are documents disclosing material on which a report or an important part of it has been based and which have been relied upon to a material extent in preparing the report. Excluded from the definition of “background papers” are published works such as HMSO publications and most government departmental circulars and documents, which disclose confidential or exempt information (refer to paragraphs (3) and (4) of this Standing Order).

b) The Proper Officer will decide which documents fall within the definition of "background papers". Once these background papers have been identified, a list of them will be made and open for public inspection from the time the agenda first becomes available until four years after the meeting of the Council, Cabinet, a Committee, Sub-committee, Board or Panel, which considered the report.

c) Documents which disclose confidential information, as defined in Standing Order 49(2) will not be included in the list of background papers.

d) Documents, which disclose exempt information, as described in Standing Order 53 and Annex 1 to these Standing Orders, do not have to be included in the list of background papers.

e) Tabling/Submission of Additional Documents prior to/during a Meeting

The tabling/submission of additional documents other than background papers as defined in Standing Order 52(1) prior to/during a meeting of the Council, Cabinet, Committee, Sub-committee, Board or Panel will not be considered unless the following rules are complied with;

1. Prior to a Meeting

(a) the document(s) must be submitted to the Democratic Services Manager, by 12 noon on the day of the meeting together with written reasons specifying the relevance of the document(s) to an item(s) on the agenda of the meeting;

(b) the Mayor/Chairman must agree (in the exercise of his/her discretion) to the tabling/submission of the additional document(s);

(c) the document(s) must be accepted into the proceedings on the vote of the majority of the Members present at the meeting and actually voting (whereupon the document(s) will be deemed to be a background paper(s) as defined in Standing Order 52(1):

(d) the relevance of the document(s) to the item(s) on the agenda of the meeting will be specified in the minutes of the meeting;

(e) the rules detailed in paragraphs (3) and (4) of this Standing Order will apply to documents which disclose confidential/exempt information.

2. During the Meeting

a. the reasons justifying why paragraph (5)(a) (notice provisions) of this Standing Order have not been complied will be stated;

b. the reasons specifying the relevance of the document(s) to an item(s) on the agenda of the meeting will be stated;

c. the rules detailed in paragraphs (5) (b), (c), (d) and (e) of this Standing Order will apply.

d. Where background papers are open to public inspection, any person including the

press may, subject to copyright restrictions:-

i. make copies of or extracts from a document; or

ii. require the Council on the payment of a reasonable fee to supply within a reasonable period following request, a photocopy of or extracts from the document.

NB: Where the owner of the copyright is the Council, making copies of or extracts from a document which is open to public inspection will not constitute an infringement of copyright. In addition, any defamatory matter contained in published documents which are required to be accessible to the public and the press will be privileged unless the publication of the defamatory material is proved to be made with malice.

3. CONFIDENTIALITY OF REPORTS AND BACKGROUND PAPERS

a. Members of the public, including the press have the right to inspect background papers (documents disclosing material on which a report or an important part of it, has been based and which have been relied upon to a material extent in preparing the report) relating to reports which are considered in public. This right of inspection is not available to members of the public and the press where background papers;

i. disclose confidential information as detailed in Standing Order 49(2) of these Standing Orders;

ii. disclose information within one of the specified categories of "exempt information" detailed in Annex 1 of these Standing Orders and which covers such matters as personal information relating to staff, financial and business affairs of people or companies, action likely to lead to a prosecution and industrial disputes affecting the Council as employer.

b. A report or document which contains confidential or exempt information will be marked "Not for Publication".

c. No Member will disclose or quote in public the contents of any agenda, report or other document which is marked “confidential” or “not for publication” unless and until the document has been made available to the public or the press by or on behalf of the Council, Cabinet, a Committee, Sub-Committee, Board or Panel.

d. No Member will disclose to a non-member or quote in public any matter that is not otherwise published which has come to his/her knowledge by virtue of his/her office as a member of the Council where such disclosure may prejudice the interests of the Council.

e. The rules detailed in this Standing Order will apply to the decision of an Officer exercising delegated powers pursuant to the Scheme of Delegations to Officers.

4. INSPECTION OF DOCUMENTS BY MEMBERS

a. Statutory Right

i. Subject to the restrictions detailed in this Standing Order, a member of

the Council has a statutory right to be provided with or to inspect Council documents which it is reasonably necessary for him/her to see in order to carry out his/her duties as a Councillor.

ii. The statutory right of access is limited to documents concerned with business about to be transacted at a meeting of the Council, Cabinet, a Committee, Sub-committee, Board or Panel. This right may be exercised by any Member regardless of whether he/she is a member of the Cabinet, Committee, Sub-committee, Board or Panel but it is a right that can only be exercised before the matter is considered at the meeting and relates to items that are “to be considered” at the meeting. The papers of working parties are not covered by this statutory right.

iii. A Member cannot demand to see a document which relates to business not yet due to come before a meeting of the Council, Cabinet, Committee, Sub-committee, Board or Panel.

iv. The statutory right is not all-embracing. A Member (other than a member of the Cabinet) has no right to see Cabinet documents which are in draft form. A Member has no right to see documents disclosing exempt information other than under category 3 (except to the extent that the information relates to terms proposed to or by the Council in the course of contract negotiations) and category 6 of the Schedule detailed in Annex 1 to these Standing Orders. This means that for a Member to have access to information relating to an individual (category 1), he/she must still establish a "need to know" in accordance with paragraph (3) of this Standing Order.

b. A request to inspect Council documents must be made in writing to the Proper Officer and he/she will be entitled to satisfy himself/herself that the request is a proper one and that the Member has given reasons for requiring the information. The Proper Officer will consider whether it is necessary for the Member to see that particular document or paper to get the information

he/she is seeking; and are the duties he/she is seeking to carry out those which he/she has “as a Councillor”. Are they, in other words, consistent with his/her responsibilities as an elected member of the Council.

c) ’Need to Know’

In addition to the statutory right of access to reports as detailed in paragraph (1) of this Standing Order, Members have a common law right to inspect other documents of the Council. Access to such documents is subject to the following restrictions;

i. There is no right to a roving commission to go and examine books or documents of the Council. Mere “curiosity or desire to see and inspect documents” is insufficient. The crucial question is the determination of the “need to know”; Members have a good reason for access to all written material relating to a function controlled by the Cabinet, a Committee, Sub-Committee, Board or Panel on which they serve but an “outside Member” has no such automatic right and any claim to a “need to know”, if disputed, will be decided by the Council, Cabinet or the Committee, Sub-Committee, Board or Panel or Officers to whom the task has been delegated or by the Proper Officer and the decision will be final.

ii. The test of the Member's "need to know" derives from the Member's Cabinet, Committee, Sub-Committee, Board or Panel responsibilities but may also extend to a Councillor with a legitimate ward problem.

iii. A Member must not knowingly inspect or request a copy of a document which relates to a matter in which he/she is professionally interested or in which he/she has any personal interest.

iv. A Member will not have an automatic right if his/her interest in requesting access to files/documents springs from something other than the wish to pursue rights as a member of the Cabinet, a Committee, Sub-Committee, Board or Panel.

v. A Member will have the right to see other papers including confidential or exempt information if he/she can establish a "need to know" in order to perform properly his/her duties as a Councillor and this need is not outweighed by any public interest requiring non-disclosure. The rules detailed in paragraph (1)(d) of this Standing Order will apply.

vi. The Proper Officer may refuse to allow the inspection or release of any document which is or would be protected by legal professional privilege (i.e. arising from a relionship of solicitor and client)

c) Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee Access to Documents

vii. Subject to the restrictions detailed in this Standing Order, a member (including a voting co-optee) of the Overview and Scrutiny Committee or Crime and Disorder (Overview and Scrutiny) Committee is statutorily entitled to a copy of any document relating respectively, to any item of business that has been transacted at a Cabinet meeting or a decision taken by an Officer under delegated authority of the Cabinet.

viii. The statutory right is not all-embracing. A member (including a voting co-optee) of the Overview and Scrutiny Committee or the Crime and Disorder (Overview and Scrutiny) Committee has no right to see documents:

1. disclosing exempt or confidential information unless the information is relevant to a matter being reviewed or scrutinised by the Member's Committee or which is contained in the work programme of the Committee or its Sub-committee;
2. which relates to business not yet due to come before a meeting of the Cabinet;
3. which relates to an Officer decision under delegated authority where the decision has yet to be taken.

ix. A request for information referred to in paragraph(a) of this Standing Order must be made in writing to the Leader of the Council. The information must be provided no later than 10 clear days (10 week days i.e. 10 periods of 24 hours running from midnight to midnight excluding the day on which the request is received) after the Leader receives the request.

x. Where the Leader of the Council refuses the request for a reason set

out in paragraph (b) of this Standing Order, a written statement must be provided to the Member's Committee setting out the reason for the decision to refuse.

c. Material relating to Key Decisions

All non executive (non Cabinet) Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession of or under the control of the Cabinet which relates to any key decision unless the document discloses exempt information under the categories of the Schedule detailed in Annex 1 to these Standing Orders.

d. The rights detailed in paragraphs (4) and (5) of this Standing Order are additional to any other right which Members may have.

e. A Member must not use information gained during his/her duties as a Councillor either for personal gain or in a way which could disadvantage or discredit the Council. Disclosure is prohibited until publicity occurs as a normal incidence of Council activity.

5. Members have the right to see the Council's accounts prepared by the Section 151 Officer and also have a general right to see all books, deeds, contracts, bills, vouchers and receipts relating to the accounts.MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL

a. If any question arises at a meeting of the Council, Cabinet, Committee, Sub-Committee, Board or Panel as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, the question will not be discussed until a resolution to exclude members of the public from the meeting (whether during the whole or part of the meeting) has been passed on one of the following grounds;

i. that by reason of the confidential nature of the business to be transacted, publicity would be prejudicial to the public interest, or;

ii. for other special reasons (to be stated in the resolution) and arising from the nature of the business or of the proceedings.

b. Once a resolution is passed in accordance with this Standing Order, the public will be excluded from the meeting during proceedings to which the resolution applies.

6. SUMMARY OF THE PUBLIC/PRESS RIGHTS

A written summary of the public/press rights to attend meetings and to inspect and copy documents will be kept at and available to the public and the press at the Council Offices, Civic Centre, Home Gardens, Dartford.

7. KEY DECISIONS

a. Definition of Key Decision[3]

A key decision is defined in Articles 13.03(b) and 13.04 of the Constitution.

b. The rules detailed in these Standing Orders relating to access to information will apply to key decisions unless the general exception or special urgency rules

detailed respectively in paragraphs (6) and (7) of this Standing Order apply.

c. The requirements to comply with the rules detailed in this Standing Order do not apply to meetings whose sole purpose is for Officers to brief Members.

d. Procedure before taking a Key Decision

Subject to the general exception and special urgency rules detailed respectively in paragraphs (6) and (7) of this Standing Order, a key decision will not be taken, unless a Regulation 9 Notice in accordance with paragraph (5) of this Standing Order is available for inspection at the Council offices and on the Council's website, at least twenty eight clear days' (i.e. twenty eight calendar days (including weekends and public holidays, but excluding the day of publication of the Regulation 9 Notice and the day of the meeting)) before the key decision is taken.

[3] Part 3 - Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

e) Regulation 9 Notice

The Regulation 9 Notice will describe the following particulars insofar as the information is available or might reasonably be obtained;

(i) The key decision is being taken on behalf of the Council by Cabinet[4] or by an Officer[5] under delegated authority;

(ii) The matter in respect of which a key decision is to be made;

(iii) The date on which, or the period within which, the key decision will be taken;

(iv) Whether the key decision will be dealt with wholly or partly in private;

(v) A list of the documents submitted to the decision-maker for consideration in relation to the matter;

(vi) The address from which background papers[6] (excluding draft documents and confidential/exempt information) may be obtained;

(vii) The identity of the principal group(s) whom the Cabinet proposes to consult before taking the decision and the means by which any such consultation is proposed to be undertaken;

(viii) That other documents relevant to the key decision may be submitted to the Council; and

(ix) The procedure for requesting details of the documents (if any) as they become available.

f) General Exception (Regulation 10 Notice)

If a matter which is likely to be a key decision has not been included in the Regulation 9 Notice in accordance with paragraph (5) of this Standing Order, then subject to paragraph (7) of this Standing Order relating to the special urgency rule, the decision may still be taken if;

i. the Proper Officer has informed the Chairman of the Overview and

Scrutiny Committee or (on matters related to crime and disorder), the Chairman of the Crime and Disorder (Overview and Scrutiny) Committee (or in the absence of the Chairman, each Committee member) in writing (a Regulation 10 Notice) of the matter to which the decision is to be made;

ii. the Proper Officer has made copies of the Regulation 10 Notice available to the public for inspection on the Council's website; and

[4]Cabinet members to be named
[5] Include name and title of Officer
6 Background information must contain particulars of the matter, but will exclude confidential or exempt information

iii. at least five clear days' (five weekdays i.e. five periods of 24 hours running from midnight to midnight excluding the day the Proper Officer complies with paragraph (b) of this Standing Order) has elapsed.

iv. A key decision must be taken in public, except where confidential and/or exempt matters are being discussed.

v. The Regulation 10 Notice will be reported to the next scheduled meeting of the Overview and Scrutiny Committee or Crime and Disorder (Overview and Scrutiny) Committee.

g) Special Urgency (Regulation 11 Agreement)

vi. In cases of special urgency, the Regulation 9 and 10 Notices (refer to paragraphs (5) and (6) of this Standing Order) may be dispensed with, but only where the decision maker (i.e. Leader of the Council where the key decision is being taken by Cabinet or where the key decision is being taken by an Officer under delegated authority, the Officer taking the decision) has obtained the agreement of the Chairman of the Overview and Scrutiny Committee or (on matters related to crime and disorder), the Chairman of the Crime and Disorder (Overview and Scrutiny) Committee (a Regulation 11 Agreement) that the taking of the key decision cannot reasonably be deferred by the decision maker. If the Chairman of the Overview and Scrutiny Committee or the Chairman of the Crime and Disorder (Overview and Scrutiny) Committee are unable to act, then the Mayor (or in the Mayor's absence, the Deputy Mayor) must agree that the taking of the decision cannot reasonably be deferred by the decision maker.

vii. As soon as reasonably practicable, the Regulation 11 Agreement setting out the reason(s) for urgency and that the taking of the key decision cannot reasonably be deferred by the decision maker will be published on the Council's website.

viii. The Regulation 11 Agreement will be reported to the next scheduled meeting of the Overview and Scrutiny Committee or Crime and Disorder (Overview and Scrutiny) Committee.

h) Report to the Council

Where a decision has been taken either by Cabinet or an Officer under

delegated authority and;

(i) the Overview Scrutiny Committee or (on crime and disorder matters), the Crime and Disorder (Overview and Scrutiny) Committee is of the opinion that the decision is a key decision;

(ii) no Regulation 9 or Regulation 10 Notice has been published in accordance with paragraphs (5) or (6) of this Standing Order); and

(iii) no Regulation 11 Agreement has been obtained in accordance with paragraph (7) of this Standing Order; the Overview and Scrutiny Committee or Crime and Disorder (Overview and Scrutiny) Committee may require the Cabinet to submit a report to the Council (within a reasonable period to be agreed between

the Chairman of the Cabinet and the Chairman of the Committee) detailing particulars of the decision and reason(s), the decision maker and if the Cabinet are of the opinion that the decision is not a key decision, the reasons for that opinion must also be detailed.

NB: The power to require a report rests with the Overview and Scrutiny Committee or the Crime and Disorder (Overview and Scrutiny) Committee (as applicable), but is also delegated to the Proper Officer, who, if requested by the Chairman or any 5 Members of the Committee can require such a report from the Cabinet on behalf of the Committee. Alternatively, the requirement to report may be raised by resolution passed at a meeting of the Committee.

i) Quarterly Reports on Special Urgency Decisions

The Leader of the Council will report to the Council at quarterly intervals, all key decisions requiring special urgency action (refer to paragraph (7) of this Standing Order) taken since the last report was submitted to the Council. The report must detail the number of special urgency key decisions taken together with a summary of the matters in respect of which the decision(s) was taken.

j) Key Decisions taken by Area Committees/Joint Arrangements and Officers

The rules detailed in this Standing Order 57 will apply to key decisions of taken by area committees/joint arrangements and Officers under delegated authority, in the course of the discharge of a Cabinet function.

k) Recording Decisions

The rules detailed in Standing Order 15(7) will apply to the recording of key decisions.

## 54. OFFICER EMPLOYMENT PROCEDURE RULES

## 55. RECRUITMENT OF STAFF

a) Relationships

I. A Member must not participate in a staff appointment or allow

himself/herself to serve on the Cabinet where, to his/her knowledge, any of the job applicants to be interviewed is related to him/her or where his/her involvement may well be such as to amount to canvassing or give rise to suspicion of an improper motive, financial or otherwise.

II. A job applicant is required to disclose (at the time of making the application) any relationship with a Member or Officer.

III. A job applicant who fails to disclose a relationship will be disqualified from further participation in the appointment or liable to dismissal without notice, if the Council has reasonable grounds for believing that he/she failed to disclose his/her relationship with a Member or Officer of the Council prior to appointment.

IV. A Member must disclose to the Monitoring Officer any relationship known to him/her, which exists between himself/herself and any job applicant.

V. No job applicant related to a Member or Officer will be appointed without the authority of the Head of Paid Service.

b) Canvassing and Other Improper Influences

The Monitoring Officer will report any disclosures made under this Standing Order to the Council or to the Audit Board. A job applicant must not canvass a Member and a Member must not improperly favour a job applicant to whom for example, he/she may be related. A job applicant will be disqualified if a Member has canvassed on his/her behalf.

c) References given by Members

A member of the Council may give a written reference for a job applicant (as to ability, experience or character) but must not solicit a job for any person.

d) The requirements of this Standing Order will be summarised in every advertisement inviting applications for appointment or in application forms.

e) Members must not sit on the Cabinet or a Committee, Sub-Committee, Board or Panel responsible for the Directorate for which an employee does significant work, if they are related to or the partner of that employee. A role in policy-making, strategic or operational management or resources allocation would be considered as significant work.

## 56. RECRUITMENT/APPOINTMENT OF STATUTORY OFFICERS[7] AND DIRECTORS

a) Subject to paragraph (9) below, this Standing Order will apply to the recruitment, interview and appointment of Statutory Officers (Head of Paid Service, Monitoring Officer and Section 151 Officer) and Directors.

b) The interviewing body will be a panel of Members appointed by the Council, politically balanced and including one Cabinet member (the Statutory Officer Advisory Panel).

c) Executive Objections Procedure

I. The Executive Objections Procedure must precede the Council meeting convened to deal with the appointment of the successful applicant.

II. Prior to making a recommendation to the Council to appoint, the Statutory Officer Advisory Panel will notify the Proper Officer of the name of the successful applicant and of any other particulars which the Statutory Officer Advisory Panel considers relevant to the making of the appointment;

III. The Proper Officer will notify *every* Cabinet member:

- of the fact that the Statutory Officer Advisory Panel is proposing to the Council, the appointment of the successful applicant;
- of any other particulars relevant to the recommendation to appoint;
- of the period (not being less than five calendar days) by which any objection to the recommendation to appoint is to be made by the Leader (or the Deputy Leader where the Leader is conflicted) on behalf of the Cabinet, to the Proper Officer; and
- that any objection must be not only based on evidence i.e. well founded but must also be relevant i.e. material.

IV. At the end of the five calendar day period referred to in paragraph(c) above, the Proper Officer will inform the Statutory Officer Advisory Panel, either:

- that neither the Leader (or the Deputy Leader where the Leader is conflicted) nor any Cabinet member has any objection to the recommendation to appoint; or
- that no objection to the recommendation to appoint has been received; or
- that an objection to the recommendation to appoint has been received and provide details of the objection.

V. Where an objection to the recommendation to appoint has been received by the Proper Officer, the Statutory Officer Advisory Panel will reconvene to consider the objection. If, notwithstanding the objection, the Panel is satisfied that the objection is neither material nor well founded and it is appropriate to recommend the appointment, the Panel will notify the Proper Officer. The Panel's proceedings will be deemed to be closed.

VI. If no objection has been notified under the Executive Objections Procedure, the Statutory Officer Advisory Panel's Chairman will finalise the Panel's recommendation to appoint and notify the Proper Officer. The Panel's proceedings will be deemed to be closed.

d) Having first considered:

(i) the advice, view(s) or recommendation(s) of the Statutory Officer Advisory Panel; and
(ii) the objection received (if any), through the Executive Objections Procedure to the recommendation for appointment,

I. the Council may approve the appointment

e) No offer of appointment will be made until the Council has approved the appointment.

f) Advertisement

Where recruitment of a Statutory Officer or Director is proposed otherwise than by internal promotion, the following will apply;

[7] Local Authorities (Standing Orders) (England) Regulations 2001 (as amended)

I. a statement specifying the duties of the post concerned and any qualifications or qualities required of the applicant will be drawn up and a copy of this statement will be given to anyone who asks for it;

II. the post will be advertised in such a way as to encourage applications from suitable candidates.

**57.** Interview

I. Where a post has been advertised in accordance with paragraph (6)(b) of this Standing Order, the Statutory Officer Advisory Panel will interview shortlisted candidates.

II. Where no suitably qualified person applies, the post will be re-advertised in accordance with paragraph (6)(b) of this Standing Order.

III. Where it is proposed that the appointment of a Director is made exclusively from among existing Council staff, the Statutory Officer Advisory Panel will shortlist and interview candidates for the post of Director. Paragraphs(3), (4) and (5) of this Standing Order 59 will apply.

**58.** The Proper Officer and (in his/her absence) other members of the Leadership Team have delegated authority to act in respect of any of the procedural steps in paragraphs (3) and (6) of this Standing Order.

**59.** Paragraphs (2), (3) (4) (6) and (7) of this Standing Order 59 will not apply where it is proposed that the appointment of the Section 151 Officer or Monitoring Officer be made exclusively from among existing Council staff. In such circumstances, the Head of Paid Service (or nominee) will recommend the appointment to the Council, pursuant to paragraph(5) of this Standing Order.

## 60. APPOINTMENT OF STAFF OTHER THAN STATUTORY OFFICERS AND DIRECTORS

(a) For the purposes of this Standing Order 60, 'Chief Officers' means Statutory Officers and Directors.

(b) Members of the Council (including members of the Cabinet) will not be involved in the appointment of Officers below Chief Officer level.

(c) Appointment of Officers below Chief Officer level will be the responsibility of the Head of Paid Service (or nominee) who retains overall corporate management and staff responsibility.

## 61. DISCIPLINARY ACTION IN RESPECT OF STATUTORY OFFICERS[8] AND DIRECTORS

Where an independent investigator's report recommends dismissal of the Head of Paid Service, the Monitoring Officer, the Section 151 Officer or Director, the Officer will not be dismissed unless the following procedure is complied with:

(a) The disciplinary body will be a panel of Members appointed by the Council and politically balanced, including one Cabinet member and at least two Independent Persons (appointed in accordance with paragraph (c) of this Standing Order), with voting rights (the Statutory Officer Advisory Panel).

(b) In the event that one or more of the Council's appointed Independent Persons are unable to act, the Head of Paid Service will invite and appoint such persons from another local authority as a substitute(s). Where the Head of Paid Service is conflicted or absent, the invitation will be issued and the appointment made, by the Monitoring Officer or Section 151 Officer.

(c) Independent Persons appointed to the Statutory Officer Advisory Panel will be appointed in the following order of priority:

(i) the Independent Person(s) appointed by the Council who is a local government elector in the borough of Dartford;
(ii) any other Independent Person(s) appointed by the Council;
(iii) an Independent Person(s) appointed by another authority.

(d) Any remuneration, allowances or fees paid by the Council to an Independent Person appointed to the Statutory Officer Advisory Panel will not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that person's role as Independent Person under the Localism Act 2011.

(e) Executive Objections Procedure

(i) The Executive Objections Procedure must precede the Council meeting convened to deal with the dismissal of a Statutory Officer or Director.

Prior to making a recommendation to the Council, to dismiss, the Statutory Officer Advisory Panel will notify the Proper Officer of any particulars, which the Statutory Officer Advisory Panel considers relevant to the recommendation to dismiss;

The Proper Officer will notify *every* Cabinet member:

- of the fact that the Statutory Officer Advisory Panel is recommending dismissal to the Council;
- of any other particulars relevant to the recommendation to dismiss;
- of the period (not being less than five calendar days) by which any objection to the recommendation to dismiss is to be made by the Leader (or Deputy Leader where the Leader is conflicted) on behalf of the Cabinet, to the Proper Officer; and
- that any objection must be not only based on evidence i.e. well founded but must also be relevant i.e. material.

[8] Local Authorities (Standing Orders) (England) Regulations 2001 (as amended)

(f) At the end of the five calendar day period referred to in paragraph(iii) above, the Proper Officer will inform the Statutory Officer Advisory Panel, either:

- that neither the Leader (or Deputy Leader where the Leader is conflicted) nor any Cabinet member has any objection to the recommendation to dismiss; or
- that no objection to the recommendation to dismiss has been received; or
- that an objection to the recommendation to dismiss has been received and provide details of the objection.

(g) If no objection has been notified under the Executive Objections Procedure, the Statutory Officer Advisory Panel's Chairman will finalise the Panel's recommendation to dismiss and notify the Proper Officer. The Panel's proceedings will be deemed to be closed.

(h) Where an objection (which may introduce new evidence) to the recommendation to dismiss has been notified under the Executive Objections Procedure, the Statutory Officer Advisory Panel will reconvene and may either:

(a) on a further report of the independent investigator and in accordance with the procedure outlined in the Statutory Officer Disciplinary and Dismissal Policy and Procedure, consider the impact of the objection and its relevance to the dismissal recommendation;

or

(b) notwithstanding the objection, if satisfied that the objection is neither material nor well founded and it is appropriate to recommend dismissal, the Statutory Officer Advisory Panel will finalise its recommendation to dismiss and notify the Proper Officer.

The Panel's proceedings will be deemed to be closed.

(i) Before a deciding on whether or not to approve a dismissal, the Council will take into account:

(i) the conclusions of any investigation by the independent investigator into the proposed dismissal;

(ii) the objection received (if any), through the Executive Objections Procedure to the recommendation of the Statutory Officer Advisory Panel to dismiss;

(iii) any written representations made by the Statutory Officer or Director;

(iv) any advice, view(s) or recommendation(s) of the Statutory Officer Advisory Panel.

The Council will not be bound by the Statutory Officer Advisory Panel's advice, view(s) or recommendation(s) and is at liberty to reject the proposal to dismiss. The Council may decide on an appropriate course of action, which could include substituting a lesser sanction.

(j) Members of the Appeals Panel will not participate in the Council meeting.

(k) No notice of dismissal will be issued to the Statutory Officer or Director, until the Council has approved the dismissal.

## 62. DISCIPLINARY ACTION IN RESPECT OF STAFF OTHER THAN STATUTORY OFFICERS[10] AND DIRECTORS

(a) For the purposes of this Standing Order 62, 'Chief Officers' means Statutory Officers and Directors.

(b) Disciplinary action against staff other than Chief Officers is the responsibility of the Head of Paid Service (or nominee) in accordance with the Council's Disciplinary and/or Capability Policies and related procedures.

(c) Members will not be involved in disciplinary action against Officers below Chief Officer level except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

NB: A Member may give evidence in any enquiry or investigation of misconduct or other disciplinary action if he/she was a victim of, or a witness to any alleged misconduct.

[9] Local Authorities (Standing Orders) (England) Regulations 2001 (as amended)

## 63. LOCAL GOVERNMENT ACT 1972 ANNEX 1 SCHEDULE 12A: PARTS 1-3

ACCESS TO INFORMATION: CATEGORIES OF EXEMPT INFORMATION

| Category | Qualification |
|---|---|
| 1. Information relating to an individual | Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.<br><br>Information is only exempt:<br>(a) where disclosure is prohibited by statute; or<br>(b) where disclosure might involve providing personal information about individuals; or<br>(c) where disclosure might breach a duty of confidentiality; and<br>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information. |

| | |
|---|---|
| 2. Information which is likely to reveal the identity of an individual | Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.<br><br>Information is only exempt:<br>(a) where disclosure is prohibited by statute; or<br>(b) where disclosure might involve providing personal information about individuals; or<br>(c) where disclosure might breach a duty of confidentiality; and<br>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information. |
| 3. Information relating to the financial or business affairs of any particular person (including the authority holding the information)<br><br>'financial or business affairs' includes contemplated, as well as past or current, activities<br><br>This category will include commercial and contractual interests | Information is not exempt information if it is required to be registered by law e.g. company information, registered charities etc.<br><br>Information is only exempt if and for so long as:<br>(a) disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods or services whether the advantage would arise as against the Council or as against other persons; or<br>(b) disclosure would prejudice the efficiency and effectiveness of the use of Council resources; or<br>(c) disclosure of trade secrets and other information would, or would likely, prejudice the commercial interests of any person, including the Council; and<br>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information. |

| Category | Qualification |
|---|---|
| 4. Information relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a minister of the crown and employees of, or office-holders under, the authority<br><br>'Labour relations matters' are as specified in paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974 i.e. matters which may be the subject of a trade dispute<br><br>'employee' means a person employed under a contract of service<br><br>'office-holder' means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority | Information is only exempt if and for so long as its disclosure to the public:<br>(a) would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and<br>(b) in all the circumstances of the case, the public interest in not disclosing the information out weighs the public interest in disclosing the information. |
| 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings | Information is only exempt:<br>(a) where a claim of legal professional privilege could be maintained in legal proceedings e.g. correspondence such as legal advice and assistance between the Council's Legal Services and its client; and<br>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information. |
| 6. Information which reveals that the authority proposes –<br><br>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or<br>(b) to make an order or direction under any enactment | Information is exempt only if and so long as:<br>(a) disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice order or direction is to be given or made; and<br>(b) in all circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information. |

| | |
|---|---|
| 7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime | Information is only exempt if its disclosure would, or would be likely to, prejudice-<br>(a) criminal investigations and proceedings; or<br>(b) the apprehension or prosecution of offenders; or<br>(c) the administration of justice; or<br>(d) the assessment or collection of any tax or duty or of any imposition of a similar nature; or<br>(e) regulatory enforcement; or<br>(f) any civil proceedings; or<br>(g) Health and safety; or<br>(h) information obtained from confidential sources; and<br>(i) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information. |

Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

DARTFORD BOROUGH COUNCIL

CONSTITUTION OF THE COUNCIL

# PART 5 TERMS OF REFERENCES

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STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL

## GENERAL ASSEMBLY OF THE COUNCIL (GAC or COUNCIL)

## TERMS OF REFERENCE:

1. In accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 - Schedule 1 (as amended)[1] to exercise the following functions unless delegated to a Committee, Board or Panel or Officer under the Scheme of Delegations to Officers:

| | |
|---|---|
| ***(1)*** | ***(2)*** |
| ***Function*** | ***Provision of Act or Statutory Instrument*** |
| **A. Functions relating to health and safety at work** | |
| 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. | Part I of the Health and Safety at Work etc. Act 1974. |
| **B. Functions relating to elections** | |
| 1. Duty to appoint an electoral registration officer. | Section 8(2) of the Representation of the People Act 1983. |
| 2. Power to assign officers in relation to requisitions of the registration officer. | Section 52(4) of the Representation of the People Act 1983. |
| 3. Functions in relation to parishes and parish councils. | Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part. |
| 4. Power to dissolve small parish councils. | Section 10 of the Local Government Act 1972. |
| 5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups. | Section 11 of the Local Government Act 1972. |
| 6. Duty to appoint returning officer for local government elections. | Section 35 of the Representation of the People Act 1983. |
| | |
| 7. Duty to divide constituency into polling districts. | Sections 18A to 18E of, and Schedule A1 to, the Representation of the People Act 1983. |
| 8. Power to divide electoral divisions into polling districts at local government elections. | Section 31 of the Representation of the People Act 1983. |

[1] As at 28 March 2023

| | |
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| 9. Powers in respect of holding of elections. | Section 39(4) of the Representation of the People Act 1983. |
| 10. Power to pay expenses properly incurred by electoral registration officers. | Section 54 of the Representation of the People Act 1983. |
| 11. Power to fill vacancies in the event of insufficient nominations. | Section 21 of the Representation of the People Act 1985. |
| 12. Duty to declare vacancy in office in certain cases. | Section 86 of the Local Government Act 1972. |
| 13. Duty to give public notice of a casual vacancy. | Section 87 of the Local Government Act 1972. |
| 14. Power to make temporary appointments to parish councils. | Section 91 of the Local Government Act 1972. |
| 15. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000. | Section 10 of the Representation of the People Act 2000. |
| 16. Duty to consult on change of scheme for elections. | Sections 33(2), 38 (2) and 40(2) of the 2007 Act. |
| 17. Duties relating to publicity. | Sections 35, 41 and 52 of the 2007 Act. |
| 18. Duties relating to notice to Electoral Commission. | Sections 36 and 42 of the 2007 Act. |
| 19. Power to alter years of ordinary elections of parish councillors. | Section 53 of the 2007 Act. |
| 20. Functions relating to change of name of electoral area. | Section 59 of the 2007 Act. |
| **C. Functions relating to name and status of areas and individuals** | |
| 1. Power to change the name of the Borough. | Section 74 of the Local Government Act 1972. |
| 2. Power to change the name of a parish. | Section 75 of the Local Government Act 1972. |
| 3. Power to confer title of honorary alderman or to admit to be an honorary freeman. | Section 249 of the Local Government Act 1972. |
| 4. Power to petition for a charter to confer borough status. | Section 245b of the Local Government Act 1972. |
| **D. Functions relating to community governance** | |
| 1. Duties relating to community governance reviews. | Section 79 of the Local Government and Public Involvement in Health Act 2007 2007 Act. |
| 2. Functions relating to community | Sections 80, 83 to 85 of the 2007 Act. |

| | |
|---|---|
| governance petitions. | |
| 3. Functions relating to terms of reference of review. | Sections 81(4) to (6). |
| 4. Power to undertake a community governance review. | Section 82 of the 2007 Act. |
| 5. Functions relating to making of recommendations. | Sections 87 to 92 of the 2007 Act. |
| 6. Duties when undertaking review. | Section 93 to 95 of the 2007 Act. |
| 7. Duty to publicise outcome of review. | Section 96 of the 2007 Act. |
| 8. Duty to send two copies of order to Secretary of State and Electoral Commission. | Section 98(1) of the 2007 Act. |
| 9. Power to make agreements about incidental matters. | Section 99 of the 2007 Act. |
| **E. Power to make, amend, revoke, re-enact or enforce byelaws.** | Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978. |
| **F. Power to promote or oppose local or personal Bills**. | Section 239 of the Local Government Act 1972. |
| **G. Functions relating to pensions etc.** | |
| 1. Functions relating to local government pensions, etc. | Regulations under section 7, 12 or 24 of the Superannuation Act 1972. |
| **H. Policy Framework - Statutory Plans**<br><br>*The Cabinet may formulate the following plans, strategies etc. for approval by the GAC* | See Article 4.01 of the Constitution |
| **I. Miscellaneous functions** | |
| **Part I: functions relating to public rights of way etc.** | |
| 1. Power to create footpath, bridleway or restricted byway by agreement. | Section 25 of the Highways Act 1980. |
| 3. Power to extinguish public right of way over land acquired for clearance. | Section 294 of the Housing Act 1981. |
| 4. Power to authorise stopping-up or diversion of footpath, bridleway or restricted byway. | Section 257 of the Town and Country Planning Act 1990. |
| 5. Power to extinguish public rights of way over land held for planning purposes. | Section 258 of the Town and Country Planning Act 1990. |
| **Part II: Staff** | |

| | |
|---|---|
| 1. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal). | Section 112 of the Local Government Act 1972. |
| 2. Duty to make arrangements for proper administration of financial affairs etc. | Section 151 of the Local Government Act 1972. |
| 3. Power to appoint officers for particular purposes (appointment of "proper officers"). | Section 270(3) of the Local Government Act 1972. |
| 4. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc. | Section 4(1) of the Local Government and Housing Act 1989. |
| 5. Duty to designate officer as the monitoring officer, and to provide staff, etc. | Section 5(1) of the Local Government and Housing Act 1989. |
| 6. Duty to provide staff, etc. to person nominated by monitoring officer. | Sections 82A(4) and (5) of the Local Government Act 2000. |
| **Part III: Procedural/Regulatory** | |
| 1. Power to make standing orders. | Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972. |
| 2. Power to make standing orders as to contracts. | Section 135 of the Local Government Act 1972. |
| 3. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be). | The Accounts and Audit Regulations 2015. |
| 4. Power to make payments or provide other benefits in cases of maladministration etc. | Section 92 of the Local Government Act 2000. |
| 5. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption. | Section 13(2) of the Criminal Justice and Police Act 2001. |
| **Part IV: Other** | |
| 1. To deal with all local choice functions set out in Part 3 of the Constitution which the GAC decides should be undertaken by it rather than by Cabinet | |
| 2. To deal with all other matters which, by law, must be reserved to the GAC | |
| 3. To respond to discussion/consultation papers in accordance with the Consultation/Discussion Papers Protocol | |

# CABINET

**(To comprise of a minimum of 3 and maximum of 10 Members notified by the Leader of the Council)**

**TERMS OF REFERENCE:**

In these Terms of Reference:

The “process of policy formulation” means:

a. The Cabinet proposes the budget (including the allocations to different services and projects, proposed taxation levels and contingency funds) or proposes plans/strategies/arrangements (the policy framework) to the Council for adoption (with or without modifications/amendments);

b. The GAC then either agrees the draft policy or overall budget envelope or may amend the draft policy or overall budget and tax levels in those respects in which the GAC is unhappy overall.

c. The Cabinet is responsible for any consultation required or necessary with the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee, local partners and other stakeholders in developing the budget and formulating policy.

‘Overview and Scrutiny Committees’ means the Overview and Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee.

1. To be responsible for the discharge of executive functions and to exercise all the Council's functions which are not the responsibility of any other part of the Council, by law or under the Constitution.

2. To exercise and undertake (or as the Cabinet may determine), the functions of the Council which;

a. are not specifically reserved to the GAC by regulations or otherwise specified as being functions which the GAC must determine;

b. the GAC has discretion on (i.e. may exercise the function(s) itself or delegate it), but chooses not to carry out the function(s);

c. are not delegated by the GAC to another Committee, Board, Panel or Officer pursuant to section 101 of the Local Government Act 1972;

d. are not listed in these Terms of Reference as being matters on which the Cabinet makes recommendations to the GAC;

e. are not exercised in a way, which breaches or has the effect of breaching plans, strategies and policies approved by the GAC.

3. **The Leadership Role**

a. Lead and co-ordinate the community planning process;

b. Lead and co-ordinate the preparation of statutory and non-statutory plans and strategies;

c. Consult on and draw up the annual budget, including capital plans;

d. Take decisions on resources and priorities to deliver the strategies within budgets approved

by the Council, consulting with other Councillors and stakeholders in the local community as necessary;

e. Be the focus for forming partnerships with other agencies and the business and voluntary sectors locally to address local needs.

4. **The Policy Framework**

a. Be responsible for effective implementation of Council policy and delivering services in line with the approved budget, policy framework and Financial Regulations.

b. Respond to any recommendation(s) made by the Overview and Scrutiny Committees.

c. *In-Year Amendments*

The GAC may at the same time as approving/adopting a policy, agree which elements of the policy the Cabinet will have the freedom to amend.

d. Where appropriate, seek advice from the Overview and Scrutiny Committee or from the GAC before taking a major decision even if it lies within the Council's agreed policy and budget frameworks and has been allowed for in the budget.

e. Shape its proposals in the light of the views of the community, other local stakeholders, including potential partners/Tenants Participation Compact and the representations of Councillors outside the Cabinet.

f. To refer work items to the Overview and Scrutiny Committees as and when necessary.

g. To receive recommendations from the Overview and Scrutiny Committees.

5. **Local Plan and Planning Policy**

a. Responsible for formulating the Local Development Scheme (Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended); Local Development Documents in accordance with the Town and Country Planning (Local Planning)(England) Regulations 2012 and the Community Infrastructure Levy in accordance with the Community Infrastructure Levy Regulations 2010 (as amended) and effecting the necessary consultations with stakeholders, as appropriate.

*NB The approval of Development Plan Documents (Regulation 19 of the Town and Country Planning (Local Planning)(England) Regulations 2012)) from publication stage onwards, is a decision of GAC and not the Cabinet*

b. Subject to the process of policy formulation, recommend to the GAC for approval/adoption, statutory and other plans (refer to the GAC Terms of Reference).

c. Expand the Council's policy framework by deciding that other plans and strategies (statutory and non-statutory) and policies be adopted by the GAC.

*NB: If the Cabinet is minded to determine a matter not in accordance with the policies adopted by the Council (a departure decision) that decision MUST be taken by the Council unless it is an urgent departure decision taken in accordance with Standing Order 46(4). Any modifications to the plans, strategies or arrangements must be adopted (with or without amendments) by the Council unless the Council at the time of adopting/approving the plans, strategies or arrangements has delegated to the Cabinet the authority to make in-year amendments to the plan, strategy or arrangement in question.*

d. Responsible for all the steps leading up to the adoption by the GAC, of plans and strategies.

e. To approve other plans, strategies and policies, which are not required by, law to be approved/adopted by the GAC.

6. **Plans requiring Secretary of State Approval**

Responsible for the preparation of draft plans and ancillary documents and/or the formulation of arrangements for submission to the Council for adoption prior to being submitted to the relevant Secretary of State for approval as required from time to time.

*NB: The Cabinet is responsible for amending such plan or strategy as required by the Minister from whom approval is required and the GAC shall formally adopt the final, approved version of the plan prior to implementation*

7. **Budget Framework**

a. Responsible for all the steps leading up to the adoption by the Council of the overall budget framework and taxation levels (Local Government Finance Act 1992).

b. In developing the budget, responsible for any consultation required or necessary with the Overview and Scrutiny Committee.

8. **Economic, Environmental and Social Well-being of the Borough**

Receive recommendations from the Overview and Scrutiny Committees in relation to matters which are not the direct responsibility of the Council, but which affect the economic, environmental and social well-being of the Borough of Dartford.

9. **Residual Planning Functions**

a. To recommend to the GAC the making of Compulsory Purchase Orders.

b. To receive recommendations from the Development Control Board on designation of conservation areas and to determine accordingly.

c. To establish nature reserves under Part VII of the Environmental Protection Act 1990.

d. To be responsible for the removal of permitted development rights through Article 4 Directions.

*NB: The Cabinet may require information as to interests into land but only where this is preliminary to the exercise of powers to make Compulsory Purchase Orders.*

e. To oversee all procedural steps relating to the preparation of a Neighbourhood Development Plan (Part 5, the Neighbourhood Planning (General) Regulations 2012) and to consider what actions to take in response to an examiner's recommendations in respect of Neighbourhood Development Plans (Section 38A of the Planning and Compulsory Purchase Act 2004 (as amended)).

*NB The decision to make or refuse to make a Neighbourhood Development Plan (Section 38A(4) of the Planning and Compulsory Purchase Act 2004(as amended)) is a decision of GAC and not the Cabinet*

f. To adopt, revise and revoke Local Development Orders under Section 61A of the Town and Country Planning Act 1990 (as amended) and to oversee all procedural steps including local consultation.

g. To oversee all procedural steps relating to the preparation of Neighbourhood Development Orders and Community Right to Build Orders (Part 6, the Neighbourhood Planning (General) Regulations 2012.

h. To make decisions about a proposed Neighbourhood Development Order or Community Right to Build Order following receipt of the examiner's report, including making or refusing to make an Order (Schedules 4B and 4C of the Town and Country Planning Act 1990 (as amended)).

i. Community Infrastructure Levy (CIL) - to:

- compile the CIL Charging Schedule for adoption by the GAC;
- set the CIL rate; and
- decide on the spending of CIL receipts.

10. **Environmental – pollution control etc.**

a. Responsible for functions in respect of control of pollution, statutory nuisances and other environmental protection functions, but excluding those related to regulatory, consent or enforcement decisions.

b. Responsible for functions relating to the management of air quality.

11. **Health and Safety**

Responsible for all matters related to health and safety for the Council.

12. **Exercise of Joint Arrangements**

a. To make agreements with other local authorities for the placing of staff at the disposal of those other local authorities, (example to facilitate the exercise of joint arrangements) but only in relation to the discharge of Cabinet functions.

b. To appoint an individual (and revoke the appointment) to:

I. any office other than an office in which he/she is employed by the Council;
II. any body:
i. other than the Council;
ii. a joint committee of two or more authorities;
iii. any committee or sub-committee of such body.

13. **Contracts**

To decide whether to contract out a function or service and to whom to award the contract providing that the function/service falls within the responsibility of the Cabinet.

14. **Assets of Community Value- Localism Act 2011**

To decide the form and contents of the Council's list of assets of community value and the procedure to be applied.

15. **Local Acts**

Responsible for any function under a local Act other than the functions specified to be the responsibility of the GAC and/or as delegated by the GAC to other Committees, Boards, Panels and Officers pursuant to section 101 of the Local Government Act 1972.

16. **Spending of Budget Allocations and Reallocation of Funds**

a. Responsible for the control, monitoring and expenditure of budgets within the Cabinet's remit.

b. Responsible for the reallocation of funds from one service to another within the adopted

budget, reserves and provisions.

*NB: If the Cabinet is minded to determine a matter not in accordance with the resources available and any parameters detailed in Standing Orders and/or Financial Regulations, that decision MUST be taken by the GAC unless it is an urgent departure decision taken in accordance with Standing Order 57(4).*

17. **Appointments to Outside Bodies**

Responsible for making appointments from within the Cabinet membership and from Councillors outside the Cabinet and other persons to any body outside the Council in connection with the discharge of any Cabinet function and subject to the Council's Equality and Diversity Framework.

18. **Delegations**

Remain responsible to the Council, through the Overview and Scrutiny Committee, for the Cabinet functions delegated (the decision to delegate and the way that the function is being carried out) to Officers or other structures outside the Cabinet.

19. **Monitoring Officer and Section 151 Officer Reports**

a. Without prejudice to the role and responsibilities of the GAC and Audit Board to receive Monitoring Officer and Section 151 Officer reports on;

- lawfulness or maladministration;
- unlawful expenditure where this relates to functions, which are the responsibility of the Cabinet.

*NB: The report must be copied to all Members and all action in respect of the matter in the report will be suspended until the Cabinet has considered the report. The Overview and Scrutiny Committee may consider whether it is appropriate to hold a short enquiry into the matter prior to the Cabinet's consideration of it.*

b. After considering the Monitoring Officer's/Section 151 Officer's report, report accordingly to the GAC (and where applicable, to the Section 151 Officer and to the Council's external auditor) explaining what if any, action is to be taken in consequence of the report and the reasons for that action or for not taking action.

20. **Discussion/Consultation Papers**

To respond to discussion/consultation papers relating to matters connected/associated with the functions of the Cabinet or matters connected/associated with bodies established by the Council or Cabinet and reporting to the Cabinet.

## STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL
## CABINET ADVISORY PANELS

**TERMS OF REFERENCE:**

Cabinet Advisory Panel A and Cabinet Advisory Panel B have been established to act as a sounding board and source of advice to the Cabinet and to enable backbench Members to participate in policy formulation pre-decision. These Panels are consultative forums with no decision-making powers and are advisory only i.e. reporting/recommending accordingly to the Cabinet.

**CABINET ADVISORY PANEL A**

**Membership, Chairman and Vice-Chairman: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, by the political groups on the Council.** **CABINET ADVISORY PANEL B**

**Membership, Chairman and Vice-Chairman: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, by the political groups on the Council.**

## OVERVIEW & SCRUTINY COMMITTEE

**[REPORTING TO THE GENERAL ASSEMBLY OF THE COUNCIL unless otherwise stated in these Terms of Reference]**

**Membership, Chairman and Vice-Chairman: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, in accordance with political proportionality, by the political groups on the Council.**

TERMS OF REFERENCE AND DELEGATED FUNCTIONS:

### A. OVERVIEW FUNCTIONS

1. Policy Overview

**(1)** Without prejudice to the role and responsibilities of other Committees, Boards etc., to review general policies of the Council and to recommend accordingly to the Cabinet on future policy options.

**(2)** To seek views from other Committees/Boards in order to obtain a balanced view of the effects of Council policy and Cabinet decisions.

**(3)** To hold policy reviews and make recommendations to the Cabinet and/or the GAC in accordance with the Committee's Protocol.

**(4)** In accordance with the Committee's Protocol to assist the Cabinet and/or the GAC in the development of future policies and strategies.

**(5)** To gather information and make recommendations in accordance with the Committee's Protocol to the Cabinet and/or the GAC before policy is implemented as part of the framework for accountable, transparent decision-making.

**(6)** To carry out reviews of non-Council matters, when directly related to Council functions and/or services, and as part of the community planning process to consult with partner organisations where appropriate and make recommendations to the Cabinet in relation to matters which are not the direct responsibility of the GAC, but which nevertheless affect the economic, environmental and social well-being of the Borough.

**(7)** To consider and investigate broad policy issues, when directly related to Council functions and/or services and thereafter produce reports and recommendations for Cabinet and/or GAC in accordance with the Committee's Protocol.

**(8)** In accordance with the Committee's Protocol to provide advice to the Cabinet and/or the GAC on major issues before final decisions are made.

**(9)** To receive the views and recommendations of area/joint committees or forums as part of any

review which impacts on the Borough.

**(10)** To be consulted/receive referrals by the GAC and/or the Cabinet about issues falling within the remit of the Committee, e.g. Cabinet requesting an enquiry into a particular issue.

**(11)** To carry out reviews of how certain decisions have affected a particular community or area by taking advice from area committees or forums and other community groups and representatives.

**Service Delivery**

To consider new approaches to service delivery and recommend to the Cabinet demanding performance targets for services, so as to deliver continuous improvements which reflect both national and local considerations including;

**(1)** Challenging why and how a service is being provided;

**(2)** Securing comparison with the performance of others across a range of relevant indicators, taking into account the views of both service users and potential suppliers;

**(3)** Consulting local taxpayers, service users, partners and the wider business community in the setting up of new performance targets;
**(4)** Considering fair competition as a means of securing efficient and effective services
**(5)** To make recommendation(s) to the Cabinet on suitable performance information/indicators.

**B. SCRUTINY FUNCTIONS**

**1.** To perform the scrutiny functions on behalf of the Council within the guidelines detailed in the Committee's Protocol and specifically, the following overarching principles:

The scrutiny of any matter:

**(a)** relating to the provision of and/or delivery of services to the local community;

**(b)** in which the Council has an interest, subject to the Council being in a position to reasonably influence the outcome for the benefit of the local community;

**(c)** which has an adverse impact on the delivery of Council services.

**2.** To submit reports to the Council on the following;

**(a)** any Cabinet decision which is likely to give rise to expenditure or savings above such thresholds as agreed by the Council;

**(b)** a Cabinet decision which is likely to have a significant impact on two or more Wards;

**(c)** a non-urgent departure decision(s) which is;

**(i)** a Cabinet decision(s) (not yet implemented) which is contrary to the policy and budget frameworks;

**(ii)** a Cabinet decision(s) (which has been implemented) and which is considered to be contrary to the policy/budget frameworks).

*NB: The Council has no locus to make a decision in respect of a Cabinet decision unless the Cabinet decision is contrary to or not wholly consistent with the budget or policy framework approved/adopted by the Council.*

**3.** To hold the Cabinet to account for the discharge of its executive functions by scrutinising decisions proposed and/or action to be taken in accordance with the Call-in mechanism detailed in the Committee's Protocol.

**4.** To hold the Cabinet to account for the discharge of its executive functions by scrutinising decisions after implementation i.e. post decision scrutiny, in accordance with the Committee's Protocol for the following purposes only:

**(a)** to seek more understanding of the decision and its implications;

**(b)** to question the soundness of the decision;

**(c)** to identify the need for Council policies to guide delegated decisions;

**(d)** to examine the effect and outcomes of the decision e.g. enquire into grants awarded by the Cabinet to voluntary organisations in the Borough to see how effectively expenditure has been targeted;

**(e)** to make recommendations, including proposals for changes to policies or practices, to the Cabinet.

*NB: A decision(s) may only be scrutinised once.*

**5.** To scrutinise the discharge of any other functions of the Council in accordance with the mechanism(s) detailed in the Committee's Protocol.

**6.** To seek comments from other Committees/Boards in order to obtain a balanced view of the effects of Council policy and Cabinet decisions.

**7.** To receive finalised documents relating to a key decision(s) in the Cabinet's forward plan.

**8.** To consider Monitoring Officer reports about lawfulness or maladministration, which relate to Cabinet functions and consider whether to hold a short enquiry into the matter the subject of the report prior to the Cabinet's consideration of it.

**Councillor Calls for Action**

Subject to the 'excluded matters' rule referred to in the Committee's Protocol, to consider any local government matter referred to the Committee by a local ward Member, under the Councillor Call for Action provisions in the Committee's Protocol.

*NB: the matter must be a genuine, significant and persistent community concern referred to the Committee as a last resort, because the usual channels for raising the concern e.g. Council Officers, Cabinet, partner organisations etc. have been unsuccessful.*

**C. GENERAL MATTERS**

**(12)** To approve an annual overview and scrutiny work programme in accordance with Standing Order 48(7) including the programme of any sub-committee appointed by the Committee to ensure that there is efficient use of the Committee's (sub-committee's) time and that potential for duplication of effort is minimised.

**(13)** To review the Cabinet's forward plans (Regulation 9 Notice) with a view to deciding which, if any, forthcoming Cabinet decisions the Committee wishes to review or scrutinize.

**(14)** To appoint in accordance with Standing Order 48(4) such sub-committee(s) as the Committee considers appropriate to fulfil the functions of the Committee.

**(15)** Where appropriate, and as part of the community consultation process, to seek input from Councillors (including Cabinet members), Officers, Dartford Borough Residents' Forum, other

interested stakeholders and organisations and by drawing on the knowledge of constituents' views.

**(16)** To report annually to the Council on the work of the Committee.

**D. HEALTH FUNCTIONS**
To review and scrutinize any matter relating to the planning, provision and operation of the health service in the Borough of Dartford, in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

**E. DISCUSSION/CONSULTATION PAPERS**
To respond to discussion/consultation papers relating to matters connected/associated with the functions of the Committee in accordance with the consultation/discussion protocol.

## CRIME AND DISORDER (OVERVIEW AND SCRUTINY) COMMITTEE

**[REPORTING TO THE GENERAL ASSEMBLY OF THE COUNCIL unless otherwise stated in these Terms of Reference]**

**Membership, Chairman and Vice-Chairman: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, in accordance with political proportionality, by the political groups on the Council.**

TERMS OF REFERENCE:
DELEGATED FUNCTIONS:

**General Provisions**

*'Crime and disorder' is defined as including forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment or the misuse of drugs, alcohol and other substances.*

**1.** To review and scrutinise the discharge of the crime and disorder functions of the responsible authorities (local authorities, fire and rescue authorities, police authorities, the police, primary care trusts) which comprise the Dartford Community Safety Partnership (the CSP),as set out in these Terms of Reference.

**2.** To review and scrutinise the discharge of any other local crime and disorder matter related to the Council's crime and disorder functions.

**3.** To make reports or recommendations as appropriate, to the GAC, Cabinet, the CSP or any one or more responsible authority etc.

**4.** To review responses from and monitor the action (if any), taken by the CSP, an individual responsible authority, Officers, GAC, Cabinet etc.

**Overview Functions**

**5.** No less than once in every twelve-month period, to review strategies in connection with the discharge by the CSP of its crime and disorder functions and make reports or recommendations in accordance with paragraph 3 above.

**Scrutiny Functions**

**6.** No less than once in every twelve month period, to scrutinise decisions made, or action taken, by the CSP and the Council of its crime and disorder functions and make reports or recommendations in accordance with paragraph 3 above.

**7.** To consider any local crime and disorder matter referred to the Committee by a local ward Member under the Councillor Call for Action provisions referred to in the Committee's Protocol.

**STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL**

**D A R T F O R D B O R O U G H C O U N C I L**

**STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL**

## AUDIT BOARD

[**REPORTING TO THE GENERAL ASSEMBLY OF THE COUNCIL unless otherwise stated in these Terms of Reference]**

**Membership, Chairman and Vice-Chairman: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, in accordance with political proportionality, by the political groups on the Council.**

**Independent Member: Mr Mo Chughtai**

**TERMS OF REFERENCE:**

**A. DELEGATED FUNCTIONS:**

**Audit and Assurance Responsibilities**

**1.** To consider the internal and external audit plans/activities.

**2.** To monitor and review audit performance, including summaries of all reports and monitoring of audit recommendations.

**3.** To consider audit reports of a sensitive and confidential nature.

**4.** Promote the effective use of internal audit within the assurance framework.

**5.** Support effective relationships between external audit and internal audit, inspection agencies and other relevant bodies, and encourage the active promotion of the value of the audit process

**Finance Responsibilities**

**6.** To adopt, approve publication of and authorise for issue, the Statement of Accounts.

**7.** To receive reports from the external auditor.

**Whistleblowing, Anti-fraud and Corruption, Ombudsmen and Corporate Complaints**

**8.** To consider reports on matters involving potential significant fraud or financial irregularity.

**9.** Without prejudice to the roles and responsibilities of the Cabinet, to consider reports on the Whistleblowing Policy where fraud, corruption, bribery or other significant malpractice has occurred and to recommend accordingly to the Cabinet.

**10.** To consider reports on the Corporate Complaints Procedure where fraud, corruption, bribery or other malpractice has served to undermine the Council's internal controls and lines of reporting and to recommend accordingly to the Cabinet.

**11.** To ensure propriety and probity in the acquisition and disposal of corporate land holdings (excluding Council housing stock) to receive reports from the internal auditor on arrangements for disposal/acquisition, governance, risk management and internal control.

**12.** To receive and consider reports relating to Ombudsman investigations where fraud, corruption or other significant malpractice has occurred and to recommend accordingly to the Cabinet.

**13.** To review the Whistleblowing Policy to ensure that robust arrangements are in place for the proportionate and independent investigation of such matters and for appropriate follow-up action and to recommend accordingly to the Cabinet.

**Risk Management and Corporate Governance Responsibilities**

**14.** To receive and consider reports relating to breaches of Contracts Standing Orders and Financial Regulations and to recommend accordingly to the Cabinet. (For the avoidance of doubt, the Cabinet shall in any event receive such reports for information).

**15.** Without prejudice to the roles and responsibilities of the Cabinet and other Committees/Boards to oversee and consider the Council's policy as regards the scope, timetable and mechanics for achieving value for money.

**16.** To consider and keep under review Council policies and procedures on procurement to ensure that these accord with Contracts Standing Orders, Financial Regulations and best practice.

**17.** Without prejudice to the roles and responsibilities of the Cabinet, to consider reports on matters involving contractual disputes and to recommend accordingly.

**18.** Without prejudice to the roles and responsibilities of the Cabinet or the General Assembly of the Council, to receive and consider reports from the Monitoring Officer on lawfulness and/or maladministration.

**19.** To receive and consider reports from the Section 151 Officer on vires, financial impropriety and probity issues.

**20.** To oversee the production of the Council's Annual Governance Statement and keep under review the Council's corporate governance arrangements to ensure that these accord with and/or comply with legislation and best practice.

**21.** To consider the effectiveness of the Council's risk management arrangements and the control environment, reviewing the risk profile of the organisation and assurances that action is being taken on risk-related issues, including partnerships, collaborations with other organisations and annual reports from the Monitoring Officer on the Borough Council's probity/ethical governance arrangements.

**Strategies**

**22.** To agree the following:

**(a)** Anti-fraud and Corruption Strategy;
**(b)** Audit Charter and Strategy.

**Miscellaneous Activities**

**23.** To monitor the Members' Allowances Scheme.

**Discussion/Consultation Papers**

**24.** To respond to discussion/consultation papers relating to matters connected/associated with the functions of the Board.

**Probity/Ethical Governance - Standards**

**25.** To discharge the functions (other than those which are reserved to Council) as set out in Part 1, Chapter 7 of the Localism Act 2011 including:

(1) To promote and maintain high standards of conduct by Councillors and Co-opted members.

(2) To make recommendations to the General Assembly of the Council on improving standards.

(3) To advise the Borough Council on the adoption of, or revisions to its Member Code of Conduct.

(4) To advise, train or arrange to train Councillors and Co-opted members on matters relating to the Member Code of Conduct.

(5) To assist Councillors and Co-opted members to observe the Member Code of Conduct.

(6) To monitor and assess the operation and effectiveness of the Borough Council's Member Code of Conduct.

(7) To maintain oversight of and review and manage the Borough Council's Arrangements for dealing with Member Code of Conduct Complaints.

(8) To advise on local ethical governance protocols and procedures and to act as an advisory body in respect of Councillor probity/ethical governance matters.

(9) To receive annual reports from the Monitoring Officer on the Borough Council's probity/ethical governance arrangements.

(10) To monitor and review the procedures for the Register of Members' Interests and registering and declaring gifts, benefits and hospitality.

(11) To exercise functions (1) to (5) and (10) above in relation to Parish/Town Councils wholly or mainly in the Borough of Dartford and members of those Parish/Town Councils.

(12) To advise the Council on the operation of and variations and amendments to the Constitution having particular regard to probity and ethical standards.

(13) To grant dispensations to Borough Councillors and Co-opted members from the requirements relating to Disclosable Pecuniary Interests or Prejudicial Interests where:

- without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
- the Board considers that the dispensation is in the interests of persons living in the Borough; or
- the Board considers that it is otherwise appropriate to grant a dispensation.

(14) Pursuant to section 56B of the Local Government Act 2000 (as amended), to submit the Board Chairman's annual report to the GAC, on the discharge of the Board's general and specific functions referred to in section 54 of the 2000 Act.

**B: REFERRED FUNCTIONS:**

**1.** To consider external audit reports which have significant financial and policy implications for the Borough and to advise the Cabinet as appropriate.

**2.** To consider the Procurement Strategy and recommend accordingly to Cabinet.

**3.** To consider the Risk Management Framework and recommend accordingly to Cabinet.

## STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL

## HEARING PANEL

### [REPORTING TO AUDIT BOARD]

**Chairman:** **To be appointed.**
**Membership:** **3 members to be drawn from the Audit Board (politically balanced)**

**TERMS OF REFERENCE:**
**DELEGATED FUNCTION:**

1. On the report of an Investigating Officer, to hear and determine any allegation/complaint that a Borough Councillor, Parish or Town Councillor or Co-opted Member has failed, or may have failed, to comply with the Code of Conduct.

2. To determine the outcome of complaints in accordance with the adopted 'Arrangements for Dealing with Code of Conduct Breaches.'

## STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL

## TREASURY MANAGEMENT PANEL

### [REPORTING TO CABINET]

**Membership, Chairman and Vice-Chairman: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, in accordance with political proportionality, by the political groups on the Council.**

**TERMS OF REFERENCE:**
**DELEGATED FUNCTIONS:**

1. To oversee the Council's treasury management function, in accordance with the CIPFA Treasury Management Code of Practice and the CIPFA Prudential Code for Capital Finance in Local Authorities.

2. To scrutinise the Treasury and Annual Investment Strategy (AIS) and Officer decisions which are taken under it.

3. To scrutinise the risk management process, in particular, the approach and implementation to counterparty risk.

**STANDING COMMITTEES, BOARDS AND PANELS**
**OF THE COUNCIL**

## DEVELOPMENT CONTROL BOARD

**[REPORTING TO THE GENERAL ASSEMBLY OF THE COUNCIL unless otherwise stated in these Terms of Reference]**

**Membership, Chairman and Vice-Chairman: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, in accordance with political proportionality, by the political groups on the Council.**

**TERMS OF REFERENCE:**

### A. DELEGATED FUNCTIONS:

**1.** In accordance with the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 - Schedule 1 (as amended)[2] to exercise the GAC's planning and development control functions.

| | |
|---|---|
| **1.** Power to determine application for planning permission [or permission in principle]. | Sections 59A(1)(b), 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990. |
| **2.** Power to determine applications to develop land without compliance with conditions previously attached. | Section 73 of the Town and Country Planning Act 1990. |
| **3.** Power to grant planning permission for development already carried out. | Section 73A of the Town and Country Planning Act 1990. |
| **4.** Power to decline to determine application for planning permission [or permission in principle]. | Section 70A of the Town and Country Planning Act 1990. |
| **5.** Duties relating to the making of determinations of planning applications. | Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 and directions made thereunder. |
| **6.** Power to determine application for planning permission [or permission in principle] made by a local authority, alone or jointly with another person. | Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992. |
| **7.** Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights. | Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995. |
| **8.** Power to enter into agreement regulating development or use of land. | Section 106 of the Town and Country Planning Act 1990. |
| **9.** Power to issue a certificate of existing or | Sections 191(4) and 192(2) of the Town and Country |

[2] As at 28 March 2023

| | |
|---|---|
| proposed lawful use or development. | Planning Act 1990. |
| **10.** Power to serve a completion notice. | Section 94(2) of the Town and Country Planning Act 1990. |
| **11.** Power to grant consent for the display of advertisements. | Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 . |
| **12.** Power to authorise entry onto land. | Section 196A of the Town and Country Planning Act 1990. |
| **13.** Power to require the discontinuance of a use of land. | Section 102 of the Town and Country Planning Act 1990. |
| **14.** Power to serve a planning contravention notice, breach of condition notice or stop notice. | Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990. |
| **15.** Power to issue a temporary stop notice. | Section 171E of the Town and Country Planning Act 19908. |
| **16.** Power to issue an enforcement notice. | Section 172 of the Town and Country Planning Act 1990. |
| **17.** Power to apply for an injunction restraining a breach of planning control. | Section 187B of the Town and Country Planning Act 1990. |
| **18.** Power to determine applications for hazardous substances consent, and related powers. | Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990. |
| **19.** Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject. | Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991 (c. 34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act. |
| **20.** Power to require proper maintenance of land. | Section 215(1) of the Town and Country Planning Act 1990. |
| **21.** Power to determine application for listed building consent, and related powers. | Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. |
| | |
| **22.** Duties relating to applications for listed building consent. | Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)]9 and [regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519)]12 and [paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01. |
| **23.** Power to serve a building preservation notice, and related powers. | Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. |

| | |
|---|---|
| **24.** Power to issue enforcement notice in relation to demolition of [listed] building in conservation area. | Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990. |
| **25.** Powers to acquire a listed building in need of repair and to serve a repairs notice. | Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990. |
| **26.** Power to apply for an injunction in relation to a listed building. | Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990. |
| **27.** Power to authorise stopping up or diversion of highway. | Section 247 of the Town and Country Planning Act 1990. |
| **28.** Power to execute urgent works. | Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990. |
| **29.** Duty to enter land in Part 2 of the brownfield land register. | Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017. |
| **30.** Powers relating to the protection of important hedgerows. | The Hedgerows Regulations 1997. |
| **31**. Powers relating to the preservation of trees. | Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999. |
| **32.** Powers relating to complaints about high hedges. | Part 8 of the Anti-Social Behaviour Act 2003. |

**2.** To receive reports from the Audit Board on matters connected/ancillary to the Council's planning code 'Probity in Planning Protocol for Councillors and Officers' and to respond/act accordingly.

**3.** To receive reports on the operation and management of the Council's Development Control Section.

**4. Discussion/Consultation Papers**

(a) To respond to discussion/consultation papers relating to matters connected/associated with the functions of the Board.

(b) To recommend accordingly to the Cabinet on matters connected with the planning policy functions, the Development Plan and on any of the residual planning functions within the Cabinet's Terms of Reference.

**B. REFERRED FUNCTIONS:**

1. To recommend accordingly to the Cabinet on matters connected with the draft Development Plan and on any of the residual planning functions within the Cabinet's Terms of Reference.

2. To recommend to the Cabinet, designation of conservation areas.

*NB: The Secretary of State considers that full exchange of information between the executive and any committee which takes development control decisions is essential. Therefore, the involvement (on a non-voting basis) of the Cabinet member with responsibility for the Development Plan is encouraged.*

## STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL

## LICENSING COMMITTEE

**[REPORTING TO COUNCIL]**

**Membership, Chairman and Vice-Chairman: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, in accordance with political proportionality, by the political groups on the Council.**

**[Maximum of 15 Members (Licensing Act 2003)].**

**TERMS OF REFERENCE:**

**A. DELEGATED FUNCTIONS**

**1.** In accordance with the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 - Schedule 1 (as amended)) to exercise the Council's licensing and registration functions as follows:

| | **Functions relating to licensing, permits and registration** | Provision of Act or Statutory Instrument |
|---|---|---|
| **1.** | Power to issue licences authorising the use of land as a caravan site ('site licences') | Section 3(3) of the Caravan Sites and Control of Development Act 1960 |
| **2.** | Power to license the use of moveable dwellings and camping sites | Section 269(1) of the Public Health Act 1936 |
| **3.** | Power to license hackney carriages and private hire vehicles | (a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 |
| | | (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 |
| **4.** | Power to license drivers of hackney carriages and private hire vehicles | Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 |
| **5.** | Power to license operators of hackney carriages and private hire vehicles | Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 |

| | | |
|---|---|---|
| **6.** | Powers and functions relating to late night levy requirements | Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (c. 13) and any regulations made under that Chapter |
| **7.** | Power to license scrap metal dealers and issue site and mobile collectors' licences | Scrap Metal Dealers Act 2013 |
| **8.** | Power to license premises for the breeding of dogs | Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 |
| **9.** | Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business | Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding Dogs Act 1973, and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999 |
| **10.** | Power to register animal trainers and exhibitors | Section 1 of the Performing Animals (Regulation) Act 1925 |
| **11.** | Power to license zoos | Section 1 of the Zoo Licensing Act 1981 |
| **12.** | Power to license dangerous wild animals | Section 1 of the Dangerous Wild Animals Act 1976 |
| 13. | Power to register land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to: | Regulation 6 of the Commons Registration (New Land) Regulations 1969 |
| (a) | an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 | |
| (b) | an order under section 147 of the Inclosure Act 1845 | |
| 14. | Power to register variation of rights of common | Regulation 29 of the Commons Registration (General) Regulations 1966 |
| **15.** | Power to license guard dogs | Section 3 of the Guard Dogs Act 1975 |
| **16.** | Power to license persons to collect for charitable and other causes | Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and Section 2 of the House to |

| | | |
|---|---|---|
| | | House Collections Act 1939 |
| **17.** | Power to license performances of hypnotism | The Hypnotism Act 1952 |
| 18. | Power to license pleasure boats and pleasure vessels | Section 94 of the Public Health Acts Amendment Act 1907 |
| **19.** | Power to register premises for acupuncture, tattooing, ear-piercing and electrolysis | Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982 |
| **20.** | Power to license market and street trading | Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982 |
| **21.** | Power to license night cafes and take-away food shops | Section 2 of the Late Night Refreshment Houses Act 1969 |
| **22.** | Duty to keep register of food business premises | Regulation 5 of the Food remises (Registration) Regulations 1991 |
| **23.** | Power to register food business premises | Regulation 9 of the Food Premises (Registration) Regulations 1991 |
| **24.** | Power to issue, amend or replace safety certificates (whether general or special) for sports grounds | The Safety of Sports Grounds Act 1975 |
| **25.** | Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds | Part III of the Fire Safety and Safety of Places of Sport Act 1987 |
| **26.** | Power to grant consent for the operation of a loudspeaker | Schedule 2 to the Noise and Statutory Nuisance Act 1993 |
| **27.** | Obtaining particulars of persons interested in land | Section 16 Local Government (Miscellaneous Provisions) Act 1976 |
| **28.** | Power to transfer enforcement functions to another enforcement authority | Smoke-free (Premises and Enforcement) Regulations 2006 |
| **29.** | Determining whether a charge should be made for any approval, consent, licence, permit or registration, including the function of determining the amount unless the function is a Cabinet function | |
| **30.** | Power to licence sex shops and sex cinemas | Section 2 and Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended) |

**4.** In accordance with the **Licensing Act 2003 and the Gambling Act 2005** to exercise the Council's licensing functions as follows:

| | | |
|---|---|---|
| **1.** | To discharge the Council's functions as a licensing authority with the exception of any function conferred on the Council under Section 5 of the 2003 Act (statement of licensing policy) | Licensing Act 2003 and any regulations or orders made under that Act |
| **2.** | To discharge the Council's functions as a licensing authority with the exception of any function conferred on the Council under Section 349 of the 2005 Act (statement of licensing policy) | Gambling Act 2005 |
| **3.** | Duty to comply with requirement to provide information to Gambling Commission | Section 29 of the Gambling Act 2005 |
| **4.** | Functions relating to exchange of information | Section 30 of the Gambling Act 2005 |
| **5.** | Functions relating to occasional use notices | Section 39 of the Gambling Act 2005 |
| **6.** | Power to designate an officer of a licensing authority as an authorised person for a purpose relating to premises | Section 304 of the Gambling Act 2005 |
| **7.** | Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises | Section 284 of the Gambling Act 2005 |
| **8.** | Power to institute criminal proceedings | Section 346 of the Gambling Act 2005 |
| **9.** | Power to exchange information | Section 350 of the Gambling Act 2005 |
| **10.** | Functions relating to the determination of fees for premises licences | The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 |
| **11.** | Functions relating to the registration and regulation of small society lotteries | Part 5 of Schedule 11 to the Gambling Act 2005 |

**3.** To receive reports on the needs of the tourist economy and the cultural strategy for the Borough and to ensure that these are reflected in Committee decision-making considerations.

**B. REFERRED FUNCTION**

Where a matter concerns other functions in addition to licensing functions, to refer the matter to the relevant Committee, Board or Panel for consideration and for a report back to the Licensing Committee.

**STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL**

LICENSING SUB-COMMITTEE

**[REPORTING TO THE LICENSING COMMITTEE]**

**Chairman:** **Councillor** (to be appointed at meeting)
**Membership:** **3 Councillors*** (to be drawn from the Licensing Committee)
**floating/pool membership from the Licensing Committee*

**TERMS OF REFERENCE:**
**DELEGATED FUNCTIONS:**

**Licensing Act 2003 and the Gambling Act 2005**
Except in so far as functions are delegated to an Officer, to exercise the functions of the Licensing Committee to hear and decide upon licensing applications, requests and referrals under the Licensing Act 2003 and the Gambling Act 2005 in accordance with Tables 1 and 2 attached below.

**Scrap Metal Dealers Act 2013**
To determine applications (through the hearing process), where the suitability of the applicant to hold a scrap metal dealer's licence is in question and where the Council as licensing authority, proposes to vary, refuse, revoke or impose conditions on a licence, provided the applicant has given notice to the Council, within the prescribed time, that they require the opportunity to make representations to the Sub-committee.

LICENSING ACT 2003 DISCHARGE OF FUNCTIONS
TABLE 1

| MATTER TO BE DEALT WITH | FULL COMMITTEE (10 to 15 Members*) | SUB-COMMITTEE (3 Members)(drawn from pool of 15 Members*) | OFFICERS UNDER DELEGATED AUTHORITY |
|---|---|---|---|
| **Personal Licence** | | | |
| Application for Personal Licence | | If a representation made | If no representation made |
| Application for Personal Licence with unspent convictions | | All cases | |
| | | | |
| **Designated Premises Supervisor Licence** | | | |
| Application to vary Designated Premises Supervisor Licence holder | | If police representation | All other cases |
| Request to be removed as Designated Premises Supervisor Licence holder | | | All cases |
| | | | |
| **Premises Licence** | | | |
| Application for Premises Licence | | If a representation made | If no representation made |
| Application for Provisional Statement | | If a representation made | If no representation made |

| | | | |
|---|---|---|---|
| Application to vary Premises Licence | | If a representation made | If no representation made |
| Application for transfer of Premises Licence | | If police representation | All other cases |
| Application to review Premises Licence | | All cases | |
| | | | |
| **Club Premises Certificate** | | | |
| Application for Club Premises Certificate | | If a representation made | If no representation made |
| Application to vary Club Premises Certificate | | If a representation made | If no representation made |
| Application to review Club Premises Certificate | | All cases | |
| | | | |
| **Temporary Event Notice (TEN)** | | | |
| Determination of a police and/or Environmental Health Officer's representation to a Temporary Event Notice | | All cases | |
| | | | |
| **Applications for Interim Authorities** | | | |
| Giving immediate effect to an application | | If police representation | All other cases |
| | | | |
| **Complaint Irrelevant, Frivolous, Vexatious etc.** | | | |
| Decision on whether a complaint is irrelevant, frivolous, vexatious etc. | | | All cases |
| | | | |
| **As Responsible Authority** | | | |

| | | | |
|---|---|---|---|
| To make representations other than as licensing authority | | | All cases |

**GAMBLING ACT 2005 DISCHARGE OF FUNCTIONS TABLE 2**

| MATTER TO BE DEALT WITH | GENERAL ASSEMBLY OF THE COUNCIL | SUB-COMMITTEE (3 Members)(drawn from pool of 15 Members*) | OFFICERS UNDER DELEGATED AUTHORITY |
|---|---|---|---|
| Final approval of three year licensing policy | X | | |
| Policy not to permit casinos | X | | |
| Fee setting (where appropriate) | | | X |
| Application for Premises Licences | | Where representations have been received and not withdrawn | Where no representations received / representations have been withdrawn |
| Application for a variation to a licence | | Where representations have been received and not withdrawn | Where no representations received / representations have been withdrawn |
| Application for a transfer of a licence | | Where representations have been received from the Commission | Where no representations have been received from the Commission |
| Application for a provisional statement | | Where representations have been received and not withdrawn | Where no representations received / representations have been withdrawn |
| Review of a premises licence | | X | |
| Application for a club gaming/club machine permits | | Where objections have been made (and not withdrawn) | Where no objections made / objections withdrawn |
| Cancellation of a club gaming/club machine permits | | X | |
| Applications for other permits | | | X |
| Cancellation of a licensed premises gaming machines permits | | | X |

| | | | |
|---|---|---|---|
| Consideration of temporary use notice | | | X |
| Decision to give a counter notice to a temporary use notice | | X | |

**STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL**

## APPEALS PANEL

Membership, Chairman and Vice-Chairman: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, in accordance with political proportionality, by the political groups on the Council.

***[Membership must include one Cabinet member for Statutory Officer and Director appeals only]***

**TERMS OF REFERENCE:**
**DELEGATED AND REFERRED FUNCTIONS:**

To hear:

1. **Statutory Officer (Head of Paid Service, Monitoring Officer and Section 151 Officer) and Director** appeals relating to:

    - a first written warning;
    - a final written warning;
    - action short of dismissal;
    - a grievance outcome,
    - dismissal with notice and recommending to the General Assembly of the Council;
    - dismissal without notice and recommending to the General Assembly of the Council.

2. **Grant withdrawal** appeals - relating to the withdrawal of grants in excess of £10,000 and recommending to the Cabinet.

Appeals Panel Terms of Reference March 2023

**STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL**

## JOINT TRANSPORTATION BOARD
**[REPORTING TO CABINET]**

**political balance rules do not apply*

**Chairman:** Appointed on rotation by DBC and KCC (DBC appointment in 2025-26):
Councillor

**Vice-Chairman:** To be appointed from KCC members (in 2025-26)

**Membership:**
**Dartford Borough Council Members:**
**DBC Membership: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, in accordance with political proportionality, by the political groups on the Council.**

**Kent County Council Members:**

Kent County Councillors for the 6 Dartford electoral divisions.
**Parish/Town Council Representatives:**

Two representatives to be nominated by the Parish/Town Councils.

**TERMS OF REFERENCE:**
**DELEGATED FUNCTIONS**:

1. To advise on highways and transportation works scheduled and completed and specifically to consider:

   i. capital and revenue funded works programmes;
   ii. traffic regulation orders;
   iii. street management proposals.

2. To advise and recommend on:

   i. strategic parking and waiting restriction issues;
   ii. petitions received in relation to parking and waiting restrictions;
   iii. Council street lighting schemes on highways;
   iv. local transport strategy.

3. To be a forum for consultation between the Council and Kent County Council on policies, plans and strategies related to highways, road traffic and public transport.

4. To review the progress and out turn of works and business performance indicators.

5. To receive reports on highways and transportation needs within the administrative area of the Council.

## STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL

## STATUTORY OFFICER ADVISORY PANEL

**[REPORTING TO THE GENERAL ASSEMBLY OF THE COUNCIL** [as detailed in these Terms of Reference]

**Membership, Chairman and Vice-Chairman: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, in accordance with political proportionality, by the political groups on the Council.**

***[Membership must at all times include one Cabinet member. See the requirement to extend membership to Independent persons as detailed in B1.(b) below)]***

TERMS OF REFERENCE:

**APPOINTMENTS**

**A1. DELEGATED FUNCTION:**

To interview shortlisted candidates for the posts of Head of Paid Service, Monitoring Officer and Section 151 Officer in accordance with Standing Order 60.

To interview shortlisted candidates for the post of Director in accordance with Standing Order 60.

**A2. REFERRED FUNCTION:**

To recommend the appointment to the General Assembly of the Council, having first considered any material and well founded objection from Cabinet, under the Executive Objections Procedure, in accordance with Standing Order 60 (Recruitment/Appointment of Statutory Officers).

**DISCIPLINARY ACTION OF STATUTORY OFFICERS AND DIRECTORS**
**B1. DELEGATED FUNCTION:**

(a) Subject to paragraph(b) below, to hold disciplinary hearings into:

- conduct;
- sickness absence (excluding situations involving permanent ill - health or infirmity of mind and body);
- capability based on performance;
- some other substantial reason (excluding redundancy situations) e.g. breakdown in relationships such as loss of trust and confidence or failure to renew a fixed term contract where an undertaking or commitment has been given to renew such a contract.

(b) Where the independent investigator's report recommends dismissal, the membership of the Panel is to be extended to include at least two Independent Persons appointed under the Localism Act 2011, in the following priority order:

(i) an Independent Person who has been appointed by the Council and who is a local government elector;
(ii) another Independent Person who has been appointed by the Council;
(iii) an Independent Person who has been appointed by another local authority(ies).

(c) Having considered the evidence presented at the hearing:

- to take no further action; or
- to refer back to the independent investigator for further investigation and report; or
- to issue a first written warning; or
- to issue a final written warning; or
- to take action short of dismissal; or
- to recommend dismissal to the General Assembly of the Council in accordance with B2. below.

**B2. REFERRED FUNCTION: Dismissal**

To recommend to the General Assembly of the Council:

- dismissal with notice; or
- dismissal without notice,

having first considered any material and well founded objection from Cabinet, under the Executive Objections Procedure, referred to in Standing Order 62 (Disciplinary Action in Respect of Statutory Officers and Directors).

## STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL
## INDEPENDENT REMUNERATION PANEL

(ADVISORY PANEL OF THE COUNCIL)

**[REPORTING TO THE GENERAL ASSEMBLY OF THE COUNCIL]**

| | |
|---|---|
| **Chairman:** | **Mr T I Whittaker** |
| **Membership:** | **Mr R Hargrove, Miss C Metcalf and Mr A Spencer** |

**TERMS OF REFERENCE:**
**DELEGATED FUNCTIONS:**

**1.** To make recommendations to the GAC as to;

**(a)** the amount of basic allowances payable to elected Members;

**(b)** the categories of elected Members who should receive a special responsibility allowance and the amount of such an allowance;

**(c)** whether the Members' Allowances Scheme should include an allowance in respect of the expenses of arranging for the care of children and dependants and if it does the rate of childcare and dependent carers' allowance and the means by which it is determined.

**(d)** the matters detailed in the Local Authorities (Members' Allowances) Regulations 2003 (as amended) (pension membership for Councillors, Co-optees allowances, travel and subsistence allowances etc).

**2.** To review the current Members' Allowances Scheme and to make written recommendations to the GAC for a new Scheme or revision to the existing Scheme as considered necessary and appropriate, taking appropriate evidence/ representations in order to take into account the following:

**(a)** The need for the Council to pay a basic allowance and the discretion to pay special responsibility allowances.

**(b)** The various roles and responsibilities of elected Members and the commitment of time and other resources involved.

**(c)** The differences between the level of responsibility and time commitment of different Members' roles.

**(d)** Schemes operating elsewhere in similar Local Authorities.

**(e)** The levels of remuneration paid for other types of public duties.

**(f)** The need to attract and retain elected Members of the highest calibre who are representative of the local population, particularly in terms of race, age and gender.

**3.** To make recommendations to Parish/Town Councils in accordance with regulation 28 of the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended).

**4.** To provide informal advice on expenses, gratuities and allowances not referred to in these Terms of Reference.

**5.** To deal with other issues which may from time to time fall within the remit of the Panel through legislation.

## STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL

## ELECTORAL PROVISIONS SUB-COMMITTEE

**[REPORTING TO THE GENERAL ASSEMBLY OF THE COUNCIL]**

**Membership, Chairman and Vice-Chairman: As established at the Annual Council Meeting or subsequently notified to the Proper Officer, in accordance with political proportionality, by the political groups on the Council.**

**TERMS OF REFERENCE:**

**A. DELEGATED FUNCTIONS:**

**1.** To publish notice of the holding of a review of Polling District(s) and Polling Place(s) on behalf of the Council.

**2.** To consult the Returning Officer for the parliamentary election held in the constituency, which is wholly, or partly in the Borough of Dartford when a Polling District(s) and Polling Place(s) review takes place.

**3.** To deal with the procedural aspects of community governance reviews.

**4.** To seek representations from such persons as the Sub-committee considers have particular expertise in relation to access to premises or facilities for persons who have different forms of disability.

**5.** To receive representations from electors in the constituency situated in whole or in part in the authority's area on any reviews undertaken.

**6.** To respond to consultation/discussion papers related to matters connected/associated with electoral arrangement functions in accordance with the Consultation/Discussion Papers Protocol.

**7.** To prepare and agree on submission proposals for pilot schemes for local elections.

**REFERRED FUNCTION:**

To recommend accordingly to the General Assembly of the Council on the matters referred to in these Terms of Reference.

## STANDING COMMITTEES, BOARDS AND PANELS OF THE COUNCIL

# DEED, TRUST AND OBLIGATIONS COMMITTEE

**[REPORTING TO CABINET] – TERMS OF REFERENCE**

**Membership: As established at the Annual Council Meeting or subsequently notified o the Proper Officer, in accordance with political proportionality, by the political groups on the Council.**

**Chair: Councillor A R Lloyd**

**Vice-Chairman: Councillor M J Davis**

**Councillors: R M Currans, A Gaskin, D Graham, T A Oliver, C Pearce, D Swinerd and Mrs P A Thurlow.**

**Independent Members: Mr A R Martin and Mr K Moore. Plus two vacancies.**

***Substitution not permitted***

The Dartford Borough Council as sole trustee, has overall control of the charities and the charities' property and funds. Under the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000, the local authority's charity function is to be discharged by Cabinet.

### KIDD LEGACY BEING PART OF CENTRAL PARK (4013609) AT DARTFORD KENT

1. **The Charity**
   By the Indenture (Deed of Gift) dated 28 September 1903, the Kidd Legacy land (edged red on Plan A) was bequeathed to the Council on charitable trust by Colonel Charles Newman Kidd.

2. **The Object**
   The Deed of Gift prescribes that the Kidd Legacy land will be 'appropriated and used in perpetuity as a public recreation ground and for no other purpose whatsoever'.

### HESKETH PARK

1. **The Charity**
   By Conveyances dated 30 March 1904, 20 January 1909 and 30 September 1913, the Hesketh Park land (edged red on Plan B) was bequeathed to the Council on charitable trust by Everard Hesketh.

2. **The Object**

   Each of the Conveyances prescribes that the Hesketh Park land will be '[used]…for the purpose of a public recreation ground for the inhabitants of Dartford and not for any other purpose'.

### CHILDREN'S PLAYING FIELD AND RECREATION GROUND AT SAVOY ROAD DARTFORD (302723)

1. **The Charity**
   By Conveyance dated 30 August 1928, the land was transferred by The Right-Honourable Courtney Charles Evan Viscount Tredegar and the Trustees of his Settled Estates to the National Playing Fields Association as the freehold owner, on trust.

   The Council became the charitable trustee when it entered into lease arrangements with the National Playing Fields Association, for a term commencing 31 March 1998 to 24 March 2028.

2. **The Object**
   The playing field and recreation ground to be held on trust '…for the benefit only of children of school age in the Parish of Dartford in accordance with the charitable purposes of the Association'.

**THE CHARITIES' GUIDING PRINCIPLES**

The Charitable Trustee will:

**(a)** act reasonably i.e. decisions should be within the range of decisions which a reasonable body of trustees could have made;
**(b)** act within the powers conferred upon it and the established rules for procedures for dealing with issues of the kind under consideration;
**(c)** act in good faith;
**(d)** adequately inform itself in order to make the decision in question, including a comprehensive risk analysis and where necessary, make further enquiries and where appropriate, consider legal and other professional advice;
**(e)** not take into consideration any factors which it is not proper for it to take into account;
**(f)** consider any factors which it should take into account;
**(g)** avoid conflicts of interest.

**TERMS OF REFERENCE:**
**A. DELEGATED FUNCTIONS:**

**1.** To be the body who on behalf of the Charitable Trustee, safeguards the Object, the Charities' property, funds and the beneficiaries' interests in accordance with the Guiding Principles.

**2.** To ensure that the accounts and the general administration of the Charities complies with statutory regulations.

**3.** To ensure that the Charities' funds are not co-mingled.

**4.** To do anything else within the law which promotes or helps to promote the Object.

**B. REFERRED FUNCTION:**

To recommend accordingly to Cabinet on the affairs of the Charities.

DARTFORD BOROUGH COUNCIL

CONSTITUTION OF THE COUNCIL

# PART 6: CODES AND PROTOCOOLS

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# 1. CODE OF CORPORATE GOVERNANCE

## 1. Introduction

This document sets out how Dartford Borough Council (the Council) intends to apply the principles of corporate governance in the way the Council operates and conducts business. It has been developed in accordance with the principles outlined in the framework and guidance notes for CIPFA/SOLACE “Delivering Good Governance in Local Government” (2016).

The Council is required to review existing governance arrangements, develop and maintain an up to date local Code of Corporate Governance (“the Code”) (including arrangements for ensuring ongoing effectiveness), and to prepare an Annual Governance Statement (in order to report publicly on its compliance with the Code and the monitoring of effectiveness of its governance arrangements).

## 1.1 What is Governance?

Governance is about how the Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems and processes, and cultures and values, by which such bodies are directed and controlled and through which they account to, engage with, where appropriate, and lead their communities.

Good governance enables the Council to define and pursue its vision more effectively. It leads to improvements in management, performance, stewardship of public money and public engagement and outcomes for individuals and the community. It ensures that appropriate mechanisms for control are in place and that risks and opportunities are managed effectively.

## 1.2 Core Principles of Good Governance

The following core principles have been taken from the International Framework; Good Governance in the Public Sector (CIPFA/IFAC 2014); which notes that principles A and B "permeate" implementation of principles C-G below.

A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting rule of law.

B. Ensuring openness and comprehensive stakeholder engagement.

C. Defining outcomes in terms of sustainable economic, social, and environmental benefits.

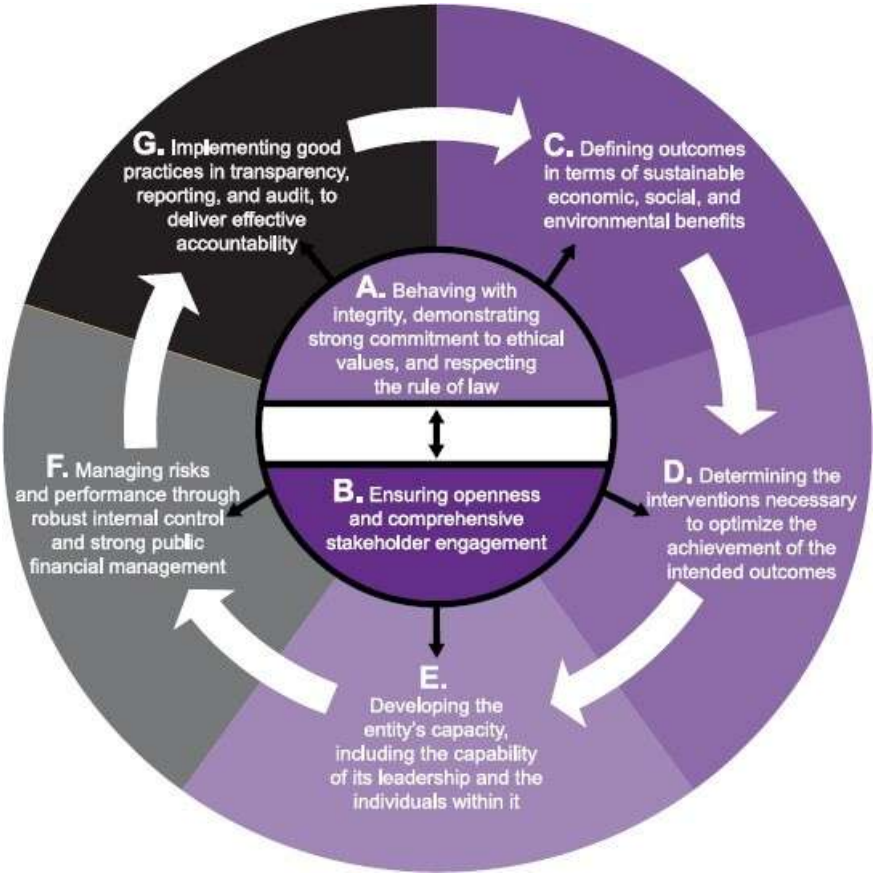
D. Determining the interventions necessary to optimise the achievement of the intended outcomes.

E. Development the Partnership's capacity, including the capability of its leadership and the individuals within it.

F. Managing risks and performance through robust internal control and strong public financial management.

G. Implementing good practices in transparency reporting, and audit to deliver effective accountability.

The diagram below shows how the principles relate to each other.




**2.** Applying the Principles of Good Governance

Each of the seven core principles above has a number of sub principles, which in turn, translate into a range of specific behaviours and actions that apply across the various aspects of the Council's functions that demonstrate good governance.

Principle A: Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.

Sub-principle: Behaving with integrity

| | |
|---|---|
| Behaviours and actions that demonstrate good governance in practice | Ensuring members and officers behave with integrity and lead a culture where acting in the public interest is visibly and consistently demonstrated thereby protecting the reputation of the organisation.<br><br>Ensuring members take the lead in establishing specific standard operating principles or values for the organisation and its staff and that they are communicated and understood. These should build on the Seven Principles of Public Life (the Nolan Principles).<br><br>Leading by example and using these standard operating principles or values as a framework for decision making and other actions.<br><br>Demonstrating, communicating and embedding the standard operating principles or values through appropriate policies and processes which are reviewed on a regular basis to ensure that they are operating effectively. |

Sub-principle: Demonstrating strong commitment to ethical values.

Behaviours and actions that demonstrate good governance in practice

Seeking to establish, monitor and maintain the organisation's ethical standards and performance.

Underpinning personal behaviour with ethical values and ensuring they permeate all aspects of the organisation's culture and operation.

Developing and maintaining robust policies and procedures which place emphasis on agreed ethical values.

Ensuring that external providers of services on behalf of the organisation are required to act with integrity and in compliance with high ethical standards expected by the organisation.

Sub-principle: Respecting the rule of law.

Behaviours and actions that demonstrate good governance in practice

Ensuring members and staff demonstrate a strong commitment to the rule of the law as well as adhering to relevant laws and regulations.

Creating the conditions to ensure that the statutory officers, other key post holders and members are able to fulfil their responsibilities in accordance with legislative and regulatory requirements.

Striving to optimise the use of the full powers available for the benefit of citizens, communities and other stakeholders.

Dealing with breaches of legal and regulatory provisions

effectively Ensuring corruption and misuse of power are dealt

with effectively.

Principle B. Ensuring openness and comprehensive stakeholder engagement.

Sub-principle: Openness.

Behaviours and actions that demonstrate good governance in practice

Ensuring an open culture through demonstrating, documenting and communicating the organisation's commitment to openness.

Making decisions that are open about actions, plans, resource use, forecasts, outputs and outcomes. The presumption is for openness. If that is not the case, a justification for the reasoning for keeping a decision confidential should be provided.

Providing clear reasoning and evidence for decisions in both public records and explanations to stakeholders and being explicit about the criteria, rationale and considerations used. In due course, ensuring that the impact and consequences of those decisions are clear.

Using formal and informal consultation and engagement to determine the most appropriate and effective interventions/ courses of action.

Engaging comprehensively with institutional stakeholders.



Behaviours

Effectively engaging with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are achieved successfully and sustainably.

Developing formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively.

Ensuring that partnerships are based on:

- trust
- a shared commitment to change
- a culture that promotes and accepts challenge among partners
- and that the added value of partnership working is explicit

Sub-principle: Engaging stakeholders effectively, including individual citizens and service users.

Behaviours and actions that demonstrate good governance in practice

Establishing a clear policy on the type of issues that the organisation will meaningfully consult with or involve individual citizens, service users and other stakeholders to ensure that service (or other) provision is contributing towards the achievement of intended outcomes.

Ensuring that communication methods are effective and that members and officers are clear about their roles with regard to community engagement.

Encouraging, collecting and evaluating the views and experiences of communities, citizens, service users and organisations of different backgrounds including reference to future needs.
Implementing effective feedback mechanisms in order to demonstrate how their views have been taken into account.

Balancing feedback from more active stakeholder groups with other stakeholder groups to ensure inclusivity.

Taking account of the interests of future generations of tax payers and service users.

Principle C. Defining environmental benefits in terms of sustainable economic and social outcomes.

Sub-principle: Defining outcomes

Behaviours and actions that demonstrate good governance in practice

Having a clear vision which is an agreed formal statement of the organisation's purpose and intended outcomes containing appropriate performance indicators, which provides the basis for the organisation's overall strategy, planning and other decisions. Specifying the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer.

Delivering defined outcomes on a sustainable basis within the resources that will be available. Identifying and managing risks to the achievement of outcomes.

Managing service users expectations effectively with regard to determining priorities and making the best use of the resources available.

Sub-principle: Sustainable economic, social and environmental benefits.

Considering and balancing the combined economic, social and environmental impact of policies, plans and decisions when taking decisions about service provision.

Behaviours and actions that demonstrate good governance in practice

Taking a longer-term view with regard to decision making, taking account of risk and acting transparently where there are potential conflicts between the organisation's intended outcomes and short-term factors such as the political cycle or financial constraints.

Determining the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs.

Ensuring fair access to services.

Principle D. Determining the interventions necessary to optimise the achievement of the intended outcomes.

Sub-principle: Determining interventions.

Behaviours and actions that demonstrate good governance in practice

Ensuring decision makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and including the risks associated with those options. Therefore ensuring best value is achieved however services are provided.

Considering feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available including people, skills, land and assets and bearing in mind future impacts.

Sub-principle: Planning interventions.

| | |
|---|---|
| Behaviours and actions that demonstrate good governance in practice | Establishing and implementing robust planning and control cycles that cover strategic and operational plans, priorities and targets.<br><br>Engaging with internal and external stakeholders in determining how services and other courses of action should be planned and delivered.<br><br>Considering and monitoring risks facing each partner when working collaboratively including shared risks.<br><br>Ensuring arrangements are flexible and agile so that the mechanisms for delivering outputs can be adapted to changing circumstances.<br><br>Establishing appropriate key performance indicators (KPIs) as part of the planning process in order to identify how the performance of services and projects is to be measured.<br><br>Ensuring capacity exists to generate the information required to review service quality regularly.<br><br>Preparing budgets in accordance with organisational objectives, strategies and the medium term financial plan.<br><br>Informing medium and long term resource planning by drawing up realistic estimates of revenue and capital expenditure aimed at developing a sustainable funding strategy. |

Sub-principle: Optimising achievement of intended outcomes.

| | |
|---|---|
| Behaviours and actions that demonstrate good governance in practice | Ensuring the medium term financial strategy integrates and balances service priorities, affordability and other resource constraints.<br><br>Ensuring the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer term.<br><br>Ensuring the medium term financial strategy sets the context for ongoing decisions on significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimising resource usage.<br><br>Ensuring the achievement of 'social value' through service planning and commissioning. The Public Services (Social Value) Act 2012 states that this is "the additional benefit to the community...over and above the direct purchasing of goods, services and outcomes". |

Principle E. Developing the entity's capacity, including the capability of its leadership and the individuals within it.

Sub-principle: Developing the entity's capacity

| | |
|---|---|
| Behaviours and actions that demonstrate good governance in practice | Reviewing operations, performance and use of assets on a regular basis to ensure their continuing effectiveness.<br><br>Improving resource use through appropriate application of techniques such as benchmarking and other options in order to determine how resources are allocated so that defined outcomes are achieved effectively and efficiently.<br><br>Recognising the benefits of partnerships and collaborative working where added value can be achieved.<br><br>Developing and maintaining an effective workforce plan to enhance the strategic allocation of resources |

Developing the capability of the entity's leadership and other individuals.

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| Behaviours and actions that demonstrate good governance in practice | Developing protocols to ensure that elected and appointed leaders negotiate with each other regarding their respective roles early on in the relationship and that a shared understanding of roles and objectives is maintained.<br><br>Publishing a statement that specifies the types of decisions that are delegated and those reserved for the collective decision making of the governing body.<br><br>Ensuring the leader and the chief executive have clearly defined and distinctive leadership roles within a structure whereby the chief executive leads in implementing strategy and managing the delivery of services and other outputs set by members and each provides a check and a balance for each other's authority.<br><br>Developing the capabilities of members and senior management to achieve effective leadership and to enable the organisation to respond successfully to changing legal and policy demands as well as economic, political and environmental changes and risks by:<br><br>• ensuring members and staff have access to appropriate induction tailored to their role and that ongoing training and development matching individual and organisational requirements is available and encouraged ensuring members and officers have the appropriate skills, knowledge, resources and support to fulfil their roles and responsibilities and ensuring that they are able to update their knowledge on a continuing basis.<br><br>• ensuring personal, organisational and system-wide development through shared learning, including lessons learnt from governance weaknesses both internal and external.<br><br>Ensuring that there are structures in place to encourage public participation. |

Taking steps to consider the leadership's own effectiveness and ensuring leaders are open to constructive feedback from peer review and inspections.

Holding staff to account through regular performance reviews which take account of training or development needs.

Ensuring arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing.

Principle F. Managing risks and performance through robust internal control and strong public financial management.

Sub-principle: Managing risk.

Behaviours and actions that demonstrate good governance in practice

Recognising that risk management is an integral part of all activities and must be considered in all aspects of decision making.

Implementing robust and integrated risk management arrangements and ensuring that they are working effectively.

Ensuring that responsibilities for managing individual risks are clearly allocated.

Managing performance

Behaviours and actions that demonstrate good governance in practice

Monitoring service delivery effectively including planning, specification, execution and independent post implementation review.

Making decisions based on relevant, clear objective analysis and advice pointing out the implications and risks inherent in the organisation's financial, social and environmental position and outlook.

Ensuring an effective scrutiny or oversight function is in place which provides constructive challenge and debate on policies and objectives before, during and after decisions are made thereby enhancing the organisation's performance and that of any organisation for which it is responsible.

Developing protocols to ensure that elected and appointed leaders negotiate with each other regarding their respective roles early on in the relationship and that a shared understanding of roles and objectives is
Maintained.

Providing members and senior management with regular reports on service delivery plans and on progress towards outcome achievement

Ensuring there is consistency between specification stages (such as budgets) and post implementation reporting (e.g. financial statements).

Robust internal control

Aligning the risk management strategy and policies on internal control with achieving objectives.

Behaviours and actions that demonstrate good governance in practice

Evaluating and monitoring risk management and internal control on a regular basis.

Ensuring effective counter fraud and anti-corruption arrangements are in place.

Ensuring additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor.

Ensuring an audit committee or equivalent group/ function, which is independent of the executive and accountable to the governing body: provides a further source of effective assurance regarding arrangements for managing risk and maintaining an effective control environment that its recommendations are listened to and acted upon.

Managing data

Behaviours and actions that demonstrate good governance in practice

Ensuring effective arrangements are in place for the safe collection, storage, use and sharing of data, including processes to safeguard personal data.

Ensuring effective arrangements are in place and operating effectively when sharing data with other bodies.

Reviewing and auditing regularly the quality and accuracy of data used in decision making and performance monitoring.

Strong public financial management

Behaviours and actions that demonstrate good governance in practice

Ensuring financial management supports both long term achievement of outcomes and short-term financial and operational performance.

Ensuring well-developed financial management is integrated at all levels of planning and control, including management of financial risks and controls.

Principle G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability.

Sub-principle: Implementing good practice in transparency.

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| Behaviours and actions that demonstrate good governance in practice | Writing and communicating reports for the public and other stakeholders in a fair, balanced and understandable style appropriate to the intended audience and ensuring that they are easy to access and interrogate. |
| | Striking a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny while not being too onerous to provide and for users to understand. |

Implementing good practices in reporting

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| Behaviours and actions that demonstrate good governance in practice | Reporting at least annually on performance, value for money and stewardship of resources to stakeholders in a timely and understandable way. |
| | Ensuring members and senior management own the results reported. |
| | Ensuring robust arrangements for assessing the extent to which the principles contained in this Framework have been applied and publishing the results on this assessment, including an action plan for improvement and evidence to demonstrate good governance (the annual governance statement). |
| | Ensuring that this Framework is applied to jointly managed or shared service organisations as appropriate. |
| | Ensuring the performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparison with other, similar organisations. |

Assurance and effective accountability

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| Behaviours and actions that demonstrate good governance in practice | Ensuring that recommendations for corrective action made by external audit are acted upon. |
| | Ensuring an effective internal audit service with direct access to members is in place, providing assurance with regard to governance arrangements and that recommendations are acted upon. |
| | Welcoming peer challenge, reviews and inspections from regulatory bodies and implementing recommendations. |
| | Gaining assurance on risks associated with delivering services through third parties and that this is evidenced in the annual governance statement. |
| | Ensuring that when working in partnership, arrangements for accountability are clear and the need for wider public accountability |

has been recognised and met.

### 1.4. Annual Review and Reporting

Each year the Council will carry out a review of governance arrangements to ensure compliance with this Code in accordance with CIPFA/SOLACE "Delivering Good Governance in Local Government" (2016) Framework. The purpose of the review will be to provide assurance that governance arrangements are adequate, operating effectively and to identify action for improvement.

The outcome of the review is factored into the Governance Statement prepared on behalf of the Leader of the Council and Managing Director and submitted to the Audit Board for consideration and review.

The preparation and publication of the Governance Statement will meet the statutory requirement of the Accounts and Audit Regulations 2015 which requires authorities to "conduct a review at least once in a year of the effectiveness of its system of internal control" and to "prepare an annual governance statement". As such, the Governance Statement will be prepared in accordance with the timetable in participation of financial statements in accordance with the Audit and Accounts Regulations 2015.

## 2. CODE OF CONDUCT FOR EMPLOYEES

### 2.1 Purpose

A code of conduct for employees provides staff with an effective ethical framework within which to work and it should give the Council's communities confidence that the staff are working on their behalf in an appropriate manner.

### 2.2 Standards

The public is entitled to expect the highest standards of conduct from all local government employees. The role of employees is to serve the Council in providing advice, implementing its policies and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

Where an employee becomes aware of activities which that employee believes to be illegal, improper or unethical, the employee should report this to an appropriate manager through the Council's agreed procedures.

### 2.3 Accountability

a. Employees are accountable, and owe a duty to the Council. They should act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

### 2.4 Disclosure of information

b. It is generally accepted that openness in the dissemination of information and

decision-making is best. However, certain information may be confidential or sensitive and therefore not appropriate to a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a relevant Council employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions.

c. The law requires that certain types of information must be available to councillors, auditors, government departments, service users and the public. The Council may decide to be open about other types of information. Employees should be aware of which information the

Council is, and is not, open about, and act accordingly.

d. Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a councillor, which is personal to that councillor and does not belong to the Council, should not be divulged by the employee without the prior approval of that councillor – except where such disclosure is required or sanctioned by the law.

e. Nothing in this Code can be taken as overriding statutory or common law obligations to keep certain information confidential, or to divulge certain information.

### 2.5 Political neutrality

Employees serve the Council as a whole and must ensure the individual rights of all councillors are respected. Employees may be required to advise political groups and should do so in ways which do not compromise their political neutrality. Employees, whether or not politically restricted, should follow every lawfully expressed policy of the Council and should not allow their own personal or political opinions to interfere with their work. Where employees are politically restricted, by reason of the post they hold or the nature of the work they do, they must comply with any statutory restrictions on political activities.

### 2.6 Relationships

#### 2.6.1 Councillors

Employees are responsible to the Council through its senior managers. For some, their role is to give advice to councillors and senior managers, and all are there to carry out the Council's work. Mutual respect between employees and councillors is essential to good local government and working relationships should be kept on a professional basis.

Other employees, the public and service users

Employees should remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community, and to other employees, as defined by the policies of the Council.

2.6.2 Contractors and external agencies

All relationships whether of a business or private nature which could or could be perceived to have a detrimental effect or undue influence to the detriment of the Council should be made known to the appropriate manager. Orders and contracts must be awarded in accordance with the Council's Procurement Guide and Contract Standing Orders. No special favour should be shown to businesses run by friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

Employees who engage or supervise contractors, or who have any other official relationship with contractors and have previously had, or currently have, a relationship of any type which could or could be perceived to have undue influence to the detriment of the Council, should declare that relationship to the appropriate manager.

## 2.7 Appointment and other employment matters

2.7.1 Employees involved in recruitment and appointment of staff should ensure these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post.

2.7.2 To avoid any accusation of bias, employees should not be involved in any appointment, or any other decision relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related or with whom they have a close personal relationship outside work.

## 2.8. Outside commitments

2.8.1 Employees' conditions of service require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests.

2.8.2 Employees should follow the Council's rules on the ownership of intellectual property or copyright created during their employment (see employee handbook for further details).

## 2.9 Personal interests

2.9.2 Employees must not allow their private interests or beliefs to conflict with their professional duty. They must not misuse their official position or information acquired in the course of their employment to further their private interest or the interests of others.

2.9.2 Employees must declare, to the appropriate manager, any financial or non-financial interests which could conflict with the Council's interests.

2.9.3 Employees should declare to the appropriate manager membership of any organisation not open to the public, without formal membership and commitment of allegiance, and which has secrecy about rules or membership or conduct.

## 2.10 Equality

All those working for or with the Council, members of the local community, customers and service users of the Council have the right to be treated with fairness, equity, dignity and respect. Employees should ensure that policies relating to equality, as agreed by the Council are complied with, in addition to the requirements of the law.

2.10.1 Separation of roles during tendering

a. Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

b. Employees in contractor or client units should exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

c. Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

d. Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.

e. Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## 2.11 Anti- Corruption & Bribery

a. Employees must be aware that it is a criminal offence for them to offer, provide, authorise, request or receive a bribe or anything that may be construed as a bribe. Acceptance of bribes in any form (including favours) is unacceptable and will lead to disciplinary action. Employees should ensure that policies relating to anti- corruption and bribery, as agreed by the Council, are complied with, in addition to the requirements of the law.

## 2.12 Use of financial resources

b. Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council. Employees must not utilise property, vehicles or other facilities of the Council for personal use unless authorised to do so.

c.

## 3. MEMBER CODE OF CONDUCT

(adopted on 16 December 2013 - under section 27(2) of the Localism Act 2011 (and as amended from time to time).

You are a member or co-opted member of Dartford Borough Council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The principles were first established by the Nolan Committee and are detailed in the LGA's supporting guidance for members.

Accordingly, when acting in your capacity as a member or co-opted member or as a representative of Dartford Borough Council:

1. Selflessness: You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

2. Integrity: You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to inappropriately influence you in the performance of your official duties. You should have regard to the Council's:

   - Probity in Planning Protocol;
   - Probity in Licensing Protocol;
   - Gifts, Benefits and Hospitality Protocol.

   Failure to declare a Disclosable Pecuniary Interest may be a criminal offence and you should also declare any Prejudicial Interest that relates to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest. You should register and declare your interests in a manner conforming to the procedures set out by the Council, including Standing Order 19 (see Part 11 Guidance on Sensitive Interests).

3. Objectivity: When carrying out your public duties, you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit without discrimination or bias. You will find guidance in the Council's Anti-Fraud and Corruption Strategy (Part 9 of the Constitution).

4. Accountability: You are accountable for your decisions to the public and you must co- operate fully with whatever scrutiny is appropriate to your office. You must not undermine public trust in the Council or its governance.

5. Openness: You must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those decisions and actions. Information should not be withheld from the public unless there are clear and lawful reasons for doing so or you have the consent of the person authorised to give it.

You will on occasions be privy to confidential, exempt[1] and sensitive information, such as personal information about someone, or commercially sensitive information which, if disclosed, might harm the commercial interests of the Council or another person or organisation. You should have regard to the guidance in the Council's Protocol on the Release of Confidential Information (Section 9 below).

6. Honesty: You should be truthful.

7. Leadership: You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the requirements in this Code, by leadership and example.

   You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.
   You must show respect and consideration for others. You must afford colleagues, opponents and officers the same courtesy and consideration you show to others in your everyday life. You must not bully or harass any person. You must be mutually respectful even if you have personal or political differences.

   You should have regard to the Council's Member/Officer Relations' Protocol on the Conduct between Officers and Members (Section 6 above) and the Guidance for Members on Outside Bodies (Part 11.4), when serving on outside bodies.

8. Use of resources & facilities: You must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 and guidance in the Council's Protocol on the Use of Council Facilities and Resources by Councillors.

9. Equalities: You must carry out your duties and responsibilities with due regard to the need to promote equality of opportunity for all people. You must be careful not to act in a way which may amount to any of the prohibited forms of discrimination, or to do anything which hinders the Council's fulfilment of its positive duties under the Equality Act 2010.

[1] Within the meaning of Part VA Local Government Act 1972 or the Local Authorities (Executive Arrangements) (Meetings and Access to Inf ormation) (England) Regulations 2012

You will not engage in conduct which might reasonably be seen to demonstrate hostility or prejudice based on age, disability, gender reassignment or identity, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, which shall include but not be limited to incidents involving racism, anti-Semitism, Islamophobia or otherwise racist language, sentiments, stereotypes or actions, sexual harassment, bullying or any form of intimidation towards another person on the basis of a protected characteristic.

NOTES

(A) You are directed to the supporting guidance issued by the Local Government Association, which should help you comply with the Code. The LGA's guidance does not form part of the Code.

(B) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of the Code.

## 4. ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS UNDER SECTION 28 LOCALISM ACT 2011

### 4.1 Making a complaint

A complaint alleging a breach of the Code of Conduct by an elected member or co-opted member of either:

- Dartford Borough Council; or
- one of the Parish/Town Councils within the Borough of Dartford,

(the Authority)

must be made in writing and addressed to the Monitoring Officer, preferably using the Complaint Form.

It is helpful if the complainant specifies which aspect of the Code of Conduct they believe has been breached.

The complainant will be required to provide evidence, which supports the complaint, including where applicable, minutes of meetings, correspondence, contemporaneous notes or e-mails. If there are other individuals who have witnessed the alleged breach, the complainant should let the Monitoring Officer know who they are. This latter point is especially important, as the Monitoring Officer only has one person's word against another's. In the absence of independent confirmation, the Monitoring Officer may not be able to conclude with sufficient certainty, that there is enough evidence to warrant pursuing the complaint.

Receipt of the complaint will normally be acknowledged by the Monitoring Officer, within 7 working days. The member the subject of the complaint will be provided with a summary of the complaint.

Consultation with the Independent Person

(a) The Monitoring Officer will seek and take into account the views of the Independent Person before she decides that an allegation should be investigated; and

(b) In circumstances other than a decision to investigate, the Monitoring Officer may seek and take into account the views of the Independent Person.

3. Preliminary tests – two stages

The Monitoring Officer will assess the complaint, using the following criteria:

Legal jurisdiction criteria test:

(a) Did the alleged conduct occur before the adoption of the Code of Conduct?
(b) Was the person complained of a member of the Borough or Parish Council at the time of the alleged conduct?
(c) Was the person complained of acting in an official capacity at the time of the alleged conduct?
(d) Did the alleged conduct occur when the person complained of was acting as a member of another authority?
(e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct (i.e. is there direct evidence to establish that a breach actually took place?)[1];
(f) The complaint is about dissatisfaction with the Borough or Parish Council's decisions, policies and priorities, etc.

Members are entitled to privacy in their personal lives and the provisions of the Code of Conduct only apply to members when they are acting as a member or co-opted member or as a representative of their Authority.

When reaching a decision as to whether the Code of Conduct applies to a member at a particular time, the Monitoring Officer will have regard to the particular circumstances and the nature of the conduct at that time.

If the complaint fails one or more of the legal jurisdiction tests, it will be rejected. i.e. 'Dismissed at Preliminary Stage (Legal Jurisdiction Criteria Test not met)'.

If the complaint satisfies the legal jurisdiction test, it will be assessed against the local assessment criteria test below.

### Local assessment criteria test:

(a) The complaint is a 'repeat complaint[2]', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;
(b) The complaint is anonymous;
(c) No or insufficient information/evidence to substantiate the complaint has been submitted by the complainant;
(d) The complaint is malicious, trivial, politically motivated or 'tit-for-tat';
(e) The complainant is unreasonably persistent, malicious and/or vexatious;
(f) The alleged misconduct happened more than 3 months ago;
(g) The complaint is relatively minor and/or dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time and not be in the public interest;
(h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action;

(i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;
(j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
(k) The complaint is about a deceased person;
(l) The complaint is about a person who is no longer a Borough or Parish/Town Councillor or Co-opted Member.

If one or more of the local assessment criteria applies to the complaint, the complaint will be rejected i.e. 'Dismissed at Preliminary Stage (Local Assessment Criteria Test not met)'.

The Monitoring Officer may consult with the Independent Person on the decision to reject the complaint. If rejected, the complainant and the member who is the subject of the complaint will be notified of the decision and the member will be provided with a summary of the complaint within 10 working days.

The Monitoring Officer will seek and take account of the views of the Independent Person, where Monitoring Officer decides to formally investigate. On other categorisations of the complaint, the Monitoring Officer may consult with the Independent Person.

7. No further action/rejected

The Monitoring Officer will inform the complainant

and the member who is the subject of the complaint of her decision.

**1.** Relating to a Disposable Pecuniary Interest, where it appears that the alleged breach may constitute an offence under criminal law

The Monitoring Officer will refer the matter to Kent Police and notify the complainant and the member who is the subject of the complaint and the member who is the subject of the complaint of her decision.

[1] The level of proof that is required by the Monitoring Officer is on the balance of probabilities

2 Persistent 'repeat complaints' is conduct which in itself, may be investigated as a potential breach of the Code of Conduct.

**2.** Relating to a Disposable Pecuniary Interest, where it appears that the alleged breach may constitute an offence under criminal law

The Monitoring Officer will refer the matter to Kent Police and notify the complainant and the member who is the subject of the complaint.

9. Informal/local resolution

The aim of informal/local resolution is to resolve matters at an early stage, to avoid the unnecessary escalation of the situation, which may damage personal relationships within the Authority and the Authority's reputation. The process may result in an apology being offered.

Informal resolution is suited to low-level complaints, which are made by a member against a fellow member. Typically, these complaints will be about alleged failures to show respect and consideration for others as required. Such complaints are more appropriately resolved informally and locally, in order to speed up the complaints process and to ensure that the Monitoring Officer's

resources are devoted to the investigation of serious complaints.

The Monitoring Officer will meet/correspond with the member who is the subject of the complaint and seek an informal resolution – e.g. apology, training etc.

The Monitoring Officer may consult with the Independent Person on the proposed informal resolution. The Monitoring Officer will confirm the informal resolution with the member who is the subject of the complaint and seek their agreement in writing. If the member accepts the informal resolution, the Monitoring Officer will inform the complainant. If the member belongs to a political group, the Monitoring Officer will inform the Group Leader of the resolution.

If the member does not accept the proposed informal resolution, or having accepted the informal resolution, fails to comply, the complaint will be escalated to the Mediation stage. The complainant will be notified accordingly.

10. Mediation with the Leader of the Member's Political Group

The Monitoring Officer will request the member who is the subject of the complaint, to attend a meeting with the Monitoring Officer and the Leader of the member's Political Group. The Monitoring Officer will consult with the Independent Person on the proposed resolution. The Monitoring Officer will inform the complainant and the member who is the subject of the complaint, of the mediation decision.

The mediation meeting will be held in private, with the outcome being reported to the Political Group Leaders for information.

11. Mediation through the Panel of Political Group Leaders

The Monitoring Officer will request the member who is the subject of the complaint, to attend a meeting of the Panel of Political Group Leaders. The Monitoring Officer will consult with the Independent Person on the proposed resolution. The Monitoring Officer will inform the complainant of the decision and the member who is the subject of the complaint, of the mediation decision.

Whilst the meeting will be in private, the outcome of the meeting will be reported to the Audit Board for information.

12. Bullying/harassment allegations

When dealing with allegations of bullying[3] and harassment[4], the Monitoring Officer will consider both the perspective of the alleged victim and whether the member complained of intended their actions to be bullying or harassment. The Monitoring Officer will also consider whether the individual was reasonably entitled to believe they were being bullied or harassed.

Bullying is often carried out face to face, but increasingly, it can be carried out in print or using electronic media. The standards of behaviour expected are the same, whether expressed verbally or in writing.

Harassment can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

When considering such complaints, the Monitoring Officer will take into account the specific circumstances of the case, whether there was an attempt to intimidate or undermine and the content and context of what has been said.

'Abuse' is an inflammatory word, which is often misunderstood and misused. Therefore, unless the comments are highly offensive or outrageous, it is unlikely that the Monitoring Officer will investigate complaints made in this context.

### 4.2 Political expression

The High Court in Sanders v Kingston [2005] EWHC 1145 (Admin) considered that it had to ask itself three questions in deciding the legality of a finding as to whether a councillor had breached a local authority's code of conduct by not treating others with respect and could reasonably be regarded as bringing their office into disrepute:

- was the decision-maker entitled as a matter of fact to conclude that the conduct breached the code of conduct?

[3] Characterised as offensive, intimidating, malicious, insulting, or humiliating behaviour, an abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated, denigrated or threatened

[4] Conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions (Protection from Harassment Act 1997)

[5] Robinson, R (On the Application Of) v Buckinghamshire Council [2021] EWHC 2014 (Admin)

- if so, was the finding in itself or the imposition of a sanction a breach of Article 10[6]?

- if so, was the restriction justified under Article 10(2)[7]?

This test was adopted in R (Calver) v Public Services Ombudsman for Wales [2012] EWHC 1172 (Admin), where the High Court found that a decision that a councillor had breached a local authority's code of conduct by commenting on other councillors online was a disproportionate interference with the councillor's rights under Article 10.

A member's freedom of expression attracts enhanced protection[8] when the comments are political in nature. Therefore, the criticism of opposition ideas and opinion is considered to be part of democratic debate and it is unlikely that such comments would be considered to be a breach of the Code of Conduct. This would not however include threats to an officer's position or wellbeing.

'Political' comments are not confined to those made within the Authority's meetings and for example, include comments members may generally make on their Authority's policies or about their political opponents. Therefore, unless the comments are highly offensive or outrageous, it is unlikely that the Monitoring Officer will investigate complaints made in this context.

### 4.3 Grievance procedures

The High Court in the case of R (Harvey) v Ledbury Town Council considered local authority staff grievance procedures and their relationship with the code of conduct regime under the Localism Act 2011. The court held that a council cannot run a grievance procedure alongside, or as an alternative to, a standards regime procedure under the Localism Act 2011, and that complaints regarding a councillor's conduct have to be dealt with under the authority's standards arrangements.

### 4.4 Training

Where the member has not undertaken training relating to Code of Conduct matters, they are not able to use this as a defence, where a complaint alleging a breach of the Code is made against them.

### 4.5 Investigation

It is important to ensure the effective use of the Monitoring Officer's resources and that any investigation undertaken is proportionate and required in the wider public interest (see 'public interest factors' below).

The Monitoring Officer has a wide discretion as to whether to begin or continue an investigation. The two-stage test referred to in section 3 above provides clarity on how that discretion will usually be exercised and to secure a degree of consistency and certainty in the decisions that are reached.

If the Monitoring Officer, in consultation with the Independent Person decides that the complaint merits formal investigation, the Monitoring Officer will appoint and brief an Investigating Officer to undertake the investigation, and inform the complainant, the member who is the subject of the complaint and if applicable, the Clerk to the Parish/Town Council of the appointment.

The Investigating Officer will provide a confidential draft report to the Monitoring Officer.

When the Monitoring Officer has reviewed and accepted the Investigating Officer's confidential draft report, it will be sent to the complainant and the member who is the subject of the complaint on a confidential basis, requesting comments within 10 working days.

A member who is the subject of an investigation is required to comply with the investigation process. Not to do so, may itself be a breach of the Code of Conduct.

Once comments are received, the Monitoring Officer will discuss these with the Investigating Officer and a final report will be agreed.

Public interest factors when deciding to investigate

Some of the public interest factors that the Monitoring Officer will consider are set out below. These factors are not exhaustive and the weight to be attached

to each will vary according to the facts and merits of each case:

- the seriousness of the breach;
- whether the member deliberately sought personal gain for themselves or another person at the public expense;
- whether the circumstances of the breach are such that a member has misused a position of trust or authority and caused harm to a person;
- whether the breach was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity;
- whether there is evidence of previous similar behaviour on the part of the member;
- whether the investigation is required to maintain public confidence in elected members of the Authority;
- whether investigation is a proportionate response, i.e. whether it is likely that the breach would lead to a sanction being applied to the member;
- whether the use of resources in carrying out an investigation or hearing by the Hearing Panel would be regarded as excessive when weighed against any likely sanction.

[6] European Convention on Human Rights
[7] Supra
[8] Supra

### 4.6 Hearing Panel

The Monitoring Officer will reflect on and analyse the evidence gathered by the Investigating Officer and draw conclusions as to whether it is suggestive that a breach of the Code of Conduct has occurred.

Following the submission of the Investigating Officer's report, if the Monitoring Officer concludes that the case needs to be presented to a Hearing Panel, the Monitoring Officer will consult with the Independent Person.

Where appropriate, the Monitoring Officer will arrange for a Hearing Panel to meet and consider the allegation and report of the Investigating Officer and determine the outcome of the complaint. The Hearing Panel will have regard to its Procedure for Conducting a Hearing.

The authority to make a determination of breach rests solely with the Hearing Panel.

Whilst the hearing will be in private, the outcome of the hearing will be a public record and reported to the Audit Board for information.

### 4.7 Sanctions

Where a member has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more of the sanctions below:-

(a) Recommending to the Borough or Parish/Town Council that the member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand);
(b) Recommending to the member's Group Leader, or Parish/Town Council, or in the case of a ungrouped Member, to the Borough or Parish/Town Council

that they be removed from committees or sub-committees of the Council;

(c) Recommending to the Leader of the Borough Council that the member be removed from the Cabinet or removed from particular Portfolio responsibilities;

(d) Instructing the Monitoring Officer, or recommending to the Parish/Town Council, to arrange training for the member;

(e) Recommending to the Borough or Parish/Town Council that the member be removed from one or more outside appointments to which they have been appointed or nominated by the Borough or Parish/Town Council;

(f) Recommending to the Borough or Parish/Town Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and internet access;

(g) Recommending to the Borough or Parish/Town Council the exclusion of the member from the Borough or Parish/Town Council's offices or other premises, with the exception of meeting rooms as necessary for attending Borough or Parish/Town Council committee and sub- committee meetings;

(h) Instructing the Monitoring Officer to apply the informal resolution process;

(i) Sending a formal letter to the member;

(j) Recommending to the Borough or Parish/Town Council to issue a press release or other form of publicity.

### 4.8 Dealing with the recommendation(s)

Where recommendation(s) are made to the Borough or Parish/Town Council, the Borough or Parish/Town Council will note the recommendation without discussion (which will be deemed to have been agreed as recommended)[9].

### 4.9. Determination – Hearing Panel

The complainant and the member who is the subject of the complaint will be informed of the Hearing Panel's determination. The decision notice will be published on the Borough Council's website and reported to the Audit Board.

8 R v Brent LBC ex p. Gladbaum and Wood (The Times 14.12.1989)

### 4.10 Appeal and complaints

There is no right of appeal for the complainant or the member who is the subject of the complaint against decisions of the Monitoring Officer, the determination of the Hearing Panel, or of the outcomes through mediation, with the Leader of the Member's Political Group or the Panel of Political Group Leaders.

An application to the court for judicial review may be made on the grounds that the Monitoring Officer's decision or Hearing Panel's determination, is illegal, unfair, irrational and/or not proportional.

### 4.11 Ombudsman

The Ombudsman does not offer a right of appeal against the Monitoring Officer's decision or Hearing Panel's determination, but it can consider if there was

*administrative fault* in the way the Borough Council considered the complaint. The Ombudsman will only investigate complaints if there is sufficient injustice to warrant its involvement or it considers it in the public interest to do so.

### 4.12 Revision of these Arrangements

The Audit Board may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer and the Hearing Panel the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter.

## 5. GUIDANCE ON SENSITIVE INTERESTS

1. As the report by the Committee on Standards in Public Life said, “Everyone in public life must play their part in taking responsibility for combatting intimidatory behaviour”. Intimidation is unacceptable and it is vital that councillors feel able to raise concerns about intimidation, and that those in leadership positions in councils take any concerns seriously, and deal with them appropriately.

2. A ‘sensitive’[1] disclosable pecuniary interest is one where you consider that the public disclosure of the details could lead to you, or (a person connected with you), being subject to violence or intimidation, and the Monitoring Officer agrees.

3. A ‘sensitive’ interest may include specific types of employment e.g. scientific research, Special Forces, police and judiciary or other interests such as your home address, that are likely to create serious risk of violence or intimidation against you or someone who lives with you.

You should provide this information to the Monitoring Officer and explain your concerns regarding the disclosure of the sensitive information, including why it is likely to create a serious risk that you or a person who lives with you, will be subjected to violence or intimidation.

The Monitoring Officer will look sympathetically at such requests where there are legitimate concerns of abuse or intimidation e.g. if you are dealing with matters pertaining to criminal justice and may be taking decisions that will affect those who may be involved in crime or who are affected by crime, the publication of your address may put you in a particular category of risk of retaliation, retribution or death threats for your action/decisions.

4. The Member Register of Interests is publicly accessible, through inspection and published on the Council’s website. If the Monitoring Officer agrees that your interest is ‘sensitive’, the Register will not include details of the interest, other than stating that you have an interest, the details of which are withheld.

5. If you are required to declare an interest at a meeting, you should disclose merely the fact that you have a disclosable pecuniary interest, rather than detail/nature of the interest[2].

6. The Monitoring Officer may disagree that your interest is ‘sensitive’ You should be aware that choosing to post the ‘sensitive’ information in the public domain, using social media websites, then further amplified by Google and other search engines,

may dilute the 'sensitivity' of the information.

7. If the Monitoring Officer disagrees that your interest is 'sensitive', you must declare the interest as normal. The interest will be entered on the [Member] Register of Interests.

8. Elections[3] – all candidates in local government elections are able to request that their home address is not made public. Candidates can continue to include a home address if they wish to highlight their local connection to their ward. Candidates' provide their 'qualifying address separately.

1 Section 32 Localism Act 2011
2 Standing Order 19(4)
3 The Local Elections (Principal Areas) (England and Wales) (Amendment) (England) Rules 2018

The elections process has its own set of rules. So too matters relating to declarations of disclosable pecuniary interests under the Localism Act 2011. The fact that you, as a candidate in a local government election, have chosen not to make your home address public, in itself, is not a reason for withholding your address from the Member Register of Interests. You are still required to satisfy the Monitoring Officer that the public disclosure of your home address in the Register, could lead to you, or (a person connected with you), being subject to violence or intimidation.

Revised and adopted by the GAC - 16 December 2013 – Min.No.75 Revised and adopted by the Audit Board – 25 June 2014 – Min.No.8 Revised and adopted by the Audit Board – 24 October 2018 – Min.No.23 Revised and adopted by the Audit Board - 23 September 2021 – Min.No. 9 Revised under delegated authority – 14 April 2022

## 6. MEMBER/OFFICER RELATIONS PROTOCOL

### 1. INTRODUCTION

1.1 Mutual trust and respect between Members and Officers is at the heart of the Council's good governance. They are essential if the partnership necessary for the effective running of the Council is to succeed.

1.2 The Member Code of Conduct states 'You must promote and support high standards of conduct when serving in your public post, in particular as characterised by leadership and example. You should have regard to the Council's guidance in Protocols on the conduct between officers and members and the conduct when serving on outside bodies.'

1.3 The most common contacts are between Councillors and senior employees at Director or Heads of Service level, and this Protocol is largely about those contacts. There are also many contacts between Councillors and other employees in their daily business, and the principles of this Protocol also apply to them. The particular position of employees who provide direct support services for Councillors is dealt with at para.15 of this Protocol.

1.4 This Protocol guides Members and Officers of the Council in their relations with one another. Members and Officers have a responsibility to act fairly, honestly, in good faith and in an impartial way to meet the specified objectives of the Council. Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues, which most commonly arise. It is hoped however, that the approach, which it adopts to these issues, will serve as a guide to dealing with other issues. This Protocol supplements respectively the Member and Employee Codes of Conduct.

PRINCIPLES

1.5 Members and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

1.6 Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Legally, employees are employed by the Council and are accountable to it. Ultimately, they serve the Council as a whole and not any particular political group, combination of groups or any individual Member. Nonetheless, employees may properly be called upon to assist the deliberations of political groups and also to help individual Members in their different roles. The Directors and Senior Officers have ultimate responsibility to ensure that the Council's responsibilities are implemented.

## 2. THE ROLE OF MEMBERS

2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest, which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, or the Monitoring Officer.

2.2 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the Council’s policy framework, strategic plans and budget.

2.3 Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community, often in partnership with other agencies.

2.4 Every elected Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on outside bodies.

2.5 Members have personal, individual, and collective responsibility for the Council, as a local authority organisation and its activities. Members will therefore concern themselves with the performance, development, continuity and overall well-being of the Council.

2.6 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members, they have a duty always to act in the public interest.

2.7 Members are not authorised to instruct Officers other than:

2.7.2 through the formal decision-making process;
2.7.3 to request the provision of consumable resources provided by the Council for Members' use;
2.7.4 where staff have been specifically allocated to give support to a Member or group of Members.

2.8 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.

2.9 Members must avoid taking actions, which are unlawful, financially improper or likely to amount to maladministration. When reaching decisions, Members should have regard to any advice provided by the Monitoring Officer or the Section 151 Officer.

2.10 Members must respect the impartiality of Officers and do nothing to compromise it,
e.g. by insisting that an Officer change his/her professional advice.

2.11 Members should always deal with Officers in such a way as to preserve public confidence in the Council. It is equally important for Members to work with each other positively and with mutual respect. Whilst robust debate, challenges and party allegiances are integral to normal political life, it is not appropriate for Members to treat a colleague or an Officer with contempt, or hurl personal abuse to, or, physically attack a colleague or an Officer. Members must seek to act courteously and with integrity at all times and set high standards that Officers and members of the public can follow.

2.12 In the conduct of Council business, there should be mutual respect and courtesy at all meetings and contacts, both formal and informal, between Members and Officers.

2.13 Members should avoid undermining respect for Officers at Council meetings, or in any public forum. This would be damaging both to effective working relationships and to the public image of the Council.

2.14 Members and Officers have a duty to raise any issues where they have reason to think that fraud/probity, corruption or malpractice of any sort is involved within the workplace and are encouraged to raise their concerns through the Council's Whistleblowing Policy.

## 3. THE ROLE OF OFFICERS

3.1 Officers are responsible for giving advice to Members to enable them to fulfil their

roles. In doing so, Officers will take into account all available relevant factors.

3.2 Under the direction and control of the Council and its committees, Officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

3.3 Officers have a duty to implement decisions of the Council and its committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution, and duly minuted.

3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.

3.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the Council as expressed in the Council's formal decisions.

3.6 Officers must be alert to issues, which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.

3.7 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

3.8 Officers serve the Council through its committees etc. They work to the instructions of their Director and/or Manager - not individual Members of the Council, whatever office the Member might hold. It follows therefore, that Officers must not be asked to exceed the bounds of authority they have been given by their Director and/or Manager, nor should they have unreasonable demands placed on them, in terms of support to an individual Member or Members. Officers will do their best to give timely responses to Members' enquiries.

3.9 Officers' work priorities are set and managed by their Managers or Director.

Members should avoid disrupting Officers' work by imposing their own priorities.

3.10 Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a Senior Officer or Director, at least in the first instance.

3.11 Members are entitled to all reasonable assistance from Officers in support of their role as Council representatives on outside bodies. Such assistance will include the provision of information about the body and the identification of a contact Officer to be available for briefing purposes and to assist the Member in reporting back to the Council on the activities of the body.

## 4. THE RELATIONSHIP BETWEEN MEMBERS AND OFFICERS

4.1 The conduct of Members and Officers should be such as to instil mutual confidence and trust. The key elements are recognition of and a respect for each

other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

4.2 Informal and collaborative two-way contact between Members and Officers is encouraged, but personal familiarity can damage the relationship, as might a family or business connection.

4.3 Members and Officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.

4.4 It is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision, which directly affects the Officer on a personal basis.

4.5 Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.

4.6 Members and Officers should respect each other's free (i.e. non-Council) time.

4.7 Officers can expect from Members:

4.7.1 political leadership and direction;
4.7.2 respect, dignity and courtesy;
4.7.3 an understanding of and support for respective roles, workload and pressures;
4.7.4 not to be subjected to bullying;
4.7.5 not to be harassed or placed undue pressure;
4.7.6 not to use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
4.7.7 to comply with the Member Code of Conduct.

4.8 Members can expect Officers to:

a. behave in a professional manner sand courteous manner;
b. be helpful and respectful to Members;
c. maintain confidentiality;
d. perform their duties effectively, efficiently and with political neutrality;
e. avoid personal close familiarity with Members and not use their relationship with Members to advance their personal interests or to influence decisions improperly;
f. report to their Director any time that a Member asks or pressurises the Officer to deal with a matter outside of Council procedure or policy;
g. demonstrate an understanding of and support for respective roles, workload and pressures;
h. comply with the Employee Code of Conduct.

4.9 Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person whom the Member has some actual or perceived influence over. This can be contrasted with the legitimate challenges, which a Member can make in challenging policy or scrutinising

performance. It is important that Members raise issues about poor Officer performance in the correct way and proper forum.

4.10 Members must not intimidate or attempt to intimidate any Officer who is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Member Code of Conduct.

4.11 A Member who is unhappy about the actions taken by, or conduct of, an Officer should:

1. avoid personal attacks on, or abuse of, the Officer at all times;
2. ensure that any criticism is well founded and constructive;
3. never make a criticism in public; and
4. take up the concern with the Officer privately.

If direct discussion with the Officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the Officer's Manager or the relevant Director.

4.12 The relationship between Councillors and employees depends upon trust and this will be enhanced by the development of positive, friendly relationships. Councillors and employees will often be thrown together in social situations within the community and they have a responsibility to project a positive image of the Council. Nonetheless, close personal familiarity between individual employees and Councillors can damage the relationship of mutual respect and the belief that employees give objective and professional advice and commitment to the Council. Councillors and employees should, therefore, be cautious in developing close personal friendships while they have an official relationship.

## 5. THE COUNCIL AS EMPLOYER

5.1 Officers are employed by the Council.

5.2 Members' roles are limited to:

(a) the appointment of specified senior posts;
(b) determining human resources policies and conditions of employment for specified posts, and
(c) hearing and determining appeals for specified posts.

Members will not act outside these roles.

5.3 If participating in the appointment of Officers, Members should:

i. remember that the sole criterion is merit;
ii. never canvass support for a particular candidate;
iii. not take part where one of the candidates is a close friend or relative;
iv. not be influenced by personal preferences; and
v. not favour a candidate by giving him/her information not available to the other candidates.

5.4 Councillors should not raise matters relating to the conduct or capability of employees in public. Employees must accord to Councillors the respect and courtesy due to them in their various roles.

## 6. SCRUTINY COMMITTEE AND OFFICERS

6.1 The Scrutiny Committee or the Committee Chairman acting on its behalf, may require Officers to attend meetings. Members should not normally expect junior Officers to give evidence. All requests should be made to Directors in the first instance.

6.2 When making requests for Officer attendance, Scrutiny Committee members will have regard to the workload of Officers.

6.3 Officers required to appear before the Scrutiny Committee may often be those who have advised the Cabinet or another part of the Council on the matter to be scrutinised. In these circumstances, the Officer may have a conflict of interest. Both Members and Officers need to consider the severity of the conflict. If deemed appropriate, research and advice must be sought elsewhere.

6.4 In giving evidence to the Scrutiny Committee, Officers must not be asked to express political views.

6.5 Officers should respect Members in the way they respond to Members' questions.

6.6 Members should not question Officers in a way, which could be interpreted as harassment or bullying. Neither should they ask about matters of a disciplinary nature.

6.7 Scrutiny proceedings must not be used to question the capability or competence of Officers. Members need to make a distinction between scrutinising the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not a scrutiny function.

## 7 POLITICAL GROUPS AND OFFICERS

7.1 The Council operates through a system of groups of councillors, based on political affiliation. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner. Officers must at all times, maintain political neutrality.

7.2 The support provided by Officers can take many forms, ranging from the meeting with a Chairman and Vice-Chairman before a committee meeting to a presentation to a full political group meeting. Whilst in practice such support is likely to be in most demand from whichever political group is for the time being in control of the Council, it should be available to all political groups. The advice given by Officers to different political groups should be consistent.

7.3 Certain matters must, however, be clearly understood by all those participating in this type of process, Councillors and Officers alike. In particular:-

8.3.1 Officer attendance at group meetings must be approved in advance, by the the relevant Director.

8.3.2 Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers will not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

8.3.3 Political group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal Council decisions. The presence of an Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.

8.3.4 Where Officers provide factual information and advice to a political group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant committee of the Council.

8.3.5 It must not be assumed that an Officer is supportive of a particular policy or view considered at a political group meeting simply because he/she has attended or provided information to the meeting.

8.3.6 Officers will respect the confidentiality of any political group discussions at which they are present and, unless requested to do so by that political group, will not relay the content of such discussions to another party group or to other Members. This will not prevent an Officer providing feedback to other Officers on a need-to-know basis. Factual information upon which advice is based will, if requested, be available to all political groups.

8.3.7 The duration of an Officer's attendance at a political group meeting will be at the discretion of the group, but an Officer may leave at any time if he/she feels it is no longer appropriate to be there.

8.3.8 An Officer accepting an invitation to any one political group meeting will not decline an invitation to advise another group about the same matter.

8.3.9 Officers should be given the opportunity of verifying comments and advice attributed to them in any written record of a political group meeting.

8.3.10 No Member will refer in public or at meetings of the Council, to advice or information given by Officers to a political group meeting.

8.3.11 At political group meetings, where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business.

8.3.12 Members must not do anything which compromises or is likely to compromise Officers' impartiality.

7.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a meeting of a political group, which includes persons

who are not members of the Council. Such persons will not be bound by the codes of conduct for Members and employees (in particular, the provisions concerning the declarations of interest and confidentiality) and for this and other reasons, Officers may not be able to provide the same level of information and advice as they would to a Members' only meeting.

7.5 Should any difficulty or uncertainty arise in the area of Officer advice to political groups, this will be raised with the relevant Director who should discuss the matter with the group leader.

## 8 WARD MEMBERS AND OFFICERS

8.1 To enable them to carry out their ward role effectively, Members need to be fully informed about matters affecting their ward. Directors and Senior Officers must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role. This requirement is particularly important:

(1) during the formative stages of policy development, where practicable;
(2) in relation to significant or sensitive operational matters;
(3) whenever any form of public consultation exercise is undertaken, and
(4) during a scrutiny investigation.

8.2 Issues may affect a single ward. Where they have a wider impact, a number of local Members will need to be kept informed.

8.3 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the wards affected, should be invited to attend the meeting as a matter of course.

8.4 If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant Officer. Provided the meeting has not been arranged on a party political basis:

i. an Officer may attend, but is not obliged to do so; and
ii. the meeting may be held in Council-owned premises.

No such meetings will be arranged or held in the immediate run-up to Council elections.

8.5 Whilst support for Members' ward work is legitimate, care should be taken if Officers are asked to accompany Members to ward surgeries. In such circumstances:

- the surgeries must be open to the general public; and
- Officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties.

8.6 Officers must never be asked to attend ward or constituency political party meetings.

8.7 In seeking to deal with constituents' queries or concerns, Members should not

seek to jump the queue, but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale, and may need to seek instructions from their Managers or Director.

8.8 Officers must treat all Councillors fairly and openly in their role as local representatives.

9 OFFICER/COMMITTEE CHAIRMAN RELATIONSHIP

9.1 It is clearly important that there should be a close working relationship between the Chairman of the committees of the Council and the Director and Senior Officers of the Department, which reports to that body. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question, the Officer's ability to deal impartially with other Members and other party groups.

9.2 Whilst the Chairman will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, in some situations, a Director will be under a duty to submit a report on a particular matter. Similarly, a Director will always be fully responsible (and retains ultimate responsibility) for the contents of any report submitted in his/her name. Any issues arising between a Chairman and a Director in this area, should be referred to the Managing Director for resolution.

9.3 Committee Chairmen are recognised as the legitimate elected spokesperson on their committees' areas of responsibility. Where authority is delegated to Officers (under the Scheme of Delegations to Officers), they will often wish to consult the relevant Chairman about the action which they propose to take, but the responsibility for the final decision remains with the Officer who is accountable for it.

9.4 A resolution may be passed at meetings which authorises an Officer to take action between meetings in consultation with the Chairman/Leader/Portfolio Member etc. Whilst such action is sometimes (incorrectly) referred to as 'Chairman's action', it is the Officer, not the Chairman, who takes the action and is responsible for it. Under the Council's Constitution, a Member has no legal power to take decisions on behalf of the Council and its committees etc.

9.5 Officers within a Directorate are accountable to their Director and whilst Officers should always seek to assist a Chairman (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director. Officers are ultimately responsible to the Head of the Service.

## 7. THE MAYORALTY

9.6 The Mayor has a representative role on behalf of the Council and the Borough to local residents and those who work or study in the Borough. The position is non- political. It is reasonable for the Mayor to be supportive of local business, but the office should not be used for commercial promotions and the Mayor should not use his/her office, nor Officers, to by-pass recognised systems of

working.

## 10 MEDIA RELATIONS

10.1 All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.

10.2 Press releases or statements made by Officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a political group.

## 11 COMMUNICATIONS

11.1 Communications between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'silent/blind copies' should not be employed.

11.2 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister), for a letter to appear in the name of a Cabinet member, or Chairman of a committee, but this should be the exception rather than the norm. Letters, which for example, create obligations or give instructions on behalf of the Council, should never be sent out in the name of a Member.

## 12. USE OF COUNCIL FACILITIES AND RESOURCES

12.1 The only basis on which the Council can lawfully provide support services to Members (e.g. stationery, typing, printing, photocopying, transport, computers etc), is to assist them in discharging their role as members of the Council.

12.2 Members should not approach or pressure staff to carry out duties or provide resources or support in a biased or partisan way. Examples are:

1. business which is solely to do with a political party;
2. work in connection with a ward or constituency party political meeting;
3. electioneering;
4. work associated with an event attended by a Member in a capacity other than as a member of the Council;
5. private personal correspondence;
6. work in connection with another body or organisation where a Member's involvement is other than as a member of the Council; and
7. support to a Member in his/her capacity as a councillor of another local authority.
8.

## 13. EMPLOYEES SUPPORTING COUNCILLORS

13.1 Where the relevant Director arranges for Officers staff to support Members directly in carrying out their duties, particular considerations apply. Such employees are normally involved in administrative and practical support of Members. While such

staff may operate to the requirements of individual Members in their daily business, it must be remembered that the employees are accountable to their line managers and any issues about conflicting priorities, conduct or performance must be referred to those managers.

Officers may receive and handle messages on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

## 15. COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS PROTOCOL

a. If a Member believes an Officer may have acted other than in accordance with this Protocol, he/she should raise their concern with the relevant Director who will consider how the complaint or allegation should be dealt with. A breach of this Protocol by an Officer, may lead to an investigation under the Council's Disciplinary Policy and Procedure.

b. If an Officer believes a Member may have acted other than in accordance with this Protocol, he/she should raise their concern with the Monitoring Officer who will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may result in an investigation and a hearing before the Hearing Panel.

## 16. OVERSEEING COMPLIANCE WITH THIS PROTOCOL

The Audit Board oversees compliance with this Protocol.

## 17. FURTHER GUIDANCE

Further advice or clarification can be sought from the Monitoring Officer or the Head of Legal Services.

Can I represent my constituents if I have a prejudicial interest or am conflicted in other ways?

Yes, by:

- making written representations - these should be addressed to officers;
- arranging for another Member to represent the views of your constituents.

**B.** What happens if I do not know the value of the gift, benefit or hospitality? The general rule is, if in doubt, register it as a matter of good practice.

**C.** Do I have to register gifts, benefits or hospitality I do not accept? No, but you may wish to do so, as a matter of good practice.

**D.** Do I have to register gifts, benefits or hospitality from Council-owned companies? Yes - wholly- owned companies are separate bodies from the Council.

What about official gifts, benefits or hospitality given to the Mayor or Leader of the Council?

1. Gifts that are clearly made to the Council do not need to be registered;
2. Gifts made directly to the Mayor's charity appeal do not need to be registered;
3. There is no requirement to register hospitality that has been extended to the office holder
   e.g. Leader of the Council, rather than the individual.

**E.** Find out more - The Protocol on Gifts, Benefits and Hospitality offers further guidance. Advice or clarification can be sought from the Monitoring Officer or the Head of Legal Services.

# 7. PROBITY IN LICENSING PROTOCOL

## 1. INTRODUCTION

1.1 The purpose of this Protocol is to support and assist the Council in the proper discharge of its functions as licensing authority and to ensure there are no grounds for suggestion that a Licensing Sub-committee decision has been biased or otherwise not well founded. This Protocol supplements the Member Code of Conduct.

## 2. PRINCIPLES FOR A FAIR HEARING

2.1 The following general principles apply to the conduct of hearings by the Licensing Sub-committee:

(a) all parties have a right to a fair hearing;
(b) each application shall be treated on its own merits;
(c) decisions shall be lawful, proportionate, non-discriminatory, open and transparent; and
(d) decisions shall be made on the basis of the following considerations:
  (i) the merits of the application;
  (ii) the promotion of the licensing objectives;
  (iii) Statements respectively, of Licensing and Gambling Policy;
  (iv) guidance issued from time to time by the Home Office.

## 3. LICENSING SUB-COMMITTEE MEMBER COMPOSITION

3.1 The Licensing Sub-committee comprises three (3) Members appointed from the membership of the Licensing Committee. It is for the Licensing Committee to determine how Licensing Sub-committee members are selected, for example alphabetically or by rotation, to ensure regular Sub-committee sittings for all Members. In practice, selection is often determined by Member availability to ensure the Sub-committee is quorate.

3.2 Being a ward Member does not in itself constitute an interest in an application or create a risk of apparent bias. Providing the ward Member does not have a disclosable pecuniary interest or prejudicial interest in applications before the Sub-committee or providing there is nothing to indicate any risk of bias or predetermination (see sections 7 & 8 of this Protocol), a ward Member's local knowledge may in fact give an additional insight to an application and its implications on the licensing objectives. Ward members may use their local knowledge to ask relevant questions and clarify facts.

## 4. CODE OF CONDUCT

4.1 The adopted Member Code of Conduct states:

‘You must act solely in the public interest and should never improperly

confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.'

'You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.'

'You must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those decisions and actions.'

'You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.'

4.2 The Member Code of Conduct covers issues central to the preservation of an ethical approach to Council business, including the need to ensure appropriate relationships with other Members, Officers and the public, which will impact on the way in which Members participate in the licensing process. The following 'guiding principles' (explained in detail elsewhere in this Protocol), should assist you in complying with the Code.

(a) Licensing officers' views, opinions and recommendations are presented on the basis of their overriding obligation of professional independence, which may on occasion, be at odds with the views, opinions or decisions of the Licensing Sub-committee or its members. You must never seek to pressure Officers to provide a particular recommendation - this does not prevent you from asking questions or submitting views to Officers, which may be incorporated in a committee report.

(b) Do not seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable pecuniary interest or prejudicial interest in a proposal, using your position to discuss that proposal with Officers or fellow Councillors, when members of the public would not have the same opportunity to do so.

(c) If you propose to take part in the Licensing Sub-committee's decision making process, you must not give grounds to doubt your impartiality by:

making public statements about a pending decision before the Sub-committee meeting where it can be anticipated that the information required to take a decision will be available – such public statements could be seen as you prejudging a decision, or being biased in respect of, or be seen to be prejudging or demonstrating bias in respect of, the decision;

by indicating or implying your support or opposition to a proposal, or declaring your voting intention, before the meeting. Anyone who may be seeking to influence you must be advised that you will not formulate an opinion on a particular matter until all available information is to hand and has been duly considered at the relevant meeting.

(d) When making a decision on a licensing application, you may have to take account of different points of view and make decisions based on the licensing objectives. It is your duty to ensure that decisions are properly taken and that the parties involved in the process are dealt with fairly. In making any decision, you should only take into account the licensing objectives and you should discount any irrelevant or immaterial considerations.

(e) To reduce the risk of your, or the Licensing Sub-committee's decisions being legally challenged, you must not only avoid impropriety, but must at all times avoid any occasion for suspicion and any appearance or perception of improper conduct. The responsibility for this rests with you.

(f) Do not accept gifts, benefits or hospitality from any person involved in or affected by a licensing proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum. Remember to notify the Monitoring Officer of the offer and your acceptance of any gift, benefit or hospitably where its value is over £100.

(g) If you have a disclosable pecuniary interest or prejudicial interest in an item under discussion at the Licensing Sub-committee meeting:

- □ unless you have a dispensation, you must not participate in the discussion and vote on the item and cannot be present in the public gallery/meeting room to observe the debate;
- □ you must not make representations to Licensing Sub-committee members - written relevant representations should be submitted to Officers within the specified period after notice of the application is published by the Council (as licensing authority);
- □ you should approach other fellow Councillors to represent your constituents' views at the Sub-committee meeting in accordance with section 6.2.(b)(ii) of this Protocol;
- □ you must not attempt to lobby Licensing Sub-committee members about the matter, before, during or after a meeting, attempt to use your status as a Member to influence consideration of a submission, or try to get Officers to change a decision or recommendation;
- □ you must avoid discussing your personal licensing application with other Councillors and cannot ask a fellow Councillor to make written relevant representations on your behalf or to represent you at the Licensing Sub- committee meeting.

These rules apply to all members of the Council.

(h) Be aware that a presentation by an objector, professional agent, applicant or licence holder is a form of lobbying and you must not express any strong view or state how you or other Members might vote. Do refer those who approach you for licensing, procedural or technical advice to Officers.

(i) Do not agree to any formal meeting with applicants or groups of objectors, unless an Officer is present.

(j) Notify the Monitoring Officer if you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts, benefits or hospitality).

(k) If, as a Licensing Committee member, you have decided in advance that you will take a particular view on a licensing application or that on an objective analysis of the facts, a fair minded observer would conclude that there is a real possibility of bias on your part, you:

- □ must not volunteer to sit on the Licensing Sub-committee which deals with the application;
- □ you must not participate in the Licensing Sub-committee's decision-making on the application;
- □ cannot be present in the public gallery/meeting room to observe the debate; must not make representations to Licensing Sub-committee members - written relevant representations should be submitted to Officers in accordance with section 6.2(b)(ii) of this Protocol;
- □ must not attempt to lobby Licensing Sub-committee members about the matter, before, during or after a meeting, attempt to use your status as a Member to influence consideration of a submission, or try to get Officers to change a decision or recommendation.

(l) Where you have a responsibility for making a formal decision, you must not only act fairly, but also be seen as acting fairly ('quasi-judicially') in the decision-making process.

(m) As a Licensing Sub-committee member, you will not have fettered your discretion or breached this Protocol through:

- □ listening or receiving viewpoints from residents or other interested parties;
- □ making comments to residents, interested parties, other Members or Officers, provided they do not consist of or amount to pre- judging the issue and you make clear you are keeping an open mind;
- □ seeking information from licensing officers; or
- □ having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

4.3 Disclosing Interests

4.3.1 The quorum of the Licensing Sub-committee is three (3) for the duration of the meeting. Where a Sub-committee meeting becomes inquorate during the course of the meeting, then the meeting must be adjourned to such time, place and date as may be determined by the Members present. It is therefore important that Licensing Committee members should consider their interests' position, before they volunteer to sit on a Licensing Sub-committee.

4.3.2 If you have a disclosable pecuniary interest or prejudicial interest in a matter to be considered, or being considered at a meeting, you must:

(a) disclose the interest; and
(b) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to paragraph4.3.3 of this Protocol); and unless you have been granted a dispensation:
(c) not participate in any discussion of, or vote taken on, the matter at the meeting; and
(d) withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
(e) not seek improperly to influence a decision about that business.

4.3.3 Where your disclosable pecuniary interest or prejudicial interest has been agreed by the Monitoring Officer as being a sensitive interest, you need only disclose the existence of the interest, but not its nature.

4.3.4 The responsibility for declaring a disclosable pecuniary interest or prejudicial interest rests with you.

## 5.LOBBYING

5.1 Lobbying is a normal and perfectly proper part of the political process: those who may be affected by a licensing decision may seek to influence it through an approach to their elected ward Member or a Licensing Committee/Sub-committee member. However, lobbying can, unless all parties concerned exercise care and common sense, lead to the impartiality and integrity of the Member being called into question.

4.3 As the membership composition of the Licensing Sub-committee is drawn from the membership of the Licensing Committee, Committee members should avoid any attempts by others to lobby them on particular applications where they volunteer to sit on the Licensing Sub-committee dealing with the application(s). Members' responses to approaches by applicants, objectors, licence holders or other members of the public are of critical importance if they are not to be seen to have pre-determined an application (section 7 of this Protocol). Accordingly when approached, Licensing Sub-committee members should never commit themselves to speak or vote in any particular manner or express such a firm point of view that it amounts to predetermination. In practice, Members can respond by saying that whilst they understand the person's views, they cannot commit themselves until they have addressed their minds to the full range of information at the Licensing Sub-committee meeting. Members may also advise that the person's best interests would be served by submitting their relevant representations (based on the licensing objectives) in writing, to the Licensing Team or their ward Member.

Licensing Committee/Sub-committee members should normally point out the quasi-judicial nature of the proceedings and explain that they cannot enter into discussions. Members should restrict themselves to giving

procedural advice only.

4.4 Licensing Sub-committee members should not attend private meetings with applicants or groups of objectors on their own. Such meetings, if considered helpful in order to clarify issues, should be arranged by or attended by relevant licensing officers so that those present at the meeting can be advised from the outset that the discussions will not bind the Council as licensing authority to any particular course of action and to ensure the meeting is properly recorded on the application file and disclosed when the matter is reported to the Sub-committee. The same principle applies to formal presentations which are sometimes requested by applicants particularly on major applications. Such presentations are a form of lobbying and whilst Licensing Sub-committee members at such events may quite properly ask questions and seek clarification about the proposals, they should not express views or indicate how they are likely to vote when the matter comes before the Sub-committee.

4.5 Councillors must not lobby Licensing Sub-committee members directly or indirectly, in writing or otherwise, in respect of applications to be decided by the Sub-committee, with a view to influencing their decision.

4.6 Licensing Sub-committee members should not accept invitations from individuals to discuss applications on site. Formal site visits should only be attended if they are arranged by the Licensing Sub-committee, with licensing officers present

(see section 11 of this Protocol).

## *6.* COUNCILLORS' REPRESENTATIONAL ROLE *See Appendix 1*

- Representations on an application are based on the licensing objectives and can be made by any person or their representative. Any Councillor can therefore make written relevant representations in their own right or on behalf of their constituents and subject to the rules detailed in paragraphs.6.2(b)(i) and (b)(ii) of this Protocol, can also appear at a Licensing Sub-committee meeting in accordance with the Licensing Sub-committee Hearing Procedure.

(a) Under the Council's Standing Order 35, subject to not having a disclosable pecuniary interest or prejudicial interest in the item, and subject to the Chairman's agreement, any Member may, on the giving of 24 hours' notice in writing to the Member Services Manager, be entitled to request to speak on any item(s) on the agenda of a committee, board etc *of which they are not a member* in the context of this Standing Order, 'not being a member' means not appointed to membership of the committee, board etc).

The parties to a Licensing Sub-committee meeting are the licensee and the responsible authorities/interested parties who have made written relevant representations and whilst they are allowed to expand on their representations, they cannot raise new matters. Allowing Members to

address the Licensing Sub- committee in the same way as other committees, could result in the Sub- committee's decision being open to challenge on the ground that the Sub- committee has taken into account matters which were not raised as written relevant representations in response to the notice of the application.

Therefore, with licensing applications, due to the requirement to submit written relevant representations within a specified period after notice of the application is published by the Council (as licensing authority) and it is only those representations which can then be considered by the Licensing Sub-committee, the procedure for speaking at the Licensing Sub-committee under Standing Order 35, differs from that applied to other committees etc.

(b) As a non Licensing Sub-committee member:

(i) providing you do not have a disclosable pecuniary interest or prejudicial interest in the licensing application:

you may make written relevant representations in your own right or on behalf of your constituents within the specified period after notice of the application is published by the Council. You must be able to demonstrate to the Council as licensing authority, that you have been requested to represent the person in question; and

you may appear at the Licensing Sub-committee meeting in the same way as the responsible authorities/interested parties.

(ii) if you have a disclosable pecuniary interest or prejudicial interest in a licensing application, you can still present your views or those of your constituents in the following ways:

(aa) you may make written relevant representations to Officers (not

Councillors) in your own right or on behalf of your constituents within the specified period after notice of the application is published by the Council as licensing authority providing you disclose the existence and nature of your interest and do not seek preferential consideration of your representations;

(bb) if you have been asked to represent a constituent(s), you should formally advise them about your disclosable pecuniary interest or prejudicial interest;

(cc) unless you have been granted a dispensation to appear at the Sub-committee meeting, you can arrange for another Member to represent your constituents' views at the Sub-committee meeting providing you are able to demonstrate to the Council as licensing authority, that you have been requested to represent the person in question - this Member may then appear at the Licensing Sub-committee meeting in the same way as the responsible authorities/interested parties and that Member should make it clear to the Sub-committee, that he/she is acting in the place of a Member who has a disclosable pecuniary interest or prejudicial interest in the matter.

(iii) The legal principles of 'predetermination' and 'bias' (sections 7 & 8 of this Protocol) will not apply to you, if you take no part in the Licensing Sub- committee's decision making process.

- When representing your constituents, your overriding duty is to the whole community, not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

•

(a) If you are representing an applicant or constituent in a professional capacity e.g. as a paid agent or advocate, you will have a vested interest in the outcome and therefore a prejudicial interest.

(b) If you wish to act on behalf of applicants or constituents in a professional capacity, remember that the efficacy of acting in a representative capacity, relies on you being present throughout the Licensing Sub-committee's decision making process but that, in accordance with section 4.3 of this Protocol, the efficacy of your representation is significantly reduced by the requirement on you, to leave the meeting room prior to the item being discussed and voted on.

- Any Councillor may apply/call for a review in relation to any premises in any ward within the Borough of Dartford, even when none of their constituents have approached them formally to do so and subject to not having a disclosable

pecuniary interest or prejudicial interest in a review application, may appear at any subsequent Sub-committee meeting.

- The participation of or association with action groups by Licensing Sub- committee members requires particular care. Membership or active participation may give the appearance that Members are committed to the aims of the action group and therefore to a particular view on the application, as well as giving the impression of bias. Attendance at any meetings of the action group would be inadvisable, unless it is a public meeting and attendance is on the express basis of listening only and not being committed to vote on the matter in a particular way, until all the evidence is to hand.

- To be effective in representing the views of interested parties and not mislead them about the licensing decision process, Councillors should advise that local opposition to, or support for, a licence application is not in itself grounds for refusing or granting the licence and that consideration must be given to the licensing objectives. Where opposition to, or support for a licensing application is not founded upon the licensing objectives, Councillors should avoid giving the impression that such representations can be given weight and be careful about promoting that opposition or support both before and at the Sub- committee meeting. To do so may raise false expectations of a decision, wh i c h cannot be justified when it comes to objective formal consideration, potentially resulting in disillusionment and confusion over both the decision process and the role of that Councillor.

## 7. OPEN MIND

*Predetermination (i.e. a mind that is closed to the consideration and weighing of relevant factors in the decision making itself) is a legal concept that the courts have always applied to local authority decision making and predates the Member Code of Conduct and is not altered by it.*

*A Licensing Sub-committee member with a pre-determined view on a licensing application, is disqualified from participating in the Sub-committee's decision- making on the application.*

a. Central to the determination of licensing applications by the Licensing Sub- committee, is the principle that Members who determine licensing applications should come to the Sub-committee meeting with an open mind and be ready to hear and consider all arguments relating to the application. Licensing Sub- committee members are, of course, free to form a personal opinion on a licensing application, listen to a point of view about a licensing proposal, give procedural advice and agree to forward any comments to Officers, but, if taking part in the Licensing Sub-committee's decision making process on the licensing application, should not publicly commit themselves to a particular point of view on the application prior to its full consideration at the Sub-committee meeting, as

this could be perceived by others, as the Member having closed his/her mind to hearing all the relevant licensing considerations and/or other relevant considerations.

The legal principle of predetermination applies to a decision maker when making the decision. Where for example, a Licensing Sub-committee member has publicly committed themselves to a particular point of view (e.g. supporting or opposing a proposal or declared their voting intention before the matter has been fully reported to the Licensing Sub-committee), that may amount to predetermination, were that Member to participate in the decision on that application.

b. A public statement by a Licensing Sub-committee member (who participates in the decision making process) saying that they are open to persuasion may not be sufficient to prove they are not predetermined – they must genuinely be open to persuasion. It is for the courts to determine if a decision is flawed because a Member was not open to persuasion on the merits of the case.

Example of predetermination

This application is a disaster waiting to happen. Under no circumstances could I ever support approval of this application. The applicant needs to go back to the drawing board and have a complete rethink or, ideally, he should do us all a favour and abandon this completely.

7.2 If a Licensing Committee member is 'predetermined' on an application, they cannot take part in the Licensing Sub-committee meeting deciding the application and must withdraw from the meeting room during consideration of the application. The Member may however make written relevant representations to Officers (not fellow Councillors) and/or arrange for another Member to represent their constituents' views at the Sub-committee meeting, providing they are able to demonstrate to the Council as licensing authority, that they have been requested to represent the person in question.

7.4 Licensing Sub-committee members are not prevented from having a predisposition towards a particular outcome for a licensing application as they are entitled to begin forming a view on the application as more information becomes available before the Licensing Sub-committee meeting, but if they have formed a provisional view, they must still be willing to consider all arguments presented at the Sub-committee meeting and be open to persuasion on the merits of the application, as a decision on the application can only be taken by the Sub- committee after all available information is to hand and has been duly considered. *It is important that Licensing Sub-committee members be open to any new argument at all times up to the moment of decision.*

There is a clear parallel with section 25 of the Localism Act 2011, which confirms that a councillor should not be held to have a closed mind just because they have previously indicated a view on a matter relevant to a decision.

Example of predisposition

I am very concerned about the impact of this proposal on the public nuisance licensing objective. There have been numerous complaints about music noise from the premises from mid-evening until either late evening or early morning. I want to see convincing measures within the direct control of the applicant, that this proposal will not make matters even worse.

7.5 It is important that no Licensing Sub-committee member comes to a Sub-committee meeting with a pre-determined view on any licensing application. If a Licensing Sub-committee member is seen to have predetermined their view and fettered their discretion and then takes part in the Sub-committee's decision – making process, it will put the Council at risk of a maladministration complaint or legal proceedings on the grounds of the decision being tainted with bias.

7.6 If a Licensing Sub-committee member decides in advance that they are bound to take a particular view on an application (for example because it is so controversial with constituents in their ward) then that will preclude the Member from participating in the Sub-committee's decision making process in relation to the application. In effect, the Member has to choose between publicly supporting or opposing a particular application and retaining their ability to participate in the Sub-committee's decision making process.

7.7 A Licensing Sub-committee member may consider that they run too great a risk of becoming identified with one side of the argument no matter what safeguards they take. In these circumstances, the only wise course is not to participate in the Sub-committee's decision making process on that application.

7.8 Licensing Sub-committee members may receive correspondence from constituents, applicants and licence holders asking them to support or oppose a particular proposal. Members should acknowledge the correspondence by saying that the matter has been referred to the Strategic Director. Condoning a point of view in advance of the application being reported to the Licensing Sub- committee, will raise the issue of pre-determination and will prevent the Member from fully taking part in the determination of the application.

7.9 Licensing Sub-committee members should not attend a licence application presentation unless an Officer is present and/or it has been organised by Officers. Remember that the presentation is not part of the formal process of a hearing and determination of any subsequent application.

8
BIAS

c. Licensing Sub-committee members should not form or show bias against or in favour of any particular person, company or group or any particular site or locality, nor give the

appearance of bias (bias may include pre-judged ideas based on the Member's own prejudices or political affiliations). It does not matter whether there is actual bias – the legal test for apparent bias is whether a fair minded observer aware of all the facts would conclude there was a real possibility of bias.

d. If a Licensing Committee member has formed or shown bias against, or, in favour of any particular person, or there is an appearance of bias in a particular application, they cannot volunteer to sit on a Licensing sub-committee that decides the application. The Member may however make written relevant representations to Officers (not fellow Councillors) and/or arrange for another Member to represent their constituents' views at the Sub-committee meeting, providing they are able to demonstrate to the Council as licensing authority, that they have been requested to represent the person in question

e. Participation in the decision making at a Licensing Sub-committee by a Member disqualified by bias, potentially invalidates the decision.

## 8. DUAL - HATTED MEMBERS

f. Councillors often consider issues at more than one tier of local government, including speaking and voting in all tiers. For example, councillors may be a borough/parish and county councillor.

g. Parish/Town Councils may make written relevant representations in their own right. Licensing Sub-committee members who are 'dual-hatted members' must have regard to the guidance at sections 4.3, 7 and 8 of this Protocol on interests, predetermination and bias.

## 10. LICENSING POLICY

10.1 A Licensing Committee member who participated in a Council meeting which approved the Statement of Licensing Policy/Policy Statement under respectively, the Licensing Act 2003 and the Gambling Act 2005, may sit as a Licensing Sub- committee member, providing they do not have a disclosable pecuniary interest or prejudicial interest or have not fettered their discretion through pre-etermination or bias.

## 11. SITE VISITS

11.1 Site visits are generally unnecessary in respect of licensing applications and should only be held where particular site factors cannot be ascertained from plans provided with the application. Where a site visit is deemed necessary, it will be part of the Licensing Sub-committee's formal hearing process. No representations from the applicant or other interested parties

will be heard or accepted on site. No indication of the likely outcome of the application will be given on site.

11.2 Interests: Any Councillor (including Licensing Sub-committee members) with a disclosable pecuniary interest or prejudicial interest in a licensing application, must not attend a site visit relating to that application.

11.3 Predetermination (approaching a decision with a closed mind): Licensing Sub-committee members who have fettered their discretion by publicly committing themselves to a particular point of view (e.g. supporting or opposing a licensing application or declaring their voting intention or a firm view on the merits of an application before the Sub-committee meeting) cannot attend the site visit relating to that application. Members in this position should be mindful that they must not attempt to lobby other Sub-committee members about the matter at any time nor should they attempt to use their status as a Member to influence consideration of a submission, or try to get officers to change a decision or recommendation.

11.4 Bias: Where a Licensing Sub-committee member's interest in the licensing application may give rise to an appearance of potential bias, they should not participate in the site visit.

11.5 Predisposition (without amounting to apparent bias): Where Licensing Sub- committee members have formed a provisional view towards a particular outcome, but remain prepared to consider and weigh relevant factors in reaching the final decision, they may attend a site visit and raise questions etc.

## 12. COUNCIL'S LICENSING APPLICATIONS

12.1 Where the Council applies for a premises licence for open spaces or for buildings that it owns, or where there is a variation application or review in respect of such open spaces or buildings, the Licensing Sub-Committee must hear and determine the application or review in exactly the same way as other applications and reviews. Licensing Sub-committee members must have no regard to the interests of the Council itself, aside from receiving written relevant representations on the application.

12.2 If a Licensing Committee member has taken a role in the decision to submit the application, they must not sit on the Licensing Sub-committee, which determines the application.

## 13. TRAINING

h. Specialised training sessions are designed to extend Members' knowledge of licensing law, regulations, procedures and codes of practice and thus assist them in carrying out their role properly and effectively.

i. Licensing Committee members are required to attend training on the Member Code of Conduct and the application of disclosable pecuniary interests, prejudicial interests, predetermination and bias in the decision making context. Members who fail to attend such training are excluded from meetings of the Licensing Sub-committee until they have been trained.

## 14. OMBUDSMAN & COMPLAINTS ABOUT THE ADMINISTRATION OF LICENSING APPLICATIONS

j. The Commission for Local Administration ('the Ombudsman') is a principal mechanism for accountability in respect of local authority administration, and constitutes an independent system for the investigation and resolution of complaints of injustice caused by the maladministration (with injustice or without injustice) of local authorities (and of certain other bodies).

k. Members of the public who claim to have sustained injustice in consequence of maladministration in connection with action taken by or on behalf of the Council, can bring a complaint, or can have a complaint brought on their behalf, and on occasions may ask Councillors to take a complaint forward on their behalf.

l. Although complainants can approach the Ombudsman at any time, the Council must first be given an opportunity to answer the complaint, through its Corporate Complaints Procedure. The Ombudsman may ask what efforts, if any, have been made to resolve concerns personally and locally, and may encourage and assist complainants to make this effort.

m. The Ombudsman has discretion as to whether or not to investigate a complaint, although such discretion must be exercised reasonably.

n. In assessing a complaint, the Ombudsman will not be concerned with the nature, quality or reasonableness of the decision itself. Of concern, will be the manner in which the Licensing Sub-committee decisions are reached and the manner in which they are, or are not, implemented.

o. The five most common causes of maladministration relate to:

• unreasonable delay in taking appropriate action;

• failure to provide adequate information, explanation or advice to users;

• failure to take appropriate action;

• taking incorrect action;

• failure to investigate an issue properly.

p. Appeals against refusal of a licensing application are dealt with by the Magistrates' Court.

## 15. COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS PROTOCOL

Allegations of any failure to meet this Protocol must be made in writing, to the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may result in an investigation and a hearing before the Hearing Panel.

## 16. OVERSEEING COMPLIANCE WITH THIS PROTOCOL

The Audit Board oversees compliance with this Protocol.

## 17. FURTHER GUIDANCE

Further advice or clarification can be sought from the Head of Legal Services & Monitoring Officer.

Adopted by the Licensing Committee 19.12.2012 [Min.No.11] Enorsed by the Audit Board 09.01.2013 [Min.No.43]
Amended under delegated authority -21 December 2021

APPENDIX 1 - A COUNCILLOR'S REPRESENTATIONAL ROLE – DEVELOPMENT CONTROL BOARD AND LICENSING SUB-COMMITTEE

| | | |
|---|---|---|
| Board members **OR** members | Disclosable Pecuniary Interest or Prejudicial<br>↓<br>Can make | Unless granted a dispensation, **cannot** represent constituents at Board/Sub-committee meeting or take part in the decision making process and must leave the meeting room during the discussion and vote<br><br>Make written representations to officers in own right or on behalf of constituents and if not granted a dispensation, arrange for another Member to attend |

| | | |
|---|---|---|
| | Predisposed to a view | **Can** represent constituents and take part in the debate and decision making process |
| | Predetermined view or biased or perception of predetermination or appearance of bias | **Cannot** represent constituents at a Board/Sub-committee meeting or take part in the decision making process and must leave the meeting room during the discussion and vote |
| | ↓ | |
| | Can make representations by other means | ↓ |
| | | Written representations to officers in own right or on behalf of constituents and/or arrange for another Member to attend Board/Sub-committee meeting to represent constituents' views |
| Non DC Board members representing constituents at | Disclosable Pecuniary Interest or Prejudicial Interest | Unless granted a dispensation, **cannot** represent constituents at a Board meeting/Sub-committee meeting and must leave the meeting room during the discussion and vote |
| OR | | |
| Non Licensing Sub- representing constituents at sub-committee hearings | ↓ Can make | Written representations to officers in own right or on behalf of constituents and if not granted a dispensation, arrange for another Member to attend Board/Sub-committee meeting to represent constituents' views |

The principles of predetermination or bias or perception of predetermination or appearance of bias, do not apply to Members who do not

## SITE VISITS – DEVELOPMENT CONTROL BOARD AND LICENSING SUB-COMMITTEE

| | | |
|---|---|---|
| All Councillors | Disclosable Pecuniary Interest or Prejudicial Interest | **Cannot** attend a site visit |
| Development Control Board and Licensing Sub-committee members | Predetermined view or biased or perception of predetermination or appearance of bias | **Cannot** attend a site visit - no lobbying etc permitted |

## Legal/Member Code of Conduct/ Flowchart on Councillor Representational Role

Council - 30 July 2007 [Min.No.52] Agreed by Cabinet – 25.04.2013 [Min. No. 181] Reviewed and adopted by the Audit Board 13.5.2013 [Min.No.5] Reviewed under Strategic Directors' delegated authority – 29 June 2020

# 9. PROBITY IN PLANNING PROTOCOL

## 1. INTRODUCTION

1.1 Maintaining high ethical standards enhances the general reputation of the Council, its Members and its Officers. Open and transparent decision-making enhances local democracy and should lead to better informed citizens. A common understanding of the various roles, responsibilities and accountabilities should also enhance citizen participation.

1.2 Members are guided by the Member Code of Conduct. Officers are guided by the Employee Code of Conduct. Chartered Town Planners will also be guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct.

1.3 The basis of the planning system is the consideration of private proposals against wider public interests. The successful operation of the planning system relies on mutual trust and understanding of each other's role. It also relies on both Members and Officers ensuring that they act in a way that is not only fair and impartial, but is also clearly seen to be so. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Development Control Board members have a special duty to their ward constituents, including those who did not vote for them, their over-riding duty is to the whole community. Councillors should not favour any individuals or groups and not put themselves in a position where they appear to do so. Although Councillors may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Councillors must, therefore, represent their constituents as a body and vote in the interests of the whole Borough. Councillors who do not feel that they can act in this way should consider whether they are best suited to serving on the Development Control Board.

1.4 This Protocol guides Members and Officers in the discharge of the Council's statutory planning functions and informs potential developers and the public generally, of the high standards of ethical conduct adopted by the Council, in the exercise of its planning functions. This Protocol supplements the Member Code of Conduct and the Employee Code of Conduct.

1.5 Reference to 'Development Control Board member(s)' in this Protocol, means a Member(s) who has been appointed to the Board's membership and includes a Member who may substitute for a Board member at a Board meeting or site visit.

## 2 THE PLANNING SYSTEM

2.1 Planning is not an exact science. Rather, it relies on informed judgement within a firm policy context. It is often highly contentious, because decisions of the Council, as local planning authority, affect the daily lives of everyone and the private lives of individuals, landowners and developers. This is heightened by the openness of the system, which actively invites public opinion before taking decisions and is reinforced by the legal status of development plans and decision notices. It is essential, therefore, that the planning process is characterised by open and transparent decision-making, that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members and Officers are held accountable for those decisions.

2.2 One of the key purposes of the planning system is to ensure that development takes place through a framework, whereby the public interest is well represented at every point, from the preparation of development plans and policies, the determination of planning applications and in undertaking enforcement action. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important therefore, that the Development Control Board should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable planning reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way.

2.3 The Human Rights Act 1998, and in particular Article 6, is concerned with guaranteeing procedural fairness in the determination of civil rights and obligations, especially the entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal. These principles are at the heart of the planning system. The Human Rights Act 1998, therefore, provides additional safeguards for citizens and encourages the application of best practice in the planning process.

## 3. THE COUNCIL'S DECISION-MAKING FRAMEWORK

3.1 The Development Control Board determines planning applications. The Cabinet is responsible for preparing/formulating the Core Strategy and other documents which form part of the statutory development plan; Supplementary Planning Documents (SPDs) and the Community Infrastructure Levy (CIL). The General Assembly of the Council (the GAC), adopts the development plan documents and the Community Infrastructure Levy. In the future, it will adopt Neighbourhood Plans, should they come forward. The responsibilities of the GAC, the Cabinet and the Development Control Board are set out in their

Terms of Reference. The Local Development Framework Members' Working Group (LDF MWG) is responsible under its Terms of Reference, for acting in an advisory role to the Cabinet, in the preparation of the various stages of the Development Plan, SPDs and the CIL.

3.1.1 When determining planning applications, the Development Control Board must have regard to the statutory Development Plan, Government Guidance set out in the National Planning Policy Framework (NPPF) and SPDs, together with other material considerations. Applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

## 4 CODE OF CONDUCT

4.1.1 The adopted Member Code of Conduct states:

'You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.'

'You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.'

'You must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those decisions and actions.'

'You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.'

4.1.2 The Member Code of Conduct covers issues central to the preservation of an ethical approach to Council business, including the need to ensure appropriate relationships with other Members, Officers and the public, which will impact on the way in which Councillors participate in the planning process. The following 'guiding principles' (explained in detail elsewhere in this Protocol), should assist you in complying with the Code.

4.1.2.1 Planning officers' views, opinions and recommendations are presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Development Control Board or its members. You must never seek to pressure Officers to provide a particular recommendation - this does not prevent you from asking questions or submitting views to Officers, which may be incorporated in a committee report.

4.1.2.2 Do not seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable pecuniary interest or

prejudicial interest in a proposal, using your position to discuss that proposal with Officers or fellow Councillors, when members of the public would not have the same opportunity to do so.

4.1.2.3 If you propose to take part in the Development Control Board's decision making process, you must not give grounds to doubt your impartiality by:

- making public statements about a pending decision before the Development Control Board meeting where it can be anticipated that the information required to take a decision will be available – such public statements could be seen as you prejudging a decision, or being biased in respect of, or be seen to be prejudging or demonstrating bias in respect of, the decision;
- by indicating or implying your support or opposition to a proposal, or declaring your voting intention, before the meeting. Anyone who may be seeking to influence you must be advised that you will not formulate an opinion on a particular matter until all available information is to hand and has been duly considered at the relevant meeting.

4.1.2.4 When making a decision on a planning application, you may have to take account of different points of view or make decisions based on specified statutory criteria. It is your duty to ensure that decisions are properly taken and that the parties involved in the process are dealt with fairly. In making any decision, you should only take into account relevant and material considerations and you should discount any irrelevant or immaterial considerations.

4.1.2.5 To reduce the risk of your, or the Development Control Board's decisions being legally challenged, you must not only avoid impropriety, but must at all times avoid any occasion for suspicion and any appearance or perception of improper conduct. The responsibility for this rests with you.

4.1.2.6 Do not accept gifts, benefits or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum. Remember to notify the Monitoring Officer of the offer and your acceptance of any gift, benefit or hospitably where its value is over £100.

4.1.2.7 If you have a disclosable pecuniary interest or prejudicial interest in an item under discussion at the Development Control Board meeting:

4.1.2.7.1 unless you have a dispensation, you must not participate in the discussion and vote on the item and cannot be present in the public gallery/meeting room to observe the debate;

4.1.2.7.2 you must not make representations to Development Control Board members - written representations should be submitted to Officers;

4.1.2.7.3 you should approach other fellow Councillors to represent your constituents' views;

4.1.2.7.4 you must not attempt to lobby Development Control Board members about the matter, before, during or after a Board meeting/site visit, attempt to use your status as a Member to influence consideration of a submission, or try to get Officers to change a decision or recommendation;

4.1.2.7.5 you should avoid discussing your personal planning application with other Councillors and cannot ask a fellow Councillor to represent you at a Board meeting or make written representations on your behalf, on a personal planning application.

These rules apply to all members of the Council.

4.1.2.8 Be aware that a presentation by a developer, professional agent or applicant/landowner is a form of lobbying and you must not express any strong view or state how you or other Members might vote. Do refer those who approach you for planning, procedural or technical advice to Officers.

4.1.2.9 Do not agree to any formal meeting with applicants, developers or groups of objectors unless an Officer is present.

4.1.2.10 Notify the Monitoring Officer if you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts, benefits or hospitality).

4.1.2.11 If, as a Development Control Board member, you have decided in advance that you will take a particular view on a planning application or that on an objective analysis of the facts, a fair minded observer would conclude that there is a real possibility of bias on your part, you:

- must not participate in the discussion and vote on the item;
- cannot be present in the public gallery/meeting room to observe the debate;
- must not make representations to Development Control Board members - written representations should be submitted to Officers;
- should approach other fellow Councillors to represent your constituents' views;
- must not attempt to lobby Development Control Board members about the matter, before, during or after a Board meeting/site visit, attempt to use your

status as a Member to influence consideration of a submission, or try to get Officers to change a decision or recommendation.

4.1.2.12 Where you have a responsibility for making a formal decision, you must not only act fairly, but also be seen as acting fairly ('quasi-judicially') in the decision-making process.

4.1.2.13 As a Development Control Board member, you will not

have fettered your discretion or breached this Protocol through:

4.1.2.13.1 listening or receiving viewpoints from residents or other interested parties;

4.1.2.13.2 making comments to residents, interested parties, other Members or Officers, provided they do not consist of or amount to pre- judging the issue and you make clear you are keeping an open mind;

4.1.2.13.3 seeking information from planning officers; or

4.1.2.13.4 being a vehicle for the expression of opinion or speaking at the meeting as a ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

NB: Central to a Court of Appeal case (Wokingham Borough Council. v. Scott and others [2019] EWCA Crim 205), was disclosure of emails from councillors' personal email accounts, which had been used to communicate with other councillors and planning officers about a planning related matter. This case highlighted the need to be aware of the effects of statements made by councillors and officers in the minds of potential defendants and to be alive to the need to conduct discussions with good sense on each side and in good faith.

4.1.3 Disclosing Interests

4.3.1 If you have a disclosable pecuniary interest or prejudicial interest in a matter to be considered, or being considered at a meeting, you must:

(a) disclose the interest; and
(b) explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent (subject to paragraph4.3.2 of this Protocol); and unless you have been granted a dispensation:
(c) not participate in any discussion of, or vote taken on, the matter at the meeting; and
(d) withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
(e) not seek improperly to influence a decision about that business.

4.3.2 Where your disclosable pecuniary interest or prejudicial interest has been agreed by the Monitoring Officer as being a sensitive interest, you need only disclose the existence of the interest, but not its nature.

4.3.3 The responsibility for declaring a disclosable pecuniary interest or prejudicial interest rests with you.

## 5 POLICY AND STRATEGIC ISSUES

5.1 As a Councillor, you may discuss or debate matters of policy or strategy, even though these may provide the framework within which individual applications will in due course be decided by the Development Control Board. Therefore, if you have a key role in establishing planning policies for the area, you are fully entitled to express your views or advocate proposals for the making, approval or amendment of the Development Plan, including SPDs published by the Council as local planning authority, both relating to general policies for the Borough of Dartford and to briefs and master plans prepared for specific sites in anticipation of planning applications.

5.1.1 The Development Control Board may also be asked to comment on requests to the Council as local planning authority for a provisional view as to whether - in respect of a proposal for a major development, the Council (as local planning authority) might be minded, in principle, to consider granting planning permission. This may occur in cases where developers are seeking the planning authority's view in advance of committing to expensive and lengthy technical appraisals. The Development Control Board may form a provisional view and as a member of the Board, you are entitled to express an opinion in advance of the statutory application for planning permission being submitted to the Board formally for determination. However, you must not express a view once the application has been received, as this could compromise your and the Board's impartiality (see sections 9 & 10 of this Protocol on predetermination and bias).

## 6 DEVELOPMENT PLAN PREPARATION

6.1.2 Cabinet Members may be involved in discussions with a number of third parties over development proposals within the Borough and may also themselves have ideas on the future development of/within the Borough. Members should always be mindful that third parties may wish to influence them over the Development Plan's content, for their own or others' personal benefit.

6.1.3 Cabinet members must exercise their own judgement in deciding whether they might be influenced or could be seen as being influenced over the LDF's preparation. If it could be reasonably considered that discussions with third parties are such as to lead Members to be influenced or seen to be influenced, the following should apply;

- any discussions with the third party over the contents of the Development Plan should be recorded and submitted to the Head of Planning Services;

- where a third party is lobbying to advance a particular site or policy stance for inclusion in the Development Plan, any meetings with that third party should be recorded and be held in the presence of the Head of Planning Services or a nominated representative. Similarly, any Officer should only hold such discussions in the presence of a colleague.

6.1.4 In any discussion with the third party, Members should make it

clear:

6.1.4.1 that consideration of any particular proposal will have to be judged against the advice of professional Officers of the Council and the statutory planning framework;

6.1.4.2 that it is for the Council to make the final decision through its formal decision making procedures.

6.1.5 Should a Cabinet member with portfolio responsibility for strategic development be able to vote on planning applications? The appropriate action is not clear cut and will depend on the circumstances of a particular case. However, the general advice is that a Member in such circumstances, may well be so committed to a particular view as a result of their Cabinet/portfolio responsibility, that they may not be able to demonstrate that they are able to take account of all material considerations before a final decision on a planning application is reached (see sections 9 & 10 of this Protocol on predetermination and bias).

## 7. REPRESENTING CONSTITUENTS See Flowchart at Appendix 1

7.1 Under the Council's Standing Order 35, subject to not having a disclosable pecuniary interest or prejudicial interest in the item, and subject to the Chairman's agreement, a non-Development Control Board member may, on the giving of 24 hours' notice in writing[1] to the Democratic Services Manager, request to speak on any item(s) on the Board's agenda. The decision to accept such a request will be at the Chairman's discretion and his/her decision will be final.

Please note that Councillors cannot 'stand in' for a speaker who has registered to speak at the Board meeting (see section 7.5 of this Protocol).

As a non-Development Control Board member:

(i) If you have a disclosable pecuniary interest or prejudicial interest, you can still present your views or those of your constituents in the following ways:

(aa) you can make written representations to Officers (not fellow Councillors), providing you disclose the existence and nature of your interest and do not seek preferential consideration for your representations;

(bb) if you have been asked to represent a constituent(s), you should formally advise them about your disclosable pecuniary interest or prejudicial interest;

(cc) unless you have been granted a dispensation to appear at the Board meeting, you can arrange for another Member to represent your constituents' views at the Board meeting - this Member should make it clear to the Development Control Board that he/she is acting in the place of a Member who has a disclosable pecuniary interest or prejudicial interest in the matter.

(ii) The legal principles of 'predetermination' and 'bias' (sections 9 & 10 of this Protocol) will not apply to you, as you take no part in the Board's decision making process.

7.2 As a Development Control Board member, if you have a disclosable pecuniary interest or prejudicial interest in an application before the Development Control Board, you can still present your views or those of your constituents to the Board meeting through the ways described in section 7.1(b)(i) of this Protocol.

7.3 When representing your constituents, your overriding duty is to the whole community, not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

7.4 If you are representing an applicant or constituent in a professional capacity e.g. as a paid agent or advocate, you will have a vested interest in the outcome and therefore a prejudicial interest.

If you wish to act on behalf of applicants or constituents in a professional capacity, remember that the efficacy of acting in a representative capacity, relies on you being present throughout the Development Control Board's decision making process but that, in accordance with section 4.3 of this Protocol, the efficacy of your representation is significantly reduced by the requirement on you, to leave the meeting room prior to the item being discussed and voted on. Planning applications involving representation by councillors in a professional capacity, will be reported to the Development Control Board as main items, and not dealt with by Officers under delegated powers.

7.5 The Board's decision making process must be seen to be fair and impartial from the perspective of an external observer. Therefore, Councillors cannot 'stand in' for a speaker who has registered to speak at the Board meeting[2] To do otherwise, could leave the Board decision making process open to accusation of partiality or undue influence.

[1] Includes notification by email

## 8. MEMBERSHIP OF LOBBY, CAMPAIGN GROUPS & CLUBS & SOCIETIES (UNINCORPORATED ORGANISATIONS)

8.1 If the matter to be discussed at a Development Control Board meeting has a direct impact on a lobby, campaign group or club or society

of which you are a member, you will most likely have a prejudicial interest. 'Direct impact' in this context means anything that directly affects the rights and obligations of a group, club etc - e.g. a planning application submitted by a lobby group.

8.2 Matters that relate to the issues on which a group campaigns or has expressed public opinions about, without affecting the operation of the group directly, has an indirect impact on that group. If the matter to be discussed at a Development Control Board meeting relates indirectly to a lobby or campaign group of which you are a member, you may, depending on the facts, have a prejudicial interest. You need to consider the following factors in determining whether you have a prejudicial interest in a matter of indirect impact:

(i) the nature of the matter to be discussed;
(ii) the nature of your involvement with the lobby or campaign group;
(iii) the publicly expressed views of the lobby or campaign group;
(iv) what you have said or done in relation to the particular issue.

8.3 Your membership of, or you leading or representing an organisation whose primary purpose is to lobby to promote or oppose planning proposals may raise bias and predetermination considerations (see section 9 & 10 of this Protocol).

8.4 It is possible that, in certain circumstances, membership of a private club or society could give rise to a prejudicial interest or bias or predetermination considerations.

[2] Refer to the Protocol for Public Speaking at Development Control Board

[3]

## 9. KEEPING AN OPEN MIND

*Predetermination (i.e. a mind that is closed to the consideration and weighing of relevant factors in the decision making itself) is a legal concept that the courts have always applied to local authority decision making and predates the Member Code of Conduct and is not altered by it*

*A Development Control Board member with a pre-determined view on a planning application, is disqualified from participating in the Board's decision- making on the application.*

9.1 Central to the determination of planning applications by the Development Control Board, is the principle that Members who determine planning applications should come to the Board meeting with an open mind and be ready to hear and consider all arguments relating to the application. Development Control Board members are, of course, free to

form a personal opinion on a planning application, listen to a point of view about a proposal, give procedural advice and agree to forward any comments to Officers, but should not publicly commit themselves to a particular point of view on a planning application prior to its full consideration at the Development Control Board meeting, as this could be perceived by others, as the Member having closed his/her mind to hearing all the relevant considerations and/or other relevant considerations.

The legal principle of predetermination applies to a decision maker when making the decision. Where for example, a Development Control Board member has publicly committed themselves to a particular point of view (e.g. supporting or opposing a proposal or declared their voting intention before the matter has been fully reported to the Development Control Board), that may amount to predetermination, were that Member to participate in the decision on that application.

9.2 A public statement by a Development Control Board member saying that they are open to persuasion on a particular application, may not be sufficient to prove they are not predetermined – they must genuinely be open to persuasion of the planning merits of the decision in question. It is for the courts to determine if a decision is flawed, because a Member was not open to persuasion on the merits of the case.

### Example of predetermination

This proposal is a disaster waiting to happen. Under no circumstances could I ever support approval of this application. The applicant needs to go back to the drawing board and have a complete rethink or, ideally, he should do us all a favour and abandon this completely.

9.3 If a Development Control Board member is ‘predetermined’ on an application, they will be disqualified from taking part in the Board meeting and decision- making process on the application and must withdraw from the meeting room during consideration of the application. A ‘predetermined’ Board member may however, make written representations to Officers (not fellow Councillors) and/or arrange for another Member to represent their constituents’ views at the Board meeting.

9.4 Development Control Board members are not prevented from having a predisposition (i.e. preparedness to consider and weigh relevant factors in reaching the final decision) towards a particular outcome for a planning application as they are entitled to begin forming a view on the application as more information becomes available before the Board meeting, but if they have formed a provisional view, they must still be willing to consider all arguments presented at the Board meeting and be open to persuasion on the merits of the application, as a decision on the

application can only be taken by the Board after all available information is to hand and has been duly considered. *It is important that Development Control Board members be open to any new argument at all times up to the moment of decision.*

There is a clear parallel with section 25 of the Localism Act 2011, which confirms that a councillor should not be held to have a closed mind just because they have previously indicated a view on a matter relevant to a decision.

### Examples of predisposition

- I am very concerned about the impact of this proposal on the local highway network. It already takes 25 minutes to get through the crossroads at peak times. I want to see convincing evidence from the applicant that this proposal will not make matters even worse.

- This proposal is in the Green Belt and the proposed extension would be inappropriate development. Its design does not seem to be particularly sympathetic to its surroundings. In such a prominent location, there is real potential for such a development to have a very damaging effect on the open character of the area. Green Belt development needs to be handled particularly sensitively. Therefore, unless the applicant can convince me that this would be an appropriate development in the Green Belt or there are very special circumstances why it should be approved, then I cannot currently see how I will be able to support this application. The applicant needs to make a stronger case and provide more information.

9.5 A Development Control Board member will not have fettered their discretion merely by listening to and receiving representations from residents or interested parties, making comments to such people or being a vehicle for the expression of local opinion at a Board meeting, provided they make it clear that they are not already committed to voting in accordance with those views.

9.6 It is important that no Development Control Board member comes to a Board meeting with a pre-determined view on any planning application. If a Development Control Board member is seen to have predetermined their view and fettered their discretion and then takes part in the Board's decision – making process, it will put the Council at risk of a maladministration complaint or legal proceedings on the grounds of the decision being tainted with bias.

9.7 If a Development Control Board member decides in advance that they are bound to take a particular view on an application (for example because it is so controversial with constituents in their ward) then that will preclude the Member from participating in the Board's decision - making process in relation to the application. In effect, the Member has to choose between publicly supporting or opposing a particular application and retaining their ability to participate in the Board's decision-making

process.

Explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

9.8 A Development Control Board member may consider that they run too great a risk of becoming identified with one side of the argument no matter what safeguards they take. In these circumstances, the only wise course is to withdraw from the Board's decision-making process on that application.

9.9 Development Control Board members may receive correspondence from constituents, applicants and developers asking them to support or oppose a particular proposal. Members should acknowledge the correspondence by saying that the matter has been referred to the Head of Planning Services. Condoning a point of view in advance of all the planning considerations of a proposal being reported to the Development Control Board will raise the issue of pre-determination and will prevent the Member from fully taking part in the determination of the application.

9.10 Development Control Board members should not attend a planning presentation unless an Officer is present and/or it has been organised by Officers. Remember that the presentation is not part of the formal process of debate and determination of any subsequent application.

## 10. BIAS

10.1 A Development Control Board member should not form or show bias against, or, in favour of any particular person, company or group or any particular site or locality, nor give the appearance of bias (bias may include pre-judged ideas based on the Member's own prejudices or political affiliations). It does not matter whether there is actual bias – the legal test for apparent bias is whether a fair minded observer aware of all the facts would conclude there was a real possibility of bias.

If a Development Control Board member has formed or shown bias against, or, in favour of any particular person, or there is an appearance of bias in a particular application, the Member will be disqualified from taking part in the Board meeting and decision-making process, but may make written representations to Officers (not fellow Councillors) and/or arrange for another Member to represent their constituents' views at the Board meeting.

Example - You are a member of the Development Control Board and have made a particular issue a centrepiece of your election campaign, or were elected on the basis of a single-issue campaign, but are not a member of a related lobby group. Here, you will not have a prejudicial interest. However, you still need to consider whether you are genuinely open to persuasion about the matter.

Example - You are a member of the Development Control Board and a director of a housing association with an interest in tendering for the delivery of the affordable housing scheme part of the development. In your capacity as director of the housing association, you will be automatically disqualified from participating in the decision making process on the planning application by reason of the appearance of bias i.e. the interest of the housing association and your interest as director of the housing association in having the planning permission approved, are aligned[3].

10.2 Participation in the decision-making at Development Control Board by a Member disqualified by bias, potentially invalidates the decision.

## 11. DUAL - HATTED MEMBERS

11.1 Councillors often consider issues at more than one tier of local government, including speaking and voting in all tiers. For example, councillors may be a borough/parish and county councillor.

11.2 Parish/Town Councils are consultees on planning applications. A Development Control Board member who is also a Parish/Town Councillor may take part in the debate on a planning application at the Parish/Town Council provided they:

(i) do not have a disclosable pecuniary interest or prejudicial interest in the application;

(ii) make it clear to the Parish/Town Council as consultee body:

- that their views are expressed on the limited information before them; and

- that they reserve judgement and the independence to make up their own mind on the application, based on their overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Development Control Board and they hear all of the relevant information; and

- that they will not in any way commit themselves as to how they or others may vote when the application comes before the Board.

11.3 The principles referred to in paragraph11.2 above, apply to the Council's Development Plan proposals that particularly affect a parish. Subject to not having a disclosable pecuniary interest or prejudicial interest, a Member may speak and vote on an issue relating to the Council's Development Plan that particularly affects their parish.

11.4 A Parish/Town Councillor who also sits on the Development

Control Board will have a prejudicial interest in a planning application submitted by their Parish/Town Council.

## 12. PRE-APPLICATION DISCUSSIONS

Discussions between a potential applicant and the Council as local planning authority prior to the submission of an application, can be of considerable benefit to both parties and is encouraged

12.1 Pre-application discussions should take place within clear guidelines and the same considerations should apply to any discussions which take place before a decision is taken or when the application is submitted to the Council, as local planning authority:

- it should always be made clear at the outset, that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings, not all relevant information may be at hand, nor will formal consultations with interested parties have taken place;

- advice should be consistent and based upon the Development Plan and material planning considerations, including the NPPF/SPDs. There should be no significant difference of interpretation of planning policies amongst Planning Officers. In addition, all Officers taking part in such discussions should make clear whether or not they are the decision- maker under delegated powers;

- a written note should be made of all meetings. At least one Officer should attend such meetings and a follow-up letter is advisable at least when documentary material has been left with the Council. A note should also be taken of telephone discussions, where any professional advice is given;

- care must be taken to ensure that advice is not partial, nor seen to be.

[4] Kelton v Wiltshire Council [2015] EWHC 2853 (Admin) (QBD) and see Porter v Magill [2002] 2 AC 357 for test of bias

## 13. OFFICER REPORTS

13.1 To avoid public concern and a loss of confidence in the planning system, and in order to avoid criticisms relating to inadequate consideration of the issues, inconsistency of decision-making, or claims

of unclear or non-existent reasoning behind a recommendation or no recommendation, Officers should have regard to the guidelines set out below. It is particularly important to do so, not only as a matter of good practice, but because failure may constitute maladministration, and/or give rise to judicial review on the grounds that the decision was not taken in accordance with the provisions of the Development Plan and the Council's statutory duty under Section 54A of the Act.

- reports must be accurate and cover, among other things, the substance of objections and the views of people who have been consulted;
- relevant points must include a clear exposition of the Development Plan, site or related history, and any other material considerations;
- reports must have a written recommendation of action;
- oral reporting (except to update a report) is extremely rare and must be carefully minuted when it does occur;
- reports must contain a technical appraisal which clearly justifies the recommendation;
- reports must contain an appraisal of the human rights implications relevant to the issue and which clearly justifies that any interference is 'proportionate' to the aims of the legislation;
- if the report's recommendation is contrary to the provisions of the Development Plan, the material considerations, which justify this, must be clearly stated.

13.2 Decisions Contrary to Officer Recommendation and/or the Development Plan

13.2.1 The law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise (Section 54A of the Act).

13.2.2 If the Development Control Board makes a decision contrary to the Officer's recommendation (whether for approval or refusal), the Officer should always be given the opportunity to explain the implications of the contrary decision. Unless the Board's argument against the Officer's recommendations are very clear and substantiated on planning grounds, the application should be deferred to enable the Officer to draft a further report for a subsequent meeting of the Board, outlining the implications of making a decision contrary to the Officer's recommendation. The Board's reasons must be formally recorded in the minutes.

13.2.3 When a planning application has been deferred following a resolution of 'minded to approve' or 'minded to refuse', contrary to the Officer's recommendation, then at the subsequent Board meeting, the Head of Planning Services will have the opportunity to respond both in a further written report and orally, to the reasons formulated by the Board for granting or refusing permission. If the Board is still of the same view, then it will again

consider its reasons for granting or refusing permission, and a summary of the planning reasons for that decision will be given, which reasons must then be formally recorded in the minutes of the meeting.

13.2.4 The Courts have expressed the view that reasons should be clear and convincing. The personal circumstances of an applicant will rarely provide such grounds. A notable exception is where planning policy allows for this e.g. a dwelling for an agricultural worker.

13.2.5 In the case of conditions which the Board wishes to add or amend, the Officer should be invited to draft the condition and either refer this to the Board for approval at a subsequent meeting, or agree the condition with the Board Chairman.

## 14. PLANNING APPLICATIONS SUBMITTED BY COUNCILLORS, OFFICERS AND BY THE COUNCIL

14.1 Proposals to the Council, as local planning authority, by serving and former (within the last four years) Councillors and their family or close associates etc, can easily give rise to suspicions of impropriety. Although it is perfectly legitimate for such proposals to be submitted, it is vital to ensure that they are handled in a way that gives no grounds for accusations of favouritism. Members will need to consider the rules on disclosable pecuniary interests and prejudicial interests when such applications are submitted.

Do notify the Monitoring Officer in writing, of your own application or if you have an interest in an application and note that:

- you should send the notification no later than submission of the application to the Council as local planning authority;
- your application will always be reported to the Development Control Board and not dealt with by Officers under delegated powers; and
- it is advisable that, in relation to your application, you employ an agent to act on your behalf in dealing w i t h Officers and any public speaking at the Development Control Board meeting.

14.2 Proposals for the Council's own development can take the form of either planning applications or Development Plan proposals. Such proposals can easily give rise to suspicions of impropriety. It is vital to ensure that they are handled in a way that gives no grounds for accusations of favouritism. Proposals for the Council's own development must be treated in the same way as those by private developers. The Development Control Board will normally be the appropriate forum for determining the Council's major development proposals with minor proposals being dealt with by Officers under delegated powers.

14.3 Planning Officers should not submit applications on behalf of third parties except as part of their duties as Council employees. In cases where Planning Officers or members of their family submit applications for planning permission, the Head of Planning Services should be notified and the proposals reported to the Development Control Board and not dealt with by Officers under delegated powers.

## 15. SITE VISITS

15.1 Site visits are arranged before a Development Control Board meeting and are treated as an opportunity to seek additional information and to observe the application site. The lack of any common approach on when and why to hold a site visit and how to conduct it, may leave the Development Control Board open to the accusation that it is, at best, arbitrary and unfair and, at worst, a covert lobbying device. All site visits are therefore conducted in accordance with the 'Site Visit Procedure' adopted by the Development Control Board from time to time.

15.2 Interests: Any Councillor (including Development Control Board members) with a disclosable pecuniary interest or prejudicial interest in a planning application, must not attend a site visit relating to that application.

Predetermination (approaching a decision with a closed mind): Development Control Board members who have fettered their discretion by publicly committing themselves to a particular point of view (e.g. supporting or opposing a planning application or declaring their voting intention or a firm view on the merits of an application before the Board meeting) cannot attend the site visit relating to that application. Members in this position should be mindful that they must not attempt to lobby other Board members about the matter at any time nor should they attempt to use their status as a Member to influence consideration of a submission, or try to get officers to change a decision or recommendation.

Bias: Where a Development Control Board member's interest in the planning application may give rise to an appearance of potential bias, they should not participate in the site visit.

Predisposition (without amounting to apparent bias): Where Development Control Board members have formed a provisional view towards a particular outcome, but remain prepared to consider and weigh relevant factors in reaching the final decision, they may attend a site visit and raise questions etc.

15.3 The deferral of an application for a site visit should not be on the basis of exposing Development Control Board members to local opinion, but should be on sound and proper planning grounds, which will be recorded in the minutes of the Board meeting.

15.4 Members should avoid discussing the merits of any planning application and should avoid expressing views that could be perceived as prejudicial to the determination of the application.

15.5 Planning Services will inform the ward Member of the date and time of the site visit.

15.6 A Development Control Board member who proposes the site visit should attend the site visit or arrange for a substitute Member to attend. If the site visit arises as a result of a deferral by the Board, the Member who seconds the proposal, should also attend the site visit or arrange for a substitute Member to attend.

15.7 Subject to not having a disclosable pecuniary interest or prejudicial interest in the application the subject of the site visit, ward Councillors may attend and participate in site visits.

15.8 Members should only enter a planning application site as part of an official site visit.

15.9 Prospective election candidates who are not already Council members, may attend a site visit on the same basis as members of the public.

## 16. PUBLIC SPEAKING

16.1 The Development Control Board allows for public participation in its meetings, in accordance with the 'Protocol for Public Speaking at Development Control Board Meetings'. During public speaking, the following should not occur:

- Members should not ask leading questions of Officers or speakers as by way of introducing new facts to the debate;
- Members should only ask relevant planning-related questions; and

16.2 Late evidence will only be introduced with the agreement of the Development Control Board Chairman.

## 17. ROLE OF CHAIRMAN

The Development Control Board Chairman should ensure that:

17.1 Members' comments at Board meetings only relate to the planning merits of the application before them;

17.2 Reference at Board meetings to non-planning issues by the public and or Members are discouraged;

17.3 Cross-questioning of speakers should only take place, if there is need for clarification of what a speaker has already outlined; and

17.4 Members and the public should be made aware that the late submission of representations will normally not be permitted at Board meetings, as this can lead to allegations of unfairness.

## 18. TRAINING

18.1 Specialised training sessions a r e designed to extend Members' knowledge of planning law, regulations, procedures, codes of practice and the Development Plans and thus assist t h e m in carrying out their role properly and effectively.

18.2 Development Control Board members are required to attend training on the Member Code of Conduct and the application of disclosable pecuniary interests, prejudicial interests, predetermination and bias in the decision making context. Members who fail to attend such training are excluded from meetings of the Development Control Board until they have been trained.

18.3 Training may include a balance of the following:-

- organised visits to review permissions granted, with evaluation and lessons learned presented as a paper;
- special topic groups to consider thorny issues in depth;
- formal training by internal and external speakers;
- visits to other authorities who have received good inspection/audit feedback;
- brief presentations by Officers on hot topics, e.g. new legislation, white papers and their impacts, followed by a brief question and answer session;
- attendance at inquiries, where Officers have identified there is something specific that will be of interest to Members.

## 19. OMBUDSMAN & COMPLAINTS ABOUT THE ADMINISTRATION OF PLANNING APPLICATIONS

19.1 The Commission for Local Administration ('the Ombudsman') is a principal mechanism for accountability in respect of local authority administration, and constitutes an independent system for the investigation and

resolution of complaints of injustice caused by the maladministration (with injustice or without injustice) of local authorities (and of certain other bodies).

19.2 Members of the public who claim to have sustained injustice in consequence of maladministration in connection with action taken by or on behalf of the Council, can bring a complaint, or can have a complaint brought on their behalf, and on occasions may ask Councillors to take a complaint forward on their behalf.

19.3 Although complainants can approach the Ombudsman at any time, the Council must first be given an opportunity to answer the complaint, through its Corporate Complaints Procedure. The Ombudsman may ask what efforts, if any, have been made to resolve concerns personally and locally, and may encourage and assist complainants to make this effort.

19.4 The Ombudsman has discretion as to whether or not to investigate a complaint, although such discretion must be exercised reasonably.

19.5 In assessing a complaint, the Ombudsman will not be concerned with the nature, quality or reasonableness of the decision itself. Of concern, will be the manner in which Development Control Board decisions are reached and the manner in which they are, or are not, implemented.

19.6 The five most common causes of maladministration relate to:

- unreasonable delay in taking appropriate action;
- failure to provide adequate information, explanation or advice to users;
- failure to take appropriate action;
- taking incorrect action;
- failure to investigate an issue properly.

19.7 So that complaints may be fully investigated and, in any case, as a matter of general good practice, record keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. The guiding rule is that every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved with an application, to understand what the decision was and how and why it was reached. Particular care needs to be taken with applications determined under the Scheme of Delegations for Officers, where there is no Development Control Board report. Such decisions should be documented and recorded in the same way as those taken by the Board.

19.8 Appeals against refusal of planning permission are dealt with by the Planning Inspectorate of the Department for Communities and Local Government.

## 20. COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS PROTOCOL

20.1 Allegations of any failure of a Member to meet this Protocol must be made in writing, to the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may result in an investigation and a hearing before the Hearing Panel.

20.2 Allegations of any failure of an Officer to meet this Protocol must be made in writing, to the Head of Paid Service and Monitoring Officer who will consider how the complaint or allegation should be dealt with. A breach of this Protocol by an Officer, may lead to an investigation under the Council's Disciplinary Policy and Procedure.

## 21. OVERSEEING COMPLIANCE WITH THIS PROTOCOL

The Audit Board oversees compliance with this Protocol.

## 22. FURTHER GUIDANCE

Further advice or clarification can be sought from the Head of Legal Services & Monitoring Officer.

Adopted by the Development Control Board 12 July 2007 Min. No.67
Revised and adopted by the Development Control Board
02.04.2009 Min. 200 Revised and adopted by the
Development Control Board 20.12.2012 Min.No.96
Endorsed by the Audit Board 09.01.2013 Min.No.44
Reviewed under Directors' delegated
authority- 19 January 2021 Reviewed under
delegated authority- 17 August 2021
Reviewed under delegated authority- 16 December 2021
Reviewed under delegated authority- 25 July 2022Reviewed under delegated authority – 7 September 2022

APPENDIX 1 - A COUNCILLOR'S REPRESENTATIONAL ROLE – DEVELOPMENT CONTROL BOARD AND LICENSING SUB

Development Control Board members

**OR**

Licensing Sub-committee members

Disclosable Pecuniary Interest or Prejudicial

↓

Can make

Unless granted a dispensation, **cannot** represent constituents at Board/Sub-committee meeting or take part in the decision making process and must leave the meeting

Make written representations to officers in own right or on behalf of constituents and if not granted a dispensation, arrange for another Member to attend Board/Sub- committee

Predetermined view or biased or perception of predetermination or appearance of bias

↓

Can make

**Cannot** represent constituents at a Board/Sub-committee meeting or take part in the decision making process and must leave the meeting room during the discussion and vote

↓

Written representations to officers in own right or on behalf of constituents and/or arrange for another Member to attend Board/Sub-committee meeting to represent constituents' views

Non DC Board members representing constituents at DC Board meetings

**OR**

Non Licensing Sub-committee members representing constituents at sub-committee hearings

Disclosable Pecuniary Interest or Prejudicial Interest

↓

Can make

Unless granted a dispensation, **cannot**

committee meeting and must leave the meeting

Written representations to officers in own right or on behalf of constituents and if not granted a dispensation, arrange for another Member to attend Board/Sub-committee meeting to represent constituents' views

## SITE VISITS – DEVELOPMENT CONTROL BOARD AND LICENSING SUB-COMMITTEE

Disclosable Pecuniary Interest or Prejudicial

**Cannot** attend a site visit

appearance of bias

# 11. PROTOCOL ON THE RELEASE OF CONFIDENTIAL INFORMATION

## 1. INTRODUCTION

1.1 As a Member, you will have access to a great deal of information which is confidential, either because it is personal information or because it is commercially sensitive or it is information which would not otherwise be placed in the public arena/domain. Information is a broad term. It includes facts, advice and opinions. It also covers written materials, including tapes, videos, CDs, DVDs and other electronic media. Council or committee reports issued to Members will clearly indicate if they are deemed to contain confidential or exempt information. Councillors may also receive other information from Officers which may be confidential or private.

1.2 The handling of confidential information is an essential element in the relationships of trust that should exist between Members, Officers and the public and a mishandling of such information and/or its accidental or deliberate disclosure is likely to damage trust as well as lead to formal proceedings being taken against the Council, individual Members or Officers.

1.3 The Council is committed to the principles of openness and transparency. However, in the practical application of these principles, you need to have regard to legal obligations which, in some cases, may require information to be kept confidential.

1.4 The Member Code of Conduct states '……. You should have regard to the guidance in the Council's Protocol on the release of confidential information.'

1.5 Standing Order 54 sets down the rules which you must follow in relation to inspection of and/or access to Council information. These rules are summarised in paragraph 6 of this Protocol.

1.6 The Council has policies on data protection, freedom of information, environmental information regulations, human rights and whistleblowing. Other statutory provisions may also be relevant to the disclosure of confidential information. You should seek advice from the Head of Legal Services on the application of the law if you are in doubt.

1.7 Information in documents held by the Council, belongs to the Council corporately and not to individual Officers or Members.

1.8 This Protocol supplements the Member Code of Conduct.

## 2. MEANING OF CONFIDENTIAL INFORMATION

2.1 In order to ascertain whether information is confidential, it is important to understand what is meant by a duty of confidence and how confidentiality can be established.

2.2 A duty of confidence arises when one person (the 'confident') is provided with information by another (the 'confider') in the expectation that the information will only be

used or disclosed in accordance with the wishes of the confider. This is generally known as the common law duty of confidence.

2.3 There are various ways in which a person or the Council may be under a duty of confidentiality (either explicitly or implied), such as:

(i) if the relationship is inherently confidential e.g. between client and lawyer.

(ii) if the relationship is personal e.g. it is between colleagues in circumstances that suggest an expectation of confidentiality.

(iii) if the source of the information will be put at risk if identified e.g. whistle blowers.

(iv) if it concerns personal and sensitive data about an individual.

2.4 Confidentiality is unlikely to be established where the information is already known to a wide circle or is in the public domain.

2.5 Information which at one time was to be treated as confidential may subsequently cease to be confidential by passage of time or where, in the case of exempt Information, the relevant meeting did not resolve to exclude the press and public.

2.6 Confidentiality can be agreed either verbally or in writing. However, it is not necessary for the person who supplied the information to have stated expressly that the information is confidential. For example, the fact that correspondence is not marked 'confidential' does not necessarily prevent it from being confidential. In many cases, the fact that the information is confidential may be inferred from the subject matter and the surrounding circumstances.

2.7 With the consent of the 'confider', confidentiality can be set aside.

2.8 It may be difficult to establish that a confidentiality agreement existed retrospectively. This is especially true if there is little or no evidence of an attempt having been made to restrict or protect the information at the time the information was given, but, as outlined in pararaph 2.3 of this Protocol, some relationships are inherently confidential and in those circumstances, confidentiality may well be implicit, rather than explicit.

2.9 Confidential information in the committee agenda context

The meaning of the term 'confidential' in the committee agenda context, is very restricted and tightly defined in law and will relate to information which has been supplied to the Council by a government department upon terms which prevent its disclosure to the public, or information which by law, is prohibited from being disclosed to the public. The public and press must be excluded from meetings where such information is being considered.

## 3. MEANING OF EXEMPT INFORMATION

3.1 Exempt information comprises information:

- relating to an individual;
- which is likely to reveal the identity of an individual;

- relating to the financial or business affairs of any particular person (including the authority holding the information);
- relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a minister of the crown and employees of, or office-holders under, the authority;
- in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
- which reveals that the authority proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or to make an order or direction under any enactment;
- relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

3.2 Reports in Part II of a committee agenda (referred to as 'the pink items') will relate to exempt information matters which remain confidential until the Proper Officer (i.e. the Strategic Director (Internal Services)) considers the public interest test and decides that it is in the interests of the public to release some or all of the information. In practice, this exercise is undertaken at the time the report is drafted and/or following a specific Freedom of Information or Environmental Information Regulations request.

The public and the press may be excluded from a meeting where exempt information is being considered.

## 4. OTHER CONFIDENTIAL INFORMATION

4.1 It would be a mistake to consider that it is only 'confidential information' or 'exempt information' as defined in the legislation that should be protected from disclosure. Information other than that which is to be discussed at, or is the subject of a report to, a committee meeting may be provided to you in confidence.

4.2 Information provided expressly 'in confidence' to you (whatever words are used to describe its confidential nature), should be treated as confidential information. An example might include sensitive legal, personal or financial information provided to you by Officers outside the context of a formal committee meeting, or sensitive personal information provided to you by a constituent. You must not pass on such information to third parties (such as constituents, colleague councillors or the press).

## 5. WHEN IS INFORMATION LIKELY TO BE CONFIDENTIAL?

5.1 Generally, the confidentiality or otherwise of information needs to be considered in the context of individual circumstances. By way of indicative guidance, the following categories of information would normally be treated as confidential:

(a) Where there is a legal restriction on the disclosure of information for example under the Data Protection Act 2018, contractual obligations, a court order or pending legal proceedings covered by the sub judice rule.

(b) All reports that are in Part II of committee agendas (refer to paragraphs 2.10 and 3 of this Protocol).

(c) Where information is supplied to a Member by an Officer or other person in

confidence.

(d) Matters concerning terms and conditions of employment of individual Officers or pending grievance or disciplinary proceedings.

(e) Matters concerning details of commercial negotiations.

(f) Personal information concerning an individual.

(g) Information protected by legal professional privilege (i.e. arising from a relationship of lawyer and client).

(h) Information which, given its nature, timing and context is such that a reasonable person would consider it to be confidential.

(i) Information relating to the business of working groups (there is a presumption that the business of working groups is confidential).

(j) Where the disclosure of information would normally tend to have a detrimental effect on the interests of the Council, the service users or third parties involved.

(k) Information concerning legal proceedings.

5.2 Council proceedings and printed material are generally open to the public. This should be the basis on which Members normally work, but there may be times when Members will be required to treat discussions, documents or other information relating to the Council in a confidential manner, in which case they must observe such requirements for confidentiality.

## 6. YOUR RIGHT AS A MEMBER TO ACCESS CONFIDENTIAL INFORMATION

6.1 The Council has a general commitment to openness. Your access to information and documents is therefore restricted only where there is a good reason for doing so.

6.2 You will often receive information of a private nature which is not yet public or which perhaps would not be intended to be public. There are provisions in legislation on the categories of confidential and exempt information and you must always respect and comply with the requirement to keep such information private. Legislation gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out Council duties. Such information is, however, for your individual use as a councillor and must not be disclosed or in anyway used for personal or party political advantage or in such a way as to discredit the Council. This will also apply in instances where you hold the personal view that such information should be publicly available.

6.3 You have a statutory right of access to documents concerned with business about to be transacted at a meeting of the Council, Cabinet, a Committee, Sub- committee, Board or Panel. This right can only be exercised before the matter is considered at the meeting and relates to items that are ‘to be considered’ at the meeting. The papers of working parties are not covered by this statutory right.

6.4 You have a common law right to access information on a ‘need to know’ basis. This entitles you to access information or documents that are reasonably necessary to enable you to discharge your functions as a Councillor. This would cover your role as a member of committees, sub-committees or working groups, as well as positions to which you are appointed by the Council and in the undertaking of your ward Councillor responsibilities. The right is limited to a ‘need to know’ and a mere curiosity or desire to know is not sufficient. The courts have also held that as a Councillor, you have no right to a ‘roving commission’ to examine the books or documents of the Council.

6.5 One aspect of the ‘need to know’ principle is proportionality. In asking for information and documents, you need to ensure that what you are asking (in terms of volume of documents, time needed to locate, research and collation of the information etc.), is commensurate to your ‘need to know’.

6.6 An Officer receiving a request for information from you, is entitled to know the reasons why the information is needed, so that a proper assessment of the ‘need to know’ can be made. Where you are dissatisfied with the Officer response, you may refer the matter to the Strategic Director (Internal Services) for a review. The Strategic Director (Internal Services)’s decision will be final.

6.7 You cannot demand to see a document which relates to business not yet due to come before a committee meeting. You have no automatic right to see documents which are in draft form and/or which are intended for future publication.

## 7. WHEN IS A MEMBER SUBJECT TO THE DUTY OF CONFIDENTIALITY UNDER THE MEMBER CODE OF CONDUCT?

7.1 The duty of confidentiality under the Code applies only when you are acting in an ‘official’ capacity. The information must therefore have been received and/or disclosed by you in your role as a Councillor. This should however not be interpreted as meaning confidential information which has been received in your role of Councillor, can be disclosed with impunity in a private capacity.

7.2 The duty under the Code is not limited to information supplied by Officers or the Council - it also covers information given to you in your capacity as a Councillor, by any person.

7.3 Where you are under a duty of confidentiality, you cannot disclose confidential information, except in a defined range of circumstances and subject to a number of requirements.

7.4 The defined range of circumstances

Subject to the requirements detailed in paragraph 7.5 of this Protocol:

The first defined range of circumstances is that before disclosing confidential information, you must have the consent of the person authorised to give it. This would normally be the author of the document or the Director or a Senior.

Officer of the Department for the area of service. In appropriates cases, the Chairman of the relevant committee may need to be consulted.

7.4.1 The second defined range of circumstances is that you may disclose confidential information if you are entitled by law to do so e.g. by a court order.

7.4.2 The third defined range of circumstances is that you may disclose confidential information to a third party e.g. a lawyer for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person.

7.5 The requirements

7.5.1 The first requirement that the disclosure must be reasonable, requires you to consider matters such as:

- whether you believe that the information disclosed and any matters contained in it, is substantially true. If you do not believe this, then the disclosure is unlikely to be reasonable;
- if the disclosure is made for personal gain e.g. where you are paid to disclose the information, the disclosure is unlikely to be reasonable;
- the identity of the person to whom the disclosure is made: it may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media;
- the extent of the information disclosed: the inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable;
- the seriousness of the matter - the more serious the matter, the more likely it is that the disclosure will be reasonable;
- the timing of the disclosure - if the matter to which the disclosure relates has already occurred and is unlikely to occur again, the disclosure is less likely to be reasonable than if the matter is continuing or is likely to re- occur;
- whether the disclosure involves the Council failing in a duty of confidence owed to another person.

*Points to remember*

- You must not disclose confidential information merely to make political capital/gain.
- Disclosure of confidential information to the press is rarely justified.
- You should have regard to your fiduciary duty to the Council and council taxpayers and that you have joint responsibility to avoid the disclosure of information of a commercially sensitive nature.
- Confidential information gained by you in connection with pending or ongoing litigation should not be disclosed under any circumstances, as this would amount to a breach of trust.

7.5.2 The second requirement that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness that has either happened in the past, is currently happening, or is likely to happen in the future:

(a) a criminal offence is committed.
(b) the Council or some other person fails to comply with any legal obligation to

which they are subject.

(c) a miscarriage of justice occurs.
(d) the health or safety of any individual is at risk.
(e) the environment is likely to be damaged.
(f) that information tending to show any matter falling within (a) to (e), is deliberately concealed.

*Points to remember*

- 'Public interest' has been described as something that is of serious concern or benefit to the public, not merely of individual interest. The public interest does not mean 'of interest to the public' but 'in the interest of the public'. The term is not defined in law, so you will need to make a subjective judgement, in which policy and legal interpretations are both involved to some degree.
- Because of the implications associated with releasing confidential information e.g. risk to an individual, risk to commercial negotiations etc, any decision to release such information has to be made with great care. In evaluating the effect of disclosing confidential information, it will be necessary for you to consider the full context of that disclosure, and to make a risk assessment of the disclosure. Therefore:

  a. identify the relevant public interest factors;
  b. list the factors for and those against releasing the information;
  c. evaluate the relevant public interest factors, e.g. no weight, minimal weight, moderate weight or considerable weight;
  d. determine where the balance lies.

7.5.3 The third requirement that disclosure is made in good faith, will not be met if you act with an ulterior motive, for example to achieve a party political advantage or to settle a score with a political opponent.

*Points to remember*

- The law defines good faith as a state of mind consisting in:

  (1) honesty in belief or purpose;
  (2) faithfulness to one's duty or obligation;
  (3) observance of reasonable commercial standards of fair dealing in a given trade or business; or
  (4) absence of intent to seek unconscionable advantage.

- In law, the consensus is that someone does something 'in good faith' when they do it honestly and with no ulterior motive.
- It would be prudent for you to balance any risk against the merits of disclosing confidential information. You may believe that you act 'in good faith,' in that you genuinely believe it is in the public interest to disclose certain information (such as personal information about individuals or commercially sensitive information about companies) where on a more objective test, it may not be in the public interest. An example might be the disclosure of the address of a housing benefit claimant or suspected paedophile.
- You must never release confidential information for personal gain, reward or motive.

7.5.4 The fourth requirement that you comply with the reasonable requirements of the

Council, means that before making the disclosure, you must comply with the Council's policies or protocols on matters such as data protection, freedom of information, human rights, whistleblowing and this Protocol (refer to para.8 of this Protocol for the procedure to be applied before you disclose confidential information).

*Points to remember*

- Never allow your party political interests to override the interests of the Council and council tax payers in the way that you deal with access to or the disclosure of confidential information.
- Just because communication is not labelled 'confidential', you should not assume that it is for general release. You should always consider the circumstances.
- Don't take risks.

## 8. PROCEDURE TO BE APPLIED BEFORE DISCLOSING CONFIDENTIAL INFORMATION

8.1 Where any of the defined range of circumstances do not apply (para. 7.4 of this Protocol), you must not disclose confidential information unless you have first:

(i) challenged the requirement for confidentiality, by submitting a Freedom of Information/Environmental Information Regulations request to the Freedom of Information Officer; or

(ii) made the disclosure under the Council's Whistleblowing Policy having first applied the range of requirements referred to in paras. 7.5.1 to and including 7.5.3 of this Protocol.

## 9. COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS PROTOCOL

Allegations of any failure to meet this Protocol must be made in writing, to the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may result in an investigation and a hearing before the Hearing Panel.

## 10. OVERSEEING COMPLIANCE WITH THIS PROTOCOL

The Audit Board oversees compliance with this Protocol.

## 11. FURTHER GUIDANCE

Further advice or clarification can be sought from the Monitoring Officer or the Head of Legal Services.

Adopted by the Standards Committee – 03/10/2007
[Min.No.25] Reviewed and adopted by the Audit Board
13 May 2013 [Min.No.5] Reviewed under Directors'
delegated authority- 29 June 2020

DARTFORD
BOROUGH COUNCIL

CONSTITUTION OF THE COUNCIL

# PART 7 FINANCIAL REGULATIONS & CONTRACT STANDING ORDERS

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# 7.1 DARTFORD BOROUGH COUNCILFINANCIAL REGULATIONS 2021

## 1. Introduction

These Financial Regulations:

- provide the framework for managing the Council's financial affairs and seek to ensure that the Council conducts its affairs in a way that complies with specific statutory provisions, generally accepted accounting principles and professional good practice;
- are an integral part of the stewardship of Council funds and adherence ensures that all financial transactions of the Council are conducted in a manner which demonstrates openness, integrity and transparency;
- form a significant part of the corporate governance of the Council.

B.1 Directors and Senior Managers are responsible for ensuring that all staff in their areas are aware of the existence and content of these Financial Regulations and other internal regulatory documents and that they comply with them. Non-compliance with these Financial Regulations by any staff, and with any accounting instruction notes and other corporate guidance issued by the Section 151 Officer, may constitute a disciplinary matter that will be pursued, as appropriate, in accordance with the Disciplinary and Dismissal Policy and Procedure.

B.2 The Section 151 Officer may agree to waive these Financial Regulations in order to proceed in a manner most expedient to the efficient management of the Council. Reasons must be recorded in writing.

B.3 Where conflict exists between these Financial Regulations and Standing Orders (including Contract Standing Orders), the latter will take precedence.

## 2. Financial Management

Why is this important?

All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

- Directors and Senior Managers will consult the Section 151 Officer with respect to any matter within his/her purview which is liable to affect the finances, other than provided in estimates, of the Council before any provisional or other commitment is incurred or before reporting thereon to the Cabinet.

- The Section 151 Officer is responsible for ensuring the proper administration of the financial affairs of the Council and that financial management standards and controls are in place and are effectively monitored for compliance.

C.1 ACCOUNTING

Why is it important?

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibilities for stewardship of public resources. The Council has a statutory responsibility in preparing its annual accounts to present fairly its operations during the year. These accounting records are subject to external audit. This audit provides assurance that the accounts are prepared properly, that approved accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

C.1.1 All accounting procedures, accounting policies, and financial records of the Council and its officers will be as determined by the Section 151 Officer. Any financial procedures and records maintained in other service areas are the responsibility of senior management and subject to the approval of the Section 151 Officer.

C.1.2 The Section 151 Officer will make proper arrangements for the preparation, publication and external audit of the Council's accounts in accordance with the most recent Accounts and Audit Regulations 2015. The Audit Board will approve the final version of the accounts

C.1.3 Directors and Senior Managers are required to maintain adequate records to provide an audit trail leading from the source of income/expenditure through to the accounting statements and to provide such information as required to enable the Statement of Accounts to be completed in accordance with the guidelines issued by the Section 151 Officer.

## C.2 MANAGING EXPENDITURE – CASH LIMITING RULES

Why is this important?

The cash limiting rules are intended to enable the Cabinet, Directors and Senior Managers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the General Assembly of the Council and therefore, to optimise the use of resources.

C.2.1 Key controls for the cash limiting rules are:

(a) the rules are administered by the Section 151 Officer within the guidelines set by the Council as part of the annual budget process.
(b) the overall budget is approved by the General Assembly of the Council. Directors and budget managers are authorised to incur revenue expenditure in accordance with the estimates that make up the budget.
(c) virements should not create additional overall budget liability. Directors are expected to exercise their discretion in managing their budgets responsibly and prudently in line with the exceptions list.

C.2.2 The Section 151 Officer is to prepare jointly with the Director a report to the Cabinet where a virement request is over the limit that Directors can exercise their own authority.

C.2.3 Directors are responsible for maintaining expenditure within the overall cash limit for their Directorate. Spending Officers are responsible to their relevant Director to ensure expenditure is maintained within the overall cash limit applying to their service department(s).

C.2.4 Directors are required to ensure that all Spending Officers are aware of their responsibilities and are monitoring their budgets on a regular basis, so as to report to Cabinet and highlight exception items, where appropriate.

C.2.5 The relevant Director and Spending Officer will be identified for all budgets. Any change of Spending Officer will require approval by the Section 151 Officer in agreement with the relevant Director.

C.2.6 Any proposals to raise income by increasing fees and charges, or by imposing a new charge where none existed before, must be approved by the Cabinet or under appropriate delegated authority before implementation. Such a request for approval must comply with any information requirements needed to satisfy Members.

## C.3 TREATMENT OF YEAR END BALANCES

Why is this important?

To ensure the integrity of the budget and the medium-term financial plan, it is important that year end balances are treated in accordance with agreed policies and guidelines.

C.3.1 The key control in this area is that the appropriate accounting procedures are in operation to ensure that balances and reserves carried forward are correct.

C.3.2 The Section 151 Officer is to ensure that balances and reserves are carried forward in accordance with accounting standards and general reserve guidelines agreed by the General Assembly of the Council in agreement with the Chief Officer and Director of Corporate Services

C.3.3 The Section 151 Officer will be responsible for the authorisation and expenditure from reserves in consultation with relevant Directors.

C.3.4 The Section 151 Officer is to report jointly with the relevant Director over and underspending of 5% or £20,000 (whichever is the greater) to the Cabinet on service budget.

C.3.5 Directors and Senior Managers must adhere to the guidelines set by the Section 151 Officer when providing information for the finalising of the end of year accounts and provide any information required by the Section 151 Officer to report any budget variances to Cabinet.

C.4 ACCOUNTING POLICIES

Why is this important?

The Section 151 Officer is responsible for the preparation of the Council's statement of Accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Council Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC), for each financial year ending 31 March.

C.4.1 The key controls for accounting policies are:

(a) systems of internal control are in place that ensure financial transactions are lawful
(b) suitable accounting policies are selected and applied consistently
(c) proper accounting records are maintained
(d) financial statements are prepared which present fairly the financial position of the Council and its expenditure and income

C.4.2 The Section 151 Officer is to select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the Statement of Accounts, which is prepared at 31 March each year.

C.5 ACCOUNTING RECORDS AND RETURNS

Why is this important?

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy,

efficiency and effectiveness in the use of the Council's resources.

C.5.1 The key controls for accounting records and returns are:

(a) all finance staff and budget managers operate within the required accounting standards and timetables
(b) all the Council's transactions, material commitments, contracts and other essential accounting information are recorded completely, accurately and on a timely basis
(c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
(d) reconciliation procedures are carried out to ensure transactions are correctly recorded
(e) prime documents are retained in accordance with legislative and other requirements

C.5.2 The Section 151 Officer is to determine accounting procedures and records for the Council. Where these are maintained outside Financial Services, the Section 151 Officer should consult the relevant Director.

C.5.3 The Section 151 Officer is to arrange for the compilation of all accounts and accounting records under his/her direction and to comply as far as is practical, with the following principles when allocating accounting duties:

(a) separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting or disbursing them

(b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions

C.5.4 Directors and Senior Managers must:

(a) ensure that all claims for funds including grants are made by the due date.

(b) ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention policy.

(c) consult and obtain the approval of the Section 151 Officer before making any changes to accounting records and procedures.

(d) comply with the principles outlined above when allocating accounting duties and maintain adequate records to provide a managerial trail leading from the source of income/expenditure through to the accounting statements.

(e) Directors and Senior Managers will supply information required to enable the statement of accounts to be completed in accordance with guidelines by the Section 151 Officer.

## 3. Financial Planning

MEDIUM TERM PLANNING

Why is this important?

Medium term planning involves a planning cycle in which managers and Members develop plans over a period longer than one year. As each year passes, another future year will be added to the medium term plan. This ensures that the Council is always preparing for events in advance.

D.1.1 The key controls for medium term planning are:

(a) specific budget approval for all expenditure

(b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered

(c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

D.1.2 The Section 151 Officer will:

(a) advise members on budget prospects, including resource constraints set by the Government. Reports should take account of the budget assumptions.

(b) advise on the medium term implications of spending decisions and encourage the best use of resources and value for money by working with Senior Managers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice on conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

(c) advise the General Assembly of the Council in accordance with his/her responsibilities under Section 151 of the Local Government Act 1972.

D.1.3 Directors and Senior Managers will in consultation with the Section 151 Officer and in accordance with the laid-down guidance and timetable prepare detailed draft revenue and capital budgets.

When drawing up draft budget requirements, to have regard to:

(a) spending patterns and pressures revealed through the budget monitoring process

(b) legal requirements

(c) policy requirements as defined by the General Assembly of the Council in the approved policy framework

(d) initiatives already under way

(e) working within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way

(f) Identifying opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

D.2 BUDGETING

Why is this important?

D.2.1 The format of the budget determines the level of detail to which financial control and management will be exercised. Budget management ensures that once the budget has been approved by the General Assembly of the Council, resources allocated are used for their intended purposes, in line with the Corporate Plan, and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year.

D.2.2 The key controls for the budget format are:

(a) the format complies with all legal requirements
(b) the format complies with CIPFA's Service Reporting Accounting – Code of Practice (SeRCOP)
(c) the format reflects the accountabilities of service delivery

D.2.3 The key controls for the budget management are:

(a) budget managers should be responsible only for income and expenditure that they can influence

(b) there is a nominated budget manager for each budget heading

(c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities

(d) budget managers follow an approved certification process for all expenditure

(e) income and expenditure are properly recorded and accounted for

(f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget

D.2.4 The Section 151 Officer will ensure budget management is exercised within annual cash limits unless the General Assembly of the Council agrees otherwise.

D.2.5 The Section 151 Officer will establish an appropriate framework of budgetary management and control that ensures that:

(a) each Senior Manager has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities

(b) all officers responsible for committing expenditure will comply with relevant guidance, and the Financial Regulations

(c) each budget head will have a single named manager, determined by the relevant Director or Senior Manager. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure

(d) significant variances from approved budgets are investigated and reported by budget managers regularly.

D.2.6 The Section 151 Officer will:

(a) administer the Council's cash limiting rules.

(b) submit reports to the Cabinet, in consultation with the relevant Senior Manager/s, where a Senior Manager is unable to balance expenditure and resources within existing approved budgets under his/her control.

(c) The Section 151 Officer will prepare and submit reports on the Council's projected income and expenditure compared with the budget on a regular basis.

(d) The Section 151 Officer will ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.

D.2.7 Directors will ensure:

(a) that an accountable budget manager is identified for each item of income and expenditure under the control of the Director (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.

(b) spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

D.2.8 Directors and Senior Managers will ensure prior approval by the General Assembly of the Council or Cabinet (as appropriate) for new proposals of whatever amount, that:

(a) create financial commitments in future years
(b) change existing policies, initiate new policies or cease existing policies
(c) materially extend or reduce the Council's services

D.2.9 Directors and Senior Managers will maintain budgetary control within their services to ensure that all income and expenditure are properly recorded and accounted for.

D.3 CAPITAL PROGRAMME

Why is this important?

Capital expenditure involves acquiring or enhancing fixed assets with a long term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and can create financial commitments for the future in the form of financing costs and revenue running costs.

The Council is restricted in its ability to fund capital expenditure. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of resources.

D.3.1 The key controls for capital programmes are:

(a) specific approval by the General Assembly of the Council for the capital expenditure budget

(b) expenditure on capital schemes is subject to the approval of the Section 151 Officer and the Leadership Team

(c) a process for approving capital projects and monitoring their progress

(d) schedules of schemes within the overall budget approved by the General Assembly of the Council must be submitted to the Cabinet for approval

(e) the development and implementation of an asset management plan

(f) accountability for each proposal is accepted by a named manager

(g) monitoring of progress in conjunction with expenditure and comparison with approved budget.

D.3.2 The Section 151 Officer:

(a) will prepare capital estimates jointly with Directors and Senior Managers and to report them for recommendation with the associated financing requirements to the General Assembly of the Council.

(b) will prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.

(c) will issue guidance concerning capital schemes and controls, e.g. on project appraisal techniques. The definition of ‘capital’ will be determined by the Section 151 Officer having regard to government regulations and accounting requirements.

D.3.3 Directors and Senior Managers will:

(a) obtain, authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than £50,000 or 10% (whichever is the greater).

(b) ensure that all capital proposals, above a defined cost level, have undergone a project appraisal in accordance with any guidance issued by the Section 151 Officer.

(c) comply with guidance concerning capital schemes and controls issued by the Section 151 Officer.

(d) prepare regular reports reviewing the capital programme for their services. They should also prepare a monthly return of schemes in the approved capital programme for submission to the Section 151 Officer.

(e) ensure that adequate records are maintained for all capital contracts.

(f) proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Section 151 Officer, where required.

(g) will prepare and submit reports, jointly with the Section 151 Officer, to the Cabinet, of any variation in contract costs greater than the approved limits. The Cabinet has unlimited power of virement within the capital programme.

(h) prepare and submit reports, jointly with the Section 151 Officer, to the Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the specified amount.

(i) ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Section 151 Officer and, if applicable, approval of the scheme through the capital programme.

D.4 MAINTENANCE OF RESERVES

Why is this important?

The Council must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the Identified Initiative Reserve.

D.4.1 The key controls for reserves are:

(a) To maintain reserves in accordance with the Code of Practice on Local Council Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC) and agreed accounting policies.

(b) For each reserve established, the purpose, usage and basis of transactions should be clearly identified.

(c) Authorisation of expenditure from reserves by the Section 151 Officer.

D.4.2 The Section 151 Officer will advise the Cabinet and/or the General Assembly of the Council on prudent levels of reserves for the Council, and to take account of the advice of the external auditor in this matter.

D.4.3 Directors and Senior Managers will ensure that resources are used only for the purposes for which they were intended.

## 4. Risk Management and Control of Resources

E.1 RISK MANAGEMENT

Why is this important?

All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to manage the barriers that might prevent achievement of the key objectives and to secure the assets of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

It is the overall responsibility of the Cabinet to approve the Council's risk management strategy, and to promote a culture of risk management awareness throughout the Council. The Audit Board reviews and monitors the Council's arrangements for risk management.

E.1.1 The key controls for risk management are:

(a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council

(b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuous basis

(c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives

(d) provision is made for losses that might result from the risks that remain

(e) acceptable levels of risk are determined and insured against where appropriate

(f) the Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

E.1.2 The Chief Officer and Director of Corporate Services is responsible for:

(a) preparing and promote the Council's risk management strategy and to effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

(b) The Chief Officer and Director of Corporate Services is responsible for developing risk management controls in conjunction with other Directors and Senior Managers who must also take responsibility for risk management, having regard to advice from the Chief Officer and Director of Corporate Services and other specialist officers.

E.1.3 Directors must ensure there are regular reviews of risk within their directorates in accordance with the risk management strategy and they must notify the Section 151 Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.

E.1.4 Senior Managers:

(a) will notify the Section 151 Officer immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Section 151 Officer or the Council's insurers.

(b) must notify the Section 151 Officer and the Head of Legal Services on the terms of any indemnity that the Council is requested to give, and not to enter into such indemnity without specific approval.

(c) Directors and Senior Managers must ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## E.2 INTERNAL CONTROLS

Why is this important?

The Council is a complex organisation and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives and statutory obligations.

The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage the risks.

The system of internal controls is established in order to provide measurable achievement of:

(a) efficient and effective operations

(b) reliable financial information and reporting

(c) compliance with laws and regulations

(d) risk management

Key controls

The key controls and control objectives for internal control system are:

(a) key controls should be reviewed on a regular basis and the Council should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively

(b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities

(c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems

(d) an effective internal audit function that is properly resourced. It should operate in accordance with Public Sector Internal Audit Standards and the principles contained in the CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.

E.2.1 The Section 151 Officer will assist the Council to put in place an appropriate control environment and effective internal controls, which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

E.2.2 Directors will manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

E.2.3 Directors and Senior Managers will:

(a) review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Section 151 Officer. Directors should also be responsible for removing controls that are unnecessary or not cost or risk effective – e.g. because of duplication.

(b) ensure staff have a clear understanding of the consequences of lack of control.

## E.3 INTERNAL AUDIT

Why is this important?

The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2015, regulation 5, more specifically require that "a relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance."

Accordingly, internal audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

E.3.1 The key controls for internal audit are:

(a) that it is independent in its planning and operation

(b) the Chief Audit Executive has direct access to the Head of Paid Service, all levels of management and directly to elected Members

(c) internal auditors comply with the CIPFA's Code of Practice for Internal Audit in Local Government in the United Kingdom.

E.3.2 The Section 151 Officer will ensure that internal auditors have the authority to:

(a) access Council premises at reasonable times

(b) access all assets, records, documents, correspondence and control systems

(c) receive any information and explanation considered necessary concerning any matter under consideration

(d) require any employee of the Council to account for cash, stores or any other Council asset under his/her control

(e) access records belonging to third parties, such as contractors, when required

(f) directly access the Head of Paid Service, the Cabinet and Audit Board.

E.3.3 The Audit Manager will also:

(a) recommend the strategic and annual audits plans and take account of the characteristics and relative risks of the activities involved, for approval by the Audit Board as appropriate.

(b) ensure that effective procedures are in place to investigate promptly any fraud

or irregularity.

E.3.4 Directors and Senior Managers will:

(a) ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.

(b) ensure that auditors are provided with any information and explanations that they seek in the course of their work.

(c) consider and respond promptly to recommendations in audit reports in accordance with the audit protocol.

(d) ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

(e) notify the Section 151 Officer, the Chief Officer and Director of Corporate Services and the Audit Manager immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Manager should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

(f) ensure that new systems for maintaining financial records, or records of assets, or changes to systems, are discussed with and agreed by the Section 151 Officer prior to implementation.

## E.4 EXTERNAL AUDIT

Why is this important?

The Council's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the Council and its income and expenditure for the year in question and complies with the legal requirements.

E.4.1 Our current external auditors were appointed by the Audit Commission however future auditors will be appointed by the Council in line with the procedures specified in the Local Audit and Accountability Act 2014.

E.4.2 The Section 151 Officer will:

(a) Ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.

(b) To ensure there is effective liaison between external and internal audit.

(c) To work with the external auditor and advise the General Assembly of the Council, Audit Board, Cabinet and Directors on their responsibilities in relation

to external audit.

E.4.3 Directors and Senior Managers will ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.

E.4.4 Directors and Senior Managers will ensure that all records and systems are up to date and available for inspection.

## E.5 PREVENTING FRAUD AND CORRUPTION

Why is this important?

The Council will not tolerate fraud and corruption in the administration of its responsibilities whether from inside or outside the Council.

The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

E.5.1 The key controls regarding the prevention of financial irregularities are that:

(a) the Council has an effective Counter Fraud and Corruption Strategy and maintains a culture that will not tolerate fraud or corruption

(b) all Members and staff act with integrity and lead by example

(c) high standards of conduct are promoted amongst members by the Audit Board

(d) the maintenance of registers of hospitality (Members and Officers) in which any hospitality or gifts accepted must be recorded

(e) the maintenance of registers of interest (Members and Officers)

(f) whistle-blowing procedures are in place and operate effectively

E.5.2 The Section 151 Officer will:

(a) develop and maintain an Counter Fraud and Corruption Strategy and Whistleblowing Policy.
(b) be responsible for anti-money laundering policies and practices as the anti-money laundering officer
(c) maintain adequate and effective internal control arrangements.
(d) ensure that all suspected irregularities are reported to the Audit Manager and the Head of Paid Service, as appropriate.

E.5.3 Directors and Senior Managers will:

(a) ensure that all suspected irregularities are reported to the Audit Manager Section 151 Officer and the Head of Paid Service.

(b) instigate the Council's disciplinary procedures or reference to the Section 151 Officer and Monitoring Officer (for breaches of the Member Code of Conduct) where the outcome of an audit investigation indicates improper behaviour.

(c) ensure that where financial impropriety is discovered, the Section 151 Officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.

(d) maintain any specific registers of hospitality, where relevant.

E.6 ASSETS - SECURITY

Why is this important?

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

E.6.1 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

(a) resources are used only for the purposes of the Council and are properly accounted for

(b) resources are available for use when required

(c) resources no longer required are disposed of in accordance with the law and the regulations of the Council so as to maximise benefits

(d) an asset register is maintained for the Council and assets are recorded when they are acquired by the Council and this record is updated as changes occur with respect to the location and condition of the asset

(e) all staff are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act 2018, UK GDPR and software copyright legislation

(f) all staff are aware of their responsibilities with regard to safeguarding the security of the Council's computer systems, including maintaining restricted access to the information held on them and compliance with the Council's computer e-mail and internet security policies.

E.6.2 The Section 151 Officer will ensure that an asset register is maintained in

accordance with good practice for property, plant and equipment . The function of the asset register is to provide the Council with information about fixed assets so that they are:

(a) Safeguarded

(b) used efficiently and effectively

(c) adequately maintained

E.6.3 The Section 151 Officer will also receive the information for accounting, costing and financial records from each Director and ensure that assets are valued in accordance with the CIPFA Code of Practice on Local Authority Accounting.

E.6.4 The relevant Director will maintain a property database in a form approved by the Section 151 Officer for all land and property currently owned or tenanted by the Council.

E.6.5 Where land or buildings are surplus to requirements, a recommendation for sale should be made to the Section 151 Officer.

E.6.6 Directors and Senior Managers are responsible:

a) To ensure that lessees and other prospective occupiers of Council land do not take possession or enter the land until a lease or other contractual agreement has been established.

b) To ensure the proper security of all buildings and other assets under their control.

c) To ensure that any health and safety issues arising from Council owned property are brought to the attention of the Property Services Manager or the Housing Maintenance Manager if relating to Housing Stock.

d) To ensure that no Council asset is subject to a personal use by an employee without proper authority.

e) To ensure the safe custody of vehicles, equipment, furniture, stock stores and other property belonging to the Council.

f) To ensure that the section maintains a register (inventory) of moveable assets in accordance with arrangements defined by the Section 151 Officer.

g) To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.

h) To ensure cash holdings on premises are kept to a minimum.

i) To ensure that keys to safes and similar receptacles are kept secure at all times; loss of any such keys must be reported to the Section 151 Officer as soon as possible.

j) To record all disposal or part exchange of assets that should normally be by

competitive tender or public auction, unless the Section 151 Officer agrees otherwise.

k) To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer.

l) To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.

E.7 INVENTORIES

E.7.1 Directors and Senior managers will:

a) Maintain inventories of moveable assets and record an adequate description of furniture, fittings, equipment, plant and machinery above the value of £1,000. See Financial Guide on intranet for further details.

b) Carry out an annual check of all items on the inventory in order to verify location, review conditions and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.

Make sure that property is only used in the course of the Council's business, unless the Director concerned has given permission otherwise.

E.8 STOCKS AND STORES

E.8.1 Directors and Senior managers will:

a) Make arrangements for the care and custody of stocks and stores in the directorate.

b) Ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

c) Investigate and recommend removal from the Council's records (i.e. write off) discrepancies as necessary, or to obtain Cabinet approval in line with delegation regarding the writing off of debt.

d) Seek Cabinet approval to the write-off of redundant stocks and equipment in excess of a predetermined sum.

E.9 ASSEST DISPOSAL

Why is this important?

It would be uneconomic and inefficient for the cost of assets (for example, buildings and

major items of plant and equipment or vehicles) to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the rules of the Council.

E.9.1 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the Council, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.

E.9.2 These procedures protect staff involved in the disposal from accusations of personal gain.

E.9.3 Land disposals must comply with the Strategic Asset Management Plan.

E.9.4 The Section 151 Officer will issue guidelines representing best practice for disposal of assets and ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds, if appropriate.

E.9.5 Directors and Senior Managers will arrange for the disposal of surplus or obsolete materials, stores or equipment, in accordance with agreed procedures and will ensure that income received for the disposal of an asset is properly banked and coded.

## E.10 TREASURY MANAGEMENT AND BANKING

Why is this important?

Many millions of pounds pass through the Council's books each year, leading to the establishment of internal codes of practice. These aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's capital sum.

Key controls

E.10.1 The key controls for Treasury Management are that the Council's borrowings and investments comply with the Treasury Management in the Public Services: Code of Practice and with the Council's Treasury Management Strategy as approved by the Council.

E.10.2 The Council's Treasury Management Panel must oversee the Treasury Management Function in accordance with its terms of reference.

E.10.3 The Section 151 Officer will:

a) Arrange the borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's Treasury Management Strategy Statement.

b) Report (at least) twice a year on treasury management activities to the Cabinet including a year-end report.

c) Operate bank accounts as are considered necessary – opening or closing any bank account will require the approval of the Section 151 Officer and Chief Officer and Director of Corporate Services

d) Ensure that all investments of money are made in the name of the Council or in the name of approved nominees.

e) Ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership, are held in the appropriate custody.

f) Effect all borrowings in the name of the Council.

g) Act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.

E.10.4 Maximum limits for cash holdings and guidance around record keeping will be agreed with the Section 151 Officer. Limits will not be exceeded without his/her express permission.

E.10.5 Directors and Senior Managers will:

a) ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Section 151 Officer.

b) Only use cash for transactions when approved by the Section 151 Officer.

E.11 STAFFING

Why is this important?

In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

E.11.1 The key controls for staffing are:

a) an appropriate workforce strategy

b) procedures are in place for forecasting staffing requirements and cost

c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the Council

d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

e) Controls are in place to ensure that only properly authorised appointments are

made

E.11.2 The Section 151 Officer will:

a) Ensure that budget provision exists for approved staffing levels.

b) Act as an advisor to Directors and Senior Managers on areas such as national insurance and pension contributions, as appropriate.

E.11.3 Directors and Senior Managers will:

a) ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on- costs and overheads).

b) monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

c) ensure that the staffing budget is not exceeded and that it is managed to enable the agreed level of service to be provided.

d) ensure that the Section 151 Officer are immediately informed if the staffing budget is likely to be materially overspent.

## 5. Financial Systems and Procedures

F.1 CONTROL OF SYSTEMS AND PROCEDURES

Why is this important?

Directorates have many systems and procedures relating to the control of the Council's assets, including procurement, costing and management systems. Directorates are predominantly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

The Section 151 Officer has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes.

F.1.1 The key controls for systems and procedures are:

a) basic data exists to enable the Council's objectives, targets, budgets and plans to be formulated

b) performance is communicated to the appropriate managers on an accurate, complete and timely basis

c) early warning is provided of deviations from target, plans and budgets that require management attention

d) operating systems and procedures are secure

F.1.2 The Section 151 Officer will:

a) issue advice, guidance and procedures for officers and others acting on the Council's behalf

b) determine the accounting systems, form of accounts and supporting financial records

c) establish arrangements for audit of the Council's financial affairs

d) approve any new financial systems to be introduced

e) approve any changes to be made to existing financial systems.

F.1.3 Directors will:

a) establish a scheme of delegation identifying officers authorised to act upon their behalf in respect of payments, income collection and procurement, including variations, and showing the limits of their authorisation.

b) supply lists of authorised officers, with specimen signatures and delegated limits, to the Section 151 Officer, together with any subsequent variations.

c) ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fire proof location, preferably off site or at an alternative location within the building.

d) To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.

F.1.4 Directors and Senior Managers will:

a) ensure that accounting records are properly maintained and held securely.

b) ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Section 151 Officer.

c) ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.

d) To incorporate appropriate controls to ensure that, where relevant:

- all input is genuine, complete, accurate, timely and not previously processed

- all processing is carried out in an accurate, complete and timely manner

- output from the system is complete, accurate and timely.

e) To ensure that, where practical, the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.

f) To ensure that systems are documented and staff trained in operations.

g) To consult with the Section 151 Officer before changing any existing system or introducing new systems.

h) To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.

i) To ensure that relevant standards and guidelines for computer systems issued by the relevant Director are observed.

j) To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.

k) To comply with the copyright designs and patents legislation and, in particular, to ensure that:

- only software legally acquired and installed by the Council is used on its computers

- staff are aware of legislative provisions

F.2 INCOME

Why is this important?

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cashflow and also avoids the time and cost of administering debts.

F.2.1 The key controls for income are:

a) all income due to the Council is identified and charged correctly

b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate recording equipment

c) all money received by an employee on behalf of the Council is paid without delay to the Section 151 Officer or, as he/she directs, to the Council's bank account, and properly recorded. The responsibility for cash collection should be

separated from that:

- for identifying the amount due
- for reconciling the amount due to the amount received

d) effective action is taken to pursue non-payment within defined timescales

e) formal approval for debt write-off is obtained

f) appropriate write-off action is taken within defined timescales

g) appropriate accounting adjustments are made following write-off action

h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule

i) money not allocated and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

F.2.2 The Section 151 Officer will:

a) agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.

b) ensure that appropriate accounting adjustments are made following write- off action.

F.2.3 The Section 151 Officer will:

a) agree the write-off of bad debts up to £10,000 in each case and to refer larger sums to the Cabinet.

b) obtain the approval of the Cabinet in consultation with the relevant Director for writing off debts in excess of £10,000.

F.2.4 Directors and Senior Managers will:

a) establish charges for the supply of goods or services, including the appropriate charging of VAT.

b) separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

c) establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.

d) issue official receipts or to maintain other documentation for income collection.

e) hold securely receipts, tickets and other records of income for the appropriate period.

f) lock away all income to safeguard against loss or theft, and to ensure the security of cash handling. Cash handling should be minimised and the Section 151 Officer must approve any new arrangements.

g) ensure that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail.

h) raise accounts promptly for work done, goods supplied, services rendered or other amounts due.

i) ensure that sums due to the Council are recorded correctly, monitor recovery of income and flag up areas of concern to the Section 151 Officer. Directors have a responsibility to assist the Section 151 Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf.

j) recommend to the Section 151 Officer all debts to be written off up to £5,000 and to keep a record of all sums written off. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.

k) obtain the approval of the Section 151 Officer and where appropriate Cabinet, when writing off debts in excess of £5,000.

l) notify the Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer.

## F.3 PROCURING AND PAYING FOR WORK, GOODS AND SERVICES

Why is this important?

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements.

F.3.1 Every officer and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with relevant codes of conduct.

F.3.2 Official orders must be in a form approved by the Section 151 Officer. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Section 151 Officer.

F.3.3 The normal method of payment to suppliers will be by BACS transfer. Payment by

cheque will only be agreed in exceptional circumstances. The use of direct debit requires the prior agreement of the Section 151 Officer.

F.3.4 The key controls for ordering and paying for work, goods and services are:

a) all goods and services are ordered only by appropriate persons and are correctly recorded

b) all goods and services will be ordered in accordance with the Council's Contract Standing Orders and procurement procedures

c) goods and services received are checked to ensure they are in accordance with the order

d) payments are not made unless goods have been received by the Council to the correct price, quantity and quality standards

e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method

f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule

g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected

h) in addition, processes must be in place to ensure the security and integrity of data transferred in e-business/e-commerce and electronic purchasing transactions

F.3.5 The Section 151 Officer will:

a) ensure that all the Council's financial systems and procedures are sound and properly administered.

b) approve any changes to existing financial systems and to approve any new systems before they are introduced.

c) approve the form of official orders and associated terms and conditions.

d) To make payments from the Council's funds on the budget holder's authorisation that the expenditure had been duly incurred in accordance with Financial Regulations and Standing Orders (including Contract Standing Orders).

e) To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.

f) To make payments to contractors on authorisation of a contract certificate, which must include details of the value of work, retention money, amounts

previously certified and amounts now certified.

g) To provide advice and guidance on making payments by the most economical means.

h) To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

F.3.6 Directors and Senior Managers will:

a) ensure that goods and services are procured in accordance with these Financial Regulations and Contract Standing Orders using systems and procedures approved by the Section 151 Officer.

b) ensure that purchase orders are only used for goods and services for the Council. Individuals must not use official orders to obtain goods or services for their private use.

c) ensure that only authorised staff originate orders and that an up-to-date list of authorised staff are maintained, including specimen signatures identifying in each case staffs' authorised limits. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the Council's approach to procurement. Value for money should always be achieved.

d) ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.

e) ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the Data Retention and Disposal Policy and Schedule.

f) ensure that a two stage process as below is adopted to authorise any invoice for payment and that the two stages are authorised by separate officers.

Stage 1

The first stage of the authorisation process, either online or by signing the "Goods received" or "checked and coded" boxes on the relevant form, means confirmation that:

- the goods works or services have been received and are of the required quantity and quality and fit for the purpose intended

- that the invoice has not previously been paid

- that expenditure has been charged against the correct budget
- that prices are arithmetically correct and accord with quotations, tenders, contracts or catalogue prices, or are otherwise reasonable
- where VAT is included, it is correct and in the required format
- that discounts have been taken where available
- that if the invoice is in payment for non-consumable moveable assets valued at over £500, an entry has been made on the relevant inventory

Stage 2

The second stage of the authorisation process, either online or by signing the "certified by" box on the relevant form, means confirmation that:

- The invoice has passed through the stage 1 process
- That any Contract Standing Order or Financial Regulation relevant to the purchase of the goods or services has been complied with e.g. rules for quotations and/or tenders.
- The expenditure has been correctly authorised and budget provision exits.
- ensure that payments are only made following receipt of a formal invoice, and that no payment is made on a photocopy or statement.
- ensure that the directorate obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, having regard to the Procurement Guide. The financial thresholds for procurement are specified in Contract Standing Order 7.

F.3.7 Whilst there is a general presumption in favour of open competition, there will be some circumstances where it may not be appropriate. In such circumstances the requirements of Contract Standing Order 13 should be followed

F.3.8 If a contractor or consultant is responsible for procuring goods or services on behalf of the Council then they must abide by the Council's Contract Standing Orders and Procurement Guide. Directors and Spending Officers responsible for the appointment of contractors or consultants are required to bring this to their attention where relevant.

F.3.9 Directors will:

a) Provide a list of staff approved to authorise invoices to the Section 151 Officer. This will include names of authorising officers together with specimen signatures and details of expenditure limits.

F.4 PAYMENTS TO EMPLOYEES AND MEMBERS

Why is this important?

Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is important that all payments are accurately recorded and accounted for, and that Members' allowances are authorised in accordance with the Members' Allowances Scheme adopted by the General Assembly of the Council.

F.4.1 The key controls for payments to employees and Members are:

a) proper authorisation procedures are in place and that there is adherence to corporate timetables for:
   - starters
   - leavers
   - variations
   - additional payments

b) frequent reconciliation of payroll expenditure against approved budget and bank account

c) all appropriate payroll documents are retained and stored for the defined period in accordance with the Data Retention and Disposal Policy and Schedule.

d) Inland Revenue regulations are complied with.

F.4.2 The Section 151 Officer will:

a) Arrange for the secure and reliable payment of salaries wages, or other emoluments to employees, in accordance with procedures prescribed by him/her, on the due date.

b) record and make arrangements for the accurate and timely payment of tax, pension and other deductions.

c) make arrangements for payment of all travel and subsistence and other claims.

d) make arrangements for paying Members' allowances in accordance with the scheme approved by the Council.

e) ensure that there are adequate arrangements to meet any pension administration timescales set by Kent County Council.

f) ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.

g) To ensure that adequate and effective systems and procedures are operated, so that:

- payments are only authorised to bona fide employees
- payments are only made where there is a valid entitlement
- conditions and contracts of employment are correctly applied
- employees' names on the payroll are checked at regular intervals to verify accuracy and completeness

F.4.3 Senior Managers will:

a) ensure that payroll transactions are processed only through the payroll system. Directors should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from Financial Services (payroll).

b) certify travel and subsistence claims, overtime and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Section 151 Officer is informed, where appropriate.

F.4.4 Members should:

a) submit claims for any allowances, that require the completion of a claim form e.g. travel and subsistence allowances, on a monthly basis and, in any event, within one month of the year end.

## 6. Taxation

Why is this important?

Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

G.1 Key controls for taxation are:

a) budget managers are provided with relevant information and kept up to date on tax issues

b) budget managers are instructed on required record keeping

c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales

d) records are maintained in accordance with instructions

e) returns are made to the appropriate authorities within the stipulated timescale.

G.2 The Section 151 Officer will:

a) Complete all HMRC returns regarding PAYE.

b) Complete a monthly return of VAT inputs and outputs to HMRC.

c) Provide details to the HMRC regarding the construction industry tax deduction scheme.

d) Maintain up-to-date information for Council employees on taxation issues in the Financial Guide.

G.3 Directors and Senior Managers will:

a) ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations, seeking advice when necessary.

b) ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

c) ensure that all employment appointments are carried out using the approved procedures.

d) follow the guidance on taxation issued in the Financial Guidance Manual.

e) Obtain the approval of the Director of Corporate Services before the appointment of anyone classed as self-employed or someone from an agency.

## 7. External Arrangements

H.1 PARTNERSHIPS

Why is this important?

Increasingly, local authorities are working in partnership to deliver services It is important that the financial arrangements around partnerships are clearly defined and liabilities and risks are made explicit.

H.1.1 Financial matters relating to arrangements whereby one council administers funds jointly on behalf of itself and others will be subject to the financial standing orders and rules of the administering council, subject to the Section 151 Officer considering these to be satisfactory.

H.1.2 Directors and Senior Managers will ensure that they follow the guidance in the Council's Code of Practice for Effective Partnership Working when entering into any partnership arrangement.

H.1.3 Directors and Senior Managers will maintain a record of all contracts entered into with partner bodies in accordance with procedures specified by the Section 151 Officer.

H.1.4 Directors and Senior Managers will ensure that, before entering into agreements with external bodies, the risk provisions in relation to the Code of Practice for Effective Joint Working Arrangements are complied with.

H.1.5 Directors and Senior Managers will ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.

H.1.6 Directors and Senior Managers will ensure that all agreements and arrangements are properly documented and that the appropriate governance arrangements have been approved by the relevant Director.

H.1.7 Directors and Senior Managers will provide appropriate information to the Head of Finance to enable a note to be entered into the Council's Statement of Accounts concerning material items.

H.1.8 Senior Managers are responsible for ensuring that appropriate approvals are obtained from a Director before any negotiations are concluded in relation to partnership arrangements with external bodies.

H.2 EXTERNAL FUNDING

Why is this important?

Funding from external agencies will remain an important potential source of income for the Council. Such opportunities need to be maximised whilst ensuring that the Council can meet any obligations, which may be placed on it.

H.2.1 The Key controls for external funding are:

a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.

b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the General Assembly of the Council and the Corporate Plan.

c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

d) to ensure that when external funding is provided for a limited period only, that the implications of losing the funding is disclosed to Members.

H.2.2 The Section 151 Officer will ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.

H.2.3 The Section 151 Officer will ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets

reflect these requirements.

H.2.4 The Section 151 Officer will ensure that all specified audit requirements are met.

H.2.5 The appropriate Senior Manager will ensure that all claims for funds are made by the due date.

H.2.6 The appropriate Senior Manager will ensure that the project progresses in accordance with the agreed project timetable and that all expenditure is properly incurred and recorded.

H.2.7 Terms and conditions for external funding must be agreed by the relevant Director, in consultation with the Head of Legal Services and the Section 151 Officer.

H.3 WORK FOR THIRD PARTIES

Why is this important?

Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

Key controls

The key controls for working with third parties are:

(a) To ensure that proposals are costed properly in accordance with guidance provided by the Section 151 Officer.

(b) To ensure that contracts are drawn up using guidance provided by the Section 151 Officer and Head of Legal Services and that the formal approval processes are adhered to.

(c) To ensure guidance is issued for the financial aspects of third party contracts.

H.3.1 The Section 151 Officer will issue guidance with regard to the financial aspects of third party contracts.

H.3.2 Directors and Senior Managers will:

a) ensure that the approval of the Cabinet or Officers under delegated authority is obtained before any negotiations are concluded to work for third parties.

b) maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Section 151 Officer.

c) ensure that appropriate insurance arrangements are made.

d) ensure that the Council is not put at risk from bad debts arising from the

arrangements.

e) ensure that no contract is subsidised by the Council.

f) ensure that, wherever possible, payment is received in advance of the delivery of the service.

g) ensure that the unit has the appropriate expertise to undertake the contract.

h) ensure that such contracts do not impact adversely upon the services provided for the Council.

i) ensure that all contracts are properly documented and monitored.

j) provide appropriate information to the Section 151 Officer to enable a note to be entered into the statement of accounts.

## 7.2. CONTRACT STANDING ORDERS (CONTRACT PROCEDURE RULES) 2025

### 1.Introduction – Purpose of the Contract Standing Orders

1.1 Procurement decisions and processes are important because the money involved is public money. The purpose of these Contract Standing Orders is to provide a structure within which procurement decisions are made and implemented and which ensure that the Council:

1.1.1 Delivers value for money and maximises public benefit through appropriate market competition, so that we offer best value services to Dartford residents.

1.1.2 Achieves the priority themes within its Corporate Plan.

1.1.3 Meets its Procurement Strategy key focus areas and further ensures that all procurement activity, regardless of value, is fair, open, transparent, proportionate, non-discriminatory and lawful while seeking to achieve best value.

1.1.4 Uses its resources efficiently to purchase quality goods, services and works.

1.1.5 Is compliant with the relevant public sector Procurement Regulations (the Regulations). Public procurement is governed by the Procurement Act 2023 and the Procurement Regulations 2024 and other relevant legislation listed in Annex 1.

1.1.6 Is transparent to our residents and suppliers about how it spends public money so they can understand our policies and decisions.

1.1.7 Safeguards its reputation from any implication of dishonesty, undue criticism, corruption or risk of challenge and ensures that the Council as well as the Councillors and Officers can be seen to act with integrity.

1.2 Procurement by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, equality, social value, whole life costings and cost savings and considering any barriers to SMEs and how those can be addressed (where applicable).

1.3 These Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972.

1.4 These Contract Standing Orders do not provide guidelines on what is the best way to purchase works, supplies (goods), services and grant service concessions. They set out minimum requirements to be followed. Further information and guidelines are set out in the

Procurement Guide, which is available on the Intranet: (Procurement/4. Guidance Documents).
The Procurement Guide provides practical guidance on how the CSOs apply to purchasing decisions and processes. It explains some of the more technical and legal issues involved in procurement and provides practical working examples.

## 2. General Principles – Application and Compliance with Contract Standing Orders

2.1 These Contract Standing Orders apply to the purchase by or on behalf of the Council of works, supplies (goods) and services and the granting of service concessions, regardless of value.

2.2 These Contract Standing Orders apply to all contracts including all purchase orders, concessions, partnerships and collaborative arrangements with other bodies and contractual arrangements entered by, or on behalf of, the Council, except for the specific types of contracts and purchasing methods that are listed in 2.3.

2.3 These Contract Standing Orders do not apply to:

2.3.1 Employment contracts for permanent or fixed-term employment

2.3.2 Contracts relating solely to the purchase or lease or sale of interests in land including leasehold interests and licences (and where there is no connected supply of services, works or goods)

2.3.3 Contracts for specified legal services where it would be inappropriate to open those contracts to competition. These are contracts relating to judicial, other dispute resolution proceedings, notary and services that must be carried-out by a particular person under order of a court, tribunal or act.

2.3.4 Contracts for arbitration, mediation, conciliation or similar services.

2.3.5 Non-trade mandatory payments or settlements to third parties, e.g. insurance claims, pension payments, payments to public bodies, etc.

2.3.6 Fees for services or activities like the provision of external auditors as governed or directed by others.

2.3.7 Transactions in respect of dealing in the money market or obtaining finance for the Council.

2.3.8 Subscriptions and membership fees.

2.3.9 Sponsorship agreements.

2.3.10 When purchasing services from another local authority where such arrangements are compliant with Section 113 of the Local

Government Act 192.

2.3.11 Contracts procured in collaboration with other local authorities where the Council is not the lead authority (subject to the necessary approvals having been obtained from the appropriate decision-making officer within the Council). In this instance, the procurement/contract procedure rules of the relevant lead authority shall apply. Appropriate assurances must be sought that the lead authority is acting in compliance with its Constitution.

2.3.12 Contracts for the execution of either works supplies or services where the Council has no discretion regarding whether works are required or who must deliver them as in the case of works to be provided by a statutory undertaker, e.g. works to public telecommunications network.

2.3.13 Non-contractual funding arrangements (including grant agreements under which the Council gives a grant to third parties) provided that the terms of the funding arrangements do not constitute a contract. These would be agreements that can properly be regarded as a grant or payments related to internal service level agreements within the Council.

2.3.14 A declared emergency authorised by the Emergency Planning Officer and/or any Director.

2.3.15 Other items which are explicitly stated as being exempt in Schedule 2 of the Procurement Act 2023.

2.4 The above list is not exhaustive, and advice should always be sought from the Procurement Team where there is uncertainty.

## 3. General Principles Applying to All Contracts

3.1 For the purposes of this CSO 3, ‘contract’ means a formal and legally binding agreement between the Council and other party/parties such as purchase orders, alternative order forms, standard industry contracts (JCT/IEE/ICE etc.), works, supplies, and services terms and conditions, service concessions etc. and ‘contractor’ includes concessionaires

All purchases however small shall be in writing.

Contracts of a value of £25,000 or more shall include contract clauses relevant to the procurement. Contract templates are maintained and updated by Legal Services and are held on the Council’s intranet: (Procurement/4. Contract Terms and Conditions).

3.2 As a minimum, all contracts of a value of £25,000 or more shall include clauses which set out:

1) The works, supplies (goods), services, service concession, material, matters or things to be carried out or supplied

2) The time within which the contract is to be performed

3) Quality requirements and/or standards which must be met

4) Requirements on the contractor to hold and maintain appropriate insurance

5) What happens if the contractor fails to comply with its contractual obligations (in whole or in part)

6) Requirements on the contractor to comply with all relevant equalities and health and safety legislation

3.3 Requirements on the contractor to comply with the provisions of the data protection legislation insofar as this applies to the processing of personal data, including provisions in the contract, of data controller and processor responsibilities sufficient to comply with the data protection legislation

3.4 That the Council shall be entitled to cancel the contract and recover any resulting losses if the contractor, their employees or anyone acting on their behalf, does anything improper to influence the Council to give the contractor any contract or commits an offence under the Bribery Act 2010 or s117(2) Local Government Act 1972

3.5 All contracts above the relevant financial thresholds and subject to the Procurement Act 2023 must be in a form approved by Legal Services and must include as a minimum:

(a) additional termination clauses pursuant to the Procurement Act 2023 relating respectively to substantial modification of the contract in breach of the requirements as well as situations amounting to mandatory exclusion of the contractor or their sub-contractor[1];

(b) a payment clause relating to payment of invoices no later than the end of a period of 30 days from the date on which the relevant invoice is regarded as valid and undisputed; and

(c) an electronic invoicing clause[2];

(d) state the required period within which the contract is to be performed.

(e) state the required performance and KPIs (if relevant).

(f) state that if the contractor enters liquidation or administration, the Council is entitled to cancel the contract and recover any resulting losses.

(g) require the contractor to comply with the requirement of the Health & Safety at Work etc. Act 1974m and any other relevant legislation pertaining to health and safety.

(h) require the contractor to comply with Equality Act 2010, and where relevant, the Public Sector Equality Duty and the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018.

(i) where relevant, consider inclusion of relevant clauses in relation to the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended.

3.6 Contracts not subject to the Procurement Act 2023, where the Council's standard terms and conditions are not used, shall include a payment clause relating to payment of invoices no later than the end of a period of 30 days from the date on which the relevant invoice is regarded as valid and undisputed and an electronic invoicing clause.

3.7 Contracts shall not include non-commercial terms unless these are necessary to achieve best value for the Council or are included in accordance with the Public Services (Social value) Act 2012 or necessary to enable or facilitate the Council's compliance with the public sector equality duty[3] or any duty imposed on it by the Equality Act 2010. In this context, "non-commercial" means requirements unrelated to the actual performance of the contract.

3.8 All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared considering the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and the information set out in the Procurement Guide.

3.9 All contracts of a value of £25,000 or more shall be subject to a written risk assessment, which should be kept on the contract file of the client group, procuring the contract, and on legal service's file (if applicable).

## 4.Regulatory Context

4.1 All procurement shall be conducted in accordance with regulatory requirements which are:

4.1.1 All relevant statutory provisions

4.1.2 The Procurement Act 2023

1 Section 78 Procurement Act 2023

**2** The Public Procurement (Electronic Invoices etc.) Regulations 2019

4.1.3 The Council's Constitution including these Contract Standing Orders, the Council's Financial Regulations and Scheme of Delegations

4.1.4 The Procurement Guide and other policies and procedures of the Council as appropriate.

4.2 In the event of conflict between the above, the Procurement Act 2023 will take precedence, followed by the Council's Constitution, the Procurement Guide and guidelines, policies and procedures.

## 5. Responsibilities of Directors and Responsible Officers

5.1 Each Director shall:

5.1.1 be responsible for the purchasing undertaken by their Directorate.

5.1.2 ensure all procurements and contracts within their service comply with the Contract Standing Orders and the Procurement Guide and to select (in consultation with the Procurement Team) the most appropriate procurement approach.

5.1.3 be accountable to the Cabinet for the performance of their duties in relation to purchasing

5.1.4 comply with the Council's decision-making processes including, where appropriate, implementing and operating a Scheme of Delegations

5.1.5 appoint a Responsible Officer who shall be an authorised signatory

5.1.6 take immediate action in the event of a breach of these Contract Standing Orders.

5.2 A Responsible Officer is an officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services or the granting of service concessions on behalf of the Council.

5.3 A Responsible Officer’s duties in respect of purchasing are to ensure:

5.3.1 compliance with all regulatory requirements referred to above and integrity of the tender process.

5.3.2 compliance with the relevant statutory provisions and the Council’s requirements relating to declarations of interest affecting any purchasing process.

5.3.3 that there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used

5.3.4 the purchasing process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, equality, social value, whole life costings and cost savings and considering any barriers to SMEs and how those can be

addressed (where applicable).

5.3.5 ensure that their services have the necessary authority to undertake the procurement and further ensure compliance with the Council's decision-making processes

5.3.6 that all contracts of a value of £25,000 or more are included on the Council's Contract Register

5.3.7 that proper records are maintained in accordance with the Data Retention and Disposal Schedule, with separate files for each procurement of a value of £25,000 or more, to justify the decisions taken in all stages of the procurement process

3 Section 149 Equality Act 2010

5.3.8 that value for money is achieved and confirm that sufficient budget exists within the revenue budget and/or capital programme

5.3.9 undertake, where appropriate, a premarket testing exercise.

5.4 In considering how best to procure works, supplies and services or the granting of service concessions, Directors and/or Responsible Officers (as appropriate in the context), shall take into account wider contractual delivery opportunities and purchasing methods including the use of purchasing schemes (see CSO 14) and e-procurement/purchasing methods, and the availability of local authority charging and trading powers under the Local Government Act 2003.

5.5 A Responsible Officer must ensure that all technical or commercial procurement consultant engaged in any capacity to manage or supervise the procurement of works, supplies (goods), services and granting of concessions for the Council must comply with the Contract Standing Orders and with the Procurement Guide.

5.6 It is a disciplinary offence to fail to comply with these Contract Standing Orders. All employees have a duty to report breaches of Contract Standing Orders to their Director.

5.7 Any officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods), services and the granting of service concessions must immediately report that suspicion to the Monitoring Officer and Director of Corporate Services.

## 6. Scheme of Delegations

6.1 Procurements may only be undertaken by officers with the appropriate delegated authority to carry out such tasks as set out in the Council's Scheme of Delegations. Officers with delegated authority may only delegate to other

officers who have the appropriate skills and knowledge for the task and such delegation shall be recorded in writing by the officer delegating the task and notified to the relevant Director.

6.2 Officers shall, where appropriate, be informed by their Director of the extent of any delegated authority and applicable financial thresholds.

## 7. Financial Thresholds and Procedures

7.1 The table in CSO 7.5 sets out the general rules applying to the choice of purchasing procedure for contracts at the stated threshold values and the public notice requirements.

7.2 There is a general presumption in favour of competition. Wherever possible, contract opportunities should be advertised by way of a public notice, even for small value contracts or contracts under the Procurement Act 2023 threshold levels outlined in CSO 7.5.

7.3 The public notice referred to at CSO 7.2 should be published, as a minimum, via the Central Digital Platform (CDP) for any **advertised** procurement valued over £25,000. The public notice for any advertised procurements valued over the Procurement Act 2023 thresholds (see CSO 7.5) should be submitted, as a minimum, via the Central Digital Platform (CDP) and will also be published on Find a Tender Service (FTS). Following the publication of the form of notice or advertisement on the CDP and FTS, the Responsible Officer may choose to place one or more public notices in different media, such as or other electronic media and/or in the press, trade journals.

7.4 Once a below threshold contract has been awarded, details of the winning tenderer and contract value must be published on CDP using the 'Contracts Details Notice'. For more information, please refer to the Procurement Guide.

Once a successful bidder has been selected for an above threshold contract, a 'Contract Award Notice' must be published upon award of the contract, detailing the winning tenderer and contract value must be published on the CDP using the 'Contract Award Notice'. This commences the 8 working day standstill period. Once the standstill period has finished, and no challenges have been received, the contract can be awarded to the successful bidder and a 'Contract Details Notice' must be published on CDP. For more information, please refer to the Procurement Guide.

7.5 **Table setting out financial thresholds which should include any renewals or extensions.**

**Below threshold figures are shown exclusive of VAT and above threshold figures are shown inclusive of VAT. Above threshold figures are updated by the relevant Cabinet Office Minister every two years.**

The Procurement Act 2023 applies to contracts to differing degrees, depending on the type of public contract or concession. Responsible Officers should act cautiously and seek advice from the Procurement

Team when considering the application of the Procurement Act 2023 to public works, supplies or services' contracts and/or to works or services concession contracts.

**WORKS: PUBLIC CONTRACTS AND CONCESSIONS**

| Total Value (£) | Conducted by | Procedure |
|---|---|---|
| 0 to 499 | Process can be conducted by a Responsible Officer | No formal quotes required but value for money must be obtained |
| At 500 to 24,999 | Process can be conducted by a Responsible Officer | At least one quote in advance and value for money obtained |
| At 25,000 to 49,999 | A Responsible Officer must use the Procurement Team and e-tendering system to administer the process | Seek to obtain at least three written quotes in advance using a select list of companies – no requirement to advertise. If advertised, notice to be published on CDP as a minimum |
| At 50,000 to 5,372,608 | A Responsible Officer must use the Procurement Team and e-tendering system to administer the process | Seek to obtain at least three written tenders in advance - advertise on CDP as a minimum |
| At 5,372,609 and above | A Responsible Officer must use the Procurement Team and e-tendering system to administer the process | The Procurement Act 2023 applies – full competitive process with at least three written tenders in advance - advertise by public notice on CDP as a minimum |

**SUPPLIES & SERVICES: PUBLIC CONTRACTS AND CONCESSIONS**

| Total Value (£) | Conducted by | Procedure |
|---|---|---|
| 0 to 499 | Process can be conducted by a Responsible Officer | No formal quotes required but value for money must be obtained |
| At 500 to 24,999 | Process can be conducted by a Responsible Officer | At least one quote in advance and value for money obtained |
| At 25,000 to 49,999 | A Responsible Officer must use the Procurement Team and e-tendering system to administer the process | Seek to obtain at least three written quotes in advance using a select list of companies – no requirement to advertise. If advertised, notice to be published on CDP as a minimum |
| At 50,000 to 214,903 | A Responsible Officer must use the Procurement Team and e-tendering system to administer the process | Seek to obtain at least three written tenders in advance - advertise on CDP as a minimum |
| At 214,904 and above | A Responsible Officer must use the Procurement Team | The Procurement Act 2023 applies – full competitive process with at least three written tenders in |

| | | |
|---|---|---|
| | and e-tendering system to administer the process | advance - advertise by public notice on CDP as a minimum |

**LIGHT TOUCH CONTRACTS (LTC)**
**(E.G. CULTURAL/FESTIVAL EVENT ORGANISATION/BENEFIT/OTHER COMMUNITY SERVICES ETC.)**

| Total Value (£) | Conducted by | Procedure |
|---|---|---|
| 0 to 499 | Process can be conducted by a Responsible Officer | No formal quotes required but value for money must be obtained |
| At 500 to 24,999 | Process can be conducted by a Responsible Officer | At least one quote in advance and value for money obtained |
| At 25,000 to 49,999 | A Responsible Officer must use the Procurement Team and e-tendering system to administer the process | Seek to obtain at least three written quotes in advance using a select list of companies – no requirement to advertise. If advertised, notice to be published on CDP as a minimum |
| At 50,000 to 663,539 | A Responsible Officer must use the Procurement Team and e-tendering system to administer the process | There is a presumption in favour of a competitive process, seeking to obtain at least three written tenders in advance - advertise on CDP as a minimum |
| At 663,540 and above | A Responsible Officer must use the Procurement Team and e-tendering system to administer the process | Section 9 of the Procurement Act 2023 defines a 'light touch contract' - advertise by public notice on CDP as a minimum |

7.6 Where contracts are of a type and value which means that they are subject to the Procurement Act 2023, there are three main types of procedures available. These are the Open Procedure, Competitive Flexible Procedure and Direct Award (for special circumstances). The chosen procedure must be proportionate having regard to the nature, complexity and cost of the contract and assistance from the Procurement Team must be sought.

## 8. Financial Thresholds and Processes Applying to Approval and Execution of Contracts

8.1 For contracts over £50,000, the decision to proceed to advertisement must be authorised in writing by the relevant Director, in advance. For contracts above the Procurement Act 2023 threshold (see CSO 7.5), the choice of purchasing procedure to be used, and the decision to proceed to advertisement, must be agreed with the Procurement Team and authorised in writing by the relevant Director, in advance.

8.2 When a decision is made to award a contract, the Responsible Officer must, in addition to complying with their general obligations under these Contract Standing Orders, ensure that:

8.2.1 the appropriate approvals have been obtained to authorise that decision; and

8.2.2 where appropriate, a standstill period complying with the Procurement Act 2023 is incorporated into the final award process.

8.3 Any contracts valued at £100,000 or above, shall be executed as a deed (under seal). Contracts with values between £50,000 and £99,999 shall require the relevant Director's signature. All other contracts below £50,000, may be signed by an officer with appropriate delegated authority.

8.4 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the IT Services.

8.5 Contract sealing (with the common seal of the Council) shall be the responsibility of Legal Services.

## 9. Calculating the Contract Value and Security

9.1 he starting point for calculating the contract value for the purposes of these Contract Standing Orders is that the contract value shall be the genuine pre-estimate of the value of the entire contract excluding Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions, options to include additional services or works and renewals).

Responsible Officers should seek advice from the Procurement Team on the application of the Procurement Act 2023 where they envisage that they may require repeat purchases and/or purchases of a similar type.

Further guidance on the calculation of the contract value is set out in the Procurement Guide.

9.2 There shall be no artificial splitting of a contract to avoid the application of the provisions of the Procurement Act 2023 and/or these Contract Standing Orders.

9.3 Performance bond and Parent Company Guarantee (PCG)

9.3.1 The Responsible Officer shall consider requesting and obtaining appropriate security for construction contracts (that can be either performance bond or PCG as applicable).

9.3.2 For any other contracts for supplies (goods), services or works, the Responsible Officer must consider in consultation with Financial Services whether it is appropriate to take security in the form of a PCG or Performance Bond and document the

outcome.

## 10. Principles Underlying Tendering Processes and Tender Evaluation

10.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner to ensure:

10.1.1 Sufficient time is given to plan and run the process

10.1.2 Equal opportunity and equal treatment

10.1.3 Openness and transparency

10.1.4 Probity

10.1.5 Outcomes, which deliver sustainability, efficiency, equality, social value, whole life costings and cost savings (where appropriate).

10.1.6 Compliance with all regulatory requirements and integrity of the tender process, e.g. evaluation panels consisting of more than one officer and completion of conflict assessments.

10.2 All procurements must be carried out and evaluated in accordance with the Procurement Guide.

## 11. Submission and Opening of Tenders

11.1 An Invitation to Tender shall be issued by the Council for all contracts valued at or over £100,000 and tenders shall be submitted in accordance with the requirements of the Invitation to Tender.

11.2 Any tenders received (other than those received electronically, to which CSO 11.3 shall apply) shall be:

11.2.1 addressed to the Procurement Team

11.2.2 clearly marked “Tender” followed by the subject matter to which it relates

11.2.3 kept in a safe place by Financial Services

11.2.4 retained unopened until the date and time specified for its opening.

11.2.5 opened by the relevant Director or nominee and an immediate record shall be made of the tenders received including names and addresses and the date and time of opening.

11.3 Where the Council has indicated in the Invitation to Tender that a tender can or must be submitted electronically via the Council’s e-tendering system, then those tenders shall be:

11.3.1 in the format specified in the Invitation to Tender

11.3.2 remain sealed and unopened in the system until the date and time specified for its opening

11.3.3 opened by a staff member of Financial Services

11.4 No tender received after the time and date specified for its opening shall be accepted or considered by the Council unless the relevant Director is satisfied that there is sufficient evidence of the tender having been dispatched in time for it to have arrived before the closing date and time, or other exceptional circumstances apply, and the other tenders have not been opened.

## 12. Evaluation of Quotes and Tenders

12.1 All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes/tenders.

12.2 Above threshold tenders shall be evaluated in accordance with the Procurement Act 2023.

12.3 Save in exceptional circumstances, approved in advance by the relevant Director, all contracts shall be awarded based on the quote or tender which represents the Most Advantageous Tender, as determined by the award criteria detailed in the invitation to tender or quote and not based on lowest price.

12.4 The financial evaluation of any tenderers as part of a select list process, where suppliers are chosen, and no public notice has been advertised for open competition, is undertaken ahead of tender documents being released. Only suppliers that meet the Council's turnover, profitability and liquidity thresholds are included in a restricted select list process

The financial evaluation of any tenderers as part of an openly advertised process is undertaken after evaluation of all bids and the identification of a preferred tenderer. The Council uses a third-party credit agency to assist in the financial evaluation that looks at financial risk and overall stability, turnover, profitability and liquidity.

Where there is doubt as to the tenderer's financial stability, or no external report evidencing financial stability is available, then Financial Services shall provide expert advice during the procurement process and prior to any contract award. For more information, please refer to the Procurement Guide.

## 13. Waivers

13.1 he requirement for the Council to conduct a competitive purchasing process for contracts at or above £25,000 (exclusive of Value Added Tax) may be

waived in the following circumstances:

13.1.1 for below threshold contracts, at the discretion of the relevant Director(s), who may proceed in a manner most expedient to the efficient management of the service/Council, with reasons recorded in writing.

13.1.2 for below threshold contracts, the work, supply, service or grant of service or work concession is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property; or

13.1.3 for above threshold contracts, where the requirements set out in the Procurement Act 2023 apply, and the work, supply, service or grant of service or work concession is required for 'special cases', 'to protect life or health' and/or 'due to market failure'

13.2 A Responsible Officer who seeks a waiver of Contract Standing Orders, shall do so only in advance and only in exceptional circumstances. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Standing Orders is set out in the Procurement Guide.

13.3 Lack of sufficient planning and/or service capacity issues will not constitute a valid reason for an exemption or variation.

13.4 The relevant Director(s) may waive the requirement for the Council to conduct a particular type of procurement process e.g. an advertised quote process may be waived in favour of a select list process, i.e. there is still a competitive purchasing process, but the route is not as set out in CSO 7.5

13.5 All waivers from these Contract Standing Orders must be:

13.5.1 Compliant with the Procurement Act 2023

13.5.2 Agreed by the Procurement Team who will consider each request against the exemption criteria and must be consulted prior to submission to relevant Director.

13.5.3 Fully documented

13.5.4 Subject to completion of a Waiver Form, to be submitted in advance to the relevant Director, which shall include reasons for the waiver which demonstrate that the waiver is genuinely required

13.5.5 Subject to approval in advance by the relevant Director, who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional. Waivers valued over £100,000 will need to be countersigned by a second

Director.

13.6 All decisions on waivers must consider:

13.6.1 Probity

13.6.2 Best value/value for money principles.

13.7 A waiver does not remove the need to ensure that the basic procurement documents are created, i.e. a specification detailing the Council's requirements, a pricing schedule showing the cost and contract conditions to bind the arrangement.

13.8 All completed waiver forms are to be passed to the Procurement Team who will keep them on file and will update local and national registers (where applicable).

## 14. Purchasing Schemes (including Framework Agreements)

14.1 A Responsible Officer may use purchasing schemes subject to the following conditions and the Procurement Guide.

14.2 Responsible Officers must:

14.2.1 Engage with the Procurement Team for any purchases over £25,000

14.2.2 Liaise with Procurement Team to check the Council is legally entitled to use the purchasing scheme, that the purchases to be made properly fall within the coverage of the purchasing scheme and the establishment and operation of each purchasing scheme follows the Procurement Act 2023 (where they apply) and meets the Council's own requirements.

14.3 A “purchasing scheme” may include:

14.3.1 Framework Agreements

14.3.2 Dynamic Markets

14.3.3 Contractor prequalification lists/select lists

14.3.4 Purchasing arrangements set up by central purchasing bodies and commercial organisations

14.3.5 Consortium purchasing

14.3.6 Collaborative working arrangements

14.4 Where a purchasing scheme is used, the Procure Team will need to ensure that the scheme is compliant with the Procurement Act 2023 and that the Council is able to use the scheme.

14.5 Responsible Officers shall liaise with the Procurement Team regarding the use of a purchasing scheme. There may be a requirement under the scheme to follow specific rules regarding compliance (Access and Award Agreements, use of Lots, length of contract, etc.), procurement process (Direct Award or Further Competition) and documentation (allowable scope of works and/or services, tendered pricing schedules and Framework Terms & Conditions).

14.6 Use of a purchasing scheme does not remove the need to ensure that the basic procurement documents are created, i.e. a specification detailing the Council’s requirements, a pricing schedule showing the cost and contract conditions to bind the arrangement. It shall not negate the requirement for due-diligence checks on financial standing, insurance, technical ability and any relevant accreditations/qualifications.

## 15. Extensions and Modifications to Existing Contracts

15.1 An extension to the duration of an existing contract may be implemented if specifically provided for in the contract and for the specified period.

15.2 Extensions to the duration of a contract, which are not included in the original contract, and/or modifications to existing contracts such as the inclusion of additional services shall be.

15.2.1 made in accordance with any statutory restrictions and any specific terms of the contract

15.2.2 fully documented

15.2.3 subject to completion of an Extension Form, to be submitted and approved firstly by the Procurement Team and thereafter sent to

the relevant Director for authorisation, which shall include reasons for the extension or modification

15.2.4 subject to approval by the relevant Director who shall record that they have considered the reasons for the extension or modification and that they are satisfied that there are circumstances justifying the extension or modification.

15.3 Any extension to the duration of and/or modification to existing contracts must take

15.3.1 Probity

15.3.2 Best value/value for money principles.

15.4 Where the Procurement Act 2023 applies, any extension to the duration of, and/or modification to, existing contracts must meet the conditions set out in the Procurement Act 2023 in addition to the more general requirements set out above.

## 16. Retention of Records

16.1 Responsible Officer shall ensure (and shall ensure that every contract manager) to keep copies of all contracts signed not signed as a deed and shall retain records for the duration of the contracts and a further 6 years.

16.2 Legal Services shall be responsible for keeping copies of all sealed contracts for the duration of the contracts and further 12 years.

## 17. Review and Changes to these Contract Standing Orders

17.1 These Contract Standing Orders shall be reviewed and updated on a regular basis.

17.2 Save in the case of revisions to the thresholds referred to in CSO 7.5 (which shall be dealt with under the Scheme of Delegations), revisions to Contract Standing Orders shall be agreed by the General Assembly of the Council.

## 18. Suspension of these Contract Standing Orders

18.1 These Contract Standing Orders may be suspended in accordance with the Council Procedure Rules at Standing Order 41.

## 19. ANNEX 1

National Procurement Policy Statement
2024 Procurement Act 2023
The Public Procurement (Amendment etc.) (EU Exit) Regulations
2020 Data Protection Act 2018
Modern Slavery Act 2015
Local Government Transparency Code
2015 The Public Services (Social Value)
Act 2012 Best Value – Statutory
Guidance 2011 Bribery Act 2010
Equality Act 2010
Transfer of Undertakings (Protection of Employment) Regulations
2006 Environmental Information Regulations 2004
Freedom of Information Act 2000
Health & Safety at Work etc. Act
1974

DARTFORD
BOROUGH COUNCIL

CONSTITUTION OF THE COUNCIL

# PART 8 MEMBERS' ALLOWANCES, INDEMNITIES

**Introduction to Part 8 – Members' Allowances, Indemnities**

Part 8 of the Constitution sets out the Members' Allowance Scheme and the Deed of Indemnities for Members and Officers.

The Members' Allowance Scheme is made under the provisions of the Local Authorities (Members' Allowances) (England) Regulations 2003 (the 2003 Regulations) and any other regulations which may come into force from time to time.

The Deed of Indemnities for Members and Officers is in accordance with the Local Authorities (Indemnities for Members and Officers) Order 2004.

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# 8.1 - MEMBERS' ALLOWANCE SCHEME

## 1. Introduction

This Members' Allowances Scheme is made under the provisions of the Local Authorities (Members' Allowances) (England) Regulations 2003 (the 2003 Regulations) and any other regulations which may come into force from time to time.

In making this Scheme, the Council has had regard to the recommendations contained in the Report of the Independent Remuneration Panel considered by the Meeting of the General Assembly of the Council on 11 December 2023.

This Scheme shall have effect on 01 April 2024 and shall have effect thereafter.
The Council has agreed that allowances can be increased by the same rate as increases in Council staff pay.

Such an index shall be relied on for a period not exceeding four years whereupon a further recommendation of the Independent Remuneration Panel shall be sought in respect of the Council's application of an index to its scheme.

This Scheme may be amended at any time (having regard to the recommendation(s) of the Independent Remuneration Panel) but may only be revoked with effect from the beginning of the year. Where this Scheme is revoked, the Council shall, before the revocation takes effect, make a further scheme.

In this Scheme:

- 'Councillor' means a member of Dartford Borough Council who is a Councillor;
- 'Year' means the 12 months ending 31 March.

## 2. Role allowances

**Basic Allowance**

Each Councillor will be paid a basic allowance of £6,177 per year.

**Special Responsibility Allowances**

Group Leaders will be entitled to the Group Leader Allowance (for each member of their group) plus one other Special Responsibility Allowance. All other Members are entitled to receive only one Special Responsibility Allowance.

**Leadership allowances**

| Role | Allowance |
|---|---|
| Leader | £38,710 |
| Deputy Leader | £20,439 |
| Cabinet Member | £10,219 |
| Lead Member / Cabinet Delivery Team Leader | £2,555 |
| | £10,219 |

**Leadership allowances**

| Role | Allowance |
|---|---|
| Shadow Leader<br>Deputy Shadow Leader | £6,132 |
| Leader of any other group that has five members or makes up 10 per cent of the Council (whichever is greater). | £5,110 |
| Deputy Leader of any other group that has five members or makes up 10 per cent of the Council (whichever is greater) | £3,066 |

**Chairs**

| Role | Allowance |
|---|---|
| Chair Development Control Board | £6,132 |
| Vice Chair Development Control Board | £2,023 |
| Shadow Chair Development Control Board | £2,023 |
| Audit Board | £2,555 |
| Overview and Scrutiny Committee | £2,555 |

**Group Members**

| Role | Allowance |
|---|---|
| Group Member. Paid to the Leader of any other Group that consists of five members, or 10 per cent of the Council, whichever is greater. | £290 per Group Member, excluding the Leader of the Group. |

## 3. Travel and food Travel and Subsistence Allowances

Approved duties

Subject to the provisions set out below, Travel and Subsistence Allowances will be paid to those Councillors and Co-opted Members attending meetings in respect of the following duties (the Approved Duties):

- A meeting of the Cabinet or any Committee of the Cabinet;
- A meeting of the Council or a Committee, Sub-committee or other body of the Council (for which proper notice is given);
- A meeting held under joint arrangements with another authority (for which proper notice is given);
- External Seminars, Conferences and Training (authorised by the Chief Officer and Director of Corporate Services);
- Site meetings and inspections for which proper notice is given;
- Formal meetings of Outside Bodies as a nominee of the Council to which an appointment has been made either by the Cabinet or the Council;
- Any other duty which may from time to time be agreed by the Chief Officer and Director of Corporate Services.

**Subsistence Allowance**

For Approved Duties **outside the Borough**, the following rates shall apply where a Councillor or a Co-Opted Member is prevented by official duties from eating at home and thereby incurs additional expenditure.

Please note these rates are the **maximum** allowances payable and only **actual costs** will be paid, if lower.

The allowance covers tea or an evening meal. Not both.

Subsistence allowance

| Meal | Cost |
|---|---|
| Breakfast | Up to £9 |
| Lunch | Up to £14 |
| Tea | Up to £5 |
| Dinner | Up to £17 (only after 8.30pm) |

No subsistence allowance will be paid for Approved Duties within the Borough.

**Travelling Expenses**

No travel expenses will be paid for journeys within the Borough. The following rates shall apply for journeys **outside the Borough**.

| Mileage Allowances | |
|---|---|
| Type of vehicle/travel | Rate |
| Car/van (all engine sizes) | 45p per mile for the first 10,000 miles. 25p per mile over 10,000 miles |
| Motorcycle | 24p per mile |
| Bicycle | 20p per mile |
| Taxi | Actual cost is reimbursed |
| Train | Second class rail fare is reimbursed |

All claims for travelling and subsistence expenses must be accompanied by a receipt(s) and the completion of a claim form obtainable from Financial Services.

## 4. Parents and Carers

**Carer's Allowance**

A carer's allowance shall be paid where a Councillor has necessarily incurred expenditure for the care of children (up to the age of 15 years) or a dependent relative whilst undertaking the duties of the Council.

- Care of Dependent Relatives and Disabled Children £21.40 per hour
- Childcare £16.50 per hour

**Parental Leave**

**Basic Allowance**

All Councillors shall continue to receive their Basic Allowance in full, for a period up to six months, in the case of absence from their Councillor duties due to absence related to maternity, adoption or shared parental leave.

Where, for reasons connected with maternity, adoption, or shared parental leave a Councillor is unable to attend meetings of the Council for a period of more than six consecutive months (from the date of their last attendance), a dispensation by the General Assembly of the Council must be sought in accordance with Section 85 of the Local Government Act 1972, within six months of the last attendance. This dispensation should be granted, so that the absence is no more than one year in total.

**Special Responsibility Allowance**

Reasonable and adequate arrangements shall be put in place to provide cover during any period of absence (by reason of maternity, adoption or shared parental leave) of a Councillor in receipt of a special responsibility allowance. Where a replacement (generally a deputy, lead member or vice chair) covers the period of absence, that person shall be remunerated in accordance with the deputy or vice chairman's Special Responsibility Allowance referred to in the Scheme, where applicable.

The original responsibility holder shall continue to receive the full Special Responsibility Allowance, but should the period of absence exceed six months, the General Assembly of the Council shall consider whether such arrangements should continue.

If a Councillor stands down, or an election is held during the period when a Councillor is absent due to maternity, adoption or shared parental leave and the Councillor is not re-elected, their Basic Allowance and any Special Responsibility Allowance shall cease from the date on which they retire (i.e. on the fourth day after the ordinary day of election).

## 5. Independent Persons and Remuneration Panel

**Independent Persons**

- The Council's Independent Person will receive the following allowance:
  £340 per year (includes attendance at training sessions).

**Independent Remuneration Panel**

Panel members will receive the following allowances:

- £333 per year, per member (includes attendance at training sessions).
- £16.55 hourly rate.

## 6. Terms and conditions

Other duties

A Councillor who is also a member of another authority (for example, Kent County Council), shall not be entitled to the receipt of allowances from both authorities in respect of the same duties.

Not claiming an allowance

Any Councillor or Co-opted Member can choose not to claim any part of their allowance. They can do so by writing to the Chief Officer and Director of Corporate Services.

Part year entitlements

If an amendment to this Scheme during any year changes the amount of basic allowance or special responsibility allowance to which a Councillor is entitled, the entitlement of the Councillor to such allowance is in respect of the following periods:-

1. beginning with 1 April and ending with the day before the first or only amendment during that year takes effect;
2. beginning with the day an amendment takes effect and ending with the day before the next amendment during that year takes effect; or
3. beginning with the day an amendment takes effect and ending with the 31 March; will be to payment of the proportion which the number of days in period (a), (b) or (c) bears to the number of days in that year.

2. Where the term of the Councillor begins or ends during the course of a year, his/her entitlement to a basic allowance will be to the payment of the proportion which the number of days which he/she held office during that year bears to the number of days in that year.
3. Where an amendment to the Scheme during any year changes the amount of basic allowance to which a Councillor is entitled and the Councillor does not hold office in that year throughout the period beginning with the 1 April and ending with the day before the amendment takes effect

("the Payment Period"), his/her entitlement to a basic allowance in respect of the Payment Period will be to payment of the proportion which the number of days in which he/she has held office during the Payment Period bears to the number of days in the Payment Period.

4. Where a Councillor has during only part of a year a special responsibility entitling him/her to a special responsibility allowance, his/her entitlement to a special responsibility allowance shall be to payment of the proportion which the number of days during which he/she has had such special responsibility bears to the number of days in that year.
5. Where an amendment to the Scheme during any year changes the amount of special responsibility allowance to which a Councillor is entitled, and that Councillor has had a special responsibility entitling him/her to a special responsibility allowance during only part of the year beginning on the 1 April and ending with the day before the amendment takes effect ("the Allowance Period"), his/her entitlement to special responsibility allowance will be to payment of the proportion which the number of days in which he/she has had the special responsibility during the Allowance Period bears to the number of days in the Allowance Period.
6. Where a Councillor becomes or ceases to be a member of the Council, or accepts or relinquishes any special responsibility for which an allowance is paid, allowances will be paid pro-rata to the number of days during the year which he/she was a Councillor or held the special responsibility.

Payments and Claims

The Council shall make payments in respect of basic, special responsibility and travel allowances, in instalments of 1/12th (of the year's total, per month) of the amounts specified in this Scheme on the 15th day of the month in respect of which the Councillor's entitlement arose (or on the last working day before the 15th of the month if the day falls on a Saturday, Sunday or Bank Holiday).

Any claim for payment of carers (dependents and childcare) and travel and subsistence allowances under this Scheme shall be made within two months of the date of the duty to which the allowance relates. Claims shall not be paid unless supported by a receipt confirming that the expenditure has been incurred. The Council may make a payment where the allowance is not claimed within the period specified.

Backdating

Any amendments made during the year to the amounts payable under this Scheme may be backdated to the beginning of the year.

Repayment of Allowances

A special responsibility allowance is payable in monthly instalments to those Members who hold the positions of special responsibility listed in para. 2 above. Members are elected/appointed to and removed from positions of special responsibility as follows:

1. Leader of the Council – elected and removed from office by the GAC in accordance with Standing Orders 4 & 4A;
2. Deputy Leader – appointed and removed from office by the Leader of the Council on notice to the Proper Officer for report to the GAC (Standing Order 4B);
3. Cabinet members/Lead member – appointed and removed from office by the Leader of the Council on notice to the Proper Officer for report to the GAC (Standing Order 4D);
4. Shadow Leader & Deputy Shadow Leader – appointed and removed from office by the largest party in opposition on the Council on notice to the Proper Officer for report to the GAC (Standing Order 5);
5. Other Group Leader & Deputy Group Leader – appointed and removed from office by members of the Group on notice to the Proper Office for report to the GAC;
6. Chairman/Vice – chairman & Shadow Chairman of the committees listed in paragraph 2 above – appointments to and removal from office in accordance with the wishes of the Group Leaders, on notice to the Proper Officer for report to the GAC.

2. The basic allowance is claimable by all Members in monthly instalments.
3. Where payment of an allowance has already been made in respect of any period during which the Member concerned:

    1. ceases to be a member of the Council; or
    2. is in any way not entitled to receive the allowance in respect of that period,
    3. the Council may require that such part of the allowance as relates to any such period shall be repaid to the Council.

Publicity

1. As soon as reasonably practicable after determining a scheme of allowances, the Chief Officer and Director of Corporate Services will ensure that a copy of the Scheme is available for inspection and publicised in accordance with the 2003 Regulations.
2. As soon as practicable after 1 April each year the Chief Officer and Director of Corporate Services shall make arrangements for the publication of the total paid to each Member in each category of allowance specified in this Scheme, in the preceding year.

## 7. Version Information

This page was created in June 2025 as an accessible version of the draft approved by Annual Council on 7 May 2025.

## 8. Public Notices

Members' Allowance Scheme:

The Council, in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 has produced a Scheme of Allowances.

The Scheme provides for a fixed basic allowance to be paid in equal amounts to every Member of the Council. Further sums are available to those Members holding positions of Special Responsibility as specified in the Scheme.

Members' Allowances Public Notice 2019-20

Members' Allowances Public Notice 2020-21

Members' Allowances Public Notice 2021-22

Members Allowances Public Notice 2022-23

Members Allowances Public Notice 2023-24

## 8.2 - DEED OF INDEMNITY FOR MEMBERS AND OFFICERS

## 1. SCOPE

(1) In accordance with the Local Authorities (Indemnities for Members and Officers) Order 2004, Dartford Borough Council (the Council) indemnifies each Member and Officer of the Council against any costs, claims and expenses set out in section 3, subject to the restrictions set out in section 4 and on the terms set out in section 5 of this Deed of Indemnity.

(2) Notwithstanding any limitation on the powers of the Council, the indemnity is effective to the extent that the Member or Officer reasonably believed at the time at which they acted:

(a) that the action, or failure to act, in question was within the powers of the Council, or
(b) where that action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the Council or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true.

## 2. DEFINITIONS

In this Deed of Indemnity:

**Co-opted Member**- has the meaning in section 27(4) of the Localism Act 2011.

**Independent Member** – means a person who is not a councillor, appointed to a committee for their particular experience or expertise.

**Independent Person** – has the meaning in section 28(7) of the Localism Act 2011.

**LA Proceedings** means any investigation, report, reference, or any other proceeding pursuant to section 27(6) of the Localism Act 2011.[1]

**Member** means an elected and Co-opted Member and for the purposes of this Deed of Indemnity, include Independent Members and Independent Persons.

**Officer** means any person employed by the Council.

**Outside Bodies** include trusts, companies, charities, school governing bodies, industrial and provident societies and community associations to which Members or Officers are appointed by the Council to serve on the Outside Body as a director, trustee, governor or member (with or without voting powers).

[1] A relevant authority other than a parish council must have in place - (a) arrangements under which allegations can be investigated and (b) arrangements under w hich decisions on allegations can be made



## 3. COSTS, CLAIMS AND EXPENSES

Subject to the restrictions in section 4 of this Deed of Indemnity, the costs, claims and expenses are those, which arise from, or in connection with, any action of, or failure, to act by, the Member or Officer,

which:-

(a) is or has been authorised by the Council; or

(b) forms part of, or arises from, any powers conferred, or duties placed, upon that Member or Officer, as a consequence of any function being exercised by them (whether or not when exercising that function they do so in their capacity as a Member or Officer);

(i) at the request of, or with the approval of the Council, or

(ii) for the purposes of the Council.

(2) The costs, claims and expenses' implications of any proposed indemnity will be considered at the outset of proceedings or action and an initial ceiling on the level of indemnity agreed with the Chief Officer & Director of Corporate Services or nominee. Any further funding will require a decision by the Chief Officer & Director of Corporate Services or nominee who will consider whether any special circumstances apply to a request for further funding. A proposal to refuse further funding will be at the Chief Officer & Director of Corporate Services or nominee's discretion, whose decision will be final.

(3) The indemnity will apply retrospectively to any act or failure to act which may have occurred before the date of the adoption of this Deed of Indemnity or earlier indemnities but that are the subject of proceedings or action in progress at the date this Deed of Indemnity is adopted by the Council or commencing after that date and will continue to apply after the Member or Officer has ceased membership or employment of the Council as well as during his/her membership or employment of the Council.

(4) Where a Member or Officer requests an indemnity, they will provide the Chief Officer & Director of Corporate Services or nominee with such information as may be reasonably required and the likely costs for which the Member or Officer may claim reimbursement under this Deed of Indemnity.

## 4. RESTRICTIONS

(1) No indemnity is provided in relation to any action by, or failure to act by, any Member or Officer which:

(i) constitutes a criminal offence; or

(ii) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that Member or Officer.

(2) Notwithstanding section (4)(1)(i), the indemnity may be provided in relation to:

(i) (subject to section 5 below) the defence of any criminal proceedings brought against the Member or Officer; and

(ii) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

(3) This indemnity will apply to the *defence* by a Memberor Officer of any allegation of defamation made against him/her, but does not extend to the making/initiating by a Member or Officer of any claim in relation to an alleged defamation of that Member or Officer.

TERMS OF INDEMNITY OR INSURANCE

(1) Subject to section (2) below, the terms of the indemnity (including any insurance secured for the Member or Officer) has effect in relation to the defence of:

(a) criminal proceedings;
(b) LA Proceedings;
(c) employee code of conduct proceedings.

(2) The indemnity is provided and any insurance secured, on the terms that in circumstances where (a), (b) or (c) below apply, the Member or Officer will reimburse the Council or the insurer (as the case may be) for any sums expended by the Council or insurer pursuant to the indemnity or insurance. Any sums expended will be recoverable by the Council or the insurer as a civil debt.

(a) in the case of **criminal proceedings**, if the Member or Officer is convicted of a criminal offence and that conviction is not overturned following any appeal.

(b) in the case of **LA Proceedings**:

(i) if a finding is made that the Member has failed to comply with the [Member] Code of Conduct and that finding is not overturned following any appeal, or

(ii) if the Member admits that they have failed to comply with the Code.

(c) in the case of **employee code of conduct proceedings**:

(i) if a finding is made that the Officer has failed to comply with the Code and that finding is not overturned following any appeal; or

(ii) the Officer admits that they have failed to comply with the Code.

(3) The indemnity will only extend to cover actual loss and expense incurred and evidenced by the Member or Officer to the satisfaction of the Chief Officer & Director of Corporate Services or nominee.

(4) The indemnity will not cover any loss or expense in respect of which the Member or Officer can obtain reimbursement from any other source, including any policy of insurance whether taken out by the Council or the Member or Officer or by any other person.

(5) This Deed of Indemnity will not apply if a Member or Officer, without the express permission of the Council or of the Chief Officer & Director of Corporate Services or nominee, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this indemnity in circumstances which may give rise to liability on the part of the Council.

## 5. INSURANCE

In addition to providing the indemnity, the Council may secure the insurance of its Members and Officers. The following provisos are to be noted:

(a) insurance cover does not apply to an error committed by a Member independently of Officer advice;

(b) an insurance claim must be capable of being made against the Council itself. There is therefore no cover where an activity amounts to Members or Officers acting in capacities other than as Members or Officers;

(c) where the Council arranges insurance to cover its liability under this Deed of Indemnity, the

requirement to reimburse the Council in section 5(2) above, will apply as if references to the Council were references to the insurer.

## 6. OUTSIDE BODIES AND JOINT COMMITTEES

(1) The Council will provide an indemnity where a Member or Officer:

(a) acts solely on behalf of the Council, within the terms of reference laid down by the Council and solely in pursuance of the Council's statutory powers;

(b) acts solely in an advisory capacity in connection with the Council's functions;

(c) occupies an observational role on the board or committee of an Outside Body, representing the Council's interests (excluding in a decision-making capacity);

(d) acts on behalf of a joint committee established by two or more local authorities.

(2) In circumstances where a Member or Officer has been nominated to and is clearly representing or acting solely on behalf of the Outside Body, such nomination is subject to the requirement that the Outside Body must satisfy the Council that appropriate insurance cover is maintained, so as to protect the Member or Officer against personal liability.

DARTFORD
BOROUGH COUNCIL

CONSTITUTION OF THE COUNCIL

# PART 9 PROBITY, PROPRIETY

## Introduction to Part 9 – Probity, Propriety

Part 9 of the Constitution sets out the Council's Counter-Fraud and Corruption Strategy and its Whistleblowing Policy and Procedure.

The purpose of the Counter-Fraud and Corruption Strategy is to set out the Council's commitment towards the prevention of fraud and corruption, including bribery from both internal and external sources.

The Whistleblowing Policy and Procedure is designed to be aligned with the Whistleblowing Commission's Code of Practice (March 2015), which sets out a best practice framework for the public sector.

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# 9.1 - Counter-Fraud and Corruption Strategy DARTFORD BOROUGH COUNCIL

| | | |
|---|---|---|
| **Author** | Jen Warrillow, Head of Internal Audit | September 2025 |
| **Approved By** | Management Team | September 2025 |
| | Audit Board | Date |
| **Date of next review** | | September 2027 |

## POLICY STATEMENT

1.1 The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council. The Council's expectation of propriety and accountability is that Members and Officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

1.2 The purpose of this Counter-Fraud and Corruption Strategy is to set out the Council's commitment towards the prevention of fraud and corruption (including bribery) from both internal and external sources. It is primarily designed to improve resilience to fraud and to create a strong counter-fraud culture which highlights the Council's zero-tolerance approach to all stakeholders. Specifically it aims to:

- Encourage prevention,
- Promote detection; and
- Identify a clear pathway for reporting and investigation.

1.3 The Council's Counter-Fraud and Corruption Strategy is based on a series of elements, which when in place will contribute towards a strong anti-fraud culture and practice across the Council. The Council also supports the Fighting Fraud and Corruption Locally Strategy.

1.4 This document has been made publicly available via the Council's website and intranet and all staff have been informed of its existence and revision.

## DEFINITIONS

2.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) defines fraud as "any intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss."

2.2 Under the Fraud Act 2006, a person can be guilty of fraud by:

- False representation - *for example providing false information when applying for Single Person Discount, or staff falsely claiming to be sick*
- Failure to disclose information – *for example failing to disclose a financial interest in a company the Council is trading with*
- Abuse of position – *for example ordering goods through Council accounts for personal use*

2.3 Transparency International UK defines corruption as 'the abuse of entrusted power for personal gain'.

2.4 This includes the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person to act inappropriately.

2.5 In the UK, the Bribery Act 2010 creates the following offences:

- Offering, promising or giving a bribe
- Requesting, agreeing to receive or accepting a bribe
- Bribing a foreign official to obtain or retain business
- Failure by an organisation to prevent bribery by those acting on its behalf

## ROLES AND RESPONSIBILITIES

3.1 The Economic Crime and Corporate Transparency Act (ECCT) includes the corporate criminal offence of "failure to prevent fraud." An organisation may be held criminally liable where;

- an "associated person" commits fraud intending to benefit the organisation and
- the organisation did not have reasonable fraud prevention procedures in place.

3.2 The Council therefore expects and requires all its officers, members, contractors and all who associate with the Council to act with propriety and accountability. Specific responsibilities are set out below:

| STAKEHOLDER | RESPONSIBILITIES |
|---|---|
| Chief Officer & Director of Corporate Services | The Chief Officer & Director of Corporate Services has overall responsibility for:<br>• developing, maintaining and implementing this strategy<br>• maintaining adequate and effective internal control arrangements<br>• ensuring that all suspected irregularities are reported to the Head of Internal Audit and the Chief Officer & Director of Corporate Services who will advise on the most appropriate course of action. |
| Directors and Service Managers | All Directors and Service Managers are responsible for:<br>• embedding a strong counter-fraud culture with an ethos of honesty and integrity<br>• embedding an open and transparent culture where staff feel empowered to report suspicions of wrong-doing<br>• maintaining the internal control system including those designed for the prevention and detection of fraud and other illegal acts<br>• ensuring that all suspected irregularities or financial improprieties are reported to the Head of Internal Audit and Chief Officer & Director of Corporate Services<br>• instigating the Council's disciplinary procedures where the outcome of an Internal Audit or similar investigation indicates improper behaviour<br>• maintaining and regularly reviewing a service register of staff disclosures of financial or commercial interests in the Council's functions. |
| Head of Internal Audit | The Head of Internal Audit is responsible for:<br>• reviewing and updating the Counter Fraud and Corruption strategy<br>• maintaining the Council's Whistleblowing policy and arrangements<br>• investigating and reporting of internal cases of alleged or potential fraud<br>• promoting counter fraud awareness within the organisation<br>• ensuring that fraud risks are considered as part of the annual audit planning process and during the course of individual internal audits |
| Counter Fraud Manager | The Counter Fraud Manager is responsible for:<br>• proactively using appropriate tools and techniques and working with other relevant agencies to identify potential fraud |

| | |
|---|---|
| | • investigating and reporting on external cases of alleged or potential fraud (primarily Revenues and Benefits)<br>• promoting counter fraud awareness within the organisation |
| Money Laundering Reporting Officer | The Council's Money Laundering Reporting Officer (MLRO) is responsible for disclosing all known or suspected money laundering offences to the National Crime Agency. This role is filled by Head of Finance. |
| Audit Board | Audit Board is responsible for monitoring the Council's strategies and policies and considering the effectiveness of the arrangements for Whistleblowing and Counter-Fraud and Corruption procedures. |
| All Council Officers & Members | All Council Officers and Members are responsible for:<br>• Leading by example in ensuring adherence to legal requirements, rules, procedures and practices<br>• Declaring all potential conflicts of interest that may affect their independence within their role as Members or officers<br>• Acting with integrity and conducting their business in a forthright and honest manner<br>• Paying regard to the requirements of the Bribery Act 2010 when acting on behalf of the Council or doing business with the Council<br>• Familiarising themselves with the Council's Whistleblowing Policy<br>• Reporting any suspicions of fraud or improper behaviour. |

## CULTURE

The Council is committed to a strong anti-fraud and corruption culture and has a zero-tolerance approach towards fraud, bribery and corruption activity.

The Council is determined that its ethos will be one of honesty and integrity. The Council supports the Seven Principles of Public Life (the 'Nolan Principles') as set out below:

- **Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

- **Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

- **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

- **Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

- **Openness** – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

- **Honesty** – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

- **Leadership** – Holders of public office should promote and support these principles by leadership and example.

To promote this culture all managers, supported by Council policies, are expected to create and embed an environment in which employees feel they can raise concerns without recrimination and are confident that all concerns will be thoroughly investigated.

Whistleblowing arrangements exist to enable concerns to be raised and for the whistleblower to be protected.

PREVENTION – FRAUD, BRIBERY AND CORRUPTION RISKS

The Council and other Local Authorities face a range of risks regarding fraud, bribery and corruption.

Directors and Service Managers are expected to ensure that fraud, bribery and corruption risks are considered as part of their risk management processes, both in terms of identification and mitigation measures.

The Internal Audit Team can support this process by providing advice and guidance on risks and controls as requested and providing assurance on the effectiveness of these controls in practice.

Some key fraud, bribery and corruption risks that the Council faces are set out below (this list is not exhaustive):

Member and Employee Fraud

- False representation or failure to disclose information in order to gain employment at the Council
- Abuse of position in order to award a contract to a relative or friend without declaring an interest
- Offering or accepting a bribe in order to ignore a liability or award a grant or contract
- Offering or accepting a bribe in order to allow planning permission that does not meet the agreed criteria
- Abuse of position to make payments to someone who is not entitled to receive them

Contractor Fraud

- Charging for goods and services that have not been delivered or received

External

- False representation or failure to disclose information in order to gain social housing
- False representation or failure to disclose information to obtain Council Tax or Business Rates discounts or exemptions
- False representation or failure to disclose information in order to receive parking permits
- Submission of false invoices or false changes to bank details for existing suppliers
- Cybercrime, such as ransomware attacks
- Phishing, for example emails purporting to be from a senior officer requesting a payment to be made

PREVENTION – INTERNAL CONTROL

The Council has a series of policies and codes which form part of the internal control framework and a key part of the fight against fraud. These are communicated to all employees and Councillors to ensure they are aware of activities that are permitted and prohibited, including relevant actions that will be taken if requirements are breached. Key relevant policies are detailed below:

| **Employees** | **Members** |
|---|---|
| • The Employee's Handbook | • The Constitution |

| | |
|---|---|
| • Code of Conduct<br>• Disciplinary Procedure<br>• Standing Orders on Declarations of Interest<br>• Financial Regulations<br>• Contract Standing Orders<br>• Local Taxation/Council Tax Support Fraud and Compliance Strategy<br>• Whistleblowing Policy | • Member Code of Conduct<br>• Gifts and Hospitality Protocol<br>• Standing Orders on Declarations of Interest<br>• Financial Regulations<br>• Contract Procedure Rules.<br>• Whistleblowing Policy. |

The Council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, in terms of their propriety and integrity. In this regard temporary and contract employees should be treated in the same manner as permanent employees.

Employee recruitment must comply with HR Policy. In particular references will be obtained regarding the honesty and integrity of all prospective employees prior to commencing employment with either Council. Also where appropriate, a Disclosure and Barring Services (DBS) check will be undertaken before commencement of employment for certain roles.

## DETECTION AND INVESTIGATION

The array of preventative measures, including internal control systems within the Council, has been designed to deter fraud. Monitoring controls, if properly applied, should facilitate the identification of any unusual activity.

Managers should be alert to the possibility that unusual events or transactions could be symptoms of fraud or attempted fraud. Fraud may also be highlighted as a result of specific management checks or be brought to management's attention by a third party.

All Officers and Members have a duty to report any allegations or suspicions of fraud, bribery or corruption, as follows:

External Fraud

Suspicions about external fraud should be reported to the Counter Fraud Manager for investigation.

An investigation will be carried out in accordance with the Sanctions and Prosecution Policy.

### Internal Fraud

Employees may report their suspicions to their line manager, Director or Head of Internal Audit, or can utilise the arrangements set out in the Whistleblowing Policy, which exists to provide further support and guidance to employees regarding raising concerns and to provide protection to these employees.

The line manager, Service Manager or Director who receives the allegation (whether from a Councillor or a Council employee) must refer the matter to the following people, to determine how the potential irregularity will be investigated:

- Chief Officer & Director of Corporate Services
- Head of Internal Audit

If an investigation is required, an investigating officer will be appointed who will carry out an investigation in line with the Council's investigation processes. This investigation will seek to confirm or refute the allegation of fraud, bribery and corruption but will also look to identify any improvements to prevent similar incidents occurring.

On conclusion of the investigation, a report will be presented to the Chief Officer & Director of Corporate Services for a decision on the next steps.

Where a fraud has occurred, management must subsequently make any necessary changes to systems and procedures to minimise the risk of similar frauds recurring. The investigation may have identified where there has been a failure of supervision, breakdown or an absence of control.

## SANCTIONS

The Council considers all fraudulent activity to be unacceptable and operates a 'zero tolerance' approach to fraud. As such, on the conclusion of an investigation with regard to both internal and external fraud it will consider applying the full range of sanctions available including prosecution. Decisions on sanctions will take into account relevant legislation and internal policies, the Code for Crown Prosecutors and the aggravating and mitigating factors in the case. The Council will also consider referral to the police.

Where the outcome of an investigation indicates improper behaviour by a Council employee, this will be dealt with through the Disciplinary Policy. Where financial impropriety is discovered or it appears that a criminal offence may have been committed, the Council may also refer the matter to the police.

The Council will also pursue the repayment of any financial gain from individuals involved in malpractice and wrongdoing.

## WORKING WITH OTHERS

In view of the rapid increase in fraud perpetrated against local authorities and benefits agencies, including fraudsters having multiple identities and addresses, there is a need to liaise and share information with other agencies and regulators in the fight against fraud and corruption.

Arrangements are in place to develop and encourage the exchange of information between other external agencies on national and local fraud and corruption activity, to help both prevent and detect these activities.

This includes data sharing and matching using records from other public sector bodies through the National Fraud Initiative and the Kent Intelligence Network. Other bodies with whom the Council works includes the Police, the Department for Work and Pensions, and the Kent Investigating Officers Group.

Whilst the ethos and required outcome of this Strategy is expected to remain constant, the procedures and processes by which this is undertaken may alter over time due to the changing nature of fraud, improvements in investigation techniques, and alterations to legislation.

## REPORTING

The Audit Board will receive reports on counter fraud activity and outcomes and are responsible for approving and monitoring this strategy. These reports will be publicly available on the Council's website.

## TRAINING AND AWARENESS

The Council recognises that the continuing success of its Counter-Fraud and Corruption Strategy and its general credibility will depend largely on the effectiveness of awareness, training and responsiveness of employees throughout the organisation.

This strategy will be available to all Members, officers and the public on the Council's internal and external website.

Counter fraud awareness will be promoted periodically throughout the organisation.

STRATEGY REVIEW

This strategy will be reviewed and updated on a two-yearly basis, unless earlier changes are required. All changes bar minor amends to job or policy titles will be subject to approval and endorsed by the Audit Board.

# 9.2 - Whistleblowing Policy and Procedure

| | | |
|---|---|---|
| **Author** | Jennifer Warrillow,<br>Head of Internal Audit | September 2025 |
| **Approved By** | Leadership Team | |
| | Audit Board | Date |
| **Date of next review** | | September 2025 |

## Background

1.1. Whistleblowing is defined by the Whistleblowing Commission's Code of Practice as "the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrong-doing which affects others."

1.2. The Public Interest Disclosure Act 1998 gives statutory protection to employees who "blow the whistle" on their employer's malpractice.

1.3. The Act makes clear the important role that a whistleblowing mechanism can play in helping organisations and employers to comply with the law. To this effect, the Council has developed a whistleblowing policy and procedure. This has been designed to align with the Whistleblowing Commission's Code of Practice 2013, which sets out a best practice whistleblowing framework for the Public Sector.

1.4. This policy underpins the Counter Fraud and Corruption Strategy and is complementary to the Officer and Member Codes of Conduct.

## Policy statement and objectives

2.1. Dartford Borough Council takes seriously its responsibilities for safeguarding public funds and assets and for operating in an ethical manner that ensures the well-being of its employees, suppliers, service providers and customers.

2.2. To this end, the Council is committed to having effective whistleblowing arrangements in place in order to support, encourage and protect individuals who have genuine cause for raising concerns and to promote good governance and safeguard the public interest.

2.3. The Council will take all reports of improper activity seriously and will investigate all concerns raised fairly and consistently.

2.4. The Council will protect the person raising the concerns against victimisation, harassment and / or recrimination and recognises they may wish to raise concerns on a confidential basis.

2.5. The overarching objective of the Whistleblowing policy is to outline a framework which encourages potential whistleblowers to communicate their concerns within a safe environment without fear of recrimination. Specifically, it aims to:

- encourage employees to feel confident in raising serious concerns and to question and act upon concerns in practice
- provide avenues for employees to raise those concerns and receive feedback on any action taken
- reassure employees that they will be protected from possible reprisals or victimisation, if they have a reasonable belief that they have made any disclosures in good faith

## Responsibility

3.1. **Leadership Team** are responsible for approving and endorsing the Policy and for embedding an open and supportive culture where employees feel empowered to whistleblow without fear of reprisals. They are also responsible for assuring themselves that the policy is operating effectively and that concerns are investigated properly and fairly.

3.2. **Audit Board** are responsible through their Terms of Reference for reviewing and monitoring the Policy.

3.3. The **Head of Internal Audit** has overall responsibility for the maintenance and operation of this Policy and for keeping a record of all allegations received, their outcomes and the feedback provided.

3.4. **All staff** are responsible for raising relevant concerns they may have under this policy.

3.5. **All managers** are responsible for ensuring that concerns raised with them are taken seriously, treated appropriately and investigated fairly.

3.6. The **Monitoring Officer's** Annual Report to Members will incorporate a summary of whistleblowing events and their outcomes.

3.7. The **External Auditor** will also be advised at least annually, of all proven whistle-blowing events and their outcomes.

## SCOPE

4.1. This Policy applies to all employees (including temporary and agency staff), Councillors, co-optees, volunteers, contractors, their agents and/or subcontractors, consultants, suppliers and service providers in the course of their work for the Council.

4.2. Disclosures may be made under the Whistleblowing policy relating to the following concerns:

- Conduct of a criminal nature or a breach of the law
- Miscarriage of justice
- Bullying, harassment or victimisation of a third party
- Disclosures related to miscarriages of justice
- Health and safety risks, including risks to the public as well as other employees
- Damage to the environment
- Covering up or concealing any of the above
- The unauthorised use of public funds
- Possible fraud and corruption including offences falling under the Bribery Act 2010
- Sexual or physical abuse of customers
- Breach of Council procedures; or
- Other unethical conduct or malpractice.

4.3. Any serious concerns that employees have about any aspect of service provision or the conduct of officers, councillors, co-optees, partners or others acting on behalf of the Council, can be reported under this Policy. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- relates for example to a breach of the Council's Standing Orders, Financial Regulations, policies, practices and procedures; or
- falls below established standards of practice; or
- amounts to improper conduct.

4.4. The Whistleblowing policy does not replace the Corporate Complaints and Grievance procedures. Concerns relating to individual complaints or personal grievances, including employment matters, are likely to fall under complaints and grievance policies. Employees must not use this Policy to deal with day to day problems, such as mistakes, errors, or general differences of view that arise in the workplace. Operational matters should be raised with management first.

## Safeguards and Support

5.1. The Council expects employees and others that they deal with who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. Employees are often the first to realise that there may be something seriously wrong within the Council.

5.2. Nonetheless, the Council recognises that the decision to report a concern can be a difficult one to make. Employees may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment, victimisation or recrimination from the Council.

5.3. Provided they believe they are acting in the public interest and are making disclosures in good faith, employees raising a disclosure are protected by both employment law and this policy. 'Confidentiality' or other clauses in settlement agreements do not prevent employees from making disclosures in the public interest.

5.4. The Council has a strong commitment to good practice and high standards in protecting its employees from harassment, victimisation and recrimination when raising a whistleblowing disclosure. It will not tolerate any harassment, victimisation or recrimination when a concern is raised in good faith or in order to deter someone from making a disclosure. Any such instances amount to serious misconduct and will be dealt with under the Disciplinary policy.

5.5. The above provisions apply regardless of the outcome of the investigation including where the concern is unfounded or unsubstantiated.

5.6. The Council is also committed to providing support for whistleblowers. The person with whom you are raising your concern will discuss with you options available for support, which could include, for example, mentoring or a referral to Employee Assistance.

5.7. If you believe you have suffered or are under threat of suffering victimisation or harassment as a result of raising concerns, you may also report this concern as set out under section **9** below.

## Confidentiality

6.1. Where requested, the Council will use its best endeavours to treat in confidence all concerns raised and will do its utmost not to reveal your identity without your agreement. However, the Council cannot guarantee that any investigation process will not reveal the source of the information, particularly in matters of criminal or civil law. If it is necessary to disclose your identify, the Council will make every effort to discuss this with you first, including arrangements that can be put in place to support you.

## Anonymous Allegations

7.1. Whilst you are encouraged to put your name to your allegation whenever possible, it is recognised that in some instances, individuals may have genuine concerns about their safety, security or well-being which may prevent them from revealing their identity. Under such circumstances, the policy allows for anonymous disclosures and these are always preferable to remaining silent.

7.2. Before you choose to remain anonymous however, you should carefully consider the following:

- Anonymity may limit the actions that the Council is able to take as, for example, it may not be able to contact you for any follow-up information
- You are unlikely to be able to receive feedback on your concern
- Invoking legal protections for whistleblowers may be more difficult as there will not be any documentary evidence to link you to the concern raised.

8. False Allegations

8.1. If you make an allegation in good faith but the investigation finds this to be unsubstantiated or unfounded, no action will be taken against you. If, however, you make a false or malicious allegation for an ulterior motive, disciplinary action may be taken against you. It is therefore important that any allegation is made in good faith.

# Whistleblowing Procedure

## How to raise a concern

### 9. Who to contact

9.1. Depending on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, you are encouraged in the first instance to raise concerns with your immediate manager or your supervisor.

9.2. If you believe that your line manager may be involved, if you do not feel comfortable discussing the issue with your line manager or if you are not satisfied with the response that you receive, you may raise your concern with any of the individuals or contacts below. Key contact details are provided at **Appendix A**.

- Service Manager
- Director
- The Head of Internal Audit (or member of the Audit Team)
- The Council's whistleblowing reporting line / email address

9.3. If you are not an employee, you may raise your concern using any of the contacts given in **Appendix A**.

9.4. Anyone who receives a report of a concern must notify the Head of Internal Audit (unless the concern relates to Internal Audit). This ensures that all concerns are recorded, that they are treated fairly and consistently and that any patterns of behaviour are identified.

9.5. If your concerns are about Internal Audit, you must contact the Chief Officer & Director of Corporate Services in the first instance.

9.6. For all concerns, you may also contact the Chairman of the Audit Board, as a last resort, if you believe that your concerns have not been appropriately dealt with.

### 10. How to report a disclosure

10.1 Concerns may be raised verbally (in person or on the telephone), in writing or by email.

10.2. A dedicated Freephone telephone number has been set up to allow you to speak in confidence to the Internal Audit Team. Alternatively you can email whistleblowing@dartford.gov.uk.

10.3. Please provide the following information when making a whistleblowing disclosure:

- The background and history of the concern (giving relevant dates and evidence where available)
- The reason why you are particularly concerned about the situation.

10.4. The earlier you express the concern, the easier it is to take action, as delays may make it more difficult to obtain the relevant evidence.

10.5. You are not expected to provide evidence or to prove the truth of an allegation, however you should ensure that there are reasonable grounds for your concern.

10.6. Where concerns are raised in person, you may invite your trade union representative, or a work place colleague to be present during any meetings or interviews in connection with the concerns you have raised.

## 11. What we will do

11.1 The Council will take every whistleblowing concern seriously and will investigate appropriately.

11.2. Where appropriate, the matters raised may:

- be investigated by senior management and / or the Internal Audit Team
- be referred to the police;
- be referred to the external auditor; or
- form the subject of an independent inquiry.

11.3. In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

11.4. The overriding principle which the Council has in mind, is the public interest.

11.5. Concerns or allegations which fall within the scope of specific procedures (for example discrimination issues) will normally be referred for consideration under those procedures.

11.6. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

11.7. Within ten working days of a concern being raised, provided you have supplied your contact details, the investigating officer will write to you:

- Acknowledging that the concern has been received
- Indicating how we propose to deal with the matter and who will investigate
- Giving an estimate of how long it will take to provide a final response
- Advising you how and to whom you should report if you feel you are being treated unfairly as a result of the disclosure
- Supplying you with information on staff support mechanisms
- Advising you that you are entitled to independent advice.

11.8. The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern.

11.9. The Council accepts that you need to be assured that the matter has been properly addressed. Subject to legal constraints, you will be informed of the outcomes of any investigation.

## 12. If you are not satisfied

12.1. If you are not satisfied with how a whistle-blowing disclosure has been managed, please speak to the Head of Internal Audit or the Chief Officer & Director of Corporate Services.

## 13. External Disclosures

### ‘Prescribed’ Disclosures

13.1. If you feel that the Council has not responded to your concern satisfactorily, or if you feel unable to raise the matter internally, the law allows for disclosures to be made externally to ‘prescribed people or bodies’ whilst maintaining whistleblower protections for the individual. The relevant ‘prescribed person’ depends on the subject matter of the concern and a full list can be found here: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies

13.2. The most likely relevant bodies for the Council’s business are set out in **Appendix B**.

13.3. You may also contact the police or seek advice from a legal professional.

**'Non prescribed' Disclosures**

13.4. These are disclosures made to other people or bodies, such as the media. Whistleblower protections would only apply to these disclosures in exceptional circumstances and therefore you are encouraged to seek independent, specialist advice prior to making any such disclosure.

**External Advice**

13.5. If you wish to seek advice outside the organisation you can also contact:

- Protect (formerly Public Concern at Work) on 0203 117 2520 whistle@protect-advice.org.uk
- The Council's External Auditor (Grant Thornton) on 0207 383 5100
- Relevant professional bodies or regulatory organisations
- Your trade union representative

## 14. Policy review

14.1. The Whistleblowing policy will be reviewed and updated every 2 years, or as and when amendments are needed.

## 15. Training

15.1. As part of the Council's Counter-Fraud and Corruption Strategy, appropriate training will be offered to officers on key aspects of the whistle-blowing policy and how it should be implemented. The policy will be available on the Council's website for easy access by staff. Guidance will be provided to managers on how to respond to concerns raised.

**Appendix A – Key Contacts**

| Name | Job Title | Contact details |
|---|---|---|
| Sarah Martin | Chief Officer & Director of Corporate Services | sarah.martin@darford.gov.uk<br>01322 343632 |
| Caroline Hicks | Director of Growth & Community | Caroline.hicks@dartford.gov.uk<br>01322 343405 |
| Peter Dosad | Director of Housing & Public Protection | Peter.dosad@dartford.gov.uk<br>01322 343125 |
| Jennifer Warrillow | Head of Internal Audit | jennifer.warrillow @dartford.gov.uk<br>01322 343004 or<br>01732 227053 |
| Whistleblowing hotline | | whistleblowing@dartford.gov.uk<br>0800 496 3245 |

**Appendix B – External Contacts**

| Prescribed body | Scope of disclosures | Contact details |
|---|---|---|
| **The Comptroller and Auditor General** | Contact them about the proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services. | The Comptroller and Auditor General<br>National Audit Office<br>157-197 Buckingham Palace Road<br>London<br>SW1W 9SP<br><br>Tel: 020 7798 7999<br>Website: www.nao.org.uk/contact-us/whistleblowing-disclosures/ |
| **The Information Commissioner** | Contact them about compliance with the requirement of legislation relating to data protection and to freedom of information. | The Information Commissioner's Office<br>Wycliffe House<br>Water Lane<br>Wilmslow<br>SK9 5AF<br><br>Tel: 0303 123 1113<br>Email: casework@ico.org.uk<br><br>www.ico.org.uk |
| **Grant Thornton (the Council's External Auditors)** | Disclosures relating to local authorities. | 0207 383 5100 |
| **The Health and Safety Executive** | The industries and work activities for which the Health and Safety Executive is the enforcing authority under the Health and Safety (Enforcing Authority) Regulations 1998<br><br>The health and safety of individuals at work, or the health and safety of the public arising out of or in connection with the activities of persons at work. | Tel: 0300 003 1647<br>Online form: www.hse.gov.uk/contact/concerns.htm |
| **The Office for Environmental Protection** | Matters relating to failures of public authorities to comply with environmental law. This | Office for Environmental Protection<br><br>Wildwood |

| | | |
|---|---|---|
| | could be, for example, by failing to take proper account of environmental law when carrying out your activities, or by unlawfully performing, or failing to perform, any activities you have to carry out under environmental law. | Wildwood Drive<br>Worcester<br>WR5 2QT<br><br>03300 416 581<br>www.theoep.org.uk |

DARTFORD
BOROUGH COUNCIL

CONSTITUTION OF THE COUNCIL

# PART 10 EMPLOYEES, MANAGEMENT/STAFFING STRUCTURE, JOINT WORKING PARTNERSHIPS

## Introduction to Part 10

Part 10 of the Constitution sets out the Council's Staffing Structure, the Pay Policy Statement and Joint Working Partnerships.

The Staffing Structure includes the senior management structure at director level and statutory officers.

The Pay Policy Statement is made in accordance with Section 38(1) of the Localism Act 2011 and reviewed annually as part of the budget report, or in year, if required. The Statement sets out Dartford Borough Council's policies relating to the pay of its workforce for the financial year 2025-26.

Part 10 also sets out the criteria for Politically Restricted Posts and guidance for employees, including where this involves participation in Joint Bodies, and on the application process for exemption from, or inclusion on, the list of politically restricted posts.

In addition, Part 10 also sets out arrangements for Joint Working Partnerships. The Code of Practice for Effective Joint Working Arrangements outlines the principles of effective joint working governance, identifies why the Council enters and engages in joint working and details how joint working arrangements should be managed, supported and reviewed.

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## 10.1 – STAFFING STRUCTURE

**Sarah Martin - Chief Officer and Director of Corporate Services**

Responsible for Business Continuity, Democratic Services, Elections, Finance, Human Resources, Information Technology, Internal Audit, Land Charges, Legal Services, Property Information and GIS, Revenues & Benefits and Treasury Management.

**Peter Dosad - Director of Housing and Public Protection**

Responsible for Bereavement Services, Climate Change & Biodiversity, Community Safety, Emergency Planning, Enforcement, Environmental Health, Housing (Landlord Function), Parking Services, Parks, Waste & Recycling and Private Sector & Strategic Housing.

**Caroline Hicks - Director of Growth and Community**

Responsible for Asset Management, Building Control, Business Support, Communications, Community Development, Corporate Performance, Corporate Policy, Culture, Customer Services, Economic Development, Elders Forum, Emergency Planning, Events, Health, Land Charges, Leisure, Markets, Major Projects, Planning, Property Information/GIS and Youth Council.

**Statutory Officers**

**Head of Paid Service - Sarah Martin**

Responsible for the management of staff.

**Head of Legal Services and Monitoring Officer – Ian Hunt (interim)**

Responsible for ensuring the legality and fairness of the Council's decision-making and the promotion of ethics within the Council.

**Head of Finance and Section 151 Officer - Tim Sams**

Responsible for the financial affairs of the Council.

## 10.2 - DARTFORD BOROUGH COUNCIL PAY POLICY STATEMENT

2025-26

## PURPOSE

This Pay Policy Statement is made in accordance with Section 38(1) of the Localism Act 2011 and will be reviewed annually as part of the budget report, or in year, if required.

This Pay Policy Statement sets out Dartford Borough Council’s policies relating to the pay of its workforce for the financial year 2025-26, in particular:

a) the remuneration of its Chief Officers
b) the remuneration of its “lowest paid employees”
c) the relationship between the remuneration of its Chief Officers and the remuneration of its employees who are not Chief Officers

## 2. LEGISLATIVE FRAMEWORK

In determining the pay and remuneration of all its employees, the Council will comply with all relevant employment legislation and:

- The Equality Act 2010
- The Part Time Employment (Prevention of Less Favourable Treatment) Regulations 2000
- The Agency Workers Regulations 2010, and where relevant
- The Transfer of Undertakings (Protection of Employment) Regulations 2006.

With regard to the equal pay requirements contained within the Equality Act 2010, the Council ensures that there is no pay discrimination within its pay structures and that all pay differentials can be objectively justified.

## 3. DEFINITIONS

For the purpose of this Pay Policy Statement, the following definitions will apply:

3.1 **"Pay"** in addition to salary includes fees, allowances, benefits in kind, increases in/enhancements to pension entitlements, and termination payments.

3.2 **"Chief Officer**" (has the meaning given in section 2 of the Local Government and Housing Act 1989) and refers to the following roles within the Council:

a) Directors;
b) Statutory Officers.

3.3 **"Lowest Paid Employees"** refers to those staff employed within grade B of the Council's local pay framework.

Grade B is the lowest grade on the Council's local pay framework. Grade B (market level) and a number of cleaners and one seasonal part time worker are paid no less than the Living Wage Foundation's Living Wage.

From time to time, the Council employs apprentices or other such categories of workers, including casual workers, who are not included within the definition of 'Lowest Paid Employee' as they are employed under the Government's National Minimum Wage legislation and pay is dependent on age.

3.4 "Specified Posts" refers to the most senior staff below Directors that have high level and wide ranging responsibilities, who report to the Directors.

3.5 "Other Officers" refers to staff other than Chief Officers and includes Lowest Paid Employees and staff in Specified Posts.

3.6 "Statutory Officers" refers to the Head of Paid Service, the Section 151 Officer and the Monitoring Officer.

## 4. PAY FRAMEWORK AND REMUNERATION LEVELS

### 4.1 General approach

Remuneration at all levels needs to be adequate to secure and retain highquality employees dedicated to fulfilling the Council's business objectives and

delivering services to the public.

**4.2 Responsibility for decisions on remuneration**

It is essential for good governance that decisions on pay and reward packages for Chief Officers are made in an open and accountable way and that there is a verified and accountable process for recommending the levels of top salaries.

Salaries for Chief Officers are determined by a meeting of the General Assembly of the Council in accordance with the Council's local pay framework.

The pay grade for Other Officers is determined in accordance with the Council's Pay and Grading Policy.

The Council's local pay framework was approved by the General Assembly of the Council on 25 February 2002.

**4.3 Salary grades and grading framework**

Grades for Other Officers are determined by job evaluation. The Council operates the Hay Job Evaluation Scheme, with the grade for each role being determined by a consistent job evaluation process, or an extension thereto for Specified Posts.

As part of this, the Council determines a local pay framework, from Grade B (lowest) to Grade M (highest). Each job is evaluated against the Hay Job Evaluation Scheme criteria. Each grade comprises an entry level and a market level, except for Grade B which comprises of market level only. New starters, current staff moving to a higher graded new post or whose post has been re-evaluated at a higher grade are paid at entry level and move to market level after 12 months, subject to satisfactory performance. In exceptional circumstances, the market level may be applied earlier than 12 months, subject to the approval of the Head of Paid Service.

Chief Officers are evaluated under the Council's local pay framework and these posts are paid at a specific salary (with no increments) as determined by the General Assembly of the Council. The salary of Other Officers' posts is based on the Hay Job Evaluation Scheme, or on comparables and/or external advice, and agreed by the Head of Paid Service.

Other than entry and market level, pay grades do not have any increments. Pay awards are considered annually for all staff and approved as part of the budget report considered by the General Assembly of the Council in February or March each year.

Where a mid-year increase to the Living Wage Foundation's Living Wage affects any grade in addition to Grade B Market, the Council will review the affected grade's salary to ensure that a reasonable pay differential is maintained.

**5. REMUNERATION – LEVEL AND ELEMENT**

**5.1.1 Chief Officers**

The salary and terms and conditions of employment for Chief Officers are

determined by the General Assembly of the Council.

Chief Officers are subject to the same pay award (if any) as Other Officers. Irrespective of value, any severance/settlement package (including redundancy, permanent ill-health or infirmity of mind or body) proposed for Chief Officers will be referred to the General Assembly of the Council for approval.

Before attempting to reach a financial settlement, it may be appropriate to take legal advice and/or consult with the external auditor to ensure that any payment is justified and lawful. Relevant considerations will include the likelihood of a claim succeeding and the amount of compensation that could be awarded by a Court or Employment Tribunal.

### 5.1.2 Other Officers

The salary and terms and conditions of employment for Other Officers are determined in accordance with the Pay and Grading Policy.

The salary of Specified Posts will be determined by the Head of Paid Service in accordance with existing structures, comparables, and/or external advice.

Other Officers are subject to the same pay award (if any) of Chief Officers. Discretionary compensation for Other Officers, is approved by the Head of Paid Service.

A supplement is paid on the basic pay of the posts of Head of Legal Services and Head of Finance, to remunerate the postholders for the Statutory Officer duties, respectively, of Monitoring Officer and Section 151 Officer, undertaken by them.

### 5.1.3 New starters joining the Council

Employees new to the Council will normally be appointed to the entry grade. Where the candidate's current employment package would make the first point of the salary range unattractive (and this can be demonstrated by the applicant in relation to current earnings) or where the employee already operates at a level commensurate with a higher salary, the market grade may be payable, subject to the approval of the Head of Paid Service.

The grade and starting salary, for Chief Officers will be determined by the General Assembly of the Council. The grade for Other Officers will be determined by the Hay Job Evaluation scheme.

### 5.1.4 Relationship between remuneration of "Chief Officers" and "Other Officers"

For the purpose of this Pay Policy Statement, the "pay multiple" is defined as the ratio between the highest paid salary and the mean average salary of the whole workforce. In this context, salary excludes any payments made for election duties, travel expenses, and any payments made on termination of employment.

The policy of the Council is to set the pay multiple at a maximum of six.

### 5.1.5 Fees or Allowances

Any allowance or other payment will only be made to staff in connection with their role or the patterns of hours they work and must be in accordance with the Council's policies e.g. Expenses Policy, Overtime and Additional Payments Policy etc.

All employees at or above Grade H are entitled to subsidised medical health insurance.

Other non-contractual benefits may from time to time be offered to all employees e.g. subsidised sports membership.

### 5.1.6 Election Duties

The Council is required to appoint a Returning Officer to conduct these local elections on its behalf. In accordance with the Representation of the People Act 1983, the cost of local elections is met by the Council.

The Council is required to place the services of its staff at the disposal of the Returning Officer to help run the election. When deciding on the fees payable, regard is had to guidance issued by the Kent Association of Electoral Administrators or similar organisations and approved by the Joint [Kent] Chief Executives. The Returning Officer has delegated authority to agree the fee levels as proposed by the relevant body and approval for this delegation will be sought each year, along with the approval of this Pay Policy Statement

The Returning Officer is personally (not corporately) responsible for the management of elections.

The fees paid to the Returning Officer for each election for which they are responsible is determined by the size of the electorate in the district, with the payment for national elections being set nationally and the payment for local elections set at county level. Where appropriate, fees for National and Regional elections and Referenda are set out and paid by central government.

### 5.1.7 Special Severance Payments

The Council adheres to the 'Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England.'
Special Severance Payments are payments made to employees, officeholders, workers, contractors, and others outside of statutory, contractual or other requirements when leaving employment in public service.

(a) The following types of payments are likely to constitute Special Severance Payments, see below examples:

• payments reached under a settlement agreement between the employer and employee to discontinue legal proceedings without admission of fault;
• the value of any employee benefits or allowances which are allowed to continue beyond the employee's agreed exit date;
• write-offs of any outstanding loans;
• honorarium payments;
• hardship payments;
• payments to employees for retraining related to their termination of employment.

(b) The following types of payments may constitute Special Severance

Payments, depending on the terms of the individual's contract, relevant statutory provisions, any non-statutory applicable schemes and other relevant terms and conditions:

• pay or compensation in lieu of notice where the amount of the payment is not greater than the salary due in the period of notice set out in the employee's contract;
• pension strain payments arising from employer discretions to enhance standard pension benefits (for example under LGPS1 Regulation 30(5) where the employer has waived the reduction under LGPS Regulation 30(8) or because of the award of additional pension under Regulation 31).

(c) The following types of payments do not constitute Special Severance Payments:

• statutory redundancy payments;
• contractual redundancy payments, whether applicable to voluntary or compulsory redundancy, and whether agreed by collective agreement or otherwise;
• severance payments made in accordance with the Council's policy adopted pursuant to Regulation 7 of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006;
• a strain cost paid to the relevant LGPS administering authority under LGPS Regulation 68(2) which results from a LGPS member's retirement benefits becoming immediately payable without reduction under LGPS Regulation 30(7), or under LGPS Regulation 30(6) where the employer has waived the reduction under LGPS Regulation 30(8);
• payments for untaken annual leave;
• payments ordered by a court or tribunal or agreed as part of a judicial or non-judicial mediation;
• payments made as part of the ACAS Early Conciliation process
• payments made to compensate for injury or death of the worker
• payments made in consequence of the award of ill-health retirement benefits under Regulation 35 of the LGPS Regulations.

(d) Before agreeing to making a special severance payment, the pro forma template at Annex B will be completed to record the economic rationale for payment, compliance with the statutory guidance, minimisation of costs and the consideration of other available options.

Special Severance Payments will be approved in accordance with the following process:

• payments of £100,000 and above, by the General Assembly of the Council;
• payments of £20,000 and above, but below £100,000, to be personally

• payments below £20,000, by the Head of Paid Service.

1 Local Government Pension Scheme Regulations 2013Monitoring Officer, in consultation with the Leader (records of approval
must be maintained);

## 6. PERFORMANCE RELATED PAY

The Council does not operate a scheme of performance related pay.

## 7. BENEFITS IN KIND

Any benefits in kind will be in accordance with any specific policy e.g. Expenses Policy and subsidised medical health insurance.

## 8. PENSION

All employees are eligible to join the Local Government Pension Scheme (LGPS). In line with LGPS rules, all new employees are auto enrolled on commencement of employment. The Council will not offer an alternative scheme to employees.

In certain circumstances, the Council may grant additional scheme membership. The Council's policy on employer pension discretions is included as an Annex A to this Pay Policy Statement.

Additional scheme membership for the Chief Officers is approved by the General Assembly of the Council. For Other Officers, approval is by the Head of Paid Service, except in cases where additional scheme membership would result in a severance package above £100,000. In this instance, the total severance payment will be referred to the General Assembly of the Council, in accordance with the 'Openness and accountability in local pay: Guidance under section 40 of the Localism Act 2011.'2

## 9. REDUNDANCY & DISCRETIONARY PAYMENTS

As a local authority employer, the Council must comply with its duties under the Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999.

In the event that an employee ceases to hold office and is eligible for a redundancy payment, such payment is determined in accordance with the Council's Redeployment and Redundancy Policy and Procedure that applies to all employees.

If an employee who is under notice of redundancy receives an offer of a job from another local authority or associated employer and accepts and starts working for the new employer within four weeks of the end of the individual's employment with the Council, there is no dismissal for redundancy payment purposes and therefore the employee is not entitled to a redundancy payment. In cases where the current contract ends on a Friday, Saturday or Sunday,

2 Supplementary Guidance February 2013before the fifth Monday following the end of the current contract.

The normal pension abatement rules that apply to all employees, will also be applied to Chief Officers in receipt of a LGPS pension.

The Council is required to have a policy for discretionary payments under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006.

The Council's policy on the discretionary payments is included as an Annex A to this Pay Policy Statement.

It is not the general policy of the Council to re-employ former employees who have received a redundancy or discretionary compensation payment on leaving. However, the Council must have flexibility to respond to operational requirements. For Other Officers, the Council will only re-employ former

employees who have received a redundancy or discretionary compensation payment after approval by the Head of Paid Service. In the case of the reemployment of Chief Officers, approval would be required by the General Assembly of the Council.

## 10. PUBLICATION AND ACCESS TO INFORMATION ABOUT THE REMUNERATION OF COUNCIL EMPLOYEES

The Council publishes in its annual accounts, information relating to the remuneration of staff over a level defined by Government guidance. Responses to freedom of information requests are subject to the consideration of the Data Protection Act 2018.

## 11. AMENDMENTS TO THIS PAY AND POLICY STATEMENT

This Pay and Policy Statement may be amended in-year by resolution of the General Assembly of the Council.

## 10.3 - POLITICALLY RESTRICTED POSTS

# GUIDANCE FOR EMPLOYEES ON THE APPLICATION PROCESS FOR EXEMPTION FROM OR INCLUSION ON THE LISTS OF POLITICALLY RESTRICTED POSTS

Adopted by the Standards Committee 16 July 2009 [Min.No:39]
Amended in consultation with the Standards Committee Chairman 27.05. 2010
Amended to comply with the Localism Act 2011 provisions - 16 July 2012 [GAC Min. No. 35] Amended under the Managing Director's delegated authority - 25 February 2019
Amended under the Strategic Director (Internal Services) delegations- 15 June 2020
Amended under the Chief Officer & Director of Corporate Services' delegations - 4 February 2022

## 1. Introduction

1.1 This guidance note applies to employees who occupy or are appointed to politically restricted posts and sets out the application process for exemption from or inclusion on the list of politically sensitive posts maintained by the Council, and the process of application for a direction on whether a post is politically restricted.

1.2 The main provisions regarding politically restricted posts are set out in Part I of the Local Government and Housing Act 1989 (as amended) (the LGHA 1989). The law aims at ensuring the political impartiality of local government staff.

1.3 Employees in 'politically restricted' posts are not barred from membership of political parties but are from political activity, in particular:

(a) standing as a candidate for election to the House of Commons, the European Parliament, the Welsh Assembly or a local authority, unless the employee resigns prior to announcing his/her candidature in accordance with section 4 below;
(b) acting as an election agent or sub-agent for any candidate for election;
(c) being an officer of a political party, or a branch or committee or sub- committee of a political party, if this involves participation in the general management of the party or branch, or dealing with persons (other than members of the party or branch) as a representative of the party or branch;
(d) canvassing on behalf of a political party or any candidate for election to the House of Commons, the European Parliament, the Welsh Assembly or a local authority (not restricted to the Borough of Dartford);
(e) speaking or writing publicly (other than in an official capacity) with the intention of affecting public support for a political party (does not include the display of a poster or other document at the postholder's home or in their car or other personal possessions);
(f) becoming or remaining a member of another principle local authority;
(g) publishing any written or artistic work of which the officer is an author or editor (either solely or with others) if the work is, or appears to be, intended to affect public support for a political party.

This list is not exhaustive and is intended as a guide only. Employees seeking to become elected or to take part in political activity are advised to take independent legal advice.

1.4 The cumulative effect of the restrictions referred to above, is to limit the incumbents of politically restricted posts, to bare membership of political parties, with no active participation within the party permitted.

1.5 Whilst this guidance only applies to post holders of 'politically restricted' posts, all employees are required to observe the Employee Code of

Conduct, which requires all staff to be politically neutral in respect of their employment duties.

## Categories of politically restricted posts requiring political neutrality

(a) The Council is required to maintain an up to date list of its politically restricted posts that fall into four categories (Appendix A). The list is open to public inspection:

- first category - posts specifically identified in the legislation - these posts are automatically subject to restrictions on political activity and, as such, there is no right to apply for an exemption from political restriction;
- second category - posts defined by their relationship to others - these posts are automatically subject to restrictions on political activity and, as such, there is no right to apply for an exemption from political restriction;
- third category – where the duties of the post have certain characteristics described in the legislation (politically sensitive posts)
  - post holders can apply to the Chief Officer & Director of Corporate Services to be exempted from political restriction;
- fourth category – posts, to which duties have been delegated under the Scheme of Delegations to Officers - these posts are automatically subject to restrictions on political activity and, as such, there is no right to apply for an exemption from political restriction.

(b) The third and fourth categories of posts have to be included in lists prepared and maintained by the Council. There is no requirement to keep a list of those posts deemed to be politically restricted by virtue of the first category, that do not also fall within the remit of the third category.

In practical terms, the best way for the Council to maintain clarity in respect of politically restricted posts is to annotate a full staff list to show those posts restricted by virtue of the first to fourth categories. Some posts will have more than one annotation, some will have one only and many will have none. The benefit of a list of this type is that it will greatly facilitate the role of the Chief Officer & Director of Corporate Services in the exemption application process (see sections 4 to 6 below).

(c) Secretarial, clerical and support staff, even if they report to the Head of Paid Service or Directors, are excluded from the second category list. They may however, be deemed to be in politically restricted posts, if their duties fall within the third category (politically sensitive posts).

2. **Terms and Conditions of Employment** – Section 1(5) LGHA 1989 states that 'the terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.'

3. **Employees standing for election** - Notwithstanding the period of notice referred to in contracts of employment, prior to announcing their candidature for election as a member of the House of Commons, the European Parliament, the Scottish Parliament, Welsh Assembly or any Local Authority (excluding parish/town councils), holders of politically restricted posts must, by notice in writing, addressed to their Director, Manager and the Chief Officer & Director of Corporate Services, resign with immediate effect. It is left to the discretion of the Chief Officer & Director of Corporate Services whether or not to reinstate an employee who resigns his/her post, and then consequently fights and loses an election.

   If standing for election, it is in the interests of those applying for exemption from political restriction (third category politically sensitive posts only) or applying for a direction as to whether their post is politically sensitive, to ensure that they make an application to the Chief Officer & Director of Corporate Services for a Certificate of Opinion (Appendix A), at least two months before they intend to stand for election.

## Exemption application process

3.1 Chief Officer & Director of Corporate Services' role

(1) The Chief Officer & Director of Corporate Services will, in consultation with the Monitoring Officer, consider applications from employees for exemption from political restriction or applications for a direction as to whether a post is politically sensitive, provided that the post is included in the third category list of politically sensitive posts or the Council proposes to specify the post as being politically sensitive.

(2) It is the post to which the exemption is granted, not the postholder (although in the majority of cases, the application will be made by a post holder who wants to carry out political activities).

(3) If the Chief Officer & Director of Corporate Services, in consultation with the Monitoring Officer, determines that the duties of the post do not fall within the remit of section 2(3) of the LGHA 1989, the Chief Officer & Director of Corporate Services will direct that the post is not to be regarded as politically restricted and that the post be removed from the third category list of politically sensitive posts maintained by the Council.

(4) The Chief Officer & Director of Corporate Services in consultation with the Monitoring Officer may, on application from any person, review any post

not included in the third category list of politically sensitive posts. If the Chief Officer & Director of Corporate Services considers that the duties of the post fall within section 2(3) of LGHA 1989 and that the post is not currently included in the third category list, then the Chief Officer & Director of Corporate Services may issue a directive that it be included in that list.

(5) The Chief Officer & Director of Corporate Services will give priority according to the time available before any election, to any application for removal from the third category list of politically sensitive posts by an employee who certifies that it is for the purpose of enabling him/her to be a candidate in a forthcoming election.

(6) The Chief Officer & Director of Corporate Services, in consultation with the Monitoring Officer, will give general advice on the application of criteria for designation of a politically sensitive post.

5.2. Chief Officer & Director of Corporate Services discretion

The only area over which the Chief Officer & Director of Corporate Services has discretion is whether or not a post falls within the parameters set out in section 2(3) LGHA 1989. Otherwise, the Chief Officer & Director of Corporate Services is entirely guided by legislation and/or guidance from the Secretary of State in determining whether applications for exemptions made to him should be granted – there is no scope for discretionary approvals, or for exemptions to be granted conditionally.

## Guidance on Section 2(3) of LGHA 1989

Although adjudication of matters arising as a result of differing interpretations of section 2(3) LGHA 1989 remains the prerogative of the Chief Officer & Director of Corporate Services, the following guidance aims to assist the Chief Officer & Director of Corporate Services in his decisions as to whether or not a post is politically sensitive. The guidance is not binding on either the Council or the Chief Officer & Director of Corporate Services and is intended to offer assistance in decision-making without fettering the discretion of either party.

(1) Section 2(3) of LGHA 1989 (the duties' criteria'), states:

'The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say -

(a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented, or, where the authority are operating executive arrangements, to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the authority;

(b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.'

(2) There are several questions raised by the wording of section 2(3) LGHA 1989:

(a) Is a 'post under a local authority' limited to a post held by an employee of the Council?
(b) What do the words 'consist in or involve' imply?
(c) What constitutes advice?
(d) What constitutes on a regular basis?
(e) Does advice have to be proffered to the whole authority, executive, committee, sub-committee or joint committee or to any one member of such a body?
(f) Does speaking mean giving formal presentations or does it include answering telephone queries? Would distributing a written press release constitute speaking to journalists and broadcasters?

(3) In interpreting the provisions of section 2(3) LGHA 1989, the following may be taken into account:

(a) 'Post under a local authority' - in this context, may be taken to mean any post established by the Council, whether the incumbent is a permanent, full or part time employee, a temporary employee, a person seconded to the Council from another body or a consultant under contract to the Council.

(b) 'Consist in or involve' - in this context, may be taken to mean that either giving advice to the Council/Cabinet etc. or speaking to the media, or both, constitute a recognised part of the postholder's activities.

(c) 'Advice' - in this context, may be taken to mean information provided with the intention that it should influence:

- the policy adopted by the Council in respect of any matter properly before it;
- any strategic decisions made by or on behalf of the Council.

(d) 'Regular basis' - in this context, may be taken to mean that the activity to which it refers is:

- incorporated in the job profile for the post; or
- undertaken as an expected part of the postholder's normal duties (example postholder is required to draft reports containing advice and/or recommendations; postholder is required to attend committee meetings; postholder is required to speak at meetings);
- undertaken on more than an occasional basis, though not necessarily frequently.

(e) 'The body to whom the advice is offered' - may in this context, consist of any number of Members from one upwards, as long as the Member

or Members concerned, are acting in their official capacity as members of the Council/Cabinet or any of its committees, sub-committees or joint committees.

(f) 'Speaking' - in this context, may be taken to mean the passing of any information, whether verbally or through the written word, to a journalist or broadcaster when it is reasonable to assume that the postholder knows that the information so provided is likely to be disseminated to the public at large.

## How to apply for an exemption

(third category- politically sensitive posts only)

The postholder may apply to the Chief Officer & Director of Corporate Services to be exempted from the third category list (politically sensitive posts).

(a) All applications require a letter from the postholder addressed to the Chief Officer & Director of Corporate Services. The application will state the title of the post, the basis upon which the post is currently deemed to be politically sensitive and the reason why the postholder considers that political sensitivity is no longer appropriate e.g. they no longer influence policy or that the Council has incorrectly applied the duties' criteria to the post (see section 6(1) above). The application will be accompanied by a certified job profile of the post.

The Chief Officer & Director of Corporate Services may provide the postholder with an opportunity to make oral representations in support of their application. The postholder may be accompanied by an accredited trade union representative or work colleague.

(b) Prior to issuing a direction in accordance with para. (c) below, the Chief Officer & Director of Corporate Services must consult the Monitoring Officer.

(c) The Chief Officer & Director of Corporate Services will issue a direction in the form of a Certificate of Opinion (Appendix B), as to whether or not, in his opinion, the duties of the post meet the section 2(3) LGHA 1989 duties' criteria, for politically sensitive posts.

(d) If the Chief Officer & Director of Corporate Services directs that the duties of the post are not to be regarded as politically sensitive, the HR Business Advisor will comply with the direction and remove the post from the third category list.

(e) The postholder will be notified by the HR Business Advisor of the Chief Officer & Director of Corporate Services decision, within five days' of the date of the Certificate of Opinion.

(f) The decision of the Chief Officer & Director of Corporate Services is final. There is no right of appeal.

## Directions to include a post in the third category list of politically sensitive posts

(1) An application may be made to the Chief Officer & Director of Corporate Services by the incumbents of posts or any person for a direction that a post be included in the list of politically sensitive posts.

(2) All applications require a letter addressed to the Chief Officer & Director of Corporate Services. The application will state the title of the post, the basis upon which the post is deemed to be politically sensitive and the reason why it is considered that political sensitivity applies. The application will be accompanied by a certified job profile of the post.

(3) In considering the application, the Chief Officer & Director of Corporate Services will follow the procedure detailed in section 7(b) and (c) above. The Chief Officer & Director of Corporate Services may only give a direction where he determines that the post satisfies the test referred to in section 2(3) LGHA 1989 AND the post is neither referred to in the Scheme of Delegations to Officers nor listed as a politically restricted post in the first and/or second categories (Appendix A).

(4) If the Chief Officer & Director of Corporate Services directs that the duties of the post are to be regarded as politically sensitive, the HR Business Advisor will comply with the direction and include the post in the third category list and the procedure in sections 7(e) and (f) will apply.

4. Applications for exemption from persons not yet in a politically sensitive post

The Chief Officer & Director of Corporate Services will only consider applications for exemption from persons who have received formal job offers from the Council. Applications for exemption from persons who are applying for a Council post, but who have not received a job offer, will not be considered.

5. New employee appointments

Where new appointments are made to posts included in the third category list, the Council's letter of appointment must refer to the fact that the post is politically restricted.

6. Transferring exemptions to another local authority or post

An exemption cannot be transferred to another local authority or to another post.

## 1Amendments to this guidance

The Chief Officer & Director of Corporate Services has delegated authority to make in-year amendments to this guidance.

## APPENDIX A

# POLITICALLY RESTRICTED POSTS

The persons holding the following posts in a substantive or acting capacity hold 'politically restricted' posts:

| **1. First Category - Posts specifically identified in the legislation** | **Section 2(1) &(6)* LGHA 1989** |
|---|---|
| **Statutory Officers** | |
| | Post holders are 'politically restricted' with no right to apply to be exempted from political restriction. |
| The Head of Paid Service | **Council's designated post** |
| | Chief Officer & Director of Corporate Services |
| Section 151 Officer* | **Council's designated post** |
| | Head of Finance |
| Monitoring Officer | **Council's designated post** |
| | Head of Legal Services |
| | |

| **2. Second Category - Posts defined by their relationship to others** | |
|---|---|
| **Non-Statutory Chief Officers (i.e. Directors)** | **Section 2(7) LGHA 1989** |
| Chief Officer & Director of Corporate Services Director of Housing and Public Protection Director of Growth & Community | Post holders are 'politically restricted' with no right to apply to be exempted from political restriction. |
| | An officer whose duties are solely secretarial or clerical or are otherwise in the nature of support services are not regarded as a non-statutory chief officer. |
| | **Council's designated posts** |
| (a) an employee for whom the Head of Paid Service is directly responsible. | |

| | |
|---|---|
| (b) an employee who, as regards all or most of his/her duties, reports directly to, or is directly accountable to, the Head of Paid Service and/or the Council, or any committee or subcommittee of the Council. | |

| **Deputy Chief Officers (Officers reporting to Directors)** | **Section 2(8) LGHA 1989** |
|---|---|
| | Post holders are 'politically restricted' with no right to apply to be exempted. |
| | An officer whose duties are solely secretarial or clerical or are otherwise in the nature of support services are not regarded as a deputy chief officer. |
| | **Council's designated posts** |
| An employee who, as regards all or most of his/her duties, reports directly to, or is directly accountable to, one or more of the non- statutory chief officers. | Business Rates Manager<br>Community Services Manager Council Tax and Recovery Manager<br>Economic Development and Communications Manager<br>Electoral Services Manager<br>Enforcement and Regulatory Services Manager<br>Environmental Health Manager<br>Head of Finance<br>Head of Housing<br>Head of IT and Transformation<br>Head of Legal Services<br>Head of Planning Services<br>HR Manager<br>*Property Services Manager*<br>*Property Services Manager Manager*<br>*Waste Parks Manager* |
| | |

| **3. Third Category - Posts, whose duties have certain characteristics described in the legislation (politically sensitive posts)** | **Sections 2(2)(c) & (3) LGHA 1989** |
|---|---|
| | Post holders in politically sensitive posts can apply to the Chief Officer & Director of Corporate Services to be exempted. |
| A post becomes politically sensitive, where either of the tests referred to in (a) and/or<br>(b) below are satisfied: | The ultimate test whether an individual post is, in fact politically sensitive, will depend on the nature of the duties the post regularly undertakes. |
| | **Council's designated posts** |
| (a) where the duties involve giving advice on a regular basis to:<br><br>• Cabinet and/or any of its committees, boards or panels; or<br>• the General Assembly of the Council and/or its committees, boards and panels; or<br>Joint Committees on which the Council is represented;<br>or<br>• any Cabinet member | [undefined] posts Graded H (market) and below.<br><br>Posts Graded J (market) and above, but excluding the posts referred to in sections 1 and 2 above. |
| (b) where the duties involve speaking on behalf of the Council on a regular basis to journalists or broadcasters. | [undefined] posts Graded H (market) and below.<br><br>Posts Graded J (market) and above, but excluding the posts referred to in sections 1 and 2 above. |
| | |

| **4. Fourth Category - Posts to which powers and duties have been delegated** | **Section 2(1)(g) & 2(2)(c) LGHA 1989** |
|---|---|
| | Post holders referred to in the Scheme of Delegations to Officers are politically restricted, with no right to apply to be exempted from political restriction. |
| This inclusion ensures that a person who is in a post not normally politically restricted, but who, for the time being, is exercising powers normally exercised by the holder of a politically restricted post, is regarded as being in a politically restricted post for the duration of the delegation. | *The list does not include any delegations made or in place for a duration not exceeding six months.* |
| | **Council's designated posts** |
| | Officers exercising delegated powers, i.e. persons whose posts are for the time being specified by the General Assembly of the Council and/or Cabinet in a the Scheme of Delegations To Officers maintained in accordance with section 100G(2) of the Local Government Act 1972 and section 15 of the Local Government Act 2000. |
| | |

**APPENDIX B**

**Politically Restricted Posts**

## CERTIFICATE OF OPINION FOR THIRD CATEGORY - POLITICALLY SENSITIVE POSTS

# DARTFORD BOROUGH COUNCIL

### LOCAL GOVERNMENT AND HOUSING ACT 1989 (as amended)

Sensitive posts are ones which meet one or both of the following Section 2(3) LGHA 1989 duties' related criteria:

(a) where the officer is involved in giving advice on a regular basis to:

- Cabinet and/or any of its committees, boards or panels; or
- the General Assembly of the Council and/or its committees, boards and panels; or
- Joint Committees on which the Council is represented; or
- any Cabinet member; or

(b) speaks on behalf of the Council on a regular basis to journalists or broadcasters.

## Chief Officer & Director of Corporate Services - Statement

This is to certify that it is Dartford Borough Council's opinion that the duties of the under mentioned post:

**(Please tick appropriate box)**

do fall within Section 2(3) of the Local Government and Housing Act 1989

do not fall within Section 2(3) of the Local Government and Housing Act 1989

Post Title:

Full Name of Current Postholder:

Postholder's salary: £ Grade

Job Profile (please attach)
It is a requirement that the job profile contains adequate information. For filled posts, the information provided needs to show to what extent, over the past twelve months, the postholder has advised the General Assembly of the Council/Cabinet, its committees or sub-committees, or joint committees or a Cabinet member and/or spoken regularly for Dartford Borough Council, to journalists and broadcasters.

For new posts, it will be necessary to state to what degree it is anticipated the postholder will be carrying out the duties as outlined above.

**Chief Officer& Director of Corporate Services:**

Name: Signature

Date:

# 10.4 - CODE OF PRACTICE FOR EFFECTIVE JOINT WORKING ARRANGEMENTS

Amended by authority of the GAC [16 July 2012 Min.No.35]

Amended under the Managing Director's delegated authority 16.12.13
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1. Introduction

1.1 Joint working is playing an increasingly important role in public sector service delivery. The Council is fully committed to joint working because it recognises the strength and value of effective joint working arrangements in contributing to the improvement of the well-being of the Borough's communities. The Council encourages joint working wherever benefits can be demonstrated.

1.2 The benefits of effective joint working include making service users the focus of planning, commissioning and delivering services. Joint working has the potential to deliver value for money through ensuring available resources are used economically, efficiently and effectively. It can also lead to added value by achieving something more than the Council could do by working alone.

1.3 The Council's corporate governance (i.e. the framework of accountability to users, stakeholders and the wider community within which the Council takes decisions and meets and controls its functions to achieve its objectives), supports joint working.

1.4 Given the significant increase in joint working and the subsequent increases in formalised joint working arrangements, this Code and the supporting Toolkit have been developed to ensure that where the Council enters into joint working arrangements, it will do so with sound governance in place, but within a flexible, efficient and robust approach to such an arrangement.

1.5 This Code:

- outlines the principles of effective joint working governance;
- identifies why the Council enters and engages in joint working;
- details how joint working arrangements should be managed, supported and reviewed.

The supporting Toolkit ensures that for each partnership:

- the Council is clear about its purpose and expected outcomes;
- the Council's own agreed priorities and objectives are being met;
- there is clarity about accountability and responsibility for outcomes;
- partnership activity and outcomes are monitored, reviewed and evaluated to make best use of resources;
- risks for the Council, and for the partnership, are assessed and agreed;
- each partnership maintains a relevance to its agreed purpose during its lifespan and has in place an effective exit strategy;
- reviews are undertaken to evaluate success and further challenge progress and improve governance.

1.6 Sharing this Code with prospective partners may prove useful in developing joint working arrangements.

1.6 For the purposes of this Code, the term 'partnership' is to be interpreted in different ways – the term is to be used interchangeably with collaboration, coalition, shared services and joint working.

## What is a partnership?

2.1 The term partnership can encompass a wide range of collaborative arrangements. A partnership is a joint working arrangement where the partners:

2.1.1 are otherwise independent bodies;
2.1.2 agree to co - operate to achieve a common goal;
2.1.3 create an organisational structure or process to achieve the partnership's outcomes;
2.1.4 plan and implement a jointly agreed programme, often with joint staff and/or resources;
2.1.5 share relevant information and pool risks and rewards.

2.2 Partnerships vary in size, service area, membership and function. This Code covers all those partnerships in which the Council is involved where the partners have been charged with developing specific strategies or plans and are 'held to account' for the delivery of those strategies or plans. In addition, these partnerships might also be responsible for delivering key initiatives to realise improvements in quality of life outcomes and might also come under some form of audit/inspection regime. This Code applies equally to Government initiated 'statutory' partnerships as well as nationally required and/or locally determined 'non-statutory' partnerships. It does not cover contractual/joint committees.

2.3 It is important to note that this Code does not cover every partnership - the following list provides examples of arrangements, which are not covered:

- goods, services and works contracts (contractual arrangements)
- partnering agreements (contractual arrangement)
- partnership frameworks (select list);
- community partnerships (involving funding);
- joint strategy partnerships (no formal contract but joint objectives to deliver);
- regeneration/highways partnerships to deliver joint objectives (no formal contract);
- accountable body relationships;
- commissioning partnerships (contractual arrangement);
- LSP and commissioning bodies for LAAs;
- Regional/sub-regional partnerships;
- Strategic service partner (contractual arrangement);
- PPP/PFI and joint ventures (contractual arrangement);
- service level agreements;
- appointments and/or financial commitments to outside bodies, where the Council has no strategic or policy function (e.g. where the Council provides grants and requires a place on the outside body's board);
- consultative groups;
- 'commercial partnerships' with a view to making a profit, which are subject to the Partnership Act 1890;
- joint committees;
- joint waste authorities.

## Benefits of working in partnership

Partnerships should, ultimately, improve the quality of services being provided to Dartford's citizens and should achieve outcomes for communities which individual agencies/bodies may not be able to achieve on their own. Partnerships should have one or more of the following aims:

- improve service delivery through better co – ordination, especially where services are provided by a range of organisations;
- improve the quality of people's lives;
- tackle complex and county-wide issues;
- facilitate and increase community engagement through improved information, consultation and participation;
- through community engagement, help to ensure that services are developed in alignment with customers' needs;
- stimulate more creative approaches to problems by bringing together people with different backgrounds, skills and assumptions and sharing risks and rewards more widely;
- wield greater influence than individual partners could achieve, thus enhancing the impact on other parties;
- tackle complex cross-cutting issues;
- reduce waste and/or duplication, pool resources and improve economies of scale;
- gain access to new resources;
- meet statutory or organisational requirements; and
- provide opportunities for learning from people in different organisations and with different perspectives.

## Partnerships Register

(i) The Chief Officer & Director of Corporate Services maintains an overview of the Partnerships Register which is a comprehensive record of the Council's involvement in all 'major' and 'minor' partnerships. All 'major' and 'minor' partnerships must be recorded in the Partnerships Register. The Register should be updated, following review of partnership arrangements.

(ii) The purpose of the Partnerships Register is:
- to allow the Council to monitor and evaluate its involvement in partnerships and identify potential risks and benefits;
- to ensure that the partnerships it is engaged in, contribute to the Council's strategic priorities;
- to ensure the partnerships align to quality of life outcomes;
- to be a valuable reference point, when entering into new partnership initiatives;
- to reduce the risk of duplication;
- to ensure that appropriate reporting procedures are in place; and
- to enable the Leadership Team to advise and guide on training for Members and Officers.

## What constitutes a 'major' and 'minor' partnership?

(i) The Council enters into many partnership arrangements. However, partnerships do not all carry the same level of significance and/or risk. The Council's partnership arrangements are categorised as either 'major' or 'minor'.

(ii) 'The Council defines a 'major' partnership as one that:

- develops policy and manages resources which have an impact on the ability of the Council and other public sector organisations to deliver statutory services or duties;
- assists the Council and partners to identify and deliver high level strategic priorities for the Borough;
- assists in enhancing community engagement through the Council's community leadership role;
- assists in base planning and provision on holistic themes affecting the Borough, such as community safety, the physical and economic environment, health etc;
- attracts significant additional resources e.g. through government regeneration funding streams;
- pools resources or purchasing power to increase efficiency and effectiveness;
- assists in delivering value for money in relation to economy, efficiency and effectiveness i.e. achieving equal or better outcomes for less expenditure;
- has a high public profile;
- is charged with developing specific strategies;
- is 'held to account' for the delivery of strategies or plans;
- is responsible for delivering key initiatives;
- comes under some form of audit/inspection regime;
- requires more stringent governance arrangements.

(iii) A 'minor' partnership will considered to be all other partnerships falling outside the definition of 'major' partnerships in (ii) above.

(iv) The 'major' and 'minor' partnerships are listed respectively, in sections 4.2 and 4.3 of Part 3 to the Council's Constitution. Partnerships may be re-categorised at any time, to reflect complicated or high-risk or other changing circumstances.

(v) The Council's decision-making framework for approving the entering into a partnership arrangement is detailed in the Scheme of Delegations to Officers and/or Terms of Reference. Terms of Reference in Part 3 of the Constitution define the roles and responsibilities of the Council, Cabinet, Committees, Boards and Panels. Part 3 also contains the Scheme of Delegations to Officers. Reference should be made to the Scheme of Delegations to Officers and/or Terms of Reference to establish what level

of decision making is appropriate for the type, nature and significance of any individual partnership proposed to be entered into.

(vi) Partnership arrangements for 'major' and 'minor' partnerships should be reviewed annually as part of the annual review of the Partnerships Register.

(vii) The Partnership Significance Assessment Scorecard at Appendix 1, provides a means for categorising the level of significance and/or risk of the partnership to the Council. A score of 0 – 49% will indicate a 'minor' partnership. A score of 50%+, will indicate a 'major' partnership.

**Assessment, evaluation, streamlining, succession planning and termination**

(i) Successful partnerships are characterised by a shared vision or purpose, where all partners agree to modify their own activities and resources to achieve the overall partnership goal within new working arrangements.

Assessment

(ii) Before entering into any partnership arrangement, the Council should consider whether it is in a position to contribute effectively to the partnership. The Council should be mindful of the resource implications, particularly for staff, finance and operational assets, existing commitments, and its corporate priorities, in taking decisions on new partnerships and in extending existing partnerships.

When developing any new partnership arrangement, the following factors should be considered:

- does the partnership contribute to the Council's purposes?
- does the partnership contribute to corporate priorities and objectives and help to achieve value for money?
- does the Council need to be involved?
- could another partnership provide either the same or similar function?
- does the partnership have clear terms of reference?
- is there an engagement and exit strategy?
- is it a group with a specific task and a time limit?

(iii) It is important to recognise that the establishment of some forms of partnerships, especially those with contractual or budget pooling characteristics, may need to be underpinned by a procurement process, as set out in the Council's Contracts Standing Orders. Where it is deemed beneficial to work in partnership with private contractors in order to deliver improved services, works or goods, forms of incentive can be incorporated into the contractual relationship. Often, this is referred to as 'partnership working' which covers the manner in which the client and contractor relate to each other and is about processes and behaviours which are in place, once the procurement process to appoint the contractor has been completed. As such, the spirit of this Code may help shape those arrangements.

Evaluation

(iv) In entering into a 'major' partnership arrangement, the Council should consider, together with other partners, the lifespan of the partnership and the need to regularly review the purposes and membership of the partnership, to ensure it stays focussed on its purpose and remains relevant. The Council should also regularly review the continuing relevance of the partnership against its [the Council's] corporate priorities, particularly to ensure best use of resources etc.

(v) As part of the annual review of the Partnerships Register, the Officer leading on each partnership arrangement should evaluate the partnership to assess the risks and rewards to the Council and local communities, including assessing the suitability of partners, legal issues, standards of financial regularity or conduct, insurance, issues of partnership procurement and whether the benefits from the partnership are likely to justify the costs involved in membership. The Partnership Business Case Checklist at Appendix 2, provides the means for testing the need for the partnership and whether it

is appropriate for the Council to enter into partnership arrangements.

(vi) A rigorous assessment of the risks and benefits involved can lead to one of the following decisions:

- withdraw from the partnership;
- allow another body to represent the Council's interests;
- set a time limit for involvement;
- remain involved; or
- remain involved, but at a different level e.g. as a watching brief or attendance when the agenda is relevant to the Council.

(vii) Partnership arrangements are referred to in the Council's Code of Corporate Governance. Partnerships must adhere to the Code of Corporate Governance in the absence of any statutory or other alternative provisions relating to them. Depending upon their nature, circumstances and size, the Code of Corporate Governance will be applied consistently but proportionately, to partnership arrangements.

(viii) The risks attached to partnerships and the links between corporate and partnership activities is considered in the Council's Annual Governance Statement and internal control issues highlighted if partnerships' activities fall into one or more of the following categories:

- the issue has seriously prejudiced or prevented achievement of a principal objective;
- the issue has resulted in a need to seek additional funding to allow it to be resolved or has resulted in significant diversion of resources from another part of the partnership;
- the issue has led to a material impact on the accounts;
- the Section 151 Officer has reported on it as significant in the annual opinion on the internal control environment;
- the issue or its impact, has attracted significant public interest or has seriously damaged the reputation of the partnership; or
- the issue has resulted in formal action being taken by the Section 151 Officer and/or Monitoring Officer.

(ix) Partnerships can often be set up as a result of central government initiatives and funding is usually by way of a grant for, say three or four years. Upon cessation of grant funding, the government may expect agencies to mainstream these services into their normal day-to-day business. Therefore, the Council should be fully aware of any potential funding shortfalls. If the partnership has a short life span based on available funding, it should not be led to expect that the Council will continue to match the costs in order to maintain the work, if this is not possible.

Succession planning

(x) Many partnerships will reach a point where their purpose is complete, where alternative arrangements are needed, or where the need for the partnership is redundant. The Council should seek to ensure that succession strategies are in place or developed for such eventualities and/or to address sustainability issues e.g. different partners may be needed for different stages of any scheme/initiative/programme.

Termination

(xi) The Council should ensure that exit strategies are in place, for situations where it wishes to withdraw from a partnership for corporate and/or strategic reasons etc.

(xiii) A decision to terminate partnership arrangements may be based on one or more reasons, which include:

- not delivering the outputs and outcomes it was set up to do;;
- need to be combined with another partnership;

- change in circumstances or priorities;
- floundering with no clear direction;
- adverse level of risk of continuing the partnership is identified;
- external funding sources cease;
- has achieved its goals and is no longer needed in that particular form.

## Partnership governance arrangements

(i) The different roles that the Council can play in partnerships needs to be understood. Which role the Council plays can have a significant impact on the responsibilities and liabilities of the Council.

(ii) Partners need to bring clarity to the governance of their collaboration. This requires agreement among them about purpose, membership and accountability. Partners should be clear whose interests they represent and how they will handle disputes.

(iii) A one size fits all approach to governance is inappropriate in partnership working. Governance arrangements must be proportionate to the risks involved. The governance of partnerships should promote good internal accountability between partners and better external accountability to service users.

(iv) No single form of governing document is appropriate for all kinds of partnership. Each partnership must decide for itself what it needs, taking due account of any legal requirements. Each governing document must set out its main procedures clearly and unambiguously.

(v) 'Major' partnership arrangements should have a governing document or partnership agreement, but this does not need to be overly complex or anticipate every eventuality. In the absence of formal governance arrangements, responsibility for supporting the governance of a partnership, falls to partners' own corporate governance mechanisms.

(vi) The resulting partnership agreement may comprise a short document or something more substantial, depending on the nature of the partnership in question and the complexity of the issues raised by it. The Partnership Governance Framework at Appendix 3, provides a tool to help develop new 'major' partnership agreements, review existing 'major' partnership arrangements or develop constitutions for 'major' partnerships. This Appendix gives guidance on the areas that would be expected to be covered by a 'major' partnership agreement. The Model Memorandum of Understanding at Appendix 4, provides an example of best practice.

In addition, where a procurement exercise is required to select a partner, then specific forms of contract developed for the purpose of partnership working, should be considered. Refer to the Council's standard suite of procurement documents on the Intranet.

(vii)'Minor' partnerships should, as a minimum, have the following elements referred to in their governance arrangements:

- partnership's name;
- duration of partnership;
- aims and objectives;
- lead partner;
- accountable body;
- membership, including status of different members and termination of membership, schemes of delegation;
- powers;
- roles;
- income/expenditure;

- meetings; notice and frequency of meetings; quorum rules; chairing arrangements; voting arrangements; and representation of other members;
- decision-making processes (scope and timescales);
- minutes;
- confidentiality;
- amendments to partnership's governance;
- insurance and risk sharing provisions;
- business continuity arrangements;
- risk management arrangements;
- insurance arrangements;
- data protection and freedom of information;
- complaints and redress;
- conduct provisions;
- performance monitoring; and
- exit strategy/arrangements for dissolution.

(viii) The Council should have the following arrangements in place for 'major' partnerships and these should be considered as part of the annual review of the Partnerships Register:

- review of their financial performance in respect to adherence to budgets and any other financial targets;
- review of delivery of the partnership's objectives (performance management backed up by reliable, high quality performance data);
- review of outputs (to ensure that the partnership represents value for money);
- review of the adequacy of reporting arrangements to the partners.

The work and achievements of some of the Council's partnerships are also reviewed by the Council's various committees. For example, the Dartford Community Safety Partnership is reviewed by the Crime and Disorder (Overview and Scrutiny) Committee.

(ix) Throughout the planning and implementation stages of 'major' partnership arrangements, careful consideration should be given to limiting potential liabilities for the Council. Examples of liabilities include infringements of legislation by staff or members of the partnership, contraventions of HM Revenue and Customs rules by paying staff from petty cash, personal liability of Officers and Members and the requirement for the Council to indemnify against any actions of a partner (or partnership).

## Legal basis for partnership arrangements

(i) Partnerships are often between local authorities, but can include NHS Trusts, transport companies or other private enterprises. Grants may cover capital costs, running costs, or both. The partnership will generally not be a separate legal entity. As a result, the partnership's working relationships and the governance arrangements are reflected in a partnership agreement or other protocol.

(ii) A separate legal entity is established when the partners decide to deliver a project via a corporate body such as a company limited by guarantee, or formal partnership. The requirements of the Companies Act 1985 and the Charities Act 2006 may need to be considered.

(iii) Various legal powers for statutory and non-statutory partnerships are outlined below. This list is merely illustrative and not exhaustive:

- Crime and Disorder Act 1998 – community safety and crime prevention – community safety partnerships;

- Local Government Act 1972 (s111[3]) - subsidiary powers for a local authority to do anything, including incurring expenditure, borrowing or lending money or acquiring or disposing of any property or rights, which helps it to discharge its functions;
- Local Government Act 1972 (s113) – power to enter into an agreement with another local authority for the placing at the disposal of the latter, for the purposes of their functions on such terms as may be provided by the agreement, of the services of officers employed by the former;
- Local Government Act 1999 (s3) - places a duty of best value on local authorities to make arrangements to secure continuous improvement in the way in which they exercise their functions, taking account of economy, efficiency and effectiveness;
- Local Government Act 2003 – trading and charging powers;
- Children Act 2004 – planning and commissioning of services through partnership arrangements between local authorities and key agencies;
- Civil Contingencies Act 2004 – support and delivery of civil contingency, through partnership arrangements between county councils and district councils;
- Localism Act 2011 – general power of competence (GPoC) (see explanation in (iv) below).

(iv) The GPoC is generally seen as a 'topping up' power but with limitations on local authorities' powers. The 'general public law constraints' such as the specific financial safeguards put in place/monitored by the s.151 officer, the Accounts and Audit (England) Regulations 2015, the duty to balance the budget annually (Part 2 of the Local Government Act 2003) and the prudential borrowing code (under Part 1 of the same Act) continue to apply. Where prior legislation contains a specific prohibition, it cannot be overcome by the GPoC.

(iv) The Officer responsible for the partnership arrangements should consider whether authority/approval is required to enter into a partnership arrangement[4]: consider whether this authority should be granted by the General Assembly of the Council (GAC) or Cabinet, or whether authority to enter into the arrangements has been delegated to Officers under the Scheme of Delegations to Officers.

## Risk management

(i) Effective risk management is a 'discipline for dealing with uncertainty' and is one of the principle elements of good corporate governance, concerned with both the positive and negative aspects of risk and comprises a framework and process to enable a partnership to manage uncertainty in a systematic, effective and efficient way.

(ii) There may be organisational risks regarding partnership activities (strategic) as well as risks in the partnership itself (operational) and it is important that both types of risk are understood and managed.

(iii) Prior to deciding to enter into a partnership, the risks to the Council should be considered using the Key Partnership Risk Areas guidance (Appendix 5) The guidance should be used to support the development of the partnership and the mitigation plans should be clearly understood by all involved in the process. This approach is particularly relevant when the Council is:

- the lead authority;
- working directly with partner organisations (agreeing contracts, service level agreements, managing/monitoring performance or working together to deliver services);
- serving on partnership boards or management teams.

(iv) If the Council is not the lead body, the Officer leading on the partnership arrangements, should ensure that minimum standards of risk management are in place.

[3] Because of the restrictive interpretation adopted by the courts, the operation of this provision has its difficulties - further, with the general power of competence [Localism Act 2011l], and the trading and charging powers (LGA 2003), reliance upon Section 111 is likely to be minimal

[4] Authority/approval to enter into partnership arrangements is separate and distinct to delegated authority to execute/sign the partnership agreement

(v) Risks should be understood and evaluated at all stages of 'major' partnership development and during the life of the partnership.

(vi) When the decision to enter into a 'major' partnership has been made, the relevant Director should ensure that the partnership's governance arrangements include effective management of risk and that the risks associated with the partnership are recorded on the Council's Risk Management Register.

## Council representation on partnerships

(i) Care should be taken to ensure that the Council is represented at an appropriate level, i.e. by a Councillor and/or an Officer. Representation will depend upon the role to be fulfilled. It may be appropriate for the partnership to have two levels of representation: a strategic level involving Councillors and an operational level, involving Officers.

(ii) Councillors and Officers involved in partnership arrangements must bear in mind that acceptance of a role as a charity trustee or company director (even if accepted as part of their work for the Council), is a responsibility personal to them. There will be responsibilities to the Charity Commission and/or company law, which must be fulfilled. Under charity and/or company law, a trustee's/director's first duty is to the charity/company, which may give rise to a conflict of interest between the work of the charity/company and the Council.

(iii) The Council may be represented on any agreed partnership by named Councillors and/or Officers.

(iv) Councillor and Officer representatives will at all times, abide by their respective Codes of Conduct.

(v) The terms of reference for Council representatives is as follows:

- act on behalf of the Council within specified parameters;
- ensure activities are co-ordinated across the Council to meet the Council's commitments to the partnership;
- seek agreement from the Cabinet/GAC, for any new resources not already agreed or budgeted.

(vi) Councillor representatives on a partnership have no mandate to sign any contracts or enter into any binding obligations on behalf of the Council. Only duly authorised Council Officers have power to sign documents of this nature, under the Council's Scheme of Delegations to Officers. Councillor and Officer representatives on a partnership will not provide financial, technical, or legal advice to the partnership. The partnership should satisfy itself that such advice is independently available and ensure that it arranges indemnity insurance as appropriate, details of which should be provided to Financial Services.

## Performance management and partnership monitoring

(i) Establishing a means of reviewing how well partnerships help to achieve statutory and/or corporate objectives and identifying what resources are committed to partnership working or of evaluating the costs and benefits from working in partnership, are particularly important.

(ii) Performance management across the Council's partnerships includes:

- monitoring of use and management of resources, changes in priorities, inputs, outputs and outcomes through Pentana (the Council's performance management system), thereby ensuring that the continuing effectiveness of the partnership is properly, consistently and corporately monitored and reviewed;
- target setting through the continuous performance review system for staff;
- use of SMART action plans, targets and local and national indicators;
- overview and scrutiny of partnerships;
- links between priorities, objectives and targets through the Corporate Plan and Service Plans.

(iii) As part of the review of the Partnerships Register, the Leadership Team conducts an annual review of the appropriateness of Officer representation on partnerships to ensure that the Council is represented by the right person at any given time, matching skills with needs. Councillor representation on partnerships is reviewed at the Annual Meeting, or, in year, by the Cabinet or the GAC.

(iv) Partnership governance and activity is the responsibility of Directors, with particular emphasis on:

- ensuring that partnerships are supported by suitably skilled Officers of sufficient number so that partnerships' aims and objectives can be delivered successfully;
- recommending key targets and milestones and ensuring effective project management at all times;
- ensuring that good practice standards on governance and accountability are followed and reporting on any breach of standards;
- assessing and reporting on any slippage or new risks arising;
- agreeing and regularly reviewing protocols and governing documents with all partners;
- telling service users and the wider public about how key partnerships work, where responsibility and accountability lies and how redress can be obtained through joint complaints' procedures;
- reviewing partnerships at regular intervals to strengthen accountability, manage risks, rationalise working arrangements and ensure that they are effectively meeting the purposes for which they were created;
- taking hard decisions to scale down involvement in the partnership, if the costs outweigh the benefits, or if the added risks cannot be managed properly;
- ensuring, in consultation with the Monitoring Officer, the maintenance of high ethical standards;
- arranging for the assessment and development of the skills of Councillor and Officer representatives and providing suitable training to ensure all roles can be carried out effectively;
- reviewing governing documents regularly and where necessary, seeking amendment.

## Financial management

(i) Generally, if no finance is directly involved then, in most circumstances, this section of the Code may be dispensed with. However, if there is the possibility of Council funds, services and/or other resources being committed to the partnership, then the implications of this must be considered e.g:

- ensure budget implications and formal approval to incur expenditure against the commitment;
- ensure budget monitoring arrangements and reporting are agreed; and
- ensure the partnership arrangements establish a mechanism for dealing with overspends and underspends.

(ii) Effective stewardship of public resources is as important in partnerships as in corporate bodies, where numerous controls promote accountability and prevent fraud and mismanagement.

(iii) The principal governance issues in financial management are:

a. establishing adequate systems of financial control and monitoring within partnerships;
b. setting strategic direction for some partnerships where the availability of resources drives the agenda rather than community needs;
c. ensuring that there are sufficient financial and human resources to enable the partnership to operate effectively.

(iv) Where a partnership requires a financial commitment from the Council, the following should be satisfied and agreed by the Section 151 Officer (or nominee):

- Budget availability to fund partnership commitment;
- Pending approvals within the partnership;
- Budget monitoring arrangements;

- Arrangements to deal with over/under spends;
- VAT arrangements;
- Documentation retention in respect of external inspections.

(v) VAT is a complicated area and advice must be sought from Financial Services. Without proper adherence to VAT legislation, the partnership may find that its funding is less then expected and if VAT rules are not followed, this may result in the payment of interest and penalties.

## Accountable Body

(i) Accountable Body status can only be granted to an entity which:
- is a 'legal personality' e.g. a company registered at Companies House or a local authority;
- has been nominated to act on behalf of the partnership;
- is capable of meeting legal obligations.

(ii) An Accountable Body may be the partnership itself (if it has formed a company limited by guarantee), or one of the members of the partnership, acting on behalf of the other partners.

(iii) Where projects are funded by grants, the funding body normally requires that one of the partners takes on the role of Accountable Body.

(iv) If the Council takes on the role of Accountable Body, it 'cash flows' or 'bankrolls' the project, pending receipt of the grant. This represents a risk to the Council in the event of the project incurring costs, which are not reclaimable from the grant funding body.

(v) The Accountable Body's role is to act on the partnership's decisions. In addition, the Accountable Body may be required to:

- administer and take responsibility for funding (e.g. ensuring structured financial procedures);
- provide resources (e.g. staff facilities) to carry out the obligations of the partnership;
- ensure that the grant allocated is spent in accordance with the grant funding body's conditions and the agreed partnership plan;
- establish and maintain effective systems for auditing and monitoring partnership spend.

(vi) In principle, the Council may consider being the Accountable Body, subject to a risk assessment of the responsibilities applying to being an Accountable Body and prior approval of the Section 151 Officer (or nominee).

## Lead partner

(i) From the outset, it will be essential to consider who is to become the lead partner. This is particularly important with regard to financial matters. Even with shared spending decisions, a lead partner must be nominated. The lead partner will be responsible for the day-to-day accounting functions, including the production of the appropriate financial statements. It should be noted that the lead partner is not necessarily the Accountable Body.

(ii) As lead authority in a partnership arrangement, the Council must ensure compliance with the requirements of grant funding bodies.

## Grants

(i) Quite often, grants form the main funding for partnership arrangements and the terms and conditions of those grants, including document retention, must be clear.

(ii) It is important also, to consider who is to become the Accountable Body (section 12 above) and the possibility of mainstreaming the service, should the service continue beyond the grant funding period. It is also necessary to avoid the potential claw back of any grant monies.

(iii) Invariably, partnership arrangements are often set up as a result of government initiatives, and

funding is usually by way of a grant for, say, three or four years. Upon cessation of the grant, government often expects local authorities or other organisations to mainstream these projects (if evaluation indicates successful outcomes) into its normal day-to-day business. The Council must be fully aware, therefore, of any potential funding shortfalls, loss of assets, etc.

## Employment and secondment of staff

(i) When employing staff both part-time and full-time, there are many issues, which need to be handled carefully. It is therefore essential that Human Resources is consulted at the outset.

(ii) When a partnership (which is not a legal entity) 'employs' staff, one partner should act as the 'employer'. This should be detailed in the partnership agreement and confirmation should be obtained from the 'employer' that their insurances extend to cover the actions of the 'employee' in connection with the partnership.

(iii) Where the Council is to be the 'employer', then the Council's Human Resources policies and procedures must be followed (e.g. recruitment and selection) and the 'employee' will be required to comply with the Council's policies and procedures.

(iv) Where Council staff are deemed as an 'in-kind contribution' from the Council to the partnership (which is not a legal entity) and to those contributing as part of their duties, a clear agreement needs to be drawn up between the Council and the partnership, clarifying the line management arrangements and the services to be provided by Council staff.

(v) In the case of volunteers, a lead organisation or body must be appointed to take responsibility for matters such as insurance, training and support, as well as being overall legally responsible for the activities and management of any volunteers.

(vi) Security checks with the Criminal Records Bureau must be carried out by the 'lead employer', where employed and volunteer staff work with children and vulnerable adults and appropriate safeguarding policies must be in place.

(vii) In the case of seconding staff to the partnership, a clear agreement must be drawn up between partner organisations. Secondment agreements can be complex and give rise to liabilities – advice must be sought from Human Resources in the first instance.

## Audit requirements

The partnership arrangements must provide both internal and external auditors with full rights of access to documents. The following wording is suggested:

'The Council's auditors (external and internal) may conduct audits at any time in accordance with any relevant statutory powers. The partnership will ensure that auditors are given access at all reasonable times to premises, personnel, documents and assets, which the auditors consider necessary for the purposes of their work.

The partnership will ensure that auditors are provided with any information and explanations that they seek in the course of their work.

The Council will use its reasonable endeavours to ensure that the conduct of any audit does not unreasonably disrupt the partnership or delay the provision of its services.'

## Document retention

Responsibility for holding documents must be agreed between the partners and for that party to be aware of the legal requirements for retention. Responsibility for the ownership of documents at the end of the partnership, must also be agreed.

## Information sharing and data quality

(i) Information is an asset and it is important that responsibility for information is assigned and appropriate controls are put in place. This section of the Code only applies to partnership arrangements, which involve the sharing, storing, generating, analysing or collecting of information.

(ii) The Data Protection Officer provides guidance on legal compliance with the Data Protection Act 2018 and the UK GDPR (derived from the General Data Protection Regulation (EU) 2016/679)) and information sharing arrangements.

(iii) The Head of Legal Services provides guidance on legal compliance with the Freedom of Information Act 2000 and copyright.

(iv) The Chief Officer & Director of Corporate Services is Senior Information Risk Officer and in consultation with the Head of IT and Transformation, provides guidance on:

- software licensing, databases;
- records management - creating an inventory, managing the lifecycle of records from creation to disposal;
- security - classification of information including risk management, business continuity; and
- the Council's ICT Technical Strategy.

(v) Officers should ensure that before sharing personal information with partner organisations in Kent & Medway, that they are signatories to the Kent & Medway Information Sharing Agreement. Sharing must comply with the Agreement. Entering into other information sharing agreements with partner organisations outside Kent & Medway, or with national organisations is acceptable, providing every effort is made, to ensure, so far as practicable, that those agreements do not conflict with the requirements of the Kent & Medway Information Sharing Agreement.

## Communication in a partnership setting

(i) All partners should have a role in communicating and implementing partnership plans. Good communication of decisions and actions is required for the partnership to succeed. It should also be clear what information is available to whom and when, through the life of the partnership.

(ii) The Council should endeavour to ensure that any consultation programmes and publicity exercises for the Council, its partnerships and its partners are co-ordinated as effectively as possible. The Council is committed to ensuring that when it communicates (either directly or through partnerships), this communication is appropriate, professional and done in a way that represents value for money.

(iii) Advice should be sought from the Council's Senior Communications Officer on marketing, press releases and other media issues.

## Branding and identity

(i) The Council's brand of creativity and innovation should be embedded into all partnership work. Promotion of how the partnership is contributing to the overall Council brand should be considered and used as appropriate.

(ii) Some partnerships require a new identity to establish it as separate from the organisations within it. If this is the case, then the Council's established identity elements of font, colours and logo should be used. More information is available from the Senior Communications Officer.

## Overview and scrutiny

The Council's overview and scrutiny committees (Overview & Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee) as appropriate, may, within their Terms of Reference and Protocols, undertake scrutiny/review of partnership arrangements. The law requires Community Safety Partnerships and NHS partners to co-operate with the overview and scrutiny process.

## Engagement and consultation

(i) The Council has a statutory duty to consult on specific areas of service delivery and is committed to

extending its consultation beyond any statutory requirements. The Council has adopted a Consultation and Engagement Strategy, which sets out the principles of community engagement.

(ii) A key objective to an inclusive community focused framework is initially to build community capacity to participate in partnership working and then to continue to develop capacity to assist in delivering outcomes, for example:

- good levels of contact and contribution from all parts of the local community;
- increase in the level of community involvement to a point where the community leads the partnership and the statutory and voluntary bodies respond to the emerging needs;
- partners pooling budgets and resources to communicate with the wider public;
- carrying out a wide ranging consultation as the basis for planning partnership working;
- using area-based approaches as a vehicle for consultation with the wider community to inform the overall strategic approach.

## Role of Statutory Officers

The Section 151 Officer and Monitoring Officer within their respective areas of responsibility, ensure that partnership arrangements are robust and integrated within the Council's Code of Corporate Governance.

## Role of Council Officers

(i) Council Officers involved in partnership working must:

- follow the procedures outlined in this Code in the review and development of partnership working initiatives;
- ensure that details held on the Partnerships Register are accurate and up-to-date;
- comply with agreed reporting procedures;
- be fully aware of Council procedures before any decisions are made;
- where applicable – relay information to service areas – always ask who needs to know.

(ii) Council Officers should remember that when working with a partnership, they remain employees of and accountable to the Council and are bound by their contract of employment, Council policies and procedures, Code of Conduct, Financial Regulations and Standing Orders. Officers should actively encourage the partnership to follow similar practices and procedures and should immediately report to their Director, when they feel that the partnership is not acting in a manner acceptable to the Council or in the public interest.

## Councillor's role

(i) Service on outside bodies has always been an established part of a Councillor's role. Councillors play a vital community leadership and representational role in communicating local views to key public and private organisations and in influencing decision making. An appointed Member on an outside body will be able to use their knowledge and skills as a Councillor, to assist the organisation to which they are appointed.

(ii) The Guidance for Members on Outside Bodies details the main issues which Councillors should consider when appointed to outside bodies.

## Ethical standards

(i) High ethical standards are the cornerstone of good governance. They are an integral part of good corporate governance arrangements and can lead to increased confidence in local democracy and better public services. Setting high ethical standards is an important building block for the Council in developing its community leadership role and improving services to the community. Poor ethical standards in partnership arrangements may adversely affect the Council's community leadership role, reputation etc.

(ii) The Council aims to encourage high standards in partnership working, by defining appropriate

behaviour in day to day partnership working, based on the Seven General Principles of Public Life (refer to para. (iv) below). The Council has adopted the [former] Standards for England Partnership Behaviour Protocol (the PBP) (Appendix 6), which is intended as a means to strengthen standards and accountability in partnership working. The PBP does not have a statutory basis or have sanctions attached to it. Nevertheless, it should enable those engaged in partnership working, to hold each other to account for the values and behaviours outlined in the PBP.

The PBP can be used at the pre-partnership stage and in the management of a partnership that is already in existence.

(iii) The values and behaviours outlined in the PBP are in addition to compliance with legal requirements – the PBP does not replace (but supports) the following:

- legal requirements on equal opportunities and antidiscrimination;
- mechanisms that are required for good governance (rather than the values that underpin them) such as financial probity, systems for establishing value for money and good practice around contracting and procurement.

(iv) The Audit Board (exercising its standards functions) encourages high standards of behaviour in the Council and amongst partners. The Seven General Principles of Public Life (referred to below), guide the conduct of Councillors and also underpin the [Member] Code of Conduct which all Borough Councillors, [voting] co-optees and Parish and Town Councillors, are bound:

- Selflessness
- Honesty
- Objectivity
- Accountability
- Openness
- Integrity
- Leadership

(v) Maintaining high standards is crucial to maintaining effective partnerships, but if problems are to occur, they are likely to be exacerbated by the adverse impact on partnership working, which may follow. The Seven General Principles are simple, and coherent, which means they can also be followed by partners, who are not obliged to formally adhere to the [Member] Code of Conduct. The Seven General Principles should as a minimum, be incorporated in all partnership arrangements.

(vi) Partners should be encouraged to sign up to the common values and behaviours set out in the PBP and provide evidence that they meet the values specified. Signing up to the PBP should satisfy Principle 3 'Demonstrating the values of good governance through upholding high standards of conduct and behaviour' of the CIPFA/SOLACE Framework.

(vii) Partnerships can be monitored against the PBP. The Audit Board will act as chief promoter and champion of the PBP and will be the forum to oversee both the implementation and adherence to the PBP.

## Whistleblowing and anti-fraud measures

(i) The Council has arrangements in place that are designed to promote and ensure probity and propriety in the conduct of its business.

(ii) The Bribery Act 2010 makes it an offence to offer, promise or give a bribe. It is also an offence to request, or agree to receive or accept a bribe. *While the legislation takes a robust approach to commercial bribery, it also applies to individuals who attempt to influence the application of rules, regulations and normal procedures.* The Council's Counter-Fraud and Corruption Strategy sets out the measures taken by it, to counter bribery and fraud.

(iii) The Council's Whistleblowing Policy enables employees, councillors, contractors, partners,

agents acting for and on behalf of the Council, or members of the public, to express any concerns they have about illegal or illegitimate practices involving the Council.

## Equality, diversity and social inclusion

The public sector equality duty is set out in the Equality Act 2010. In summary, the Council, must, in the exercise of its functions, have due regard to the need to:

(a) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
(b) Advance equality of opportunity between people who share a protected characteristic (as defined in the Act) and those who do not;
(c) Foster good relations between people who share a protected characteristic and those who do not.

The Council is required to take account of the duty in everything it is required to do, as well as everything that it is allowed to do, such as entering into partnership arrangements. Officers should work together with partnerships to identify policies that will need to be analysed, to ensure that the equality duty is built into partnership working.

## Complaints and redress

(i) Service users and the wider public have the same rights to hold partnerships to account and to obtain redress as they do with individual service providers; they have the right to expect partnerships to use public money to best effect.

(ii) The wide range of partnership models makes it impossible to prescribe a single set of arrangements for ensuring that their activities properly reflect the interests of their main stakeholders, including service users and others affected by partnership activities and decisions. However, where partnerships have dealings with the public, the Council should ensure that individuals do not face problems when seeking redress concerning services delivered through the partnership and that complaint handling and redress are central to the governance of the partnership.

(vi) Complainants should have a right of access to the partnership's complaints system and a right to obtain redress. Complainants have a right of access to the Local Government Ombudsman's service.

(vii) The Ombudsman's Special Report 'Local Partnerships and Citizen Redress', recommends the following good practice principles:

a. when a partnership is first created, there should be clarity regarding accountability for different parts of the work that will be carried out;

b. there should be a clear statement as to who is responsible for handling complaints and providing redress;

c. there needs to be effective communication with those who use the service, so that they understand what they need to do in the event of something going wrong; and

d. there should be a strong commitment to learning from complaints, so that services may be improved.

(v) Where a complaint is about the actions of a partnership exercising a discrete function of the Council, Officers should consider the need for the Council (if not already involved), to investigate the matter through its Corporate Complaints Procedure.

(vi) The partnership's complaints system should be consistent with the principles set out in the Local Government Ombudsmen's guidance on running a complaints system.

## Reviewing new and existing partnership arrangements

(i) Existing 'major' partnerships should be reviewed on an annual basis, against this Code and the Toolkit, by the Officer leading on the partnership arrangement, to determine whether they are still required, to evaluate how effectively they are working and to make recommendations for

improvement. The Partnership Evaluation: Self Assessment at Appendix 7 focuses on outcomes and the partnership's achievements.

(ii) 'Minor' partnership arrangements should also be reviewed on an annual basis, using a light touch approach, with focus on the financial and risk implications for the Council, of the partnership arrangements.

*Reference material source:*

*Audit Commission 'Governing Partnerships – Bridging the Gap' October 2005 & Standards for England Partnership Behaviour Protocol - Paper 10/23*

*CIPFA 'Risk Management Guidance Notes No.11 – Partnership Risk Management'*

Appendices 1 to 7 are on the intranet.

10.1 a complaint through the Council's Corporate Complaints Procedure - https://www.dartford.gov.uk/complaints/complaints-7. If you remain dissatisfied with the response, you may complain to the Local Government and Social Care Ombudsman.

1. How to apply

11.1 You can either complete an application form - Council owned amenity land - purchase enquiries – Dartford Borough Council or write to the Council. Your application must be accompanied by a sketch plan identifying the area of land you wish to purchase. Please detail as much information as possible, including the approximate dimensions of the land.

The requirement for applications to be submitted in writing, must be read in conjunction with the Equality Act 2010 and the requirement on the Council to make reasonable adjustments. An example of this would be in assisting you if you have a disability that prevents you from making your application in writing. In such cases, the Council may need to transcribe a verbal application and then produce a written copy for your approval.

The Council will also consider what support should be made available to you, where English is not your first language.

11.2 On receipt of your application, the Council will decide if it wishes to dispose of or keep the land/property you have requested to purchase. This involves an internal process of consultation with Council Officers before a decision is made and before any negotiations can take place. If at this stage, a decision is taken not to sell you the land/property, you will be notified in writing, with reasons.

If, following the initial internal consultation stage, the matter goes forward to the next stage, the valuer will ask you to pay a non-refundable fee plus VAT before he/she can start any work on your application. Your application will not be progressed, until the valuer's fees have been paid.

11.3 Address your application to:

Property Services Manager
Dartford Borough Council Civic
Centre

Home Gardens
Dartford
Kent DA 1 1DR Or

email your application to: valuation@dartford.gov.uk

11.4 If you need assistance to complete your application, please contact Customer Services on 01322 343434 or Relay UK.

2. Valuer's decision

12.1 Providing your application meets the criteria referred to in section 1 above and the valuer's fees are paid in advance, within three months of receipt of the valuer's fee, the valuer will:

(a) undertake any due diligence checks, inspect the site and value the land;
(b) write to you or your appointed agent, confirming whether the disposal is approved; and
(c) if approved, detail the terms for the disposal of the land and the price payable.

If the timescale cannot be met, the valuer will notify you.

12.2 If the disposal is approved by the valuer, it is for you to form a view on any restrictive covenants, the planning/building regulations position and the suitability of the land for your intended purposes. You proceed at your own risk.

12.3 If the disposal is not approved by the valuer, you will be notified of the decision in writing with reasons.

13.Land transfer process

13.1 Your acceptance of the valuer's terms and price payable for the land need to be confirmed in writing, addressed to the Property Services Manager with payment in advance, of the Council's legal fees. The land transfer process will not be started, until the legal fees are paid. The Council's legal fees are in addition to any fees your solicitor may ask you to pay. Your solicitor's fees are your responsibility.

13.2 The transfer documentation will be prepared by the Council's Legal Services. Providing you have paid the Council's legal fees, the date for completion of the sale will vary depending upon the complexity of the matter and the type of searches and enquiries that are made by you or on your behalf but the process may take up to approximately 3 months from the date you notify the Council in writing, that you accept the terms and price to be paid for the land. If we require longer to process the transfer documentation, we will notify you.

13.3 Generally, the sale of the land is completed with no prior contract or deposit payment. You will pay the purchase price on completion.

13.4 Completion of the sale of the land ends the Council's involvement in the process. You will however need to deal with land registry registration and SDLT (stamp duty land tax) post completion.

Adopted by Cabinet 4 December 2014 - Min.No.78
Amended to include Equality Act 2010 requirements - 25.5.2016
Amended pursuant to Managing Director's delegations – 14.03.2017
Amended pursuant to Managing Director's delegations – 01.07.2019
Amended pursuant to Directors' delegated authority – 29 June 2020
Amended pursuant to Directors' delegated authority – 10 March 2021
Amended pursuant to Directors' delegated authority – 13 July 2021

DARTFORD
BOROUGH COUNCIL

CONSTITUTION OF THE COUNCIL

# PART 11 OTHER

## 11.1 Introduction

Part 11 of the Constitution contains a list of documents as a source of guidance and information to Councillors, Council officers and members of the public.

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## 11.1 - DUAL-HATTED MEMBERS FACTSHEET

**A. What is a dual-hatted member?** Dual-hatted members are Councillors who serve on two or more authorities; for instance, a Member who is both a Borough and Parish Councillor.

**B. Will I always have an interest or be conflicted in other ways because of my membership of another authority/body, particularly if I have considered the matter at a meeting of the other authority/body?** No – although you will not automatically have an interest or be conflicted (through predetermination or bias) in an item under discussion at Borough Council level, you should always consider whether you have an interest which affects you to a greater extent than Council Tax payers etc and whether a reasonable member of the public, with knowledge of the relevant facts, would believe that your ability to judge the public interest would be impaired.

**C. When will my membership of another authority/body give rise to a prejudicial interest?** If *all* of the following conditions are met:

- the matter being discussed, affects the other authority's/body's financial position; and
- your interest affects you to a greater extent than Council Tax payers etc; and
- a reasonable member of the public with knowledge of the relevant facts, would believe that your ability to judge the public interest would be impaired.

Note: A regulatory application, including a matter of consent or approval, licence, permission or registration made by the other authority/body, is considered to have an impact upon the financial interests of that authority/body.

**D. When will my membership of another authority/body give rise to a disclosable pecuniary interest?** Where for example, you are employed by the other authority as a parish clerk.

**E. Can I participate in the discussion and vote on an item in which I have a prejudicial or disclosable pecuniary interest?** Only if you have been granted a dispensation to speak or to speak and vote. Otherwise, you must withdraw from the meeting room during the debate and vote on the item.

Remember to declare at the beginning of the meeting, or as soon as you become aware of the interest, the existence and nature of the interest and how the business under consideration relates to your membership of the other authority/body.

**F. Do I need to consider whether my membership of another authority/body raises other conflicts?** Yes – although you may not have a prejudicial or disclosable pecuniary interest, you may be conflicted because of actual or perceived predetermination or bias.

Can I represent my constituents if I have a prejudicial or disclosable pecuniary interest or if I am conflicted in other ways? Yes, by:

- making written representations - these should be addressed to officers;
- arranging for another Member to represent the views of your constituents.

**G. Which Code applies if I am on more than one authority or if I represent the Borough Council on another authority?** You must abide by the code of conduct that applies to the authority whose business you are carrying out at the time. So for example, if you are a Borough Councillor and also a Kent County Councillor, you will be bound by the County Council's code of conduct when carrying out County Council business.

If you represent the Borough Council on any other body, you must comply with the Borough Council's Code of Conduct – except where it conflicts with any other legal obligations by which the other body is bound. You should seek legal advice if you consider that the provisions of the Borough Council's Code of Conduct conflict with other legal obligations. These circumstances will not arise very often.

If I serve on more than one authority, do I need to register my interests for each authority?
Yes.

If I serve on more than one authority, do I need to register my interests for each authority?
Yes.

**H. Find out more** - The Probity in Planning Protocol and the Probity in Licensing Protocol offer further guidance. Advice or clarification can be sought from the Monitoring Officer or the Head of Legal Services.

## 11.2 - Environmental Information Regulations

**Equalities:** We are subject to numerous legal duties relating to equalities e.g. race, disability, gender etc. We recognise and welcome those duties, which are embraced in our Equality and Diversity Document Framework

You have the right to access environmental information under the Environmental Information Regulations . This is separate from your rights under the Freedom of Information Act.

Environmental information' is a broad term, and includes:

- information on the state of the environment and factors effecting the environment, such as flooding, habitat loss, greenhouse gases, radioactive waste, noise, building developments and so on
- information on measures such as policies, legislation, environmental agreements and also economic and cost-benefit analyses of these measures
- information on the state of human health and safety, the food chain, cultural/built structures and the conditions of human life where they are affected by environmental factors, such as acid rain or air pollution.

What kind of environmental information is there in the archives?

The Council holds all kinds of environmental information, including information about

pollution (including air, water and noise).
Is there any information I can't see?
The Environmental Information Regulations contain a number of exceptions. We will not withhold information unless an exception applies.
How do I make a request for information:
Contact the FOI team Online
We monitor non-routine requests only
**Feedback -** Give us your feedback using this Online Form
FOI
Dartford Borough Council
Civic Centre
Home Gardens
Dartford Kent
DA1 1DR
Tel: 01322 343434
DX: 142726 DARTFORD 7
Online: Contact our FOI Team

## 11.3 - E-Petitions

**Equalities:** We are subject to numerous legal duties relating to equalities e.g. race, disability, gender etc. We recognise and welcome those duties, which are embraced in our Equality and Diversity Document Framework.
Any person who is registered on the electoral role for the Borough, may submit a petition, in accordance with Part 2 of the Petitions Guidelines.
The Council will not respond to e-Petitions which are submitted by other means eg: email chain/pyramid. e-Petitions will be rejected, if submitted by other means.
e-Petitions are presented in the order in which they are received. All e-Petitions, whether accepted or rejected, will be maintained on the Council's website for 3 months, from the date of receipt and then archived. e-Petitions must follow the procedure in Part 2 of the Petitions Guideline.
During politically sensitive periods, such as prior to an election, politically controversial material may need to be restricted.
Read Part 2 of the Petitions Guidelines to find out how to submit an e-Petition and how the Council will deal with your ePetition.
Submit a new ePetition
Petitions received and Responses
Disclaimer - The Council accepts no liability for the e-Petitions on its web pages. The views expressed in e-Petitions do not necessarily reflect those of the Council.
If you are having problems submitting an e-Petition or would like further advice and information, please contact Democratic Services (contact details below) and we will be happy to assist you.
Civic Centre
Home Gardens
Dartford
Kent
DA1 1DR

Tel: 01322 343430

## 11.4 – Guidance For Members on Outside Bodies

**Introduction**

1.1 With the increasing emphasis on partnership working, councillors, as community leaders, have an important role to fulfil in supporting and advising outside bodies. However, this can give rise to conflicts of interest, particularly where the organisation is seeking or receiving funding from the Council. Members always need to be clear about their roles and alert to potential conflicts of interest, in order to ensure transparency and public confidence in local democracy.

1.2 This guidance covers, primarily, the position of Members appointed by the Council to serve on outside bodies, though much of the advice applies equally to Members who are involved with outside bodies in a private capacity. In those situations, however, the Council's insurance/indemnity cover will not apply.

This guidance supplements the advice in the Member/Officer Relations Protocol and the [Member] Code of Conduct.

1.3 In the context of this guidance, 'outside bodies' include trusts, companies, charities, school governing bodies, industrial and provident societies and community associations. Members may be involved as a director, trustee, governor or member (with or without voting powers).

1.4 Members who are involved in the management of outside bodies have responsibilities to that body that must be acted upon. Their role, responsibilities and potential liabilities will depend upon the legal nature of the organisation and the capacity in which they have been appointed. Failure to act in a proper manner may give rise to personal liability or liability for the Council.

2. ISSUES TO CONSIDER BEFORE APPOINTMENT

2.1 Membership on outside bodies can take various forms and it would be prudent to establish the capacity in which you are appointed. This may be either:

- as a member of the management committee, board of directors, or committee of trustees of the outside body. Here, you will not only be representing the interests of the Council, but you will also have duties to the outside body and a role in its governance. If you serve in a decision-making capacity or have a position of general control or management on the outside body, whether company, trust or other association, you owe duties and responsibilities to that body which are separate and distinct from your duties owed to the Council. On occasion, it is likely that duties owed to the outside body and to the Council, will conflict e.g. if you are the treasurer of an outside body who has applied to the Council for grant funding; or
- as an 'observer', or undertaking a monitoring role, facilitating exchanges of views or information as an extension of your Council duties, but take no part in the outside body's management or governance, other than to attend and vote at annual or general meetings. Here, you will be mainly concerned with representing the Council and will not have responsibilities for governance of the body.

2.2 Before accepting an appointment to an outside body, you should check:

the legal status of the organisation e.g. company, trust, charity, unincorporated association;

the capacity in which the they are to be appointed e.g. director, trustee, member with voting rights or member with observer status;
the purpose of the organisation and how this relates to the Council's functions and objectives;
the relationship between the Council and the body and the likelihood and extent of any conflicts of interest;
the requirements of the organisation's governing instrument (e.g. constitution; trust deed, memorandum and articles of association), both as a member and generally;
the financial status of the organisation;
the organisation's governance and decision making arrangements, including the management of risk;
the organisation's code of conduct for its members;
potential liabilities for the organisation's members;
the extent of the organisation's insurance/indemnity cover for its members;
the application of the Council's [Member] Code of Conduct;
bias factors on objective appraisal.

It is your responsibility to obtain the answers to these matters.

2.3 Having checked the above matters, you should consider carefully whether you should be appointed to participate formally in the management of the external organisation e.g. as a director, trustee or voting member, or whether your role as a representative of the Council, may be more effectively discharged as a non-voting member with observer status only.

2.4 You are entitled to all reasonable assistance from Officers in support of your role as Council representatives on outside bodies. Such assistance will include the provision of information about the body and the identification of a contact Officer to be available for briefing purposes and to assist you in reporting back to the Council on the activities of the body.

## 3. CODES OF CONDUCT

3.1 The Council's adopted [Member] Code of Conduct states:

(a) 'You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example. You should have regard to the Council's guidance in Protocols on the conduct between officers and members and the conduct when serving on outside bodies'.

(b) 'Failure to declare a Disclosable Pecuniary Interest may be a criminal offence and you should also declare any Prejudicial Interest that relates to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest. You should register and declare your interests in a manner conforming with the procedures set out by the Council, including Standing Order 19.'

The expectation in the public mind is that, whatever your appointed role, you will at all times, act in the public interest, provide leadership for your community and conduct yourself appropriately.

3.2 When appointed to an outside body, you will have responsibilities as a member of the outside body. These responsibilities may potentially include personal liabilities and may also raise questions of conflicts of interest. Conflicts of interest may arise through competing personal interests, or the competing interests of the outside body of which you are a member. You will therefore need to consider whether you can accept such an appointment in each case.

3.3 Conflicting interests should be declared on every occasion. It will be a matter for your individual judgement as to whether your interest, in the context of the Council's decision making process, amounts to a prejudicial interest (see Appendix B for the definition of 'prejudicial interest').

Where you have a prejudicial interest in a matter to be considered, or being considered at a meeting you must:

3.3.1 disclose the interest; and
3.3.2 explain the nature of that interest at the commencement of that consideration or when the interest becomes apparent; and unless you have been granted a dispensation, you must:
3.3.3 not participate in any discussion of, or vote taken on, the matter at the meeting; and
3.3.4 withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
3.3.5 not seek improperly to influence a decision about that business.

3.4 In the context of the outside body's decision making process, conflicting interests should also be declared on every occasion and you should have regard to the organisation's governance and decision making arrangements or code of conduct rules on conflicts of interest.

4 BIAS

4.1 Where you might be inclined to the view that you have no prejudicial interest, your duties as a director, or as a trustee or a member of a management committee may well be regarded, on an objective appraisal, as giving rise to a legitimate fear of lack of impartiality, especially having regard to the desirability of maintaining public confidence. Participation in the decision making at a Council committee meeting by a Councillor disqualified by bias, potentially invalidates the decision.

4.2 Where your membership on the outside body is in an advisory or consultative basis, bias will not be assumed from mere membership. However, once the outside body has a line which is being advocated by you and you take part in the

Council's decision making process, it is likely that the Court would find bias, which could result in the Council's decision being struck down.

## 5 LEGAL STATUS, CAPACITY, DUTIES AND LIABILITIES

5.1 Your specific responsibilities as a member of the outside body will depend upon the legal status of the outside body and the capacity in which you have been appointed. The position in relation to various types of outside body is summarised in Appendix A to this guidance.

5.2 The key point to note is that where you are carrying out your duties as a director, trustee, or management committee member, you may take account of the wishes of the Council, but your primary duty is to act in the best interests of the organisation to which you have been appointed.

## 6 COUNCIL INSURANCE/INDEMNITY

6.1 The Council's insurance/indemnity cover only operates when you are pursuing your Council duties.

6.2 Generally, whilst the Council appoints councillors to outside bodies, once appointed, they act as members of the outside body rather than as councillors. If you serve as a director of a company, trustee of a charity or in other decision-making capacities on outside bodies, you serve the particular body rather than the Council and it follows that the Council cannot indemnify you against claims brought against you personally. Where there is any possibility of legal liability, the outside body should effect appropriate insurance cover for its directors, company officers, trustees, committee members etc.

6.2 The Council's insurance/indemnity cover will only extend to you, where you are assisting the outside body as an adviser or observer, either through facilitating exchanges of views or information as an extension of your Council duties or, otherwise representing the Council. The Council will provide insurance/indemnity cover where the organisation is a joint committee of two or more local authorities.

## 7. SUBSTITUTION

7.1 Where you take no part in the outside body's management or governance, other than to attend and vote at annual or general meetings e.g. as an 'observer', or undertaking a monitoring role, facilitating exchanges of views or information as an extension of your Council duties, another Councillor may substitute for you on the outside body. However, if you have a role in the governance of the outside body.

i.e. you serve in a decision-making capacity or have a position of general control or management as director, trustee etc, no other Councillor can substitute for you.

## 8. FEEDBACK

8.1 Feedback is an excellent vehicle to communicate the Council's involvement in outside bodies to the wider community. It is important for the Council to receive feedback on issues affecting outside organisations where Members are nominated to represent the Council.

8.2 Members' feedback demonstrates transparency in local government through the open reporting of their activities and involvements with and on behalf of the Council with outside bodies.

8.3 You will report back to the Council (at least twice yearly) on your involvement in outside bodies. In most instances, the report will be in the form of the minutes of the

outside body, to be noted in the Members' Information Bulletin. On occasions, these minutes may be edited to protect confidentiality or withheld entirely from the public domain, on grounds of confidentiality.

## 9. COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS GUIDANCE

9.1 Allegations of any failure to meet this guidance must be made in writing, to the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may result in an investigation and a hearing before the Hearing Panel.

### 9.2 OVERSEEING COMPLIANCE WITH THIS GUIDANCE

The Audit Board oversees compliance with this guidance.

### 9.3 FURTHER GUIDANCE

Further advice or clarification can be sought from the Monitoring Officer or the Head of Legal Services.

Adopted by the General Assembly of the Council - 30.07.2007 [Min.No.53]
Reviewed under Managing Director's delegation 26.09.2012

APPENDIX A

Director of Limited Company

If the body is a limited company, it is likely that you will be appointed as a company director. You will need to complete a form giving your details for filing in the Register of Companies at Companies House http://www.companieshouse.gov.uk/ The company secretary will assist you with this and advise you on your duties to the company.

Duties of a company director are not the same as your responsibilities as a councillor. Briefly your responsibilities as a director are:

(i) To promote the success of the company
(ii) To exercise care, diligence and skill
(iii) Not to exceed powers
(iv) To comply with the Companies Acts
(v) To avoid conflicts of interest
(vi) To exercise independent judgement
(vii) Not to accept benefits from third parties
(viii) To declare an interest in a proposed transaction or arrangement with the company.

Local trusts

Occasionally, you may be invited to serve on local trusts which provide that the local councillor is a trustee ex officio. Many such trusts are of some antiquity and often relate to village halls or other community facilities.

'Ex officio' is a Latin term meaning 'by virtue of office or position.' Ex-officio members of boards and committees, therefore, are persons who are members by virtue of some other office or position that they hold. Without exception, ex-officio members of boards and committees have exactly the same rights and privileges as do all other members, including, of course, the right to vote.

Charity trustees

A number of useful publications are available on the Charity Commission's website at www.charitycommission.gov.uk Publication CC3 – 'The Essential Trustee' what you need to know is a useful reference document. Those who are responsible for the control and administration of a charity are referred to as trustees, even where the organisation is a company limited by guarantee, and even though they are not strictly trustees.

A charity may also be unincorporated (see below). The main duties of charity trustees can be summarised as follows, although the outside body should be in a position to advise you more specifically on your duties. You must:

(1) act in accordance with the charity's trust deed or governing document;
(2) protect the charity's assets and manage the charity's affairs prudently;
(3) comply with the Charities Acts and the Trustee Act 2000;
(4) not make a private profit or personal gain from your position of control;
(5) take proper professional advice on matters on which you are not competent.

Unincorporated organisations

Groups which are not limited companies may be 'unincorporated associations' which have no separate identity from their members. The rules governing the organisation's

members' duties and liabilities will (or should) be set out in a constitution, which is simply an agreement between members as to how the organisation will operate. Usually, the constitution will provide for a management committee to be responsible for the everyday running of the organisation. Management committee members must act within the constitution and must take reasonable care when exercising their powers.

If you are involved in a decision-making capacity or have a position of general control or management on an unincorporated body, you will need to be aware that as the body has no separate corporate status, any liabilities will fall upon you personally and you will need to assess the risk of personal liability and the extent to which this has been covered by insurance, which should be taken out in the name of the organisation's committee members.

Local authority companies

Legislation seeks to restrict and control companies which have a connection with local authorities, either because of the level of interest owned by the local authority, or because of the degree of business and involvement between the local authority and the company.

There are three types of local authority companies which are affected by the legislation. These are controlled, influenced and minority companies.

- **Controlled company**: where there is more than 50% local authority interest;
- **Influenced company**: where there is at least 20% local authority interest plus a business relationship with the company accounting for over 50% of the company's turnover and/or the company is located on local authority land leased or sold for less than best consideration;
- **Minority company**: where the local authority's interest is less than 20%. This type of company is not treated as part of the local authority, and is able to act with more freedom (subject to the other provisions affecting companies in general).

Controlled and influenced companies are also known as 'regulated companies', under the effective control of the local authority, and under the legislation, subject to the capital finance regime which applies to local authorities, as well as other special propriety controls. For this reason, the Council usually ensures that any involvement it has in companies, is kept below 20%, i.e. that less than 20% of voting rights/directors are associated with the Council.

If you are nominated a director of a company which has a Council interest, you owe specific duties, obligations, responsibilities etc to the company, as the company is a separate legal entity from the Council.

Joint committee

A joint committee comprising the Council and other local authorities is established under specific legislative provisions e.g. Eltham Crematorium Joint Committee and is not an 'outside body'. Your appointment to a joint committee is treated in exactly the same way as your appointment to any other Council committee. You are collectively responsible with other members of the joint committee, for the committee's decision making process. You must comply with the [Dartford] Council's [Member] Code of Conduct.

Partnership arrangements

The Council may from time to time enter into a co-ordinated, joined-up and partnership approach with other local authorities and organisations. This may be on a voluntary basis e.g. Thames Gateway Kent Partnership or as required by law e.g. Dartford and Gravesham Community Safety Partnership (CSP) between Dartford and Gravesham Councils and other partners, such as the police service, police authority, fire service, PCT and KCC.

The partnership will, in almost all cases, be an unincorporated association and therefore not a formal partnership in law. Your appointment to such a partnership is treated in exactly the same way as your appointment to an outside body.

APPENDIX B

**Prejudicial Interests (as prescribed by Dartford Borough Council)**

A prejudicial interest means an interest (other than a Disclosable Pecuniary Interest) in any matter under consideration at any meeting which may reasonably be regarded as affecting your financial position or the financial position of a person or body you are associated with:-

(a) - to a greater extent than other council tax payers, ratepayers or inhabitants of the Council's area; and

(b) - where a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice your judgment.

You will not normally have a prejudicial interest if:

(a) you are a tenant of the Council provided that the matter under consideration does not relate particularly to your tenancy or lease; or
(b) you are a parent or guardian of a child in full time education, unless the matter under consideration relates particularly to the school which your child attends; or
(c) you are in receipt of, or are entitled to the receipt of, statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992; or
(d) as a member of the Council, you are given a payment or indemnity; or
(e) as a member of the Council, you are being/have been bestowed a ceremonial honour by the Council; or
(f) the Council is setting the council tax or a precept under the Local Government Finance Act 1992; or
(g) you serve as a member of a body exercising functions of a public nature (e.g. other government agencies, other councils, public health bodies, school governing bodies), unless the matter under consideration relates particularly to the body.

Local Government Association

Amendment authorised by the GAC - 27.02.17 – Min. No.75(4)

**11.5 - Councillors' guide to handling harassment, abuse and intimidation**

# Practical steps that you and your council can undertake to protect yourself as a person in a public position.

Introduction

The role of local government is to set out and deliver local priorities and services on behalf of local communities. Councillors are local leaders and champions, bridging the gap between residents and local government. They take decisions on behalf of local residents and champion the issues affecting them. Becoming and serving as a councillor is a huge privilege

and responsibility, but it also means councillors are very visible and often easily accessible to residents.

A pressing concern facing those in public office is the increasing levels of intimidation, harassment and abuse they are experiencing. While debate and expressing different views is all part of a healthy representative democracy, these unacceptable behaviours undermine the key democratic principles of free speech, debate and engagement, and sometimes pose a risk to councillors' safety. Thankfully, serious incidents remain very rare.

Councillors, their peers, political parties, council officers and, when necessary, the police, all have a role to place in addressing harassment, abuse, and intimidation. We are aware that the growth in public intimidation can put people off standing for election and this issue may affect some more than others. However, prospective and elected councillors should bear in mind that they are not alone in dealing with abuse and intimidation and there are an increasing number of ways to protect themselves and be supported by those around them.

We want to encourage more people to stand for election, including a more diverse range of people to represent their local communities. We do this through the **Be a Councillor** campaign and resources like this Guide and others under the **Civility in Public Life** programme.

In recognition of the impact of abuse and intimidation of councillors, the LGA has come together with the Welsh LGA, the Northern Ireland LGA and the Convention of Scottish Local Authorities to produce this and other guidance.

Using this guidance

The aim of this Guide is to provide councillors and councils with practical steps they can follow to decrease the likelihood of experiencing harassment, abuse and intimidation and give them some ideas on how to respond should an incident occur. The Guide has been developed based on the most relevant research, and best practice recognised across a range of organisations, as well as the direct experience of councillors.

Throughout the Guide we have provided some examples of criminal offences which may be relevant, however these examples are not exhaustive. You should report any concerns about behaviour or conduct, whether online or in person, which make you feel uncomfortable or unsafe to the police who have a duty to take your report seriously.

A summary of what you can expect from the police and other criminal justice agencies is included later in this Guide. Supporting councillors

dealing with harassment, abuse and intimidation is of upmost importance given the potentially harmful impact that such actions have on their and their family's mental health and wellbeing. **Councillors who feel anxious, worried or seeing their daily routines adversely affected should speak with their local GP.**

We are aware that support available to councillors may vary from council to council across the four nations. We would encourage councils, political parties and others supporting councillors to consider the **Advice for supporting councillors section** of this guide, which includes helpful tips and case studies, and consider advice from other associations across the UK as necessary.

Finally, this guidance does briefly consider the issue of online abuse, including on social media. However, we know that this issue is of growing significance and so the LGA has produced a separate suite of guidance to support councillors using social media.

Please note that this Guide does not take the place of legal advice or personalised advice from the police on offences or personal security. If you are concerned about your personal safety or security as a result of abuse, harassment or intimidation contact the police.

Local Government Association

CLILC • WLGA

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*Please note that this guide does not take the place of legal advice or personalised advice from the police on offences or personal security. If you are concerned about your personal safety or security as a result of abuse,*

*harassment or intimidation, do contact your local police force.*

**11.6 - An introduction to social media for councillors**

This is an introduction for councillors on the use of social media. It includes an overview of how and why councillors should use it, their responsibilities, ways to stay safe and approaches to handling negativity.

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Objectives

**Getting started on social media**

- Why should councillors use social media?
- Communicating on social media
- Prioritising what social media platform you use

**Staying safe and secure online**

- Setting yourself up to stay safe on social media
- Separating your councillor role and family life online

Your responsibilities as a councillor

- The golden rule to follow
- Understanding what you can and can't post online, including legally

How to deal with negativity and abuse online

- Learning not to 'feed' social media 'trolls'
- LGA 'rules of engagement' – share our digital citizenship infographics
- Being confident to block and delete followers
- Taking a break from social media

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Getting started on social media

## Why should councillors use social media?

Effective communication is at the heart of success for any councillor. Over the last few years, social media has transformed how elected representatives communicate with their communities. For some, their first time using social media happens after their election as a councillor, whereas others are already experienced at using social media. This guide offers support and guidance to all.

There are many key benefits to using social media as a councillor. Using social media, in particular highly used platforms like Facebook, enables councillors to engage regularly with many residents across all age groups and demographics, including local residents who are much less likely to read leaflets or attend council meetings. This has been demonstrated in the COVID-19 pandemic. With face-to-face meetings impossible for a long time, social media enabled people to stay in touch with their elected representatives (and vice versa) in a period in which community support and engagement were vital.

## Using social media enables councillors to engage regularly with residents across all age groups and demographics

Communicating on social media

Social media communication is not only useful for sharing information, although that is a key part of it. There are many other advantages of using social media, including that it enables councillors to have a digital ‘listening ear’ on online conversations about what’s going on in your local community whether they are happening on Facebook pages or groups, Twitter hashtags for your town, or on Nextdoor – a networking service for

neighbourhoods.

Social media platforms also offer councillors a cost-effective and speedy way to report back to residents about issues, the work of the council and what you're doing as their councillor. While traditional communication methods like leaflets and local media coverage are still important, posts on social media are immediate and offer you the opportunity to respond to what's going on in your local area swiftly and with impact.

### Prioritise what social media platform you use

There are many, many social media platforms available to use. Some are much more used than others, however. Statista estimates that there are more than 53 million social media users in the UK in 2022. Facebook has the largest market share with 56 per cent of visits in 2021, followed by Twitter with almost 24 per cent.

Different social media platforms will give you the opportunity to speak with different audiences – different members of your local community. Many people use Twitter to access news. Twitter is made up of very short messages ('posts') – there can be a maximum of 240 characters in one tweet. Instagram is a highly visual platform – it's all about photos and videos. While you can add photos and videos to Twitter, doing so is not its main aim – Instagram, on the other hand, is focused on images and engagements with them.

As a councillor, you need to use your time effectively – you're a busy person! Our advice is to start by prioritising one key social media platform and become confident and impactful on it before deciding to move on to others.

You may wish to start with Facebook because it has the widest reach across all audiences in the UK. Facebook is the main social media platform that residents in your area will be looking at for information.

There are other options, though. Twitter is a great platform to be able to quickly find out information and have real-time, one-to-one conversations with immediate feedback. Instagram is a highly visual platform. To use it you'll need good photos and video content.

Nextdoor is a highly locally focused platform which can be very useful to reach people who you know live in your community. Nextdoor doesn't have the same reach as Facebook, however.

### Staying safe and secure online

## How to set yourself up to stay safe using social media

While there are many advantages to having an active and engaging presence on social media, It is really important for you to stay safe and secure as a user. There are key actions you can take to protect yourself online, whatever social media platform you use.

The first is to make sure you use a secure login email and password. We'd suggest you:

- don't use your councillor email address which is likely to be well known
- different passwords for each account.

You should set up two-factor authentication on your accounts on all the social media platforms you use. This offers you extra security for your accounts. Two-factor authentication (or multi-factor authentication) means that, when you log in to your account, you'll need to not just add your password but also either:

- enter a code which is sent to your mobile phone number or email
- or, alternatively, authorise your login on an app on your phone.

### Keeping your personal and family life private

Make sure you maintain a divide between your personal and family life, and your public profile. On Facebook, we strongly recommend you use a Facebook 'Page' rather than a 'profile' for your councillor role. This can help you maintain separation and balance. Other social media platforms, such as Instagram and Twitter, have similar options too. Make sure you also set up the privacy control settings offered on each platform.

Be aware that councillors are personally responsible for the content they publish on any form of social media, whether it's published on a personal account or not. It's highly recommended that you never post or share anything online, or on any social media account, that you would not be comfortable saying or sharing in a public meeting.

It is easy to share information about yourself online. As a councillor, you need to think carefully about what, and how much, content you put out in the public domain. Before you start posting, it is worthwhile thinking not only about what is safe to post, but also about what you are comfortable with posting and what you want to be available long into the future.

As a rule, don't share personal information such as your personal phone number, date of birth, home address – or photos that make any of these obvious. Remember that you also need to consider the personal data of

others around you. You might be comfortable living your life in the public glare, but you need to ask yourself: “Are my family, friends, neighbours and work colleagues also comfortable to do so?”

From a security point of view, think carefully before you post. Once a piece of content is on social media, you lose nearly all control about how it will be used. As with emails, you will need to watch out for phishing scams, cons, and malicious software.

Your responsibilities as a councillor

### The golden rule to follow

There’s a golden rule for using social media, which is: i f you are unsure about posting something, stop and ask for advice first before doing anything else.

Social media works in the public domain. Once something is published it is ‘out there’ for everyone to see and very easily it can:

- go viral
- be altered or changed without your consent
- b e taken out of context
- be shared around the world.

Using social media as an elected (or co-opted) member of a council is very different from using it as someone who isn’t. Councillors have additional responsibilities because of their position.

## If you are unsure about posting something, stop and ask for advice first.

Understand what you can and can’t post online, including legally

Councillors are personally responsible for the social media content they create, publish and share. Being a councillor will not prevent someone else pursuing legal action following the publication of an untrue statement. In such a situation, it is likely that you will be held personally liable.

Councillors should be mindful of the difference between fact and opinion. They also play a central role in preventing the spread of disinformation. Think twice before you press ‘share’ or ‘retweet’!

On social media, councillors should also keep in mind their responsibility in relation to confidential information, copyright, data protection, the pre-election period and exempt reports. Councillors are still subject to the Code of Conduct on social media where there is an explicit link between the

content posted and council business or your role as councillor. As a general rule, councillors should demonstrate good conduct at all times and so should act as though their public engagement on social media falls in scope of the Code of Conduct.

When posting to social media you should remember that:

- you are an elected representative of your council
- what you post can affect the reputation of your council
- your council is a corporate decision-making body – you can't, independently, make decisions for the council on social media
- some issues and communications are best left to your council's official social media channels, which are usually managed by officers
- having a single voice or message can be critical in some situations – for example, in the event of major flooding
- you don't have to respond to or comment on everything on social media – and sometimes it's best not to.

Think before you press 'publish'! There is a simple test. If you would be reluctant to say something face-to-face to a group of strangers in the street, then you probably shouldn't say it on social media.

How to deal with negativity and abuse online

### Learn not to feed social media 'trolls'

Unfortunately, on every social media platform, there can be other users who are negative and abusive. Such people are often referred to as 'trolls'. Trolls are not easy to deal with – the best way is 'not to feed them'. By this, we mean don't respond to what they post, which is designed to upset, elicit a response or to further their own goals. Your best response is to either to ignore what they have posted, or (if it's on your own page or profile) to delete or hide their comment, so your other followers don't see it either.

Digital citizenship 'rules of engagement'

The LGA has produced digital citizenship 'rules of engagement' infographics for councillors, which you can add to your social media profile. These set out the social media code you will follow on social media and how you expect your followers to behave.

Be confident to block and delete followers

It is easy to delete, block followers, and report individuals who are persistently abusive to you, including to the police. It is sensible and reasonable to block some people – not just to protect yourself, but also to protect others who follow you who may also feel threatened by what they write in comments.

Taking a break from social media

Don't be afraid of taking a break from social media if you feel you need to – to protect your mental health and wellbeing. You can easily temporarily

unpublish your Facebook page or Twitter account and give yourself some ‘time offline’.

### 11.7 - Checklist for councillors - How can you most effectively use social media as a councillor?

**Be a person** - In the words of Digital Specialist Euan Semple, "Organisations don't tweet, people do". You are likely to be more effective if your social media profile is you (with a picture of you) rather than an organisation with a logo.

**Don't worry about reaching everyone in your ward** - Social media will be more effective in some wards than others. University towns, urban areas with good broadband and mobile connections, and a working age population tend to work best. Wards with an older population and poor internet connectivity tend not to be so effective at reaching your ward. However, don't let this stop you as connections are continuously improving as we move towards a higher level of digital inclusion.

**Don't let it replace your traditional work** - To be an effective councillor you won't stop meeting people and posting leaflets simply because you are posting online. The traditional work of a councillor still has to be done. You will know your residents best—consider which channel works best for them to connect with you, online and offline.

**Think about the platform you'll use** - If people in your ward are keen Facebook users then think seriously about Facebook. Twitter is popular among politicians because it's easy to use and connects people really well. Whichever one you choose, learn one at a time before even thinking of trying something else. You will know your residents better than anyone else so ask them which channel works best for them.

**See how other councillors use it** - Watch and learn from other councillors who are using social media. Have a chat to them. You'll very often find they will be happy to talk. Even to those from different parties.

**Don't be a slogan machine** - There is a really important decision to be taken over how political to be. You may have been elected on a party political ticket. But you are also a rounded human being. Social media is a chance for you to show your human side. Just posting party political content is likely to switch many people off and you may be talking only to the party faithful.

**Have a conversation** - Social media works best as a two-way conversation connecting people and sharing information. Good councillors do this every day face-to-face with residents—social media should be no different to this.

**Don't wait for people to come to you** - You've got your Facebook profile or your Twitter profile. People won't just come flocking to you. Run a search on your chosen profile for the name of your ward or an issue. Make a connection. Join a

Facebook group set-up by residents. Comment on a blog, a website or a video clip.

**Think about times when you won't post** - From experience, many elected members say that Friday and Saturday nights are not always the best time to post overtly political messages. You won't always get the most rounded debates. Many councillors post sparingly on religious holidays.

**To post in meetings or not?** - Some authorities frown on posting from social media in meetings. Check the situation where you are. Residents, residents groups, journalists and bloggers are being encouraged to use social media from meetings. So adding your voice to the conversation may be a good thing as part of democracy. If you can post an update from a meeting and it doesn't hamper your role in that meeting then it's something to think about.

**Do not have a row** - Robust debate is fine from time-to-time and its part of the cut and thrust of local politics. Most people can accept that. But remember how this debate is playing out to passers-by who are not interested in the detail of the issue. They are likely to be switched off. Take the row offline with a phone call or an email.

**Don't be abusive** - An absolute 'no no' is abusing people online. It doesn't work. It will make you look awful and is a sure-fire way to land you in trouble with your electorate, the party and the council. Be professional. Don't say anything you wouldn't be happy saying in a public meeting with the Press there.

**Don't discuss case work detail** - Case work can be reported to you on social media. Everything from uncollected rubbish and a cracked paving slab to concerns about child protection. As a good rule of thumb, ask residents to tell you the detail of an issue offline. Social media platforms usually have an easy-to-use way to talk one-to-one. Email and telephone can come into play too.

**Pictures work -** People respond really well to pictures. They don't have to be print quality. They don't have to be posed. If you are on a ward walk post some pictures. Include the people you are with if they are happy with that. Post pictures that show your human side too. That sunrise you just noticed. Your dog. Things that make you human.

**Enjoy it -** It's not meant to be scary. It's not meant to be hard work. Relax. Be yourself. Be a responsible elected member. Enjoy it.

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## 11.8 WORKING IN PARTNERSHIP - 2025 REGISTER

**Major Working in Partnership – Potential for Financial/Reputational Risk**

**Definition** - Joint working (non contractual) between two or more organisations, towards achieving a shared goal, where there is potential for either financial or reputational risk for the Council

| Major Partnership | Dates: Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| DARTFORD COMMUNITY SAFETY PARTNERSHIP | Set up in 2020 following dissolution of Dartford & Gravesham CSP | DBC, KCC, Police, KF&RS, Integrated Care Board, Probation - Statutory Partners. There are many others who work to support aims – including Change Grow Live (CGL), We Are With You, OPCC, Victim Support | Director of Housing & Public Protection | To create a safer, cleaner place to live, work and socialise<br><br>To deliver statutory responsibilities under Section 17 of the Crime and Disorder Act 1998 - Duty to consider crime and disorder implications | Brings together key local partners at strategic level underpinned by tactical and operational joint working Monitors emerging threats and creates the annual Strategic Assessment & subsequent Community Safety Plan accordingly. | Reputational if targets not delivered. Financial - Funding streams may reduce in current climate.<br><br>The Council will not be delivering its statutory responsibilities in terms of Crime & Disorder |

| Major Partnership | Dates: Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| DARTFORD HEALTH TEAM & DBC HEALTH & WELLBEING ALLIANCE | | KCC Public Health, DGS CCG, DBC | Health Team Lead | Local partnership focussed on health inequalities, the preventative agenda and joint initiatives | Improved health and addressing health inequalities | KCC has stated its intention to operate One You Kent in North Kent through the allocation of a grant for 2026-2029. This is to support Weight Management and Healthy Lifestyles, and which will in 2026-27 include signposting for Smoking and Cannabis Cessation. KCC has stated its intention to terminate a contract with one provider in North Kent and has asked DBC to expand delivery which will impact targets. This is currently under discussion. There may be a TUPE risk – this is being investigated. Failure to meet targets may result in suspension of funding |
| JOINT WORKING WITH KENT DISTRICTS<br>• Audit<br>• Revs and Bens<br>• Reprographics | 2008 | DBC; TMBC; SDC | Chief Officer & Director of Corporate Services | To deliver service and activities under shared management arrangements | Efficiencies and improved services based on best practice | Reputational – risk to service delivery if partnership fails. Partnership |

| | | | | | | |
|---|---|---|---|---|---|---|
| • Insurance<br>• Procurement | | | | | | agreement in place for joint working and arrangements monitored via the Partnership Board |

| Major Partnership | Dates: Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| KENT LEADERS<br><br>And<br><br>Kent Joint Chief Executives Group and other Working Groups | 2010 | KCC, Medway BC, District Councils, | Leader and Chief Officer & Director of Corporate Services | To achieve the vision for Kent | Partners working together, with local actions contributing to common aims.<br><br>Joint working on Local Government Reorganisation proposals | Reputational – risk if agreed targets are not met |
| KENT AND MEDWAY ECONOMIC PARTNERSHIP | | Chaired by the private sector and made up of 21 members, 11 business representatives, 8 local authority leaders and one representative from higher and further education | Director of Growth & Community | To drive forward economic growth and prosperity throughout the Kent and Medway region | Considers strategic economic investment priorities. Coordinates the Kent and Medway Economic Framework and is currently formulating a Local Growth Plan | Financial - Potential for loss of funding and non-delivery of economic growth targets |

| Major Partnership | Dates: Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| KENT & MEDWAY ENERGY GROUP<br><br>(KMEG) | 2012 | DBC, Medway, ALL Kent districts, | Director of Housing & Public Protection<br><br>Climate Change Manager | To drive the Energy Efficiency agenda in the County. The partnership is working to establish the best deal for Kent residents and businesses from grants from energy companies and other grants to install energy efficiency measures. Discuss technical and strategic advice in order to assist in the development of retrofit projects in Kent and Medway. This includes improvement relating to procurement and contracting, funding and finance, technical issues, events and conferences | The partnership is working to provide the best offer for the residents, landlords, SMEs of Kent and maximise economic and environmental benefit. | Reputational - Impact of grant received if handled badly. Governance arrangements in place. |

| Major Partnership | Dates: Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| FASTRACK ADVISORY BOARD | | Chaired by KCC Transport Portfolio Holder, comprises Dartford and Gravesham Leaders and Chief Executives and senior Fastrack officers from Kent | Head of Planning | To use influence and knowledge of the Members of the group to inform decisions with respect to the delivery of all aspects of the Fastrack programme. Also continues the work previously picked up by the Kent Thameside Strategic Transport Programme Steering Group | Championing the development of the Fastrack network, assisting in a common vision amongst partners and jointly identifying additional resources | Reputational - if the Fastrack network does not deliver on its objectives |
| DARTFORD TOWN CENTRE REGENERATION PROJECT BOARD | 2018 - | DBC Leader, Director of Growth & Community, KCC Corporate Director Growth, Environment and Transport, KCC Head of Transportation | Director of Growth and Community | KCC are the accountable body for the funding agreement and also the Highways authority<br><br>Aim is to agree programme, resolve issues and agreed funding | Facilitates a joint approach to working where DBC are delivering a transport related project | Reputation – risk of not meeting the highway authority standards Financial - risk if the funding is not used in accordance with the Funding Agreement |

| Major Partnership | Dates: Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| DARTFORD FLOOD RISK PROJECT | | Environment Agency<br><br>Dartford Flood Risk Project. – EPO liaise with the KRF, EA and volunteers regarding this. We also promote the Community Flood Warden training. | Emergency Planning Officer | To agree flood management schemes which the council will pay a contribution for. | Joined up approach to flood management. Prevent flood barriers to planning | Reputational - Unable to identify suitable schemes in the short term that will alleviate flood risk |
| DARTFORD LARDER | June 2025 | Crossways Community Church<br>Healthy Living Centre Dartford<br>New Avenues | Community Development Manager | Create a welcoming space where people can access a choice of affordable, nutritious food. Through active participation and community connection Dartford Larder supports individuals not only in meeting their immediate needs but also in building confidence, sharing skills, and contributing to a stronger, more resilient local food system. | A strategic multi-agency approach to support people with multiple needs.<br><br>A growing and thriving community | Reputational Sustainable supply of food is subject to the development of a sustainable food network – this is being developed. This is a multi-partner approach with VCSE colleagues who are currently navigating funding challenges and the impact of NI contributions. Each partner has invested and contributes to outputs and shares DBC's vision in the project but it is within their gift to terminate their involvement. |

| Major Partnership | Dates: Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| KENT AND MEDWAY HEALTH PROTECTION BOARD | | Chaired by Directors of Public Health – KCC and Medway<br>NHS Kent and Medway<br>KCC –Adult Social Care<br>KCC Communications<br>Kent and Medway ICS<br>Kent Resilience Team<br>Kent Trading Standards<br>UKHSA | Head of Environmental Health & Regulatory Services | To share real time advice and information to Local Authorities, NHS, KCC, UKHSA and apply to Kent and Medway in the most effective way.<br>Pandemic Management | Ability to influence how decisions that are made for the County and that can affect LA's. First-hand knowledge of outbreaks, virus trends, grants available, vaccination programmes EPO attends the Bronze and Silver Group meetings when they are called (part of KRF) to ensure that DBC are represented and that we are following the correct procedures and that the appropriate information is shared to those in DBC that need it. Horizon scanning for emerging risks | Reputational - if not following local and Govt guidance. |

**Minor Working in Partnership – Low Risk**

**Definition** - Joint working (non contractual) between two or more organisations, towards achieving a shared goal, where the potential for financial and reputational risk for the Council, is low.

| **Minor Partnership** | **Dates: - Start & Review** | **Parties** | **Contact Officer** | **Aims** | **Added Value/Benefits** | **Risks** |
|---|---|---|---|---|---|---|
| EXCELLENT HOMES ACTIVE LIVES PFI PROJECT | | KCC, DBC | Head of Housing<br><br>Housing Policy & Development Manager | To provide units of high quality extra care accommodation | Nomination rights | Low - now completed and units let |
| BETTER HOMES ACTIVE LIVES PFI PROJECT | | KCC, DBC & Sevenoaks DC and other districts | Head of Housing<br><br>Housing Policy & Development Manager | To provide units of high quality extra care accommodation. | Nomination rights | Low - now completed and units let. |
| CIVIL CONTINGENCIES & EMERGENCY PLANNING - KENT COUNCILS MUTUAL AID | 2007<br><br>2010 | KCC, Medway Council, Kent District Councils | Emergency Planning Officer | To provide resources to other emergency responders when beyond a single Council's capability and to receive resources when needed. | Provides support and assurance to the Council, if response beyond our own capability and capacity. | Low – SLA in place |

| Minor Partnership | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| CITIZENS ADVICE NORTH WEST KENT | 2008 | Outside body affiliated to the national network of Citizens Advice Bureaux | Community Development Manager | Voluntary sector organisation providing advice and support to local residents | Delivery of advice service | Low - CAB is now operating a full time service out of DBC Civic Centre. The risk of not being able to meet increased demand and recruit volunteers needed to support the service has been mitigated by CAB renting a small office in the East Wing of DBC, providing a space for Volunteers to undertake administrative functions. CAB has dedicated use of Interview Room 10 and reception pod. Further discussions are taking place regarding the instal of a kiosk at the Civic Centre |
| PORCHLIGHT | 2022-2024 | DBC & Porchlight | Housing Solutions and Private Sector Manager | Voluntary sector organisation working with single homeless people to support them from the street and to help them sustain | Delivery of advice and support services | Low - SLA in place |

| | | | | | | |
|---|---|---|---|---|---|---|
| | | | | housing | | |

| Minor Partnership | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| HEALTH HUB ROUGH SLEEPERS – PORCHLIGHT & ST DMUNDS BENEFICE | 2025-26 | DBC Porchlight & St Edmunds – Dartford | Community Development Manager | The provision of a bespoke hub co-ordinating health and wellbeing services that directly support the physical and mental wellbeing of rough sleepers in Dartford | Service users the focus of planning, commissioning and delivering. Partnership brings organisational expertise – additional value achieved by provision of something more than the Council could do by working alone. | Low - Funding has now switched to Govt RSI – this has removed the risks associated with the previous Health Funder, and the sustainability of the project is more optimistic, however, funding remains subject to political priorities and budget constraints of Govt funding. |
| DARTFORD & GRAVESHAM ADVICE FORUM | | KCC Adult Services, Job Centre Plus, DBC, GBC, Pensions Services, RSLs, Tree Community Forum, Neves Scott Solicitors + others | Benefits Training & Quality Officer | Exchange of info re legislation and structural/ organisational change for main stakeholders, sharing of best practice | Better coordination and linkages between various agencies involved with individual customers | No financial or reputational risks identified |
| DARTFORD & SEVENOAKS BENEFITS ADVICE FORUM | | YMCA Thames Gateway, KCC, RSLs, CAB and Places for People | Benefits Manager | Exchange of information re legislation and structural/ organisational change for main stakeholders, sharing of best practice | Better coordination and linkages between various agencies involved with individual customers | No financial or reputational risks identified |

| Minor Partnership | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| DARTFORD & GRAVESHAM HOME IMPROVEMENT AGENCY (HIA) previously Care and Repair Scheme | 1994 | DBC, Gravesham BC, KCC, Town & Country, Peabody Housing | Senior Private Sector Housing Officer | To assist owner occupiers or private tenants who are 60+ or disabled, or on low incomes to repair/adapt their homes. | Maintains reliable builders' lists and provides agency services including surveying & design services, handyperson, security measures, benefits advice – joint procurement of a service | Low |
| DARTFORD VULNERABILITY AND CONTEXTUAL SAFEGUARDING (DVACS) | 2020 | DBC, Kent Police, KCC, , CGL, NHS, VRU, We Are With You, Probation, DWP, Playplace | Community Safety Manager | To assist the Community Safety Plan in supporting vulnerable communities and individuals that may require multi-agency support and by tackling forms of Anti-Social Behaviour and gangs and child criminal exploitation | Works in partnership to effectively provide support and reassurance to victims and vulnerable communities | Low - While the group aims to encourage legitimate information sharing, there is a need to ensure that this is covered by a legal power and complies with the principles of information sharing |
| DARENTH VALLEY HOSPITAL HIGH INTENSITY USER STEERING GROUP | | DBC, DVH, SECAM, Police | Community Safety Manager | To assist the Community Safety Unit in identifying vulnerable individuals who are in need of multiagency support. | Works in partnership to effectively provide support and reassurance to victims and vulnerable communities | Low |

| Minor | Dates:- | Parties | Contact | Aims | Added | Risks |
|---|---|---|---|---|---|---|

| Partnership | Start & Review | | Officer | | Value/Benefits | |
|---|---|---|---|---|---|---|
| COMMUNITY SAFETY UNIT DAILY MULTI-AGENCY BRIEFING | | DBC, Kent Police, KFRS, DBC Housing, Community Wardens | Community Safety Manager | Daily briefing (via Teams) covering the incidents over the last 24 hours. | Daily information sharing with the partners. Providing a joint problem solving approach to incidents reported. | Low |
| DOMESTIC HOMICIDE REVIEW – STEERING GROUP | | DBC, Kent Police, Kent and Medway NHS Trust, Medway Council, Probation Service, Kent County Council, Kent and Medway CCG/K&M ICB | Community Safety Manager | Exchange of information re legislation and structural/ organisational change for main stakeholders, sharing of best practice. | Better coordination and linkages between various agencies involved. Offering lessons learnt and best practice moving forward. | Low |
| INTEGRATED OFFENDER MANAGEMENT (IOM) | 2015 | Kent Police, Probation Service, DBC, | Community Safety Manager | Monthly meeting to monitor the most recidivist offenders ensuring they are complying with licence conditions. | Works in partnership with other enforcement agencies to offer assist with transition from the prison environment to the community. Highlighting housing needs. | Low |

| Minor Partnership | Dates :- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| SERIOUS AND ORGANISED CRIME PARTNERSHIP | 2020 | Kent Police, DBC, KCC, VRU | Community Safety Manager | Meeting sharing intelligence and up-to-date information on known Organised Crime Networks and high impact offenders. | Prioritising those recidivist individuals and groups that are/ will have an impact on the local community. | Low |
| SAFEGUARDING STEERING GROUP | | DBC, KCC | Policy and Performance Officer, | | | Low |
| KSCMP DISTRICT COUNCIL SAFEGUARDING LEADS | | KCC and all Kent Borough and District Councils | Safeguarding Lead | Four Priority focus areas. These are 1) Significant harm to under twos 2) Serious Youth Violence, 3) Adolescents with complex needs 4) Sexually inappropriate and harmful behaviour | Ensuring that frontline practice is improved through the learning identified in practice reviews. | Low |
| EBBSFLEET PLANNING LIAISON GROUP | 2015 | DBC, Ebbsfleet Development Corporation, KCC, Gravesham Council | Head of Planning/Planning Strategy Manager/ Development Manager | To ensure effective working between EDC and the LAs on strategic planning and infrastruct | Liaison, information-sharing, joint preparation of planning documents | Low – provides forum to discuss and agree on potential matters of conflict/disagreement |

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| | | | | ure matters | | |

| Minor Partnership | Dates: - Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| HOUSING COMMUNITY INITIATIVE FUND | | Resident Forum Reps & Housing | Head of Housing | To allocate funding to local projects | Fund one off projects for benefits of tenants. | Low |
| KENT CONNECTS | 2001 | KCC, DBC, and all District Councils in Kent, Medway Unitary Council; GOETEC Consortium, Kent Fire and Rescue Service and Kent Police | Head of IT & Transformation | This partnership of public sector bodies in Kent seeks to make the best use of information technology and digital services, to respond collaboratively to challenges and leverage opportunities together. Delivers partnership events and specialist groups to help partners understand and influence current and future thinking, and to maximise opportunities for collaboration and knowledge sharing. | Knowledge sharing, identification/introduction of new technologies and providers, discounts on some training events etc. | Low – more of an advisory body rather than having any operational function |

| Minor Partnership | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| KENT COUNTY SPORTS PARTNERSHIP (previously Kent Active Sports Partnership) | 1999 | DBC, KCC, Sport England, Medway Council + 11 other district/borough councils in Kent, Kent Cricket Board, Kent RFU, Kent Football Assn, Kent Netball, Kent Basketball, Kent Athletics, Kent Hockey | Community Development Manager | To help all young people in Kent with the ability and desire to improve their sporting skills through a co-ordinated programme that will provide access to organised sport. | Attracts Sport England lottery revenue funding and specialist sport-specific support into the Borough. | Low |
| KENT EQUALITY COHESION COUNCIL (previously North West Kent REC) | | Outside body | Community Development Manager | Promote racial equality in North West Kent | Assistance to Council in promoting equal opportunities. | Low |
| KENT ESTATES PARTNERSHIP | 2016 | Public sector partners from across Kent | Director of Growth & Community | To create an integrated, flexible and affordable public estate<br><br>To share best practice and coordinated working across One Public Estate | Underpins and enables the efficient delivery of social and economic outcomes for the whole county by getting more from the collective estate | Low |

| Minor Partnership | Dates: - Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| KENT HOMECHOICE (PAN KENT CBL) | | Representatives from all Districts and Housing Associations in Kent | Housing Solutions and Private Sector Manager | To deliver a Pan Kent CBL and Homelessness system that simplifies the process, and provides consistency and aids mobility across Kent. | A joint working initiative that delivers benefits to our residents and tenants when they are seeking to access social housing. | Low – now fully operational and working well |
| KENT AND MEDWAY RESILIENCE FORUM | 2005 ongoing | All Category 1 and 2 responders in Kent | Emergency Planning Officer (operational)<br><br>Director of Growth and Community (on strategic board) | To provide resilience to identified risks through a control and command structure in Kent as required by the Civil Contingencies Act 2004 | To provide an agreed and tested response to emergencies. | Low – individual partners deliver actions individually or coordinated. Governance arrangements in place |
| KENT RESOURCE PARTNERSHIP – reports to KENT & MEDWAY ENVIRONMENT GROUP (KMEG)<br><br>And Officer Advisory Group and Project Groups | | KCC and all District Councils | Director of Housing & Public Protection<br><br>Head of Waste, Public Realm & Enforcement Services | To work in partnership across Kent to deliver an effective waste management service | To achieve Government and European targets for recycling, composting, waste reduction and reduction of landfill etc. | Low – individual partners deliver actions. Funding held by KCC.<br><br>Governance arrangements in place. |

| Minor Partnership | Dates: - Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| DARTFORD CHILDREN & YOUNG PEOPLE'S BOARD (Previously LOCAL CHILDREN'S TRUST BOARD) Also known as LOCAL CHILDREN'S PARTNERSHIP GROUP | 2008<br><br>2009<br><br>2010<br>2016 | Partnership bringing together schools, Dartford BC, KCC services for children & young people incl. children's specialist social services, education and early help, DGS CCG, Police, KFRS | Safeguarding Lead<br><br>Director of Housing & Public Protection | Identify Dartford issues around young people | To improve outcomes for children and young people through a targeted multi-agency delivery plan. | Low - partnership led by the County Council.<br><br>Governance arrangements in place. |
| NORTH KENT DOMESTIC ABUSE FORUM | | Gravesham and Dartford Community Safety Officers, KCC Social Services, KCC Commissioning Team, DBC and GBC Housing Officers, Kent Police, Clarion Housing Group, NHS Health Visitors, Porchlight, Change Grow Live, Rethink, Specialist DA service providers | Housing Solutions and Private Sector Manager | Raise awareness and increase the reporting of domestic violence. To improve services and support to victims; and opportunities for perpetrators to reform. | Multi-agency working enables sharing of best practice and information on resources available to deliver support available to victims, and rehabilitation to perpetrators. | Low – this is a CSP Priority. Failure to develop an appropriate response and display leadership in co-ordinating local services could pose a reputational risk. |

| Minor Partnership | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| TOWN CENTRE PARTNERSHIP<br><br>And Sub-Group:-<br><br>Dartford Town Against Crime (DTAC) | 2001 | DBC, Police, KM Group, Groundwork, Orchards Centre, Priory Centre, Atik Night Club, McDonalds, Boots, Sainsbury, NWK Racial Equality Council, KTS C of C, DGS PCT, Holy Trinity Church, Kent Architecture Centre, Orchard Theatre, KCC, NW Kent College, W H Smith, South Eastern Rail, CVS, Wilkinsons, B&Q, Dartford Grammar School, Regatta Estate Agents, Arcadia Group. | Director of Growth & Community<br><br>DTAC Intelligence Manager | Develop a partnership approach to improving the vitality and viability of DTC.<br><br>To manage business retail crime including offenders for those who are members of the DTAC Scheme | The partnership acts as prime unifying force for the range of private, public and community sector interests that interact with the management, improvement and promotion of the town centre environment, with a social or economic interest in Dartford.<br><br>Coordination and active participation by key stakeholders, Shop Safe radio scheme. | Low. Governance arrangements in place.<br><br>Low, but failure to meet expectations could lead to disengagement and render scheme unsustainable. |
| KENT HOUSING GROUP | 2000 | All 12 Housing teams for the Kent districts. All Kent HA's and other stakeholders in Housing county wide | Head of Housing | To work in partnership across Kent to deliver better housing services | To share knowledge, information that improves services, be the voice of Housing in Kent | Low. Governance arrangements in place |

| Minor Partnership | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| KENT FINANCE OFFICERS GROUP | | All 12 District S151 Officer, KCC, KF&RS, Kent Police | Head of Finance | To work in partnership across Kent on finance related matters | To share knowledge, best practice and latest government guidance and its application. | No financial or reputational risks identified |
| KENT CHIEF PLANNERS GROUP | | All Head of Planning in Kent, Medway and EDC as well as KCC representative | Head of Planning | To work in partnership across Kent and Medway to deliver better Planning Services | To share knowledge, best practice and latest government guidance and its application. To hear presentations on relevant initiatives | Low. Reputational if Dartford performance and practices are not keeping up with neighbouring authorities |
| KENT PLANNING POLICY FORUM | | Planning Policy Managers in Kent and Medway and KCC representative | Planning Strategy Manager | To identify joint issues and develop common approaches to local plan preparation, policy issues and strategic planning matters | To share knowledge, best practice and latest government guidance and its application in relation to planning policy matters. | Low. Reputational if Dartford's practices with respect to policy and plan preparation are not following best practice |

| Minor Partnership | Dates: - Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| KENT DEVELOPMENT MANAGERS OFFICERS GROUP | | Development Management Heads in Kent and Medway and KCC | Development Manager | To identify joint issues and develop common approaches to Development Management issues | To share knowledge, best practice and latest government regulations and guidance and its application in relation to Development Management matters | Low. Reputational if Dartford's practices with respect to Development Management are not following best practice |
| LABC KENT BUILDING CONTROL MANAGER GROUP | | Heads of Building Control in Kent and LABC | Building Control Manager | To identify joint issues and develop common approaches to Building Control issues | To share knowledge, best practice and latest government regulations and guidance and its application in relation to Building Control matters | Low. Reputational if Dartford's practices with respect to Building Control are not following best practice |
| KENT AUDIT GROUP | | All Chief Audit Executives in Kent | Audit Manager | To share, develop and improve audit practices in Kent | To share knowledge, best practice and deliver an annual conference | No financial or reputational risks identified |

| Minor Partnership | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| KCC FINANCIAL HARDSHIP TASK & FINISH GROUP | | The group consists of partners from KCC, all district and borough councils, Medway Council, the voluntary sector, and other public sector organisations | Community Development Manager | The Task & Finish Group has continued to meet monthly to discuss challenges and activity around financial hardship support. | The Financial Hardship Task & Finish Group works with partners in identifying changes in the cost-of-living landscape. The priorities identified shape the delivery of support, and where appropriate more partners are engaged to ensure that the group is a strong representation of the multi-faceted support system for residents across the county. | Low - Funding streams and funding priorities determine the focus and work of the group |

| Minor Partnership | Dates: - Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | Risks |
|---|---|---|---|---|---|---|
| KENT ENVIRONMENTAL HEALTH MANAGERS GROUP (KEHM)<br><br>Also includes Technical Working Groups for Food, Health and Safety and Environmental Protection | | Heads of Environmental Health teams in Kent and Medway | Head of Environmental Health & Regulatory Services | To identify joint issues and develop common approaches to Environmental Health issues nationally and across the county | To share knowledge, best practice and latest government regulations and guidance and its application in relation to EH matters | Low. Terms of Reference in place for group. Aim to find best practice and ensure consistency across the county |
| AGEINGWELL (NHS KENT AND MEDWAY | | NHS Kent & Medway D,G & S Officer representatives | Community Development Manager | Scoping and Engagement with Homeless and Vulnerable adults | | Risk of falling outside of decision making process and contributing to health outcomes of Dartford's population |
| KHG EQUALITY, DIVERSITY AND INCLUSION SUB GROUP | | All Kent Councils plus all Kent HA's | HR Manager | To share information on approaches to improving EDI | To share knowledge, information that improves EDI within organisations | No financial or reputational risks identified |
| DARTFORD, GRAVESEND AND SWANLEY – DEMENTIA FRIENDS COMMUNITY | | Organisations that are committed to making Dartford a Dementia Friendly Community | Community Development Manager | Corporate Plan 24-27 objective: To create a Dementia Friendly Community increasing awareness and understanding of dementia and of people living with dementia. | | Professional expertise of ADSS is key to supporting DBC's commitment to creating Dementia Friendly Communities – (VSCE are experiencing funding challenges as a direct result of recent NI changes). |

| | | | | | | |
|---|---|---|---|---|---|---|
| | | | | | | Reputation al risk to DBC |

**External Working Groups**

| External working group | Dates: - Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| BLUEWATER COMMUNITY FORUM | | Community groups in Dartford and Gravesham, Groundwork Trust Bluewater management, Land Securities, Police, other service providers, Dartford Council planning and community safety officers | Community Development Manager | To share information in pursuit of achieving benefits for the local community from regeneration | Dissemination of information throughout the local community, increasing knowledge of Council activity, as well as Council getting better understanding of community needs to feed into the planning process | Provides an opportunity to connect with colleagues. Reputational risk if we so not stay connected. Currently attended by x 2 Health Walk Leaders who feedback to officers and are now involved in the events planning of the Bluewater Community Forum |
| BLUEWATER EMERGENCY PLANNING | 2005 | Bluewater, Police, F&RS, NHS, Ambulance, DBC, KCC | Emergency Planning Officer | To be specifically aware of risks associated with these local sites and threats | To be able to integrate into the agreed response at these sites | |
| CONTAMINATED LAND FORUM | 1999 | KCC, Environment Agency, University of Greenwich, Kent Local Authorities | Environmental Health Scientific Officer | To facilitate a co-ordinated approach to dealing with contaminated land in Kent | Establishes links between the relevant enforcement agencies, allows sharing of ideas, problems, solutions | |

| External working group | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| COMAH - Control of Major Accident Hazards | | KENT RESILLIENCE FORUM. KFRS, SECAMB, KENT POLICE, DISTRICT EPO'S | Emergency Planning Officer | Control of Major Accident Hazards EPO liaises with all COMAH sites to ensure their plans are regularly updated and tested | | Risk of being unable to influence and lobby for outcomes that impact Dartford and its residents in the event of a COMAH incident |
| DARTFORD RIVER CROSSING EMERGENCY PLANNING | 2006 | DRC, HA, Kent & Essex Police, F&RS, PCT, Ambulance, Thurrock, DBC | Emergency Planning Officer | To be specifically aware of risks associated with these local sites and threats | To be able to integrate into the agreed response at these sites | |
| DISTRICT COUNCILS NETWORK | | Cross party member led network of all 201 district councils in England | Leader/Chief Officer & Director of Corporate Services | To provide a national voice for district councils within the Local Government Association | Lobbying of central government, political parties and other stakeholders; commissioning research; providing support and sharing best practice | |
| EQUINE WORKING GROUP | | DBC, RSPCA, Police, KCC Wardens, British Horse Society, Landowners | Animal Control Officer | Ad-hoc forum to discuss policy and procedures relating to illegal grazing | Build on examples of good practice. Access to specialist staff | |

| External working group | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| HOUSING STRATEGY AND ENABLING GROUP (sub group to the Kent Housing Group) | | All Kent housing authorities and 2 nominated registered providers | Housing Policy & Development Manager | To share best practice in terms of strategy development and service delivery. To develop and produce solutions and working practice to identify housing need and assist in the delivery of new affordable urban and rural housing | Promotes partnership working | |
| KENT & MEDWAY AIR QUALITY PARTNERSHIP | 1992 | KCC, All Kent Local Authorities | Environmental Health Scientific Officer | To facilitate a coordinated approach to local air quality management in Kent | Assists in promoting the need for a corporate and consistent approach and improves consultation between the DEFRA Regional Air Quality Co-ordinators Group and the Kent local authorities | |

| External working group | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| KENT & MEDWAY SAFETY ADVISORY GROUP | 2012 | All Kent Local Authority SAG Chairs, KRF, KCC Highways, Kent Police, K&MFRS (DBC EPO Chairs this group) | Emergency Planning Officer | To enable a professional, joint approach to ensure event safety is improved on a County basis | Avoids duplicity and enables the sharing of lessons learnt and best working practices | |
| KENT DOMESTIC RETROFIT GROUP (previously Kent Energy Efficiency Partnership) | 1998 | All Kent Local Authorities | Environmental Promotions Officer | To provide a coordinated approach for energy conservation in Kent | Enables bulk discount schemes and grant application opportunities on behalf of Kent residents | |

| External working group | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| NORTH KENT HOUSING PARTNERSHIP | 2003 | Hyde Housing Group, Moat Housing Group, London & Quadrant Housing Group, West Kent Housing, Orbit Housing, Clarion Housing Group, MHS Homes, Sage Homes, Homes England, DBC, Gravesham BC, Swale BC, Medway Council | Housing Policy & Development Manager | To enable the provision of affordable housing in the Borough | Provides a framework for improved coordination of funding programmes and planning of housing developments between the Council, Homes England and housing association partners. Flexible partnership enables other housing associations to delivery affordable housing where necessary. | |

| External working group | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| NORTH KENT PLANNING AND ENVIRONMENT GROUP | 2011 | North Kent planning authorities, KCC, Natural England, Kent Wildlife Trust | Policy Planner | To discuss and develop a common approach to environmental issues which cross borough boundaries. Develop common evidence based on these matters | Efficiencies in preparing evidence based on strategic environmental issues. Meeting statutory obligations in respect of joint response to cross-boundary issues | |
| UNAUTHORISED ENCAMPMENT WORKING PARTY | | KCC, Police, All Kent local authorities DBC no longer attends, but receives minutes (when the group meets) | Enforcement Manager | Forum to develop coordinated approach to dealing with illegal encampments and traveller related activity | Examples of good practice. Developing a coordinated and unified approach | |
| UPPER THAMES OIL POLLUTION GROUP | 2003 | PLA, GBC, DBC, EA, KCC | Emergency Planning Officer | To meet the agreed expectations and to respond to an oil pollution incident affecting the foreshore of the River Thames | Integrate response on shore and on water. To have common plans and to facilitate the statutory training required of oil pollution officers and beach masters | |

| External working group | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| NORTH KENT VOLUNTARY SECTOR ALLIANCE | | VCSE Led (up to 280 member orgs) – DBC Officer in attendance | Community Development Manager | A forum for shared learning, networking and development | To build enabling relationship with the voluntary sector. | Reputational Risk if DBC not seen to be engaging or listening. |
| DG&S NHS TRUST ARMED FORCES STEERING GROUP | 2024 | NHS Trust and external guests and colleagues<br><br>Links to NHS Kent & Medway Armed Forces Network<br><br>The Kent and Medway Armed Forces Network (KMAFN) is a multi-organisational group which includes members from the NHS, MoD, Armed Forces Reservists, mental and physical health clinicians, the Royal British Legion and other interested charities and organisations from across Kent and Medway. | Community Development Manager | To improve access and the experience of the Armed Forces Community (reservists, veterans, families, adult cadet leaders) in the provision and delivery of health care service and meet the legal requirements of the of the Armed Forces Bill 20215. | Improved understanding of NHS provision for members of the Armed Forces Community | Reputational risk if DBC not seen to be engaging |

[5] New Armed Forces Bill passed in Parliament - GOV.UK (www.gov.uk)

| External working group | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| KENT & MEDWAY ARMED FORCES NETWORK | | The Kent and Medway Armed Forces Network (KMAFN) is a multi-organisational group which includes members from the NHS, MoD, Armed Forces Reservists, Mental and Physical Health Clinicians, the Royal British Legion, SSAFA and other interested charities and organisations from across Kent and Medway | | Its aim is to facilitate the ICBs and community in the delivery of the Armed Forces Covenant and the Armed Forces Act 2021. | | Reputational risk if DBC does not engage and capitalise on value of collective lobbying and sharing of information that serves to benefit members of the armed forces community |

| External working group | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| LGA ARMED FORCES COVENANT NETWORK | April 2024 | Membership to the network is open to local authority officers from across the United Kingdom who are actively engaged in implementing and promoting the Armed Forces Covenant within their respective local authorities. This includes officers responsible for housing, social services, health, education, employment, and community engagement. Additionally, representatives from relevant stakeholder organisations, such as support groups, charities, and government departments may be invited to participate as and when. | Community Development Manager | The purpose of the LGA Armed Forces Covenant Network is to advocate for policies that help local authorities ensure that individuals who have served in the British Army do not face disadvantage as a result of their service. The network aims to influence central government - using the mechanisms of the LGA - to provide local authorities with the necessary tools, resources, and support to fulfil their obligations under the Armed Forces Covenant and effectively address the needs of the armed forces community | Enhanced understanding and connectivity to expertise across the wider LGA network | Reputational risk if DBC does not engage and capitalise on value of collective lobbying and sharing of information that serves to benefit members of the armed forces community |

| External working group | Dates:- Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| WEST KENT JOINT MANAGEMENT GROUP (DISABLED ADAPTATIONS) | 1992 | KCC, DBC, Sevenoaks DC, Tonbridge and Malling BC, Maidstone BC, Tunbridge Wells BC, Gravesham BC, Tonbridge and Malling HA, Hyde 'in touch' Support Ltd (HIA), Health Authority, User Groups. Overview of local authority performance re disabled adaptations | Senior Private Sector Housing Officer | To maintain a strategic overview of equipment and adaptation services for disabled persons in the West Kent social services area | Allows for consideration of new legislation, best practice, training needs/opportunities and monitoring of activity and expenditure | |
| HEALTH INEQUALITIES ACTION GROUP | | DBC all Depts, Public Health, DG&S, VCSE | Health Team Lead | Support delivery of Corporate Plan - identify inequalities in public health, lobby for accessible health services and ensure our powers are used effectively to improve health outcomes for Dartford people. | Access specialist resources and funding streams | Reputational – Delivery of health services is not controlled at DBC level |

| External working group | Dates: - Start & Review | Parties | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| DARTFORD GRAVESHAM AND SWANLEY HEALTH AND CARE PARTNERSHIP CHILDREN'S AND YOUNG PEOPLE'S BOARD | | K&M ICB<br>ICB Clinical Lead for CYP Services<br><br>ICB Programme and Project Managers Children's Acute & Community Paediatrics<br><br>Local Maternity and Neonatal System Representative<br><br>DGS HCP<br>HCP Director/Associate Director<br><br>HCP Primary Care Medical Director and/or HCP GP Clinical Lead<br><br>Dartford and Gravesham NHS Trust (DGT)<br><br>Chief Medical Officer – Chair<br><br>Chief Executive Officer<br><br>Chief Nurse,Chief Operating Officer, CYP Clinical Director ,Associate Director of Nursing, CYP Services, Divisional Director of Operations, CYP Services, | Community Development Manager | This Board is responsible for bringing together organisations across the system, including health, social care, local authority, public health, voluntary and community sector providers and patient representatives.<br><br>Our collective aim is to reduce health inequalities for children and young people, enabling them to access healthcare services where needed, and ultimately aiming to focus on prevention moving forward. | Putting children and young people at the forefront of planning and commissioning and delivering services. It can also lead to added value by achieving something more than the Council could do by working alone. | Effectiveness of the group –<br><br>The role, effectiveness and membership of the Board will be reviewed at least annually with an initial review after six months to ensure that it is fulfilling its purpose within the overall governance structures |

| | | | | | | |
|---|---|---|---|---|---|---|
| | | Community Services<br>KCHFT Representative, Oxleas Representative, Mental Health Services<br>Operations Director, NELFT, DGS Health & Primary Care<br>Director of Collaborative Delivery, SECAMB<br>Strategic Partnerships Manager, Healthwatch Kent Manager, Voluntary Sector, Local Authority<br>Kent County Council (KCC) – Children's Social Care, KCC Early Years and Education Commissioners, Bexley Council Representative, Public Health Consultant for DGS area, Whole Systems Obesity Lead for DGS area, Borough and District Councils,<br>Dartford Borough Counci, Gravesham Borough Council, Sevenoaks District Council, Bexley Borough Council, Other<br>Other HCPs including out of area if required | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| KCC TRAFFIC MANAGEMENT ORDERS GROUP | | KCC, ALL DISTRICTS, DISTRICT EPO'S, Utilities, Planning, All Emergency Services | Emergency Planning Officer | Ensure collaboration between all parties and prevent clashes between events and works | | Reputational risk due to events clashing with road works and closures, causing cancellation or curtailment of events. |

**DBC Liaison Groups**

| Liaison Group | Dates:- Start & Review | Groups | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| DARTFORD YOUTH COUNCIL | | St Catherine's Catholic School for Girls; the Leigh Academy; North Kent College; Dartford Grammar School for Girls (x2); Dartford Grammar School for Boys (x2); CTK St Mary's Sixth Form (x2) | Events & Culture Team Leader | The Dartford Youth Council aims to provide a means of two way communication between Dartford Borough Council and the young people who live, work and go to school in the Dartford Borough. | Engaging young people to participate in community development and citizenship issues. | Reputational risk – concerns that participation limited to Grammar School pupils. Mitigated by work currently taking place with Youth focussed organisations across DBC under the Young People portfolio. The Communities Team are also working closely with DBC's Resident Involvement Officer to explore joined up working |
| DARTFORD ELDERS' FORUM | | | Events & Culture Team Leader | To consult and listen To enhance social inclusion<br><br>To connect | Resident engagement on health, council and third sector services | Reputational Risk if DBC does not respond to challenge of expanding membership – concern is that minority groups new to Dartford will be excluded if membership closed because venue does not have capacity to accommodate greater numbers.<br><br>Reputational Risk if engagement has no visible outcomes<br><br>Reputational Risk if purpose |

| | | | | | | |
|---|---|---|---|---|---|---|
| | | | | | | of group is unclear |

| Liaison Group | Dates:- Start & Review | Groups | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| FRIENDS OF DARENTH COUNTRY PARK | 2000 | DBC officers and members, Arrow Riding Centre, PSU, Groundwork, Darenth and Bean Parish Council, Residents Groups | Head of Waste, Public Realm & Enforcement Services | To advise and assist with the running of the park | Listen to users' views and requests, coordinates activities, and supports volunteers which reduces budgetary needs, involves residents and users giving a sense of involvement and voice. Disseminates information. | |

| Liaison Group | Dates:- Start & Review | Groups | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| FRIENDS OF DARTFORD HEATH | 2000 | DBC officers and members, Police, Fire Service, local residents, heath users and volunteers | Head of Waste, Public Realm & Enforcement Services | To advise on the running of the park and act as a forum between users/ organisations | Listen to users' views and requests, coordinates activities, and supports volunteers which reduces budgetary needs, involves residents and users giving a sense of involvement and voice. Disseminates information. | |
| FRIENDS OF HESKETH PARK | 2000 | DBC officers and members, Police, Cricket Club, Bowls Club, local residents and park users | Head of Waste, Public Realm & Enforcement Services | To advise on the running of the park and act as a forum between users/ organisations | Listen to users' views and requests, coordinates activities, and supports volunteers which reduces budgetary needs, involves residents and users giving a sense of involvement and voice. Disseminates information. | |

| Liaison Group | Dates:- Start & Review | Groups | Contact Officer | Aims | Added Value/Benefits | |
|---|---|---|---|---|---|---|
| DARTFORD BOROUGH TENANTS & LEASEHOLD FORUM | | Reps of Tenants and Leaseholders Forum and DBC | Head of Housing | To form a constituted borough wide tenants and leaseholders consultative group | Gives the opportunity for forum members to gain knowledge about the Council and its partners and to develop its own action plan. | |
| HOUSING ADVISORY BOARD | 2022 | Member, Officer and Tenant representatives | Director of Housing & Public Protection | To advise on and review strategic housing issues | Tenant and Member engagement with the housing service | |

**Committees set up under the Local Government Act 1972**

| | | | | | | |
|---|---|---|---|---|---|---|
| ELTHAM CREMATORIUM JOINT COMMITTEE | | DBC, LB Greenwich, LB Bexley | Head of Finance | To lay down policy for the operation of Eltham Crematorium | Provision of cremation services to Dartford residents | Low – joint committee oversees. |

## 11.9 DARTFORD BOROUGH COUNCIL - POLICY FOR INTERROGATING SOCIAL MEDIA FOR INVESTIGATIVE PURPOSES

1. INTRODUCTION

1.1 Open-source Intelligence or OSINT refers to a broad array of information and sources that are generally available (whether on payment or otherwise), including information obtained from internet (social networking) sites, books, media, newspapers, radio, television, journals, TV, newswires, newsgroups, mapping, imagery photographs, commercial subscription databases and other library data.

1.2 Social networking sites and OSINT contain a wealth of information, intelligence and evidence about suspects, victims, witnesses, members of organised crime groups and other aspects of criminal and anti-social activity.

1.3 Social networking - Twitter, Facebook and LinkedIn to name but a few have opened up numerous opportunities and is a key component to profiling the subject of an investigation. The pool of information (postings, videos, photos etc.) about each individual can form a distinctive social signature.

1.4 Social networking evidence can be a valuable addition to an investigation, but it has to be gathered in a way that will hold up in court. Once the access to social networking information has been secured, simply due to public accessibility, evidence must be gathered in a way that is legal and useful. Collecting evidence from social networking sites has the potential to impact on individual's rights to privacy and may therefore require authorisation under the Regulation of Investigatory Powers Act 2000 (**see section 3 below**).

1.5 This Policy sets the framework by which officers may utilise OSINT, social media and video sharing sites when conducting investigations into alleged offences and aims to ensure the minimum standards that must be adopted by all officers in order to maintain the integrity of any evidence gained so as not to compromise:

- the hardware/software infrastructure of the Council's computer systems;
- investigative tactics;
- on-going and future Council investigations;
- the personal safety of individuals; and
- reputational risks to the Council;
- breach of RIPA reportable to IPCO[1] and possible disciplinary issues.

This Policy also ensures that investigations are done lawfully and correctly so as not to interfere with an individual's human rights and with due consideration of relevant legislation,

including:

- the Human Rights Act 1998;
- the Data Protection Legislation[2];
- Computer Misuse Act 1990

[1] Investigatory Powers Commissioner's Office

[2]Data Protection Act 2018 and UK GDPR (derived from the General Data Protection Regulation (EU) 2016/679)

- the Regulation of Investigatory Powers Act 2000, together with the published codes of practice from the Home Office, IPCO and the Information Commissioner's Office;
- Chapter 30 of the Criminal Procedure and Investigations Act 1996 (Section 23(1)) Code of Practice);
- PACE 1984
- Protection of Freedoms Act 2012 – regulation of CCTV and other surveillance camera technology & Surveillance Camera Commissioner + Codes of Practice.

1.6 This Policy should be read in conjunction with the Council's **Policy Statement - Regulation of Investigatory Powers Act 2000 (RIPA) (as amended)**. Remember to complete the 'Application for authorisation to conduct an OVERT investigation' (on the intranet).

## 2. WHAT IS MEANT BY 'SOCIAL MEDIA'

2.1 Social media can take many forms. However, there are some facets, which will be common to all forms of social media.

Social media will always be a web-based service that allows individuals and/or businesses to construct a public or semi-public profile. Beyond this, social media can be very diverse, but will often have some, or all, of the following characteristics;

- the ability to show a list of other users with whom they share a connection; often termed "friends" or "followers",
- the ability to view and browse lists of connections and those made by others within the system;
- hosting capabilities allowing users to post audio, photographs and/or video content that is viewable by others.

2.2 Social media can include community based web sites **(see Appendix 6 – Social Networking Sites)**, online discussions forums, chatrooms and other online social spaces. Current examples of the most popular forms of social media and therefore the most likely to be of use when conducting investigations into alleged offences, include;

- Facebook
- Twitter
- YouTube
- Vine
- Instagram
- LinkedIn
- Pinterest
- Google+
- Tumblr
- Reddit
- Flickr

2.3 Social media interrogations involve the detailed analysis of an organisation's or individual's social media accounts. They are commonly used to provide information

relevant to an investigation, court case or background checks.

2.4 Interrogations can be critical in providing admissible evidence in civil and criminal matters, pre-employee screenings or internal investigations involving current or former employees. This can be due to the need to ascertain specific evidence in relation to potentially fraudulent activity, data theft, gross misconduct, identifying those responsible for environmentally damaging fly-tipping, benefit fraud, or selling alcohol or tobacco to minors.

2.5 By its very nature, social media accumulates a sizable amount of information about a person's life, from daily routines to specific events. Accessibility on mobile devices can also mean that a person's precise location at a given time, may also be recorded whenever they interact with a form of social media on their devices.

2.6 Although social media is a useful tool when investigating alleged offences with a view to bringing a prosecution, there is a danger that its use can be abused, which would have an adverse effect, damaging potential prosecutions and even leave the Council open to complaints or criminal charges itself.

## 3. HUMAN RIGHTS & REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

3.1 Whilst the use of social media to investigate is not automatically considered covert surveillance, its misuse when conducting investigations can mean that it crosses over into the realms of covert and/or targeted surveillance, even when that misuse is inadvertent, therefore becoming unauthorised surveillance and breaching a person's right to privacy under Article 8 of the European Convention on Human Rights.

3.2 There is a significant amount of information on an individual's social media pages. This information might be relevant to an investigation being undertaken by the Council. However, unguided research into the sites of suspect offenders could fall within the remit of RIPA and therefore require a *directed surveillance authorisation,* prior to the undertaking of an investigation. See the RIPA (Regulation of Investigatory Powers) Policy Statement.

3.3 Where a website or social media account requires a minimal level of interaction, such as sending or receiving a friend request before access is permitted, this may not in itself amount to establishing a relationship. Equally, the use of electronic gestures such as "like" or "follow" to react to information posted by others online would not in itself constitute forming a relationship. However, it should be borne in mind that entering a social media site or responding on these terms, may lead to further interaction with other users and a *CHIS authorisation* should be obtained if it is intended for an officer or a CHIS to engage in such interaction to obtain, provide access to or disclose information[3], without disclosing their identity.

3.4 Officers embarking on any form of investigatory action should always do so with RIPA in mind. Whilst RIPA will not always be relevant to every investigation, it is vital that officers involved in investigative practices regularly review their conduct with respect to investigatory actions. Any investigation is capable of evolving from being one that does not require a RIPA authorisation, to one that does, at any point. Instances of repeated and/or regular monitoring of social media accounts, as opposed to one-off viewing, may require a RIPA authorisation.

***Intelligence provides a link to evidence. Evidence of whatever type must be both relevant and admissible. Evidence is relevant if it logically goes to proving or disproving some fact at issue in the prosecution. It is admissible if it relates to the facts in issue, or to circumstances that make those facts probable or improbable***

***and has been properly obtained.***

[3] Refer to paragraphs 4.29 to 4.35 of the Covert Human Intelligence Sources Code of practice (December 2022) for details on where a CHIS authorisation may be available for online activity , including the need to carry out a risk assessment



3.5 Even if surveillance without a RIPA authorisation is not illegal, if a RIPA authorisation is not obtained, the surveillance carried out will not have the protection that RIPA affords and may mean it is rendered inadmissible.

3.6 Even if surveillance without a RIPA authorisation is not illegal, if a RIPA authorisation is not obtained, the surveillance carried out will not have the protection that RIPA affords and may mean it is rendered inadmissible.

3.7 If reasonable steps have been taken to inform the public or particular individuals that their social media account(s) is being monitored, this can be regarded as **OVERT** and a directed surveillance authorisation will not normally be required. ***Officers must at all times use their department's allocated social media account*** **(see section 12 below).**

## 4. PRIVACY SETTINGS & PRIVATE INFORMATION

**4.1** **Expectation of privacy** is a key issue and must be given proper consideration. A decision will hinge on whether the users of the particular site have a reasonable expectation of it. Users normally have the choice whether to make their profile and associated postings/blogs available for public view or to restrict access to 'friends' only. Many users may assume that the 'default' settings deliver reasonable privacy, so may not specifically set their requirement, but still 'expect' privacy of access to their content. Similarly, 'friends' variations on settings can impact on others' privacy. Much depends on the way the hosting site is programmed (or on original philosophy of the provider).

It is therefore recognised that the account 'settings' may not always fully reflect the end-users expectation of privacy. It is however reasonable to conclude that postings on 'walls' or 'blogs' on a social networking site to which the author has applied no privacy settings to, are likely to be considered to be within the public domain (**see section 4.2. below**).

**4.2 Private Information** - when a person's activities take place in public, covert surveillance of that person's activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy, even though acting in public and where a record is being made by a public authority of that person's activities for future consideration or analysis.

These considerations are also likely to arise if several records relating to one subject are to be analysed together in order to establish, for example, a pattern of behaviour, lifestyle etc., or if one or more pieces of information (whether or not in the public domain) are covertly obtained for purposes of making a permanent record on that person or for subsequent data processing to generate further information. In such circumstances, the totality of information gleaned may constitute private information even if individual records do not.

**4.3** It does not always follow that users who do not restrict access have totally forfeited their right to privacy or that covert research of their profiles could not amount to directed surveillance. Where means of restricting access to the information have been put in place, the author has a clear expectation of privacy and so the use of measures to circumvent access controls is capable of amounting to surveillance and may require authority under RIPA.

4.4 Depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain **(see Appendix 1 – Is the information on Facebook private or public?)**.



4Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, individuals are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information.

**4.5** Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.

**4.6** Where privacy settings are available, but not applied, the data may be considered 'open source' or publicly available (i.e. there is a reduced expectation of privacy).

***Example: Where a person publishes content on a public profile, they allow everyone, including those not on that particular social media platform, to access and use that information whilst also allowing it to be associated with them. In practice, this means that photographs, video content or any other relevant information posted by individuals and businesses to a public profile on any given social media platform can be viewed, recorded and ultimately used as evidence against them should the matter end in legal proceedings, subject to the usual rules of evidence.***

**4.7** Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by the Council of that person's activities for future consideration or analysis. Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information, which is on the internet, particularly where accessing information on social media websites. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.

**4.8** Whether the Council interferes with a person's private life includes a consideration of the nature of the Council's activity in relation to that information. Simple *reconnaissance* of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation.

*General observation duties* do not require a RIPA authorisation, whether covert or overt. Such general observation duties frequently form part of the Council's legislative functions, as opposed to the pre-planned surveillance of a specific person or group of people. General observation duties may include monitoring of publicly accessible areas of the internet in circumstances where it is not part of a specific investigation or operation.

However, where officers are systematically collecting and recording information about a particular person or group, a directed surveillance RIPA authorisation should be considered. These considerations apply regardless of when the information was shared online.

***Example: Council officers monitoring publicly accessible information on social media websites, using a general search term (such as the name of a particular event they are monitoring), would not normally require a directed surveillance authorisation. However, if they were seeking information relating to a particular individual or group of individuals, for example, by using the search term "group x" (even where the true identity of those individuals is not known) this may require authorisation. This is because use of such a specific search term indicates that the information is being gathered as part of a specific investigation or operation, particularly in circumstances where information is recorded and stored for future use.***

***Personal information obtained through general observation, is subject to the Data Protection Legislation.***

**4.9** Officers must ensure compliance with the Data Protection Act 2018 principles and UK GDPR. The social media interrogation must be legitimate under the Data Protection Legislation. This means it must be reasonable, lawful and appropriate. Obtaining information for one purpose, cannot later be used for a completely different purpose. Check whether the way the planned interrogation of social media provides a 'lawful basis' for processing data under the UK GDPR. If sensitive (i.e. 'special category') data is likely to be collected – this means extra conditions must be met under the UK GDPR – see the Analysis of Social Media for Investigations - Privacy Notice. A Data Protection Impact Assessment (DPIA) must be carried out with reference to the lawful bases and legal gateways (see section 10 below).

**4.10** Where officers intend to access a social media or other online account to which they have been given access with the consent of the owner, they will still need to consider whether the account(s) may contain information about others who have not given their consent. If there is a likelihood of obtaining private information about others, the need for a directed surveillance authorisation should be considered, particularly (though not exclusively), where it is intended to monitor the account going forward.

**4.11** When considering what is available on an individual's public social media profile, officers investigating an offence, or potential offence, should always keep in mind what relevance it has to that investigation. Only information that is relevant to the investigation and goes some way toward proving the offence, should be gathered. If there is any doubt as to whether something is relevant, then advice should be sought from Legal Services.

## 5 CONDUCTING INVESTIGATIONS/RESEARCH OVER THE INTERNET

**5.1** Internet Service Providers maintain a record of IP addresses and the sites visited. Websites may record IP addresses as well as other details about the computer used including the browser, operating system, and computer name. Records are often kept of the time and date of each visit in addition to the sites the visitor came from and went to. Websites can install cookies on to a computer in order to identify the user, should they return to that site, or another site that subscribes to the same cookie monitoring service.

**5.2** Any activity carried out over the internet leaves a trace or footprint that can identify the device used and, in some instances, the individual carrying out that activity. Officers engaged in investigation and/or research over the internet must take precautions to protect the security of themselves and of the Council's computer systems.

**5.3** Only Level 1 Overt Open Source Intelligence/Research and Level 2 Advanced Open Source Investigation/Research (see the levels below) should be carried out on devices that are attributable to the Council. For any other type of covert investigation/research, where the investigator would not wish those being investigated to be aware of the investigation or of Council interest, equipment must be used which cannot be attributed to the Council or any individual member of staff.

A computer or laptop cannot be made totally 'non-attributable', as there is a risk of detection through connection to the IP address. However, the use of a Council allocated iPad or similar device, connected to its mobile network (not to wifi), would be 'non-attributable'.

A non-Council identity (email address), would need to be used on the 'non-attributable' device - an email address that identifies (or risks identifying) the user should not be used – instead, use a random email address e.g. golden.sunsets@gmail.com.

Non-attributable devices must never be used for personal use.

**5.4** Departments must ensure that a 'non-attributable' device is kept in a secure environment and that there are strict procedures in place to regulate and audit its use. Records must be kept of sites visited and information gathered in a locally held log/register. The criteria detailed in the following levels should be seen as a minimum requirement to carry out operational activity on the internet.

If the iPad is a 10.1-inch model or smaller, a free version of MS Word can be used to store and maintain documents on the iPad.

**5.5** Staff carrying out any type of investigation/research over the internet must be appropriately trained **(see section 11 below)**.

### Level 1 - Overt Open Source Investigation/Research

- conducting research overtly across publicly accessible search areas of the internet such as map viewing, street views, local authority sites, auction sites or any publicly available website in cases where there is no requirement to register details to gain access;
- must not be used for any covert investigation;
- as the research activity is considered overt, there is no requirement for any RIPA authorisation;
- no senior officer advance authorisation required but officers must adhere to relevant Council Data Protection Legislation policies/procedures and IT Security Policy;
- must be conducted on Council computers.

### Level 2 – Overt Advanced Open Source Investigation/Research

- research across publicly accessible search areas of the internet, such as search engines, people search sites and social network sites;
- registration required to gain access;
- the research is not intended to remain covert and may become known to the subject;
- no senior officer advance authorisation required, unless convert surveillance is intended;
- active consideration should be given to a RIPA authorisation on a case-by-case basis;
- sterile profile accounts [a profile in the true name of the officer, but is not their active profile and is entirely sterile of their personal information] must be used to log onto sites requiring registration (**see section 5.6 below**);
- any interaction with the subject must not be covert and there must be no interaction with a subject beyond that which is entirely necessary for the immediate purposes. Be aware that befriending subjects, poking, writing on walls or joining groups is likely to require a RIPA directed surveillance authorisation) unless it is explicit that the profile is that of an officer;
- must be conducted using Council computers;
- must be able to evidentially capture and store information, as these records would need to be available for inspection/audit in any subsequent internal/external investigation.

### Level 3 - Covert Advanced Open Source Investigation/Research

- research across publicly accessible search areas of the internet such as search engines,

people search sites and social network sites requiring registration to gain access;
- research is intended to remain covert and is not intended to become known to the subject;
- RIPA authorisation procedure referred to in xxx MUST be followed;
- false persona profile accounts [a profile created in a false name to protect the officer's true identity becoming known to the subject] must be used to log onto sites requiring registration (**see section 5.6 below**);
- there must be no interaction with subjects – no befriending subjects, writing on walls or joining discussions;
- must be able to evidentially capture and store, as these records would need to be available for inspection/audit in any subsequent internal/external investigation
- only non-attributable computers to be used.

**5.6 Sterile & /False Persona Profile Accounts** - Under no circumstances will officers use their own personal or anyone else's social networking profile to conduct work related research, regardless of whether the investigation is of an overt or covert nature.

**5.6.1** sterile profile accounts must be created with the true details of the officer making enquiries and must be registered using their Council email address;

**5.6.2** false persona profile accounts must only be used for covert investigations and must be undertaken using a non-attributable computer.

No false persona account must be set up without prior authority, in consultation with the Data Protection Officer. If an officer needs to establish a false persona account on line account (for example an email address) that does not identify themselves as a Council employee, then this requires authorising by their senior manager. Authority need not be under RIPA unless the activity that is then undertaken is covert surveillance.

**5.7 Trawling** - Using the internet to research publicly available information is an important element of modern intelligence collection. Using key words to search information across the internet and in websites that have not been subject to any security controls or personal restrictions by the authors, can be effective at identifying emerging threats. Although the activity may be covert, this open trawling may not acquire private information and may not therefore require RIPA authorisation.

Continual and targeted examination of data in this way may increase the likelihood of private information being obtained from others and therefore, consideration should be given to obtaining a directed surveillance authorisation. Each case needs to be considered in isolation, as all social media sites are different. If no access controls are applied (i.e. open data for all to view), then there is no expectation of privacy. Therefore, a RIPA authorisation for directed surveillance would not necessarily be needed, if no access controls were in place. However, as indicated above, all sites are different and individual consideration should be given.

A false persona profile account may be required if a covert account is needed to search any sites. However, it would be unusual to need such a profile account, unless access controls were on a site.

**5.8 Covertly Breaching Access Controls** - Social media sites encourage members to establish in-built security controls to restrict the level of private information that is on display.

For example, Facebook provides security levels that a member can set to allow only accepted 'friends' to be able to view the private information of the member.

To gain access to this information covertly, an officer would need to use a false persona profile account to register with Facebook, create a profile and then send a request to the subject to become their friend. Therefore, if a subject's account access is restricted, which needs the officer to covertly breach those access controls, then a directed surveillance authorisation is required. This authorisation is sufficient so long as the intention of the officer is to only monitor the contents of the site that they have accessed.

For example, using Facebook, an officer 'bumps' to the subject with the hope that the subject

accepts their request without any challenge or exchange on line. Once accepted (without challenge) the officer only remains inactive as a 'friend' on the subject's profile, which enables them to view the content of the site. This activity would be considered as covert and likely to obtain private information (as access to it is restricted). In this example, only a directed surveillance authorisation should be applied for. A false persona profile account would be required to log onto Facebook.

A CHIS authorisation may be required when using an internal trading organisation in circumstances when a covert relationship is likely to be formed. However, the use of disguised purchaser details in a single overt electronic purchase is not likely to require a CHIS authorisation because no relationship is usually established at this stage.

## 6 WHAT IS PERMITTED UNDER THIS POLICY

- using different platforms to gather information that are publicly available (**see section 9 below**);
- using information *posted on a public profile* without a RIPA authorisation;
- using social media for surveillance with a RIPA authorisation, where the investigation is unusual and/or is likely to capture confidential information and the risks to privacy have been assessed as being proportionate and justified.

***Officers must at all times prevent their own identities becoming compromised while doing their investigations or research.***

## 7 WHAT IS NOT PERMITTED UNDER THIS POLICY?

**7.1** Where an individual under investigation has set their social media account to private, officers should not attempt to circumvent those settings under any circumstances. Such attempts would include, but are not limited to;

- sending 'friend' or 'follow requests to the individual;
- setting up or using bogus social media profiles in an attempt to gain access to the individual's private profile (unless this has been authorised by a senior manager and supported by a RIPA authorisation);
- contacting the individual through any form of instant messaging or chat function requesting access or information;
- asking family, friends, colleagues or any other third party to gain access on their behalf, or otherwise using the social media accounts of such people to gain access;
- covert monitoring through social media without a directed surveillance authorisation (**see section 3.2 above**);
- establishing a covert relationship through social media without a CHIS authorisation (**see section 3.3 above**); or
- any other method, which relies on the use of subterfuge or deception.

Officers should keep in mind that simply using profiles belonging to others, or indeed fake profiles, in order to carry out investigations does not provide them with any form of true anonymity. The location and identity of an officer carrying out a search can be easily traced through tracking of IP addresses and other electronic identifying markers.

**7.2** Whilst one-off visits, or otherwise infrequent visits spread out over time, cannot be considered 'directed surveillance' for the purposes of RIPA, repeated or frequent visits may cross over into becoming 'directed surveillance' requiring RIPA authorisation. A person's social media profile should not, for example, be routinely monitored on a daily or weekly basis in search of updates, as this will require a RIPA authorisation, the absence of which is an offence.

**7.3** Regardless of whether the social media profile belonging to a suspected offender is set to public or private, it should only ever be used for the purposes of evidence gathering. Interaction or conversation of any kind should be avoided at all costs, and

at no stage should officers seek to make contact with the individual through the medium of social media. Any contact may lead to accusations of harassment or, where a level of deception is employed by Officers, entrapment, either of which would be detrimental and potentially fatal to any future prosecution.

## 8 CAPTURING EVIDENCE (MAINTAINING RECORDS) (see Appendix 2 – Evidence)

**8.1** Once content available from an individual's social media profile has been identified as being relevant to the investigation being undertaken, it needs to be recorded and captured for the purposes of producing as evidence at any potential prosecution. Depending on the nature of the evidence, there are a number of ways in which this may be done:

- where evidence takes the form of a readable or otherwise observable content, such as text, status updates or photographs, it is acceptable for this to be copied directly from the site, or captured via a screenshot, onto a hard drive or some other form of storage device, and subsequently printed to a hard copy. The hard copy evidence should then be exhibited to a suitably prepared witness statement in the normal way;
- where evidence takes the form of audio or video content, then efforts should be made to download that content onto a hard drive or some other form of storage device such as a CD or DVD. Those CDs and/or DVDs should then be exhibited to a suitably prepared witness statement in the normal way. Any difficulties in downloading this kind of evidence should be brought to the attention of the IT Section who will be able to assist in capturing it.

**8.2** When capturing evidence from an individual's public social media profile, steps should be taken to ensure that all relevant aspects of that evidence are recorded effectively. For example, when taking a screenshot of a person's social media profile, officers should make sure that the time and date are visible on the screenshot in order to prove when the evidence was captured. Likewise, if the evidence being captured is a specific status update or post published on the suspected offender's profile, steps should be taken to make a screenshot. Without this information, the effectiveness of the evidence is potentially lost as it may not be admissible in court.

**8.3** Due to the nature of social media, there is a significant risk of collateral damage in the form of other, innocent parties' information being inadvertently captured alongside that of the suspected offender's. When capturing evidence from a social media profile, steps should be taken to minimise this collateral damage, either before capturing the evidence, or 

subsequently through redaction. This might be particularly prevalent on social media profiles promoting certain events, where users are encouraged to interact with each other by posting messages or on photographs where other users may be making comments.

**8.4** Officers will have regard to Chapter 30 of the Criminal Procedure and Investigations Act 1996 (Section 23(1)) Code of Practice, with regard to the manner in which they record, retain and reveal to the prosecutor, material obtained in a criminal investigation and which may be relevant to the investigation and related matters.

Where recorded material (in any form or media) is obtained during the course of an investigation which might be relevant to an investigation, or another investigation, or to pending or future civil or criminal proceedings, then it should not be destroyed, but retained in accordance with the requirements of the Council's Data Retention & Disposal Policy & Schedule and the Criminal Procedures and Investigations Act 1996 (i.e. consider using the evidence obtained in a sensitive unused material schedule[4]) and any other legal requirements.

## 9 OTHER INFORMATION TECHNOLOGY TOOLS AVAILABLE FOR INVESTIGATIVE

**PURPOSES (see Appendix 3 – Internet Research Websites, Appendix 4 – Search Engines, Appendix 5 – Search Engines Tutorial and Appendix 7 - Images Videos GPS)**

**9.1** Whilst social media can be a useful and fruitful means of investigating offences and potential offences, it is by no means the only tool available within the realm of Information Technology. A vast array of other, mostly web-based tools are also at the disposal of those conducting investigations. For example, where there is a website advertising the services of a local business and there is evidence that this business is engaging in illegal activity, there are IT tools available that can track who is responsible for setting up that website, and so can be a good starting point when trying to link potential offenders to the offending business.

**9.2** There are a series of specialist search tools available, which offer options to the online investigator, especially as these tend to excel in searching social media. Some of these search tools have their own unique strengths, whether it is looking at photos, finding user profiles or even establishing geo-social footprints – collectively they provide a powerful toolkit to the online investigator **(see Appendix 3 - Internet Research Websites and Appendix 4- Search Engines).**

## 10 DATA PROTECTION LEGISLATION

**10.1** Officers must undertake a Data Privacy Impact Assessment before undertaking surveillance. This is best done in writing and should, among other things, consider whether the surveillance is necessary and proportionate.

**10.2** Personal data processed by the Council is subject to the Data Protection Legislation. Personal data should be retained and destroyed in accordance with the requirements of the Council's Data Retention & Disposal Policy & Schedule. Due to the nature of social media, it is important to remember that when information produced as a hard copy is destroyed, that all digital copies of that evidence is likewise destroyed.

**10.3** Providing accessible information to individuals about the use of their personal information is a key element of their legal right to transparency as set out in the Data Protection Legislation. As a data controller, the Council has a duty to explain via a *privacy notice*, how it processes personal information that is within its control and its lawful bases for processing.

[4] Crown Prosecution Service- Disclosure Manual

**10.4** Before starting a covert investigation or following the gathering of 'intelligence' for the purposes of a prosecution, in addition to the relevant RIPA authorisation for a covert investigation, officers must, in consultation with the Data Protection Officer:

- □ complete a Data Privacy Impact Assessment;
- □ ensure that their service specific privacy notice explains how personal information is being processed and the lawful bases for such processing.

## 11 TRAINING

Officers from the following departments have been trained[5] to use the internet and world wide web (open source – freely available data) more effectively for research and investigation, including the use of jargon, surface search, deep web search, social media investigations (search, networking and monitoring tools), technologies, how to identify sources of evidence and protecting IDs online:

- Community Safety Unit;
- Environmental Health;
- Fraud;
- Housing Services;
- HR;
- Legal Services;
- Planning Services.

## 12 ALLOCATION OF SOCIAL MEDIA ACCOUNTS

The Communications team will, on the request of a relevant manager, set up sterile profile accounts for officers who have been trained **(see section 11 above)**. Managers are responsible for ensuring compliance with this Policy. False profile accounts will be set up in exceptional circumstances, following advance consultation with the Data Protection Officer.

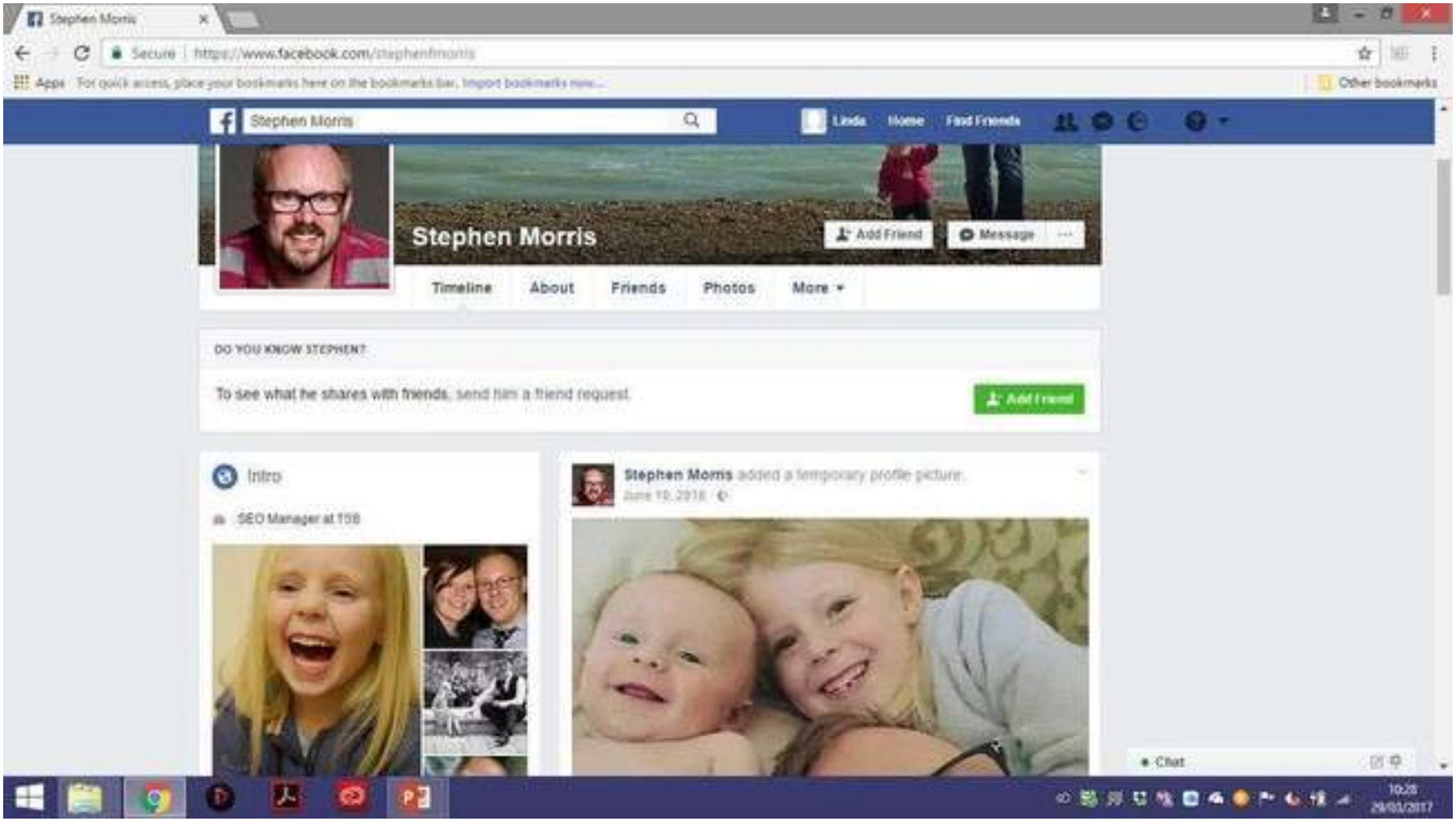
## 13 REVIEW

This Policy will be reviewed periodically and in line with the **Policy Statement - Regulation of Investigatory Powers Act 2000 (RIPA) (as amended)** to ensure that both Policies remain current and compliant with relevant legal requirements and best practice guidance.

## 14 EQUALITY IMPACT ASSESSMENT

This Policy has been assessed with regard to an Equality Impact Assessment. The assessment has been graded as having a low potential impact, as the proposals in this Policy would have no potential or actual differential impact on grounds of race, ethnicity, nationality, gender, transgender, disability, age, religion or belief or sexual orientation.

[5] 28 October 2019


Stephen Morris
Secure | https://www.facebook.com/stephenfmorris
Apps For quick access, place your bookmarks here on the bookmarks bar. Import bookmarks now...
Other bookmarks
Stephen Morris
Linda
Home
Find Friends
Stephen Morris
Add Friend
Message
Timeline
About
Friends
Photos
More
DO YOU KNOW STEPHEN?
To see what he shares with friends, send him a friend request.
Add Friend
Intro
SEO Manager at TSB
Stephen Morris added a temporary profile picture.
June 10, 2016
Chat

Fly-tipper advertised o
Social worker on faceb
ps://www.netmums.com/coffeehouse/advice-support-40/serious-stuff-43/545167-social-worker-facebook-all.html
Google Calendar
Santander
Halifax
Barclays
SystmOnline Login
Barclaycard
Log in
netmums
CHAT
LOCAL
REVIEWS
PARENTING
SUMMER
NEW BABY CLUB
+ Reply to Thread
Results 1 to 19 of 19
Thread: Social worker on facebook
Thread Tools
Search Thread
07-03-11, 18:42
#1
Hayley S(313)
Member
Join Date: Sep 2010
Posts: 31
Social worker on facebook
Hi i was wonderin if anyone else has ever had anything like this, my social worker has told me that she has looked on my facebook profile my friends list etc she uses a different name. Is she aloud to do this?

# Evidence Process

- First original – no corruption of data
- Properties of electronic objects
- Capture and secure original
- Working copy (mirror image)
- Note keeping and record of process used
- Secure storage
- WORM – CD/DVD
- Secure partition on hard server

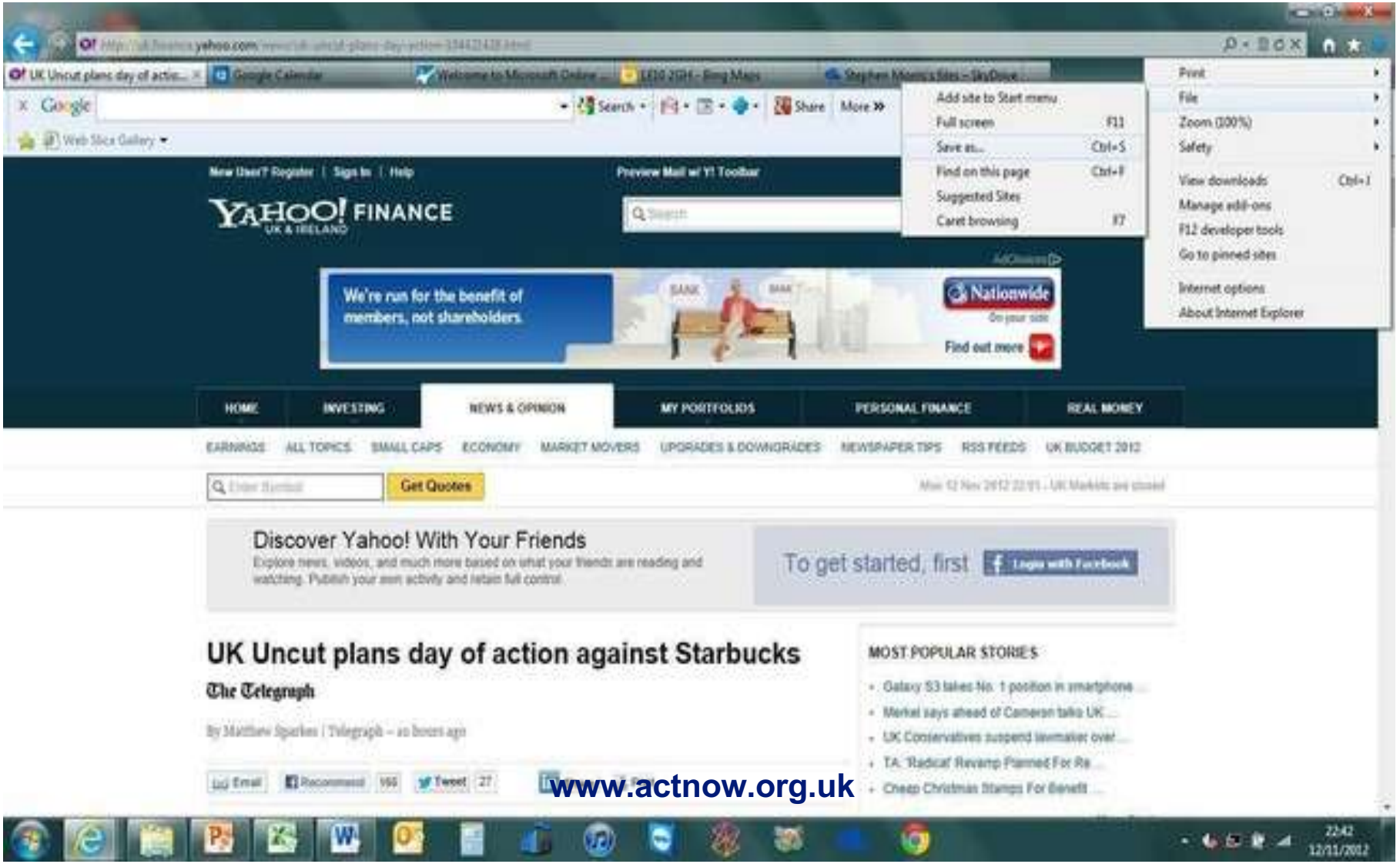
- Training of personnel
- Creation of procedural note and policy
- Completion of audit log/form
- Pocket Note Book entry
- Section 9 Witness Statement

- Audit Trail
  - CPIA – record, retain, reveal (Defence tactics relating to investigators capturing evidence)
- Print Screen into Word Document
- Temporary Internet Files (caches), Cookies

- Accurate Record of our activity required
- Video of screen activity
- Hypercam, BBSoft etc
- Kept with evidence (exhibits)

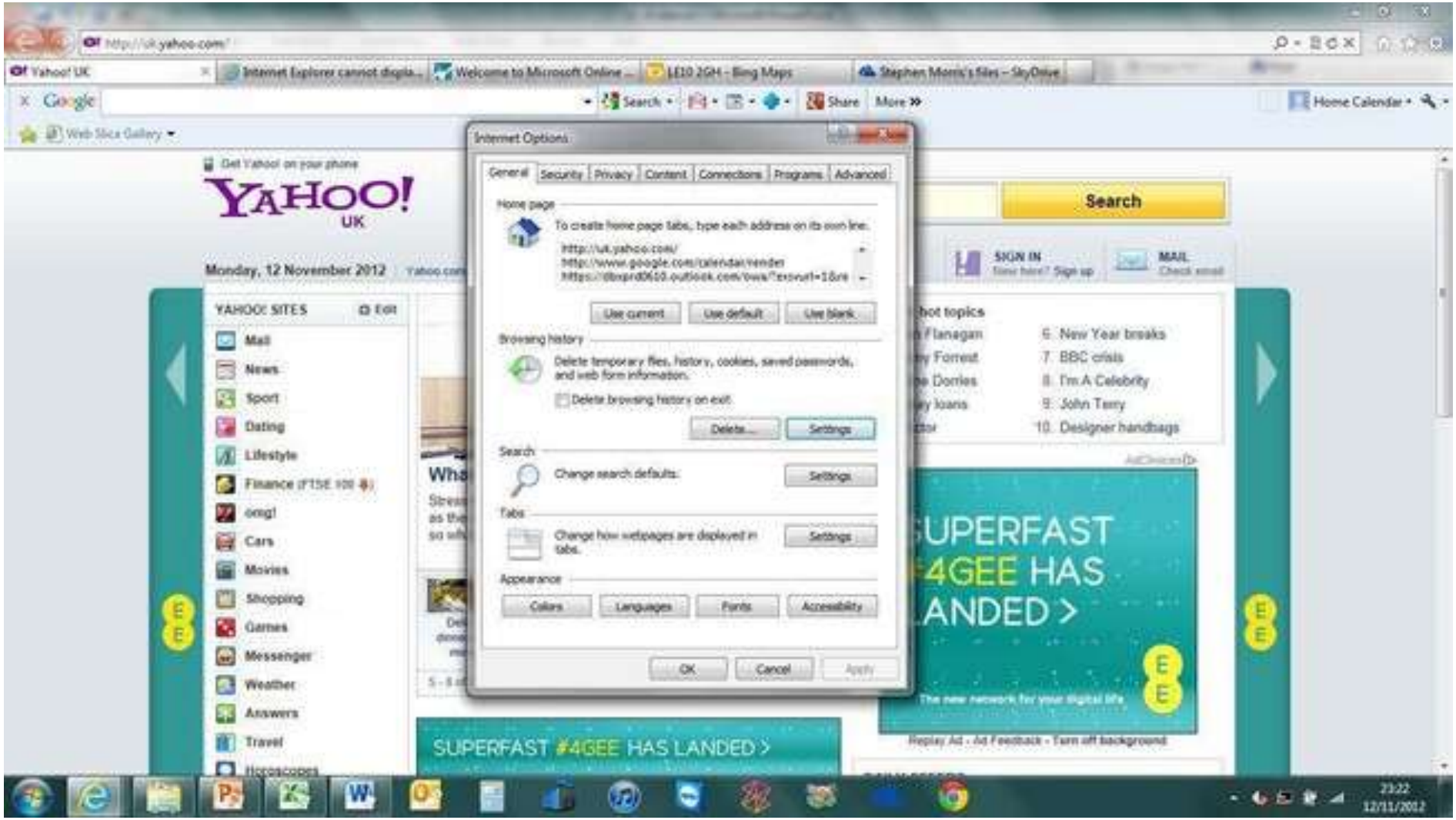
HyperCam
http://www.hyperionics.com
HyperCam™
French German Japanese Polish
Follow HyperCam news on Twitter
HYPER CAM
SCREEN RECORDER
What is HyperCam™?
New! Ver. 2.21.01 is now available for download
HyperCam version 2, a product of Hyperionics, is now offered free for world-wide usage.
Download HyperCam™ v2 For Free or check our mirror list.
HyperCam captures the action from your Windows screen and saves it to AVI (Audio-Video Interleaved) movie file. Sound from your system microphone is also recorded.
Please note that HyperCam is not intended for re-recording of other video clips from the screen (e.g. playing in Media Player, RealVideo, QuickTime etc.), but rather for creating regular software presentations, tutorial, demos etc. If you still want to try it for re-recording other movie clips, please read this first.
Download HyperCam
Support
Change Log
100% CLEAN
NO SPYWARE
NO ADWARE
NO VIRUSES
SOFTPEDIA
FINDMYSOFT.COM
SAFE TO INSTALL
HyperCam
Screen Area
Hot Keys
AVI File
Sound
Other Options
License
Start X: 0
Start Y: 0
Select Region
Width: 320
Height: 240
Select Window
When recording
Show rectangle around recorded area
make the rectangle blink
Leave HyperCam Window Opened
Iconize HyperCam Window to the Task Bar
Hide HyperCam Window

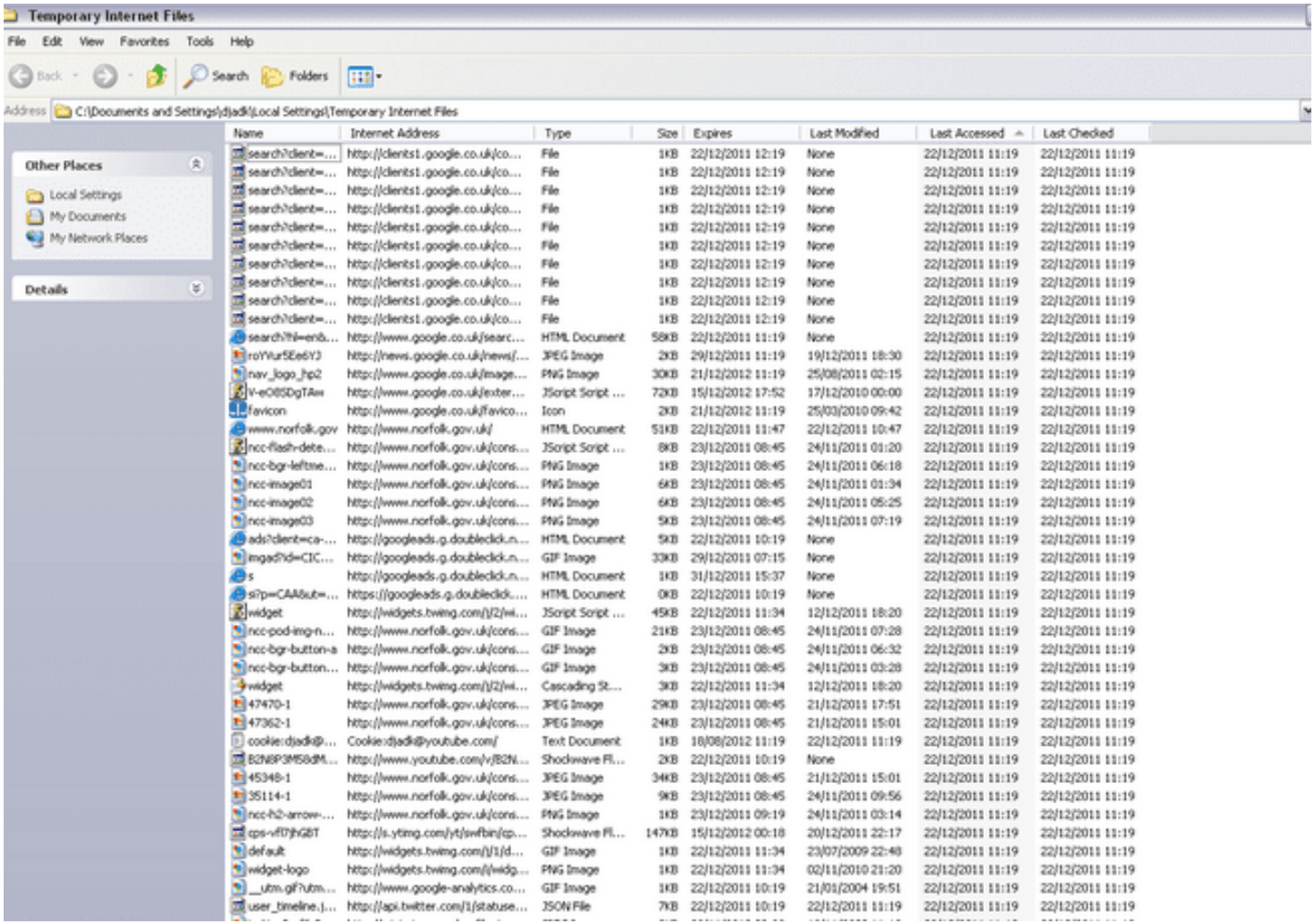
Webpage capture



- Websites and Online Blogs & Advertisers have

- When using a computer on the internet, information is exchanged between your computer and the servers that host the WebPages that you are viewing. These are commonly referred to as ‘Temporary Internet Files’ and ‘Cookies’.
- Temporary Internet files are downloaded for each web page. HyperText Markup Language (html) is the predominant language for making these web pages.
- They are saved to the Temporary Internet Files folder, creating a ‘cache’ of the web page on your computer's hard disk.


Internet Options
General
Security
Privacy
Content
Connections
Programs
Advanced
Home page
Use current
Use default
Use blank
Browsing history
Delete...
Settings
Search
Change search defaults.
Tabs
Change how webpages are displayed in tabs.
Appearance
Colors
Languages
Fonts
Accessibility
OK
Cancel
YAHOO! UK
Search
Monday, 12 November 2012
YAHOO! SITES
Mail
News
Sport
Dating
Lifestyle
Finance
omg!
Cars
Movies
Shopping
Games
Messenger
Weather
Answers
Travel
SUPERFAST #4GEE HAS LANDED >
SUPERFAST
4GEE HAS
LANDED >
The new network for your digital life


Temporary Internet Files
File Edit View Favorites Tools Help
Back Search Folders
Address C:\Documents and Settings\djadk\Local Settings\Temporary Internet Files
Other Places
Local Settings
My Documents
My Network Places
Details
Name Internet Address Type Size Expires Last Modified Last Accessed Last Checked

# Internet Research Websites

**01 November 2019**

| Search Engines |
|---|
| https://www.google.co.uk/ (or com)<br>https://www.bing.com/<br>https://www.yandex.com/<br>http://www.dogpile.com/<br>https://duckduckgo.com/<br>http://www.webcrawler.com/<br>https://uk.search.yahoo.com/<br>http://www.searchenginecolossus.com/ |
| ***Comments*** |
| • Search engines are real-time directories of what has been cached from the internet by software – Many types of search engine, searching specific subjects across the internet<br>• Skill required to reduce number of 'hits' – Boolean logic<br>• Search engines on small individual websites and larger ones such as ebay, flickr, etc<br>• Advanced search facilities and filters - semantics<br>• Exact words and phrases - Predictive text, caches - Regional search engines |

| Phone numbers |
|---|
| http://www.magsys.co.uk<br>http://static.ofcom.org.uk/static/numbering/<br>http://whocallsme.com (and other tele-pest blogs)<br>https://www.truecaller.com/<br>https://www.whatsapp.com/<br>http:// www.saynoto0870.com/ |
| ***Comments*** |
| • Search exact numbers in search engines (speech marks)<br>• Consider different formats of number posted on a site that might have been cached<br>• 08 numbers require geographical exchange numbers – further information to search |

| Website details |
|---|
| https://www.nominet.uk/<br>http://whois.domaintools.com/<br>http://centralops.net/co/ |
| ***Comments*** |
| • Lots of technical data available |

- Associated accounts (domains etc)
- Opportunities for further enquiries – payment information etc
- Complete history from RIPE
- For a small fee complete history of domain 'ownership'

## Old Website Caches

http://archive.org/web/ Waybackmachine

http://www.webarchive.org.uk/

***Comments***

- Enter website address (domain name) into search box
- Outlook style calendar for current year appears with cached dates in blue background
- Hover over a date and the exact time and date of cache appears
- Click on a highlighted date and the old webpage/site appears revealing images, names, contact details, phone numbers email addresses – all researchable

## People Searching - Social Networking Sites

https://pipl.com/

http:// www.yasni.co.uk (or com)

https://www.yandex.com/

http://www.dogpile.co.uk/

https://www.facebook.com/help/community/question/?id=10203187384877484

https://www.facebook.com/help/460711197281324/

https://twitter.com/search-advanced?lang=en-gb

https://www.linkedin.com/help/linkedin/answer/302

https://inteltechniques.com/menu.html

http://osintframework.com/ https://www.bellingcat.com/

https://namechk.com/

https://usersearch.org/

https://www.peekyou.com/

https://pikdo.net/ http://sometag.org

http://www.192.com

***Comments***

- Lots of information! - Judge carefully the source and the information provided
- Different sites, different settings
- Potential privacy and Human Rights and RIPA issues and authorisation may be required for some activity

- There is private information on most profiles – and it does require consideration of why looking at it, and necessity and proportionality of extent of intrusion balanced with what being dealt with
- Guidance, Your organisation policy – if required obtain legal advice (but don't be afraid to consider and use this as a research opportunity) Every set of circumstances needs to be considered on it's own merits

## Businesses

https://beta.companieshouse.gov.uk/
https://opencorporates.com/
https://www.endole.co.uk/products/company-search/
https://www.duedil.com/
https://www.arachnys.com/solutions/investigator
https://star.worldbank.org/content/beneficial-ownership-guides

***Comments***

- The source of data is Companies House, however researching the site can be time consuming and for some data require registration
- Many websites provide the same data in more accessible and easily read format
- Searches by postcode, address, through Google etc often return 'hits' through these sites.
- Again, consider reliability and if to be used as evidence or to cause some definitive action, consider obtaining it directly from Companies House

## Property

http://www.zoopla.co.uk http://www.rightmove.co.uk/
http://www.landregisteronline.gov.uk/
http://www.landregistry.gov.uk/property_info/phs/
http://www.192.com/
https://www.elra.eu/facts-sheets/land-registries-cadastres-in-europe/2-land-registry-and-the-cadaster/

***Comments***

- Lots of information about current and old property listings
- Photographs, prices, and often tagging data in photographs which might real other information such as names, email addresses, phone numbers
- 192.com is a pay site – free searches provide very random, sketchy results
- Elra.eu is official EU central point of contact for enquiries with EU land registries

## Blogs

http://www.blogsearchengine.org/

https://www.searchblogspot.com/

http://www.lycos.com/

***Comments***

- Lots of different blogs search engines – normally focused on particular subjects

## Postcode

http://www.royalmail.com

http://www.postcodeanywhere.co.uk/demos/address-finder/

***Comments***

- Open source royal mail site to check addresses within a post code, or find post code for an address

## Images videos GPS (EXIF Data)

https://www.google.com/imghp?hl=EN

https://www.bing.com/

https://www.tineye.com/ (reverse image search)

https://www.gps-coordinates.org/

www.pic2map.com

https://www.flickr.com/ (search by tagging, location, user, geo-tagging etc)

https://www.google.co.uk/intl/en_uk/earth/

http://www.findexif.com http://fotoforensics.com

http://exif.regex.info/exif.cgi

http://www.geograph.org.uk/

***Comments***

- Search images by their properties, tagging data, geo-tagging data etc
- Search images to find them on other websites
- Search by location, user, etc
- Identifies user details, account user names, and lots more which can then be researched through Google etc to link to other online activity
- Consider facial recognition and machine learning technologies

## Vehicles

https://www.mycarcheck.com/

https://www.gov.uk/request-information-from-dvla

https://ownvehicle.askmid.com/

https://www.vehicleenquiry.service.gov.uk/Default.aspx

https://www.gov.uk/check-mot-status

https://cazana.com/uk

***Comments***

- DVLA will provide registered keeper information if requested and reasons are in line with their disclosure regime
- Other site provide vehicle make, model and colour from registered number
- Askmid provides information about current insurance status
- Other sites provide other vehicle history upon payment – but beware, some promise lots but take your money and deliver little

## Organisations

http://www.the-sia.org.uk/home/licensing/register/register.htm (door supervisors etc)

http://www.gassaferegister.co.uk/

http://www.gmc-uk.org (doctors)

http://www.legalhub.co.uk Bar Council register

http://www.gla.gov.uk Gangmasters Licensing Authority

***Comments***

- A few examples – when researching people and their business or private activities, consider what organisations they might be registered with. The websites of these organisations often provide publicly available personal information

## ebay

http://www.ebay.co.uk/sch/ebayadvsearch/

http://pages.ebay.co.uk/help/search/search-commands.html

https://www.ecopsapp.com/

***Comments***

- Using advanced search facilities on ebay, and with practice you should be able to find information about anything being sold, and information about sellers
- E-cops provides a professional ebay search and statement – at a cost
-

## Financial

http://findsortcodes.co.uk/#

http://www.postcodeanywhere.co.uk/demos/bank-validator/

https://europa.eu/youreurope/business/taxation/vat/check-vat-number-vies/index_en.htm

https://www.bindb.com/bin-database.html

| |
|---|
| http://www.binbase.com/search.html<br>http://www.equifax.co.uk - http://www.experian.coml<br>https://www.trustonline.org.uk/<br>https://www.gov.uk/search-bankruptcy-insolvency-register<br>https://www.insolvencydirect.bis.gov.uk/eiir/ |
| ***Comments*** |
| • A number of resources that provide bank and other financial services informationipts etc |

| **Identity documents checker sites** |
|---|
| https://www.consilium.europa.eu/prado/en/search-by-document-country.html<br>https://www.keesingtechnologies.com/reference-database/id-documents/ |
| ***Comments*** |
| • Consilium Europa provides free on-line information about EU identity documents such as passports, visas, identity cards, some driving licences, and other forms of ID<br>• Keesing is internationally recognised and provides support for all worldwide travel documents. Publishes bulletins, guidance and online support. Subscription required |

| **Maps** |
|---|
| https://www.google.com/maps<br>https://www.openstreetmap.org<br>https://yandex.com/maps/<br>https://liveuamap.com/ |
| Comments |
| • Extensive and detailed, providing a variety of views, and photographs of street views<br>• Beware – Streetview and satellite images might be quite old |

| **Evidence Capture** |
|---|
| http://www.hyperionics.com Hypercam Hypersnap<br>http://www.httrack.com<br>https://www.flashbackrecorder.com/<br>http://getfireshot.com/<br>http://camstudio.org/<br>http://discover.techsmith.com/camtasia-screen-recording/<br>http://osirtbrowser.com/ |
| **Comments** |
| • National and organisational procedures must be followed |

# Search Engines

# Search Engines

- Software – ‘spiders’ or ‘robots’
- Crawl across web-pages and documents not securely protected
- Capture meta data – meta tags – values/ratings
- Feed into servers (caches)
- Algorithms (formulas) for analysis and search results

# Search Engines

- Different types – present results in different order. What do you think might influence this process
- Different levels of penetration and frequency
- Some focus on particular parts of the internet
- Beware caches when viewing results
- Beware predictive text leading to narrow parameters

# Search Engines

- Return results think we want
- Google.com Google.co.uk Google.ie Google.fr
- Temporary internet folder

# Search Engines

- https://www.google.co.uk/ (or com)
- https://www.bing.com/
- https://www.yandex.com/
- http://www.dogpile.com/
- https://duckduckgo.com/
- http://www.webcrawler.com/
- https://yippy.com/
- https://uk.search.yahoo.com/
- http://www.searchenginecolossus.com/

# Search Engines – Advanced Search Table page 10 of Manual

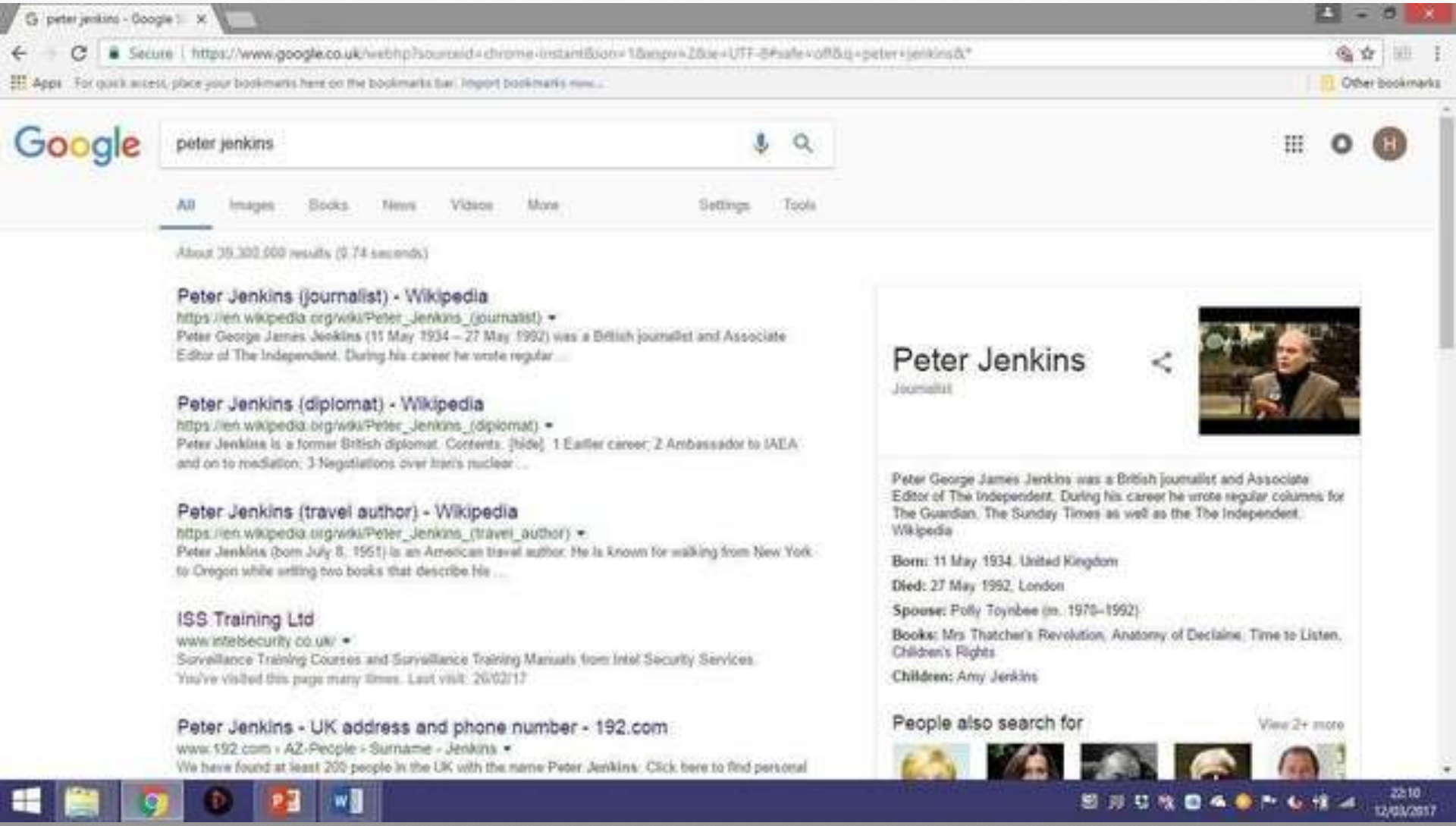
## Tools

- When?

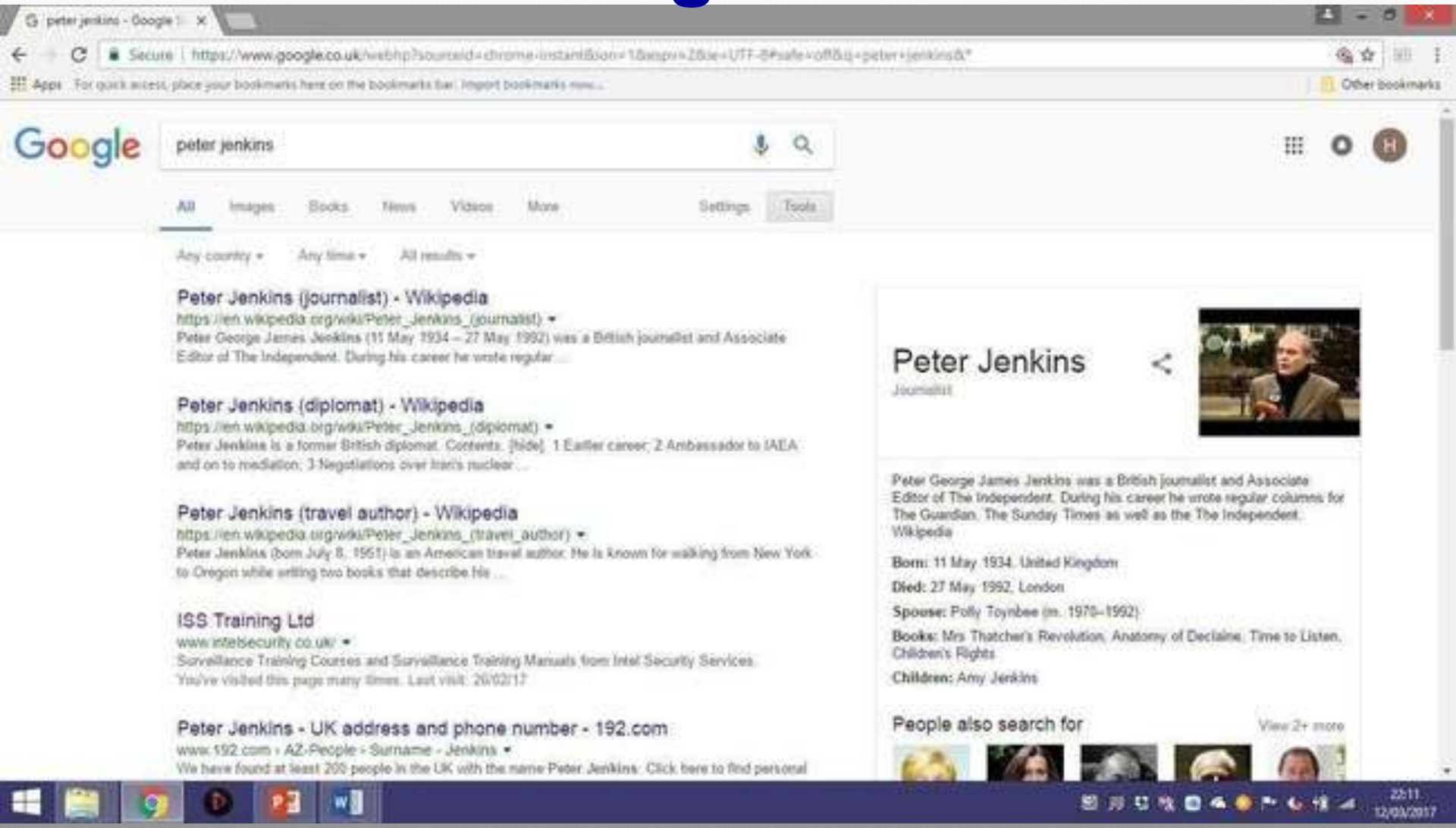
## Operators

- Exact word or phrase
- All of these words
- One or more of these words
- None of these words
- Region
- Related (related:www.intelsecurity.co.uk)
- Linked (link:www.intelsecurity.co.uk)
- Site (site:www.intelsecurity.co.uk)

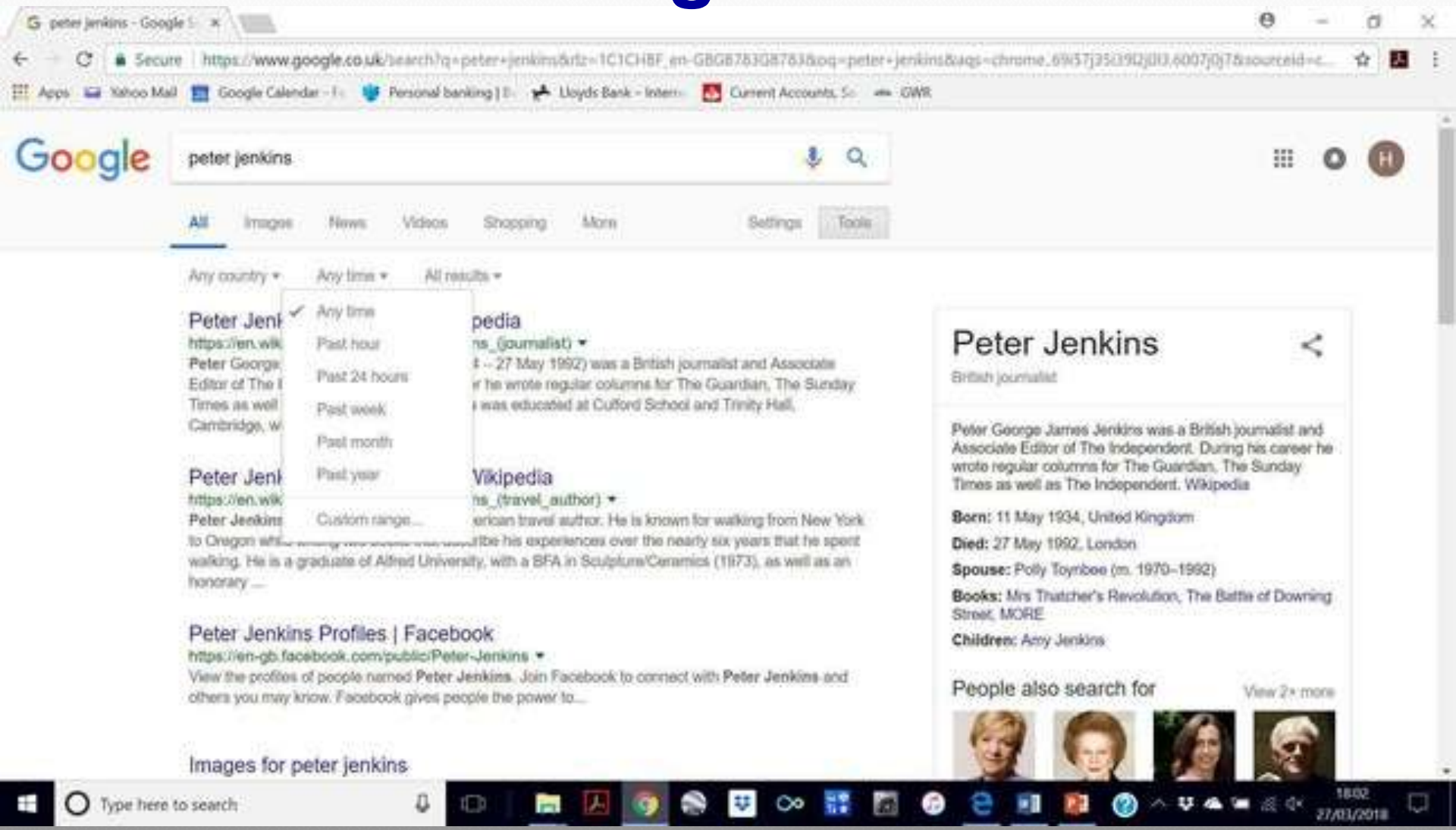
# Search Engines



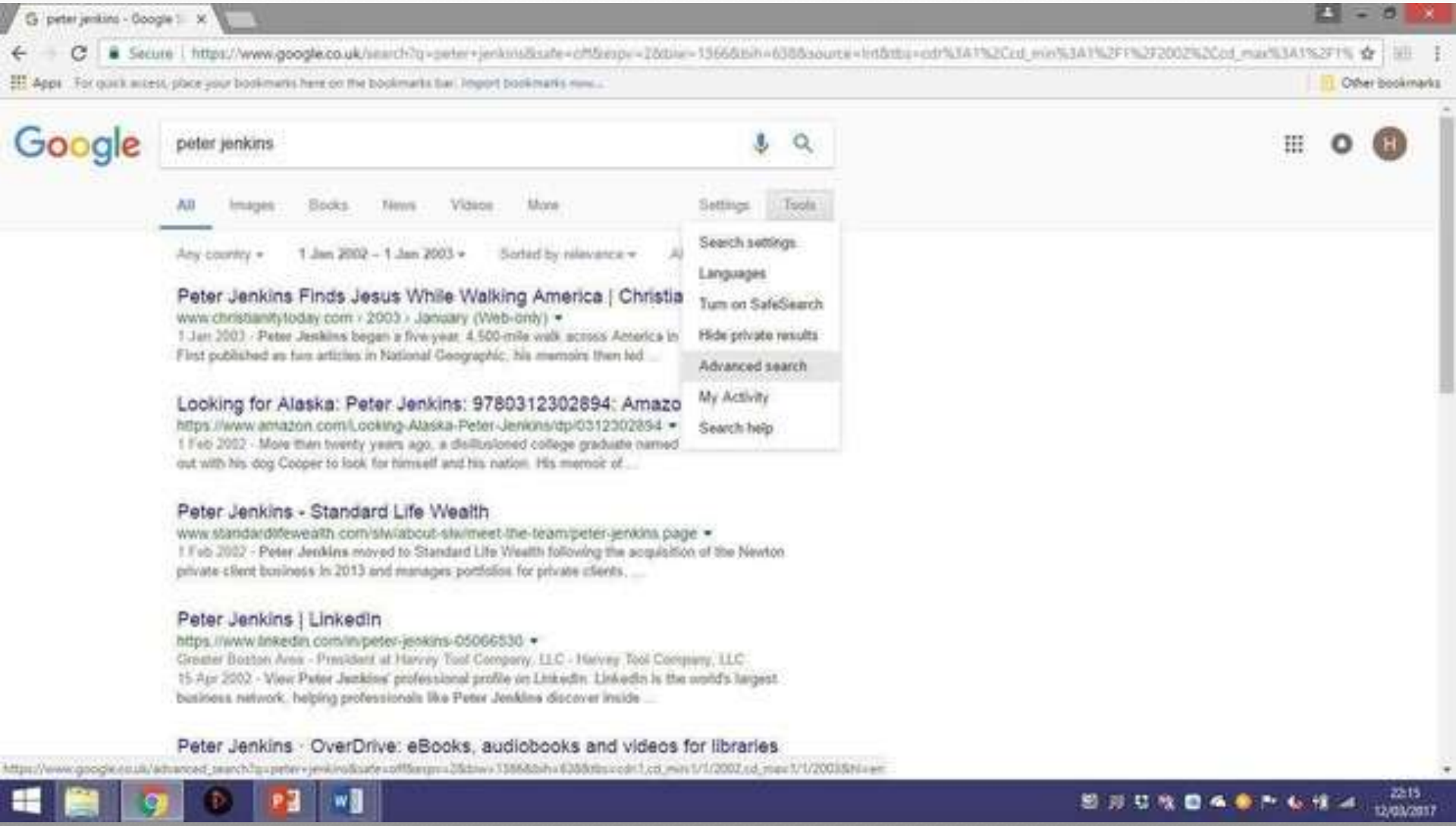
# Search Engines



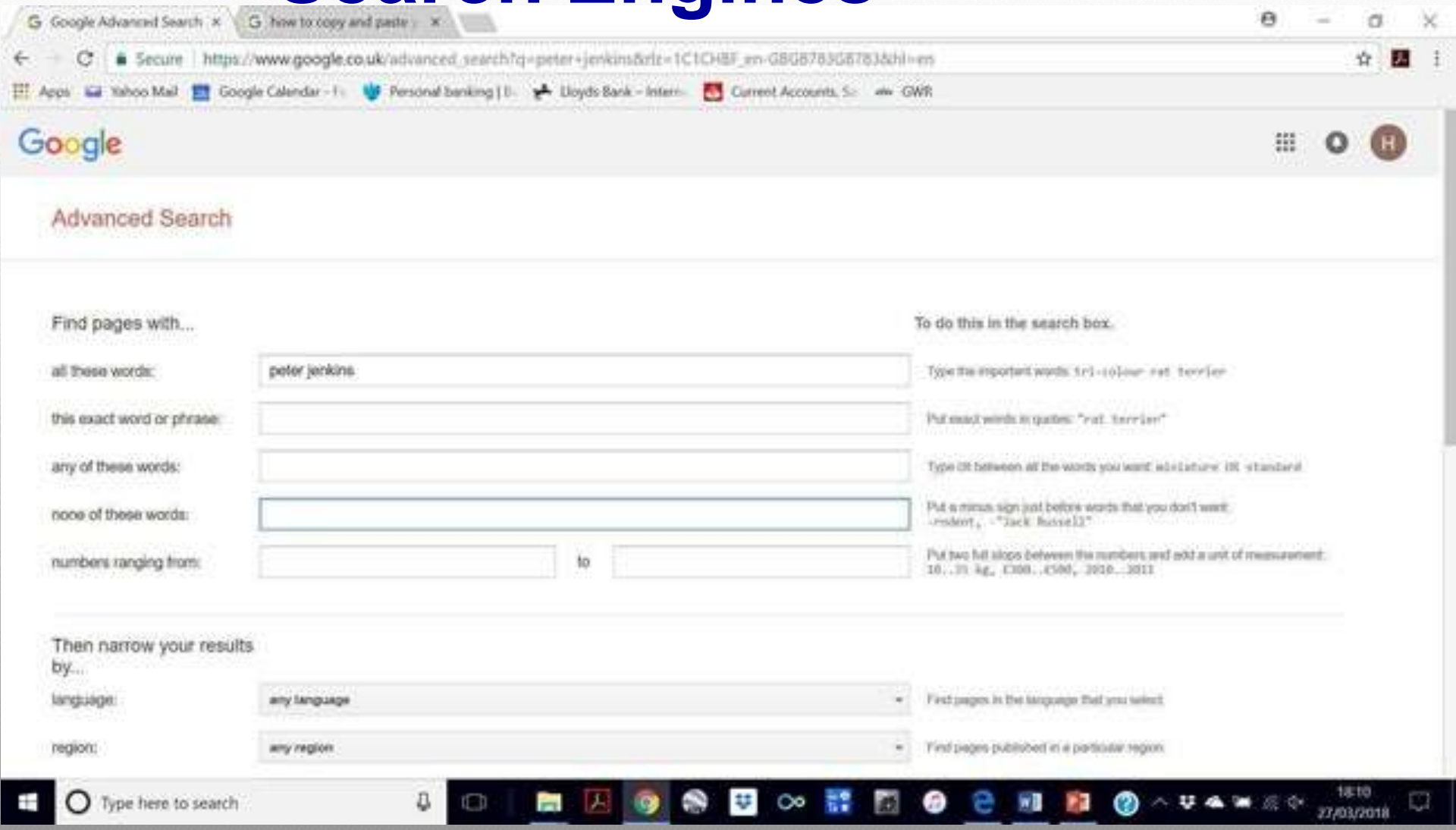
# Search Engines



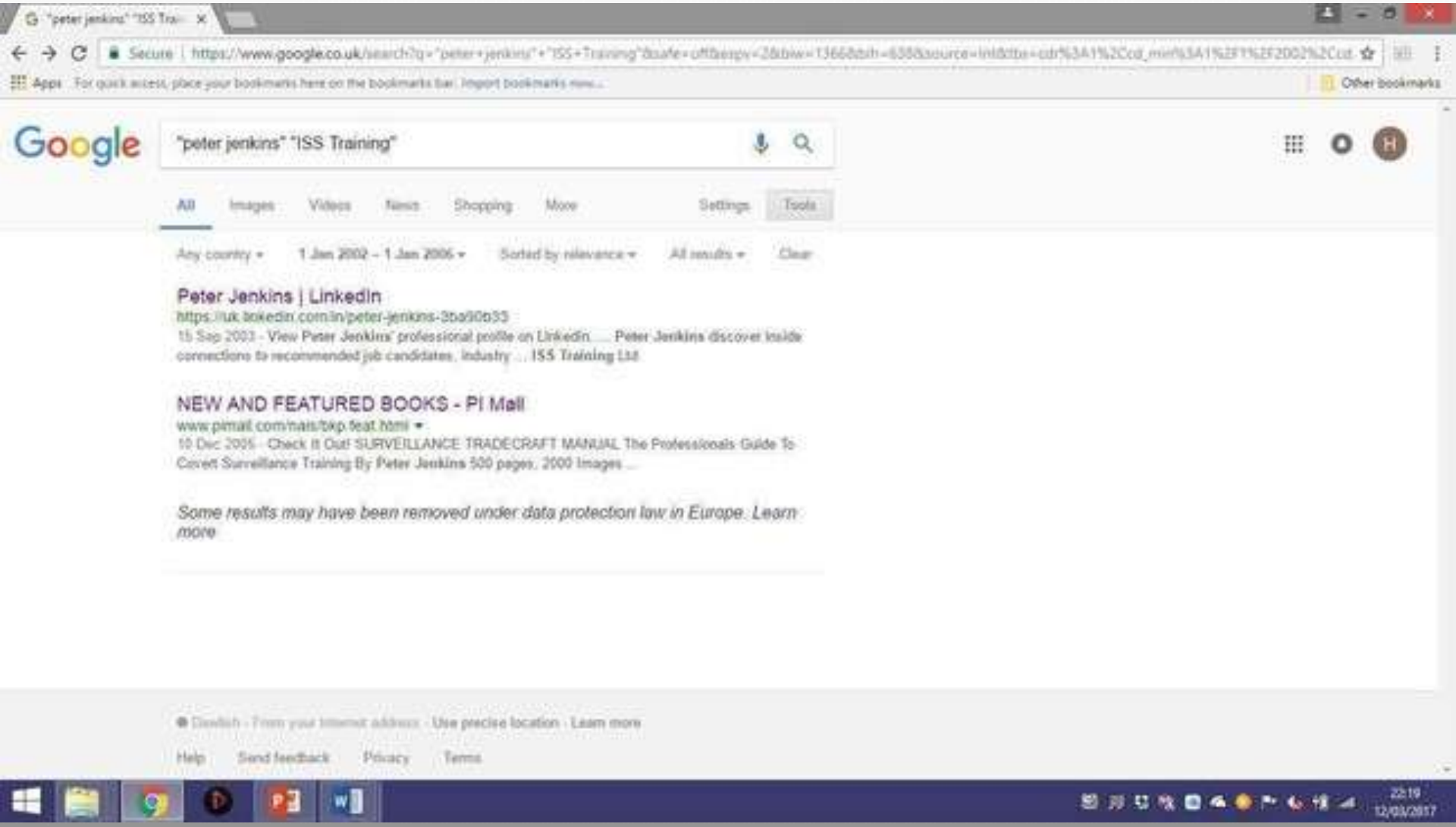
# Search Engines



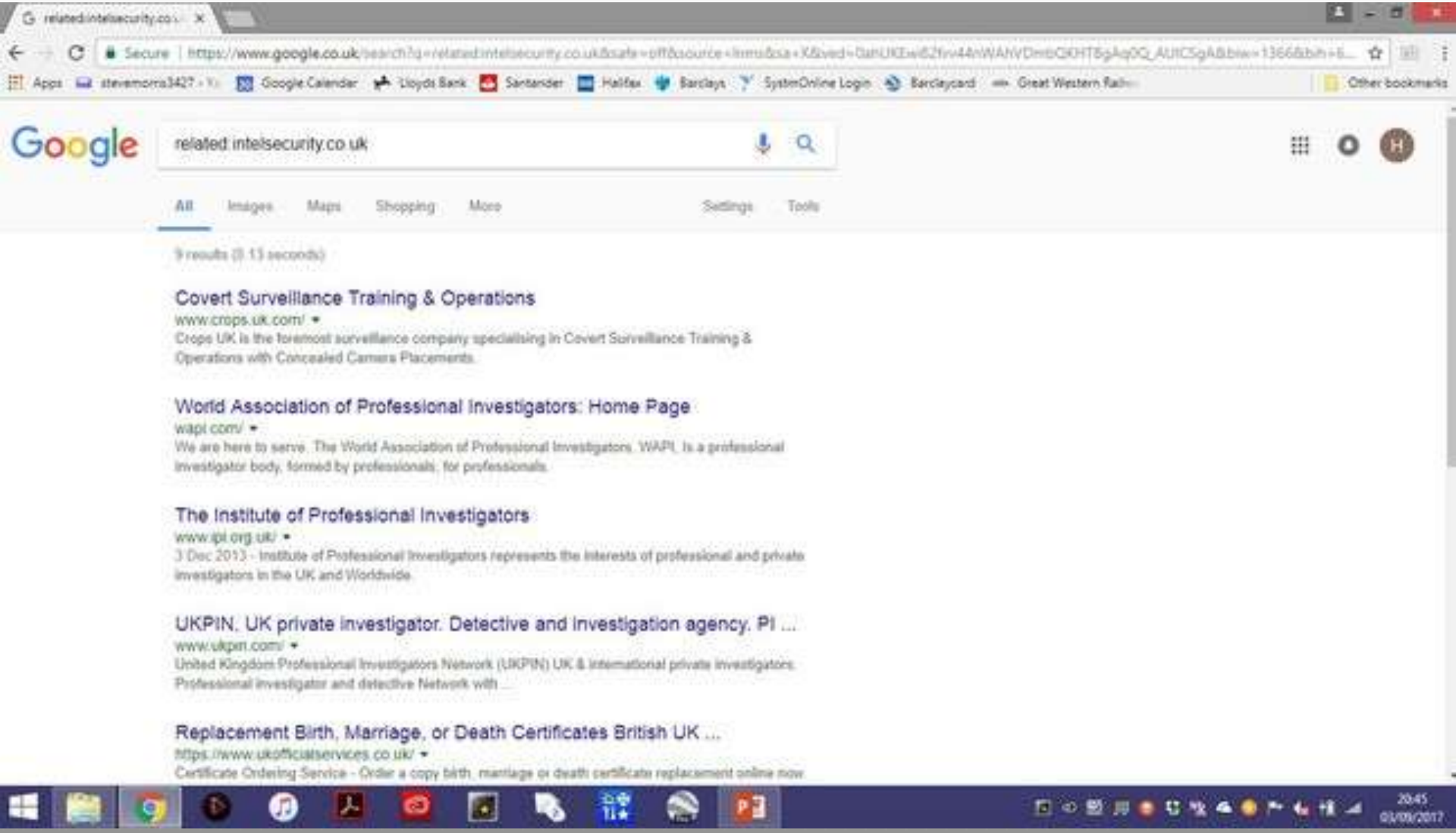
# Search Engines



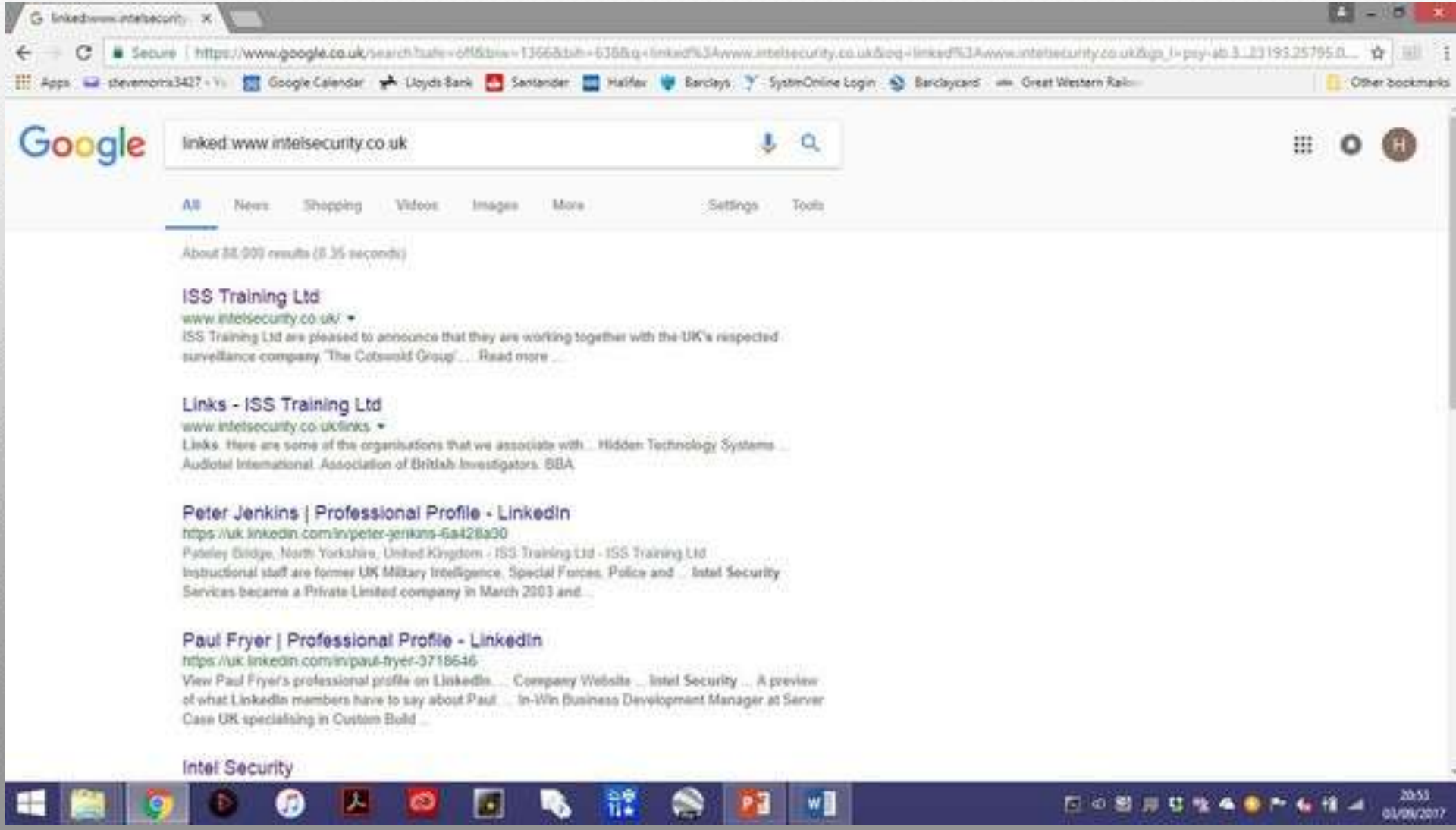
# Search Engines



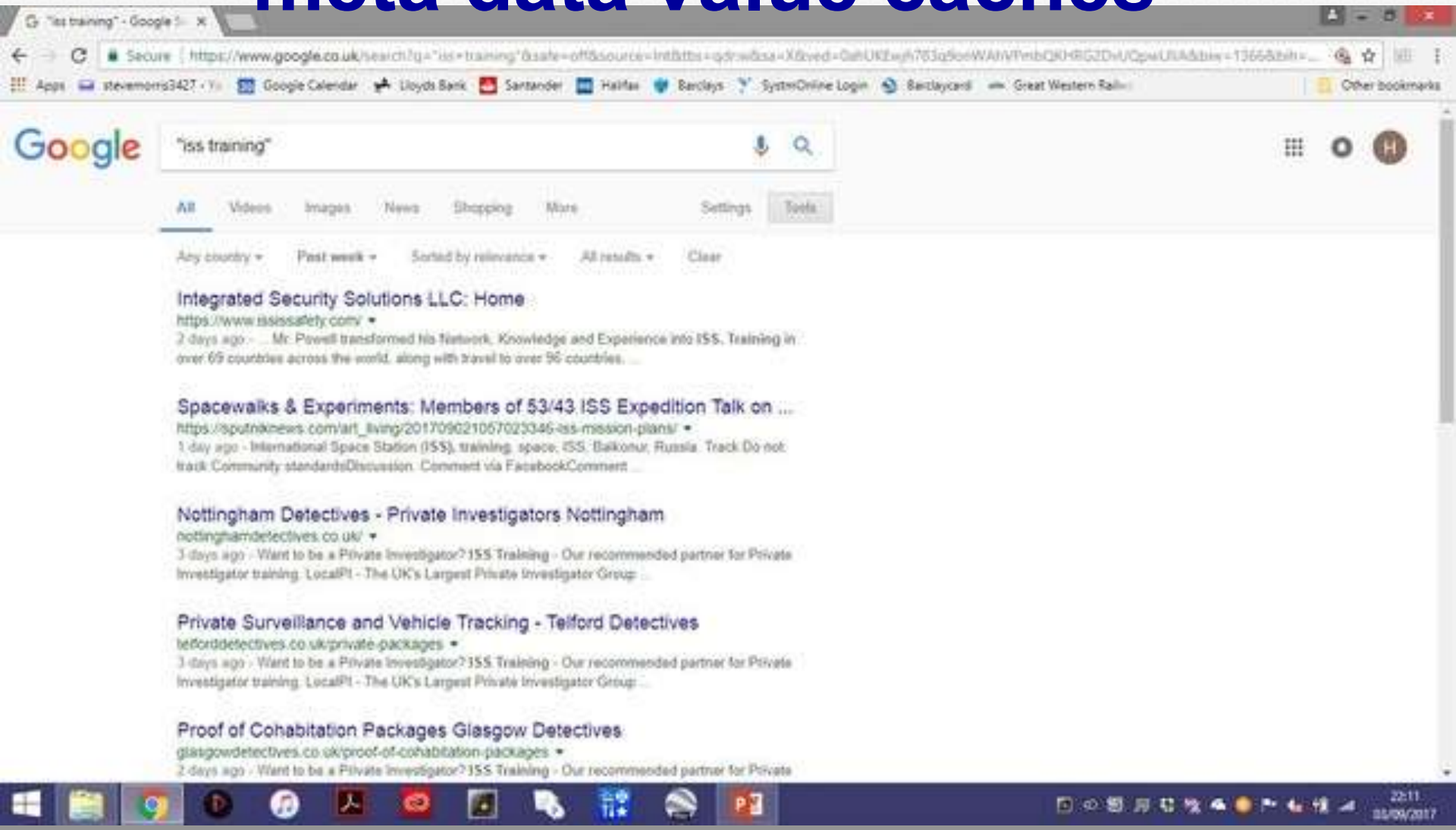
related:intelsecurity.co.uk



# linked:www.intelsecurity.co.uk



# Recent Cache searching – low meta data value caches



# Search Engines

- Advanced Search Techniques
- Reducing the Number of ‘Hits’
- Boolean Logic
- “exact numbers or words”
- -word – “phrase or collection of words”

- Use Several Search Engines – different results
- Be careful that advanced search does not ‘tip out’ results e.g. Region - Ireland might remove universal American sites used extensively in Ireland
- Different search engines for different subject areas

# Searching Phone Nos.

- Enter “07988 123456”
- Enter “07988123456” (searches precise details)
- But what other formats might have been used?
- +44 (0) 7988 123456 and more

# 08 Numbers

- Virtual numbers
- Attached to geographic exchanges and numbers
- ‘say no to 0870’
- Identify
  - geographic location
  - other account/business information
  - other numbers to research

File Edit View Favourites Tools Help

# Codelook

Member login

**DatabaseUpdated: 20th February 2013**

**Page Updated:**

**7th December 2012**

Return to Telecom

Codel ook has two main functions, looking up partial UK telephone numbers to find the locality and call costs, and looking up locality names and post codes to find the code. For localities and post code, broadband ADSL and fibre availability information is provided. The Codel ook databases is updated every one or two weeks.

**Partial Telephone Number to Lookup:** 1014237122651 x **Own Telephone Code (optional):** _____

**Locality or Post Code to Lookup:**---------- **Call Costing Package: BT Unlimited Weekend Plan**

IntroductionPage

**Other Magenta Sites**

Co del ook
lookup telephone numbers and cost

ComCap v4
data capture utility

DUN Manager
broadband and dial-up networking enhancement

MailMaint
POP3 email

Delphi Developers

l i nks to Other General Sites

I L ook u p N u mbe r 1 1 l o ok u p Locality 11 L ookup P os t Code 1l By Operator 1l By C harge Ba nd 11 Cha n ge Ca ll Package

Rea dy for Dialling Cod e Sea rches - WebAp p 3 .0

Mag en t a T el e.com SQ L D at ab as e, Version 1. 2
Creation Date: 20th February 2013
Sou rce: Oftcom Codel isl numbering database dated 20th Fe. bruary 2013
Source: BT Electronic Price Lis t dated 18th February 2013
Source: BT Wholesa le broadband datasets dated 5th February 2013

The partial telephone number can be UK national, international. UK mobile, UK premium, a UK service or UK indirect code. It may be a combined indirect code and partial number. Numbers are entered as dialled from UK landline and mobile telephones.

Pleasenote this site is intended to look up UK telephone numbers, it lists some international numbers but only with country names and those numbers necessaryto identify more expensive international calls. No personal information is returnedby CodeLook, it is not possible to find the user of a landline or mobile number without a legal court order.

When searching localities and area codes, postal county and island namesmay be entered. Historic information is available forsome numbers, also the Ofcom CUPID and other codes used by licensed operators.

To protect the web server, the number of lookups is limited each day to 20 lookups, unless you are a paid member and logged-on to this site. We are however offering free membership for non-commercial use by the variousUK authorities that use CodeLook to trace telecom operators, please order free CodeLook Membership. A single logon can be sharedby different shifts.

This web site is duplicated on different servers for redundancy:

Links to Other Telecom Sites

Main Site CodeLook http://www.telecom-tariffs.co.uk/codelook.htm

0::, http ://,',,ww tdecom-tariffs.co.uk/codelook.htm P mags y; - Yahoo! Search Results 0::, Codel ook

File Edit View Favourites Tools Help

# Codelook

MemberI ogin

**DatabaseUpdated:**
**20th February 2013**

**Page Updated:**

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Return to Telecom

IntroductionPage

## Other Magenta Sites

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li nks to Other General Sites

Codelook hastwomain functions, looking up partial UK telephone numbers to find the locality and call costs, and looking up locality names and post codes to find the code. For localities and post code, broadband ADSL and fibre availability information is provided. The Codel ook databaseis updated every one or two weeks.

**Partial Telephone Number to Lookup:** 1014 23 712 265 **Own Telephone Code ( optional ):** _____

**Locality or Post Code to Lookup:**---------- **Call Costing Package: BT Unlimited Weekend Plan**

I Lo ok u p N um ber 1 I Lo o ku p Lo ca lity 11 Lo o k up P o st C ode 1 I B y O pera tor 1 I By C har ge Band 11 Cha n ge Ca ll Pack age

| Number | I ocali ty or Use | Service | Charging | Operator |
|---|---|---|---|---|
| 0142371 | Pateley Bridge Harrogate, North Yorkshire | Geographic B T | fil N a tio n a l | BritishTelecom |

The partial telephonenumbercan be UK national, international. UK mobile, UK premium, a UK service or UK indirect code. It may be a combined indirect code and partial number. Numbers are entered as dialled from UK landline and mobile telephones.

Pleasenote this site is intended to look up UK telephone numbers, it lists some international numbersbut only with country names and thosenumbers necessaryto identify more expensive international calls. No personal information is returnedby CodeLook, it is not possible to find the user of a landline or mobile number without a legal court order.

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This web site is duplicated on different servers for redundancy:

| | |
|---|---|
| **Main Site** CodeLook | http:lwww.telecom-tariffs.co.uk/codelook.htm |
| Alternate Site Codelook | http:/www1.telecom-tariffs.co.uk/codelook.htm |
| Secure Site Codelook | https:l/www.telecom-tariffs.co.ukicodelook.htm |

Pleasebookmark the alternate site in case the main site becomes unavailable
If all pages fail, pleaseemail Magenta Systems.

Links to Other

0::, http:/ ,',.,wvvtdecom-tariffs.co.uk/codelook.htm?xi P magsys-Yahoo! Search Results 0::, Codel ook
File Edit View Favourites Tools Help

\.,OUeLOOK

# Magenta Dialling Code Lookup

Member Login

Database Updated:
20thFebruary 2013

Codelook has two main functions, looking up partial UK telephone numbers to find the locality and call costs, and looking up locality names and post codesto find the code. For localities and post code, broadband AOSL and fibre availability informationis provided. The Codel ook databaseis updated every one or two weeks.

**Page** Updated:

7th December 2012

Return to Telecom

**Partial Telephone Number to Lookup:** 101 423 712265 **Own Telephone Code (optional):** _____

**Locality or Post Code to Lookup:** _lp_at_ely_b_ri_d=_eg_ **Call Costing Package : BT Unlimited Weekend Plan**

Introduction Page

**other Magenta Sites**

Codelook
lookup telephone numbers and cost

ComCap_v4
data capture utility

DUN Manager
broadband and dial-up networking enhancement

MailMaint
POP3 email

Delphi_Developers

links to Other

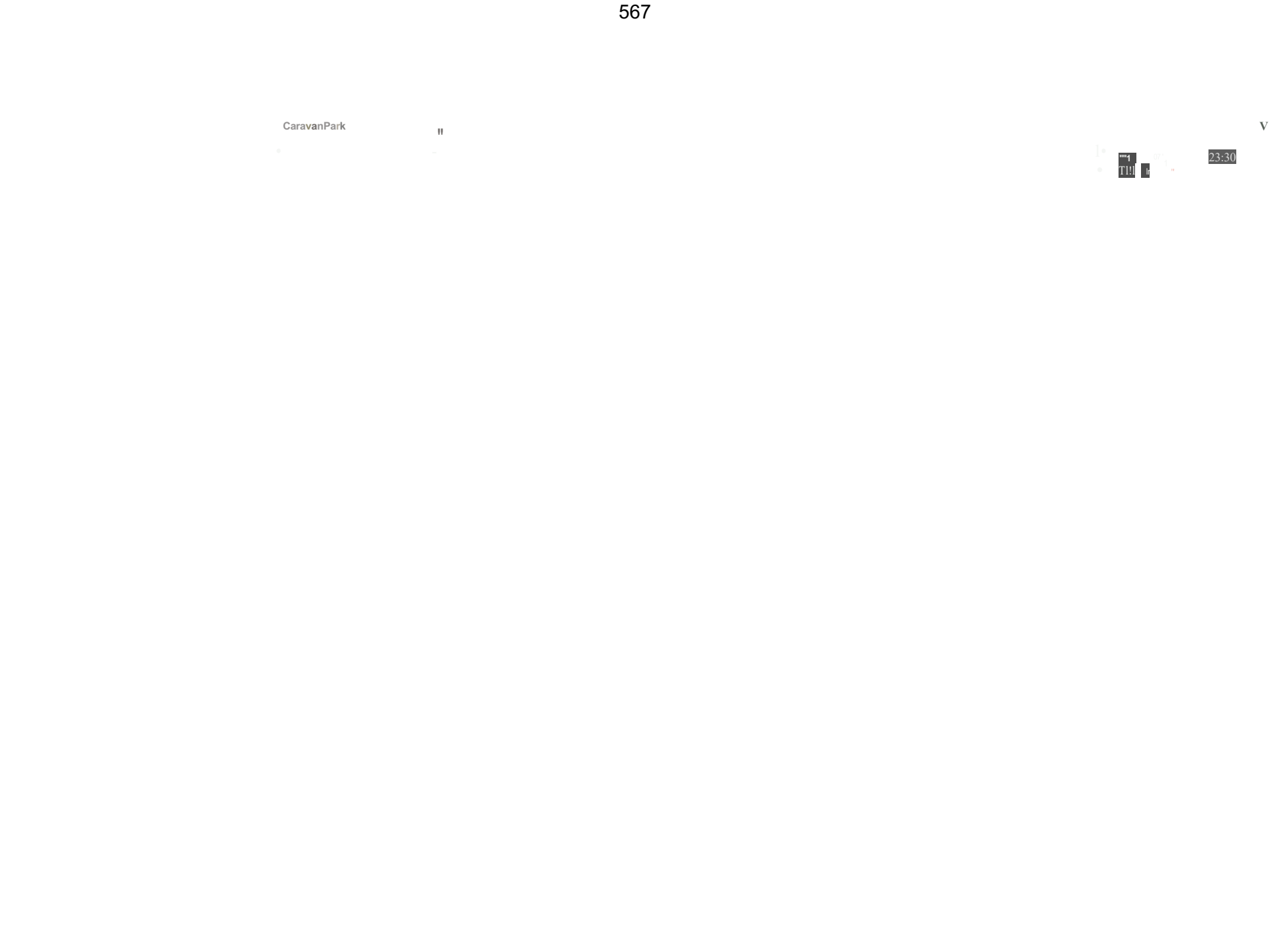
| LookupNumber 11 Lo ok u p l oc ality || Lookup Post Code || By Operat or || By C harge Ban d l l c hange Ca ll P ac k age

| | | | |
|---|---|---|---|
| Locality : | **Pateley Bridge, Harrogate, North Yorkshire All Post Codes All Fibre Cabinets** | | |
| **District:** | **Harrogate** | County: | Nort h Yorkshire |
| Country: | England | Post code: | HG3 |
| 20CN IPStr ea m: | ADSL | | |
| 21CN WBC: | ADSL2+ | **Fibre:** | FTTC Available |
| BT Exchange: | Pateley Bridge | Excha nge co de: | MYPBG |

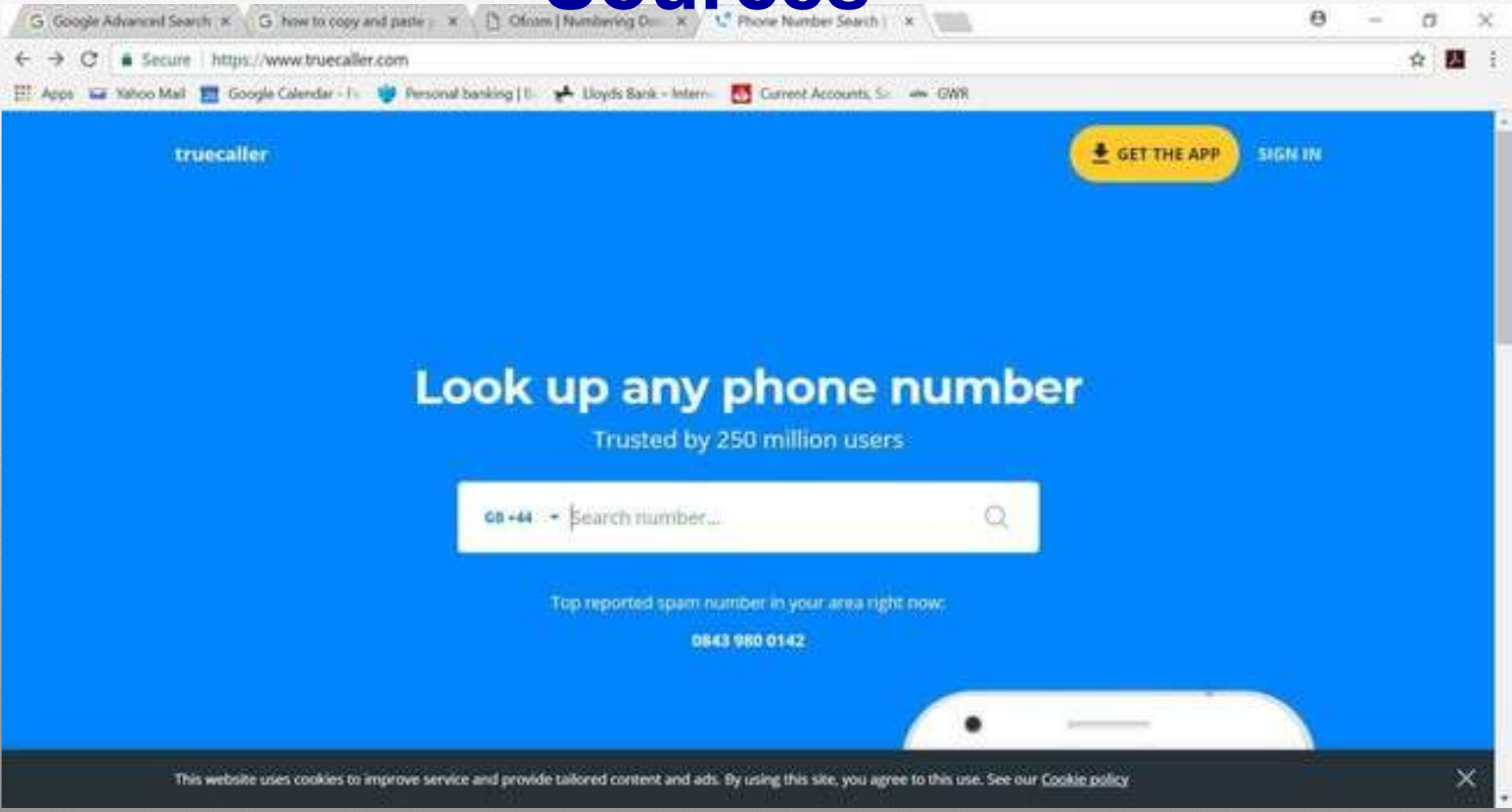
General Sites
li nks to Other Telecom Sites

1'.: R iverside ...,

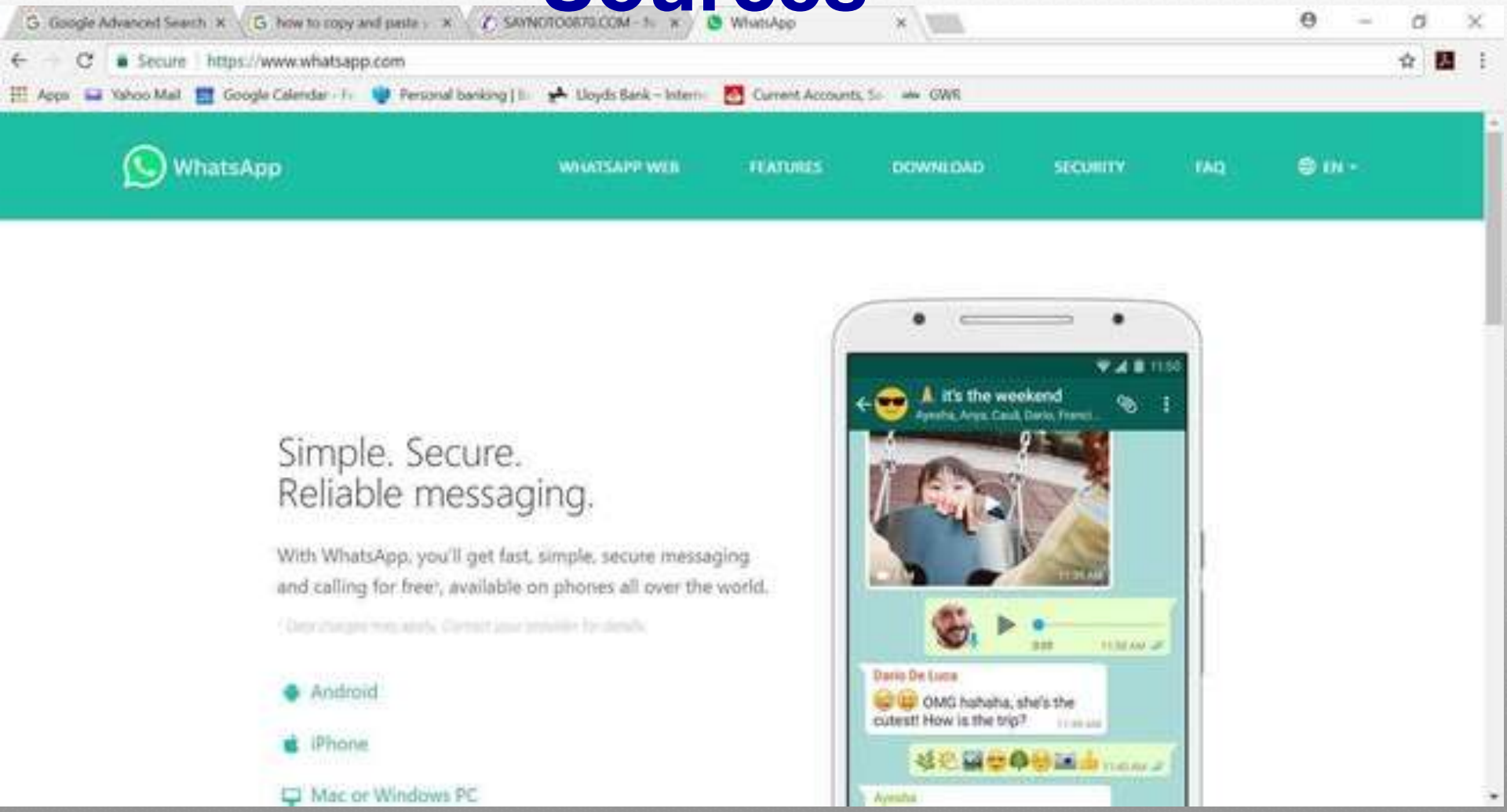
**Map** Satellite


CaravanPark
23:30

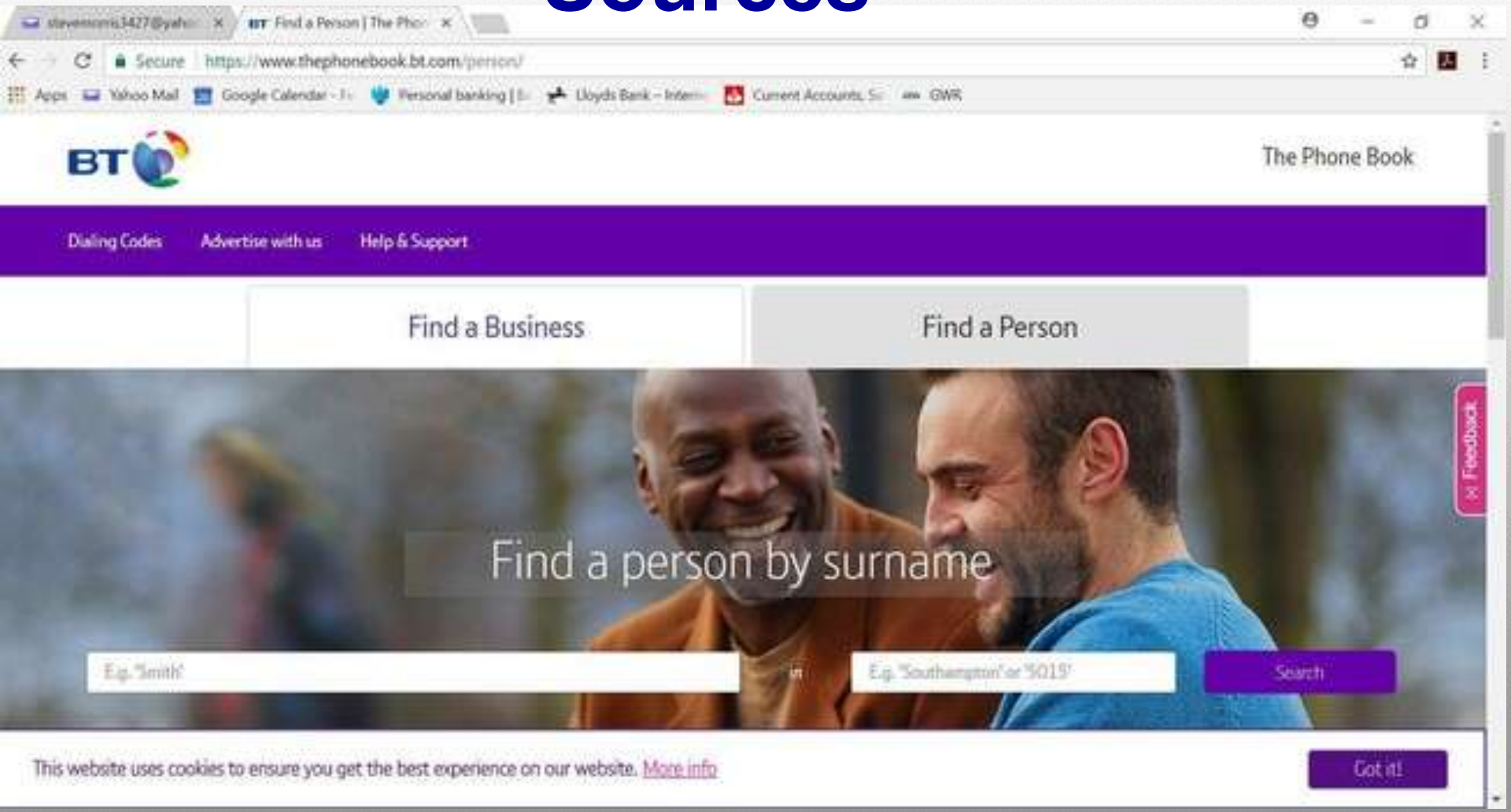
# Other Phone Number Search Sources



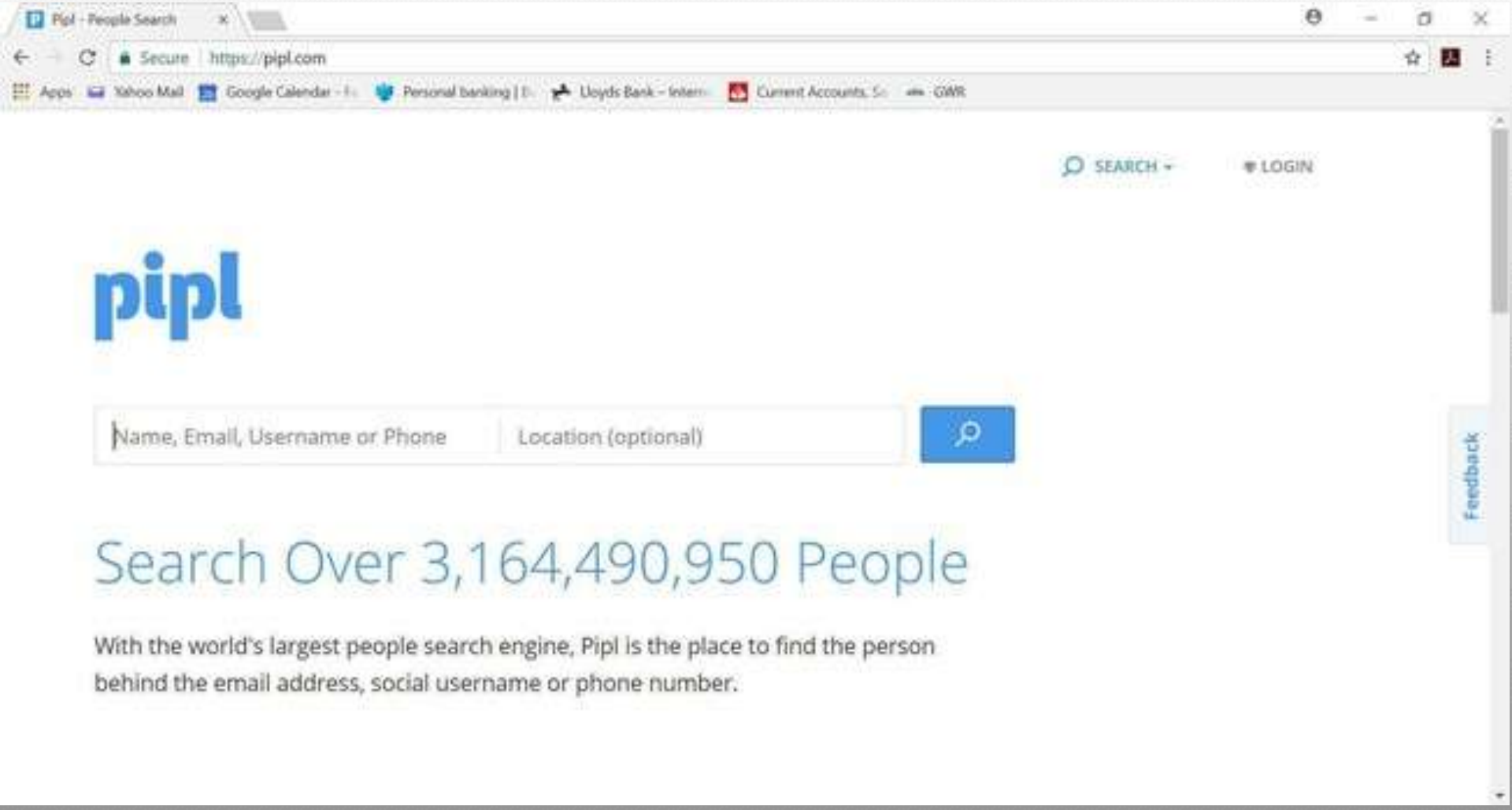
# Other Phone Number Search Sources



# Other Phone Number Search Sources



# Other Phone Number Search Sources



# Intelligence or Evidence?

- Is our product evidence?
- Or is it intelligence that provides a link to evidence?
- How can we prevent others identifying the intelligence and methods of investigation?
- Sensitive method of investigation
- CPIA

# Search engines

## Introduction

Search engines are real-time directories of information (metadata) that has been cached from the internet by software. The software consists of 'robots' or 'spiders', that crawl across websites and documents that do not prevent their access. They cache (capture), and store these webpages. The web page content is 'valued', using a number of analytical tools and values, and also algorithms set to the values required by that particular search engine.
Some search engines focus on particular parts of the internet.

Because of the individually programmed analytical tools and algorithms, different search engines might research the same places on the internet, but return results in a very different order. – there have been allegations of 'fixing' the results, and in some instances these have been found to be true. Given the marketing power of search engines and the ability to route users through particular areas of the internet, the opportunity for financial gains are enormous, and therefore the likelihood that it is "fixed" is high in relation to some topics to be researched.

A competent website designer will be able to increase meta data, links and associations, raising the profile of the site and it's position in the 'hits' returned in response to a search. One mare point of interest is that an uncontrolled search of a common word or series of words will return results on Google listed in the millions. Although there are many results, this figure is broadly based on how many times the site has been 'crawled' and cached by the spiders and kept a cache.

So let's do the maths! If the name Adele appeared on just one webpage in ten places, and the 'spiders' crawled the webpage just once per day for, and that one webpage existed since the year 2000, we have the following calculation -
10(words on webpage) x 365(days per year) x 16(number of years to end of year 2016) = 58,400
A search for the word 'Adele' on 9th March 2017 returned '179,000,000' results, but it is now easy to see how many repeated visits to the same

webpage over a period of time can easily produce vast numbers of ‘results’. Many pages with many references to Adele, and not just the singer Adele will produce many hits in a very short period of time

So – there aren’t 179,000,000 webpages found, but 179,000,000 caches or captures of the word – albeit it might be many of the same!

## Harnessing the power of a search engine

As a researcher of the internet it is not important to know how a search engine works, although it might assist when interpreting results provided, but it is important to understand how to use the search engine effectively. Search engine technology in various forms is used by most search facilities on the internet, including social media, commercial sites, government and other sites. Even the administrator of a relatively small website van install a Goole ‘widget’ to enable searching of the site. Therefore the random use of search engine tools might focus your search on that site.

**Searching**

To facilitate this training session Google will be used, but there are many other search engines that you should consider. Remember, Google is a large commercial search engine with vast software reaching across the internet on a very regular basis, which will inevitably return vast results. Some other more obscure search engines will only search particular parts of the internet, with relatively less powerful search facilities, not very efficiently and not regularly visiting the same webpages, but useful because there focus results in less ‘noise’ (noise is a term used for all the information that might bury that which you are searching for).

**A few basics**

When searching, think about the terms and words likely to be used by the entities or their associates, and use these rather than using only your own official or organisational terminology

Often persons trying to remain relatively anonymous or untraceable will not be found through their correct name or details. However if you find an address or other related data, remove the name or details you are researching, or search using this other criteria. It might reveal other related

businesses or persons, or even your subject using a different

identity, and research of these other entities might reveal the information that you are seeking about your subject.

Simple example – Search of *Stephen Morris Post Code B32 4DJ* might not reveal anything about Stephen Morris, but just a search of *B32 4DJ* might reveal other persons and details of businesses at that location. Research of these persons or businesses might reveal links to your subject, and go on to reveal information about that person that you are seeking.

The Google search you are likely to use in the UK will be defaulted to Google.com or Google.co.uk. Because of where you are, Google will return results it assumes you are interested in (UK, European and American), you don't see much for Peru, or Iceland, or maybe Japan – but these regions or countries have the internet! So when researching a particular topic, consider the country or region and in the Google search box type Google with the suffix for that country. Up will come Google Fr. Google.fr is the French version of Google. Searching for a French person or place on this search engine will return results for the person or place in France rather than buildings or places in the UK named after that entity in France.

Spelling - Google's spell checker automatically uses the most common spelling of a given word, whether or not you spell it correctly. T will provide you with results using its own spelling but provide you with the opportunity to see results for your spelling. Check which you want and use that option. Upper and lower case letters are the same in Google. A search for Heinz Baked Beans is the same as a search for heinz baked beans

**Beware of caches!**

Earlier we said that the results returned by Google are the cache results. During the training you will see how to identify the time and date and reveal that cached page. Provided everything goes well (you have a good, consistent internet connection, the web page still exists, and no data packets are misplaced in transfer), a click on that link will *most probably* take you to that page. However, any number connection of problems might result in you visiting the cache, which might be several days old. Clearly this is not necessarily how the webpage looks real time. So best practice is that if you identify something you intend to use as evidence about the page as it is now, view the website

details in the URL box on your web browser, and go directly to this link via the URLmissing out the search engine. This will mean that you can be sure the webpage you are viewing is ‘real time’, and then you should capture the information/evidence.

**Advanced search and search operators.**

In common with other search engines, Google has advanced search facilities, operators, and tools. Understanding these capabilities, and using variations on words, and phrases together with adjustments to the operators and tools will reduce the number of worthless results, and focus the search effectively. There is no science to this, but practice will improve your skills.

In common with many search engines, Google constantly changes it’s appearance and interface. If you have difficulty finding the features detailed below, use the Google ‘help’ search and type in the facility you are looking for.

At the time of producing this tutorial, the search facilities can be found as follows.

Type in the initial Google search box broadly what you are looking for. This will provide a view which consists of results, a further search box, below which are the opportunities to search videos, shopping, images. Also a tab named ‘tools’ – clicking on this tab will reveal further operators to focus the search such as country or specific dates or ranges of dates. Also, in the top right hand corner will be a ‘cog’ Clicking on this cog opens a dialogue box and one of the facilities listed here is ‘advanced search’. Click on advanced search and this reveals many search operators to fine tune your search.

Many of these search tools can be used by the experienced researcher just within the basic Google search box using a variety of symbols and punctuations.

There now follows a list of the various search facilities. Remember, adjusting them in isolation is not what is required, but tweaking and adjusting them as you get particular results is the way to success.

## Search engine tools and operators

| Symbol | How to use it |
|---|---|
| “ | Putting a phrase or series of numbers such as a phone number in speech marks will return results for that specific word or phrase *“0121 423 5983”* will return all of the exact matches for that exact number rather than all of the 0121 numbers, or obscure part numbers or delivery codes which contain that set of numbers |
| - | When you put a minus sign in front of a word it removes results with that word in it them. So if you were looking for Steve Davis, but not the snooker player, using *steve davis –snooker* in the search box removes the results that include the word snooker. Multiple words phrases and operators can be used in conjunction with each other. |
| * | Use an asterisk as a wildcard for a term or word you are unsure of.<br>Example: "a * saved is a * earned" |
| @ | Find social tags<br>Example: **@searcher** |
| **OR** | Find pages that might use one of several words.<br>Example: **waste OR rubbish OR removal OR clearance** |
| # | Find popular hashtags for trending topics<br>Example: **#brexit** |

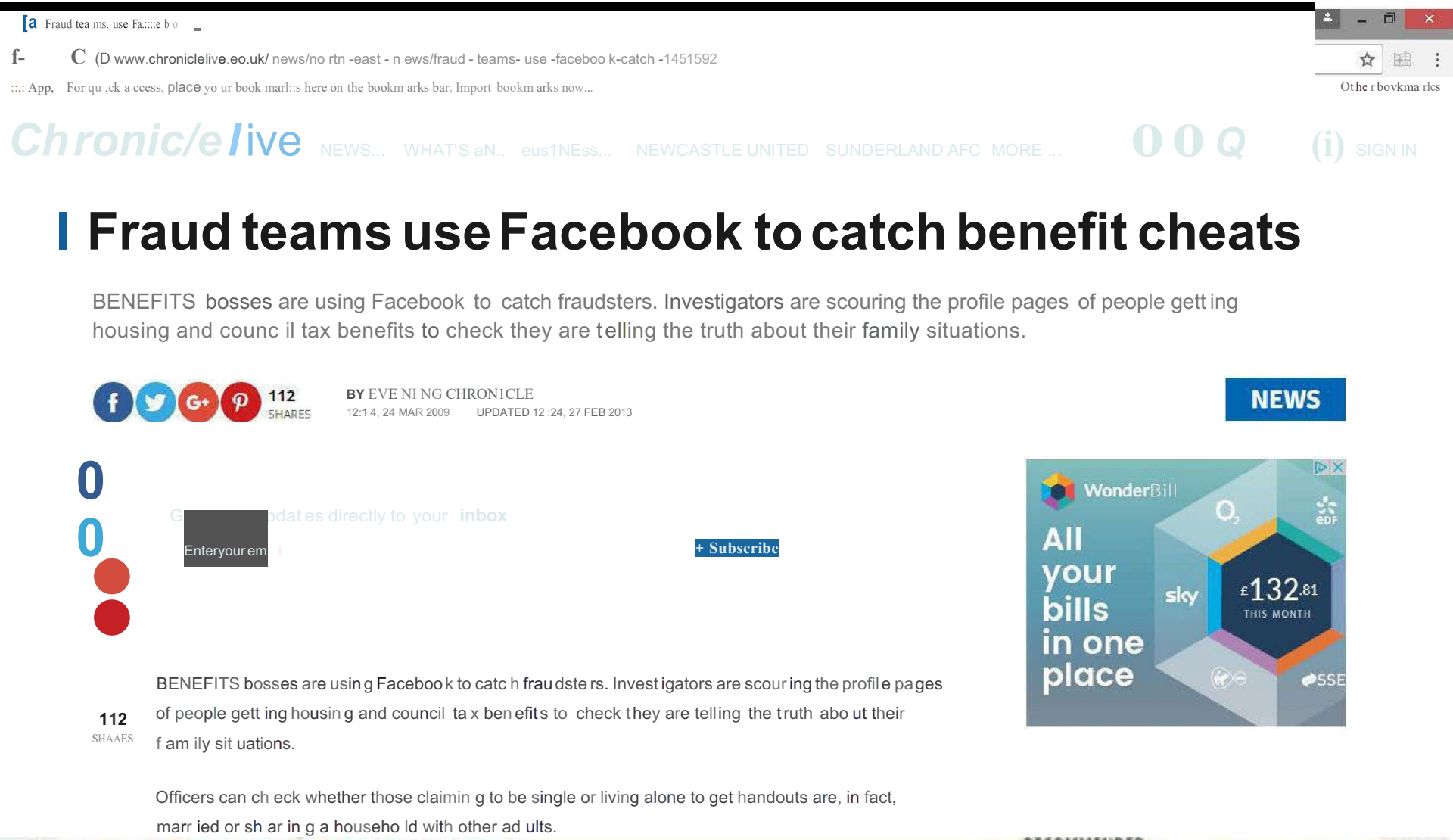
| | |
|---|---|
| **site:** | Search and get results from certain sites or domains. Examples: **Gov.uk or Ebay.co.uk** |
| **related:** | Find websites and blogs (and sometimes social media posts) that are similar to a web address you are interested in. Example: **related:Travelodge.co.uk** |
| **linked:** | Find websites and blogs (and sometimes social media posts) Google has identified as linked in some way to a web address you are interested in Example: **linked: thesurveillancegroup.com** |
| **info:** | Get information about a web address, including the cached version of the page, similar pages, and pages that link to the site. |
| | Example: **info:google.com** |
| **cache:** | See what a page looks like the last time Google visited the site. Example: **cache:bbc.co.uk** |

When you search using operators or punctuation marks, don't add any spaces between the operator and your search terms.

Remember – the key to success is to adjust your various search criteria to focus upon what you are searching for. If you discover obscure or uncommon terminology for the entity you are searching, try using this with one or two other unique terms you have. And use more than one search engine

# Social Networking Sites

# Facebook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BENEFITS bosses are using Facebook to catch fraudsters. Investigators are scouring the profile pages of people getting housing and counc il tax benefits to check they are telling the truth about their family situations.
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# Council worker took part in gruelling bike race while taking long term sick leave

A council worker took part in a gruelling 66-mile endurance bike race while taking long-term sick leave with achest infection, a tribunal has heard.

The Telegraph o

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By Kick Britten
7:00AM GMT 04 Mar 2009

Andrew Hamlyn, 54, took 92 days off claiming he was stressed, had a viral infection and was unable to work.

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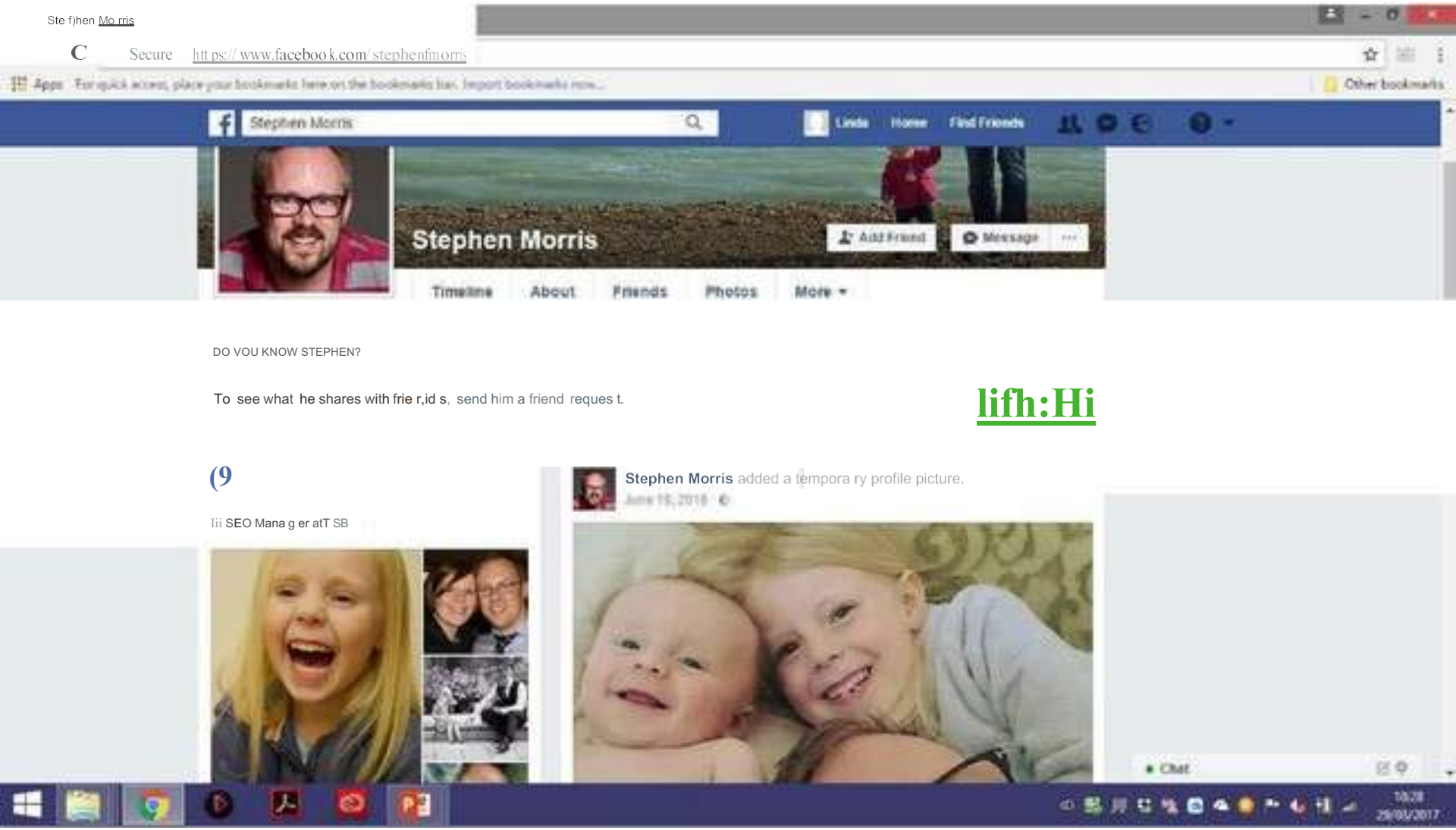
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June 18, 2016
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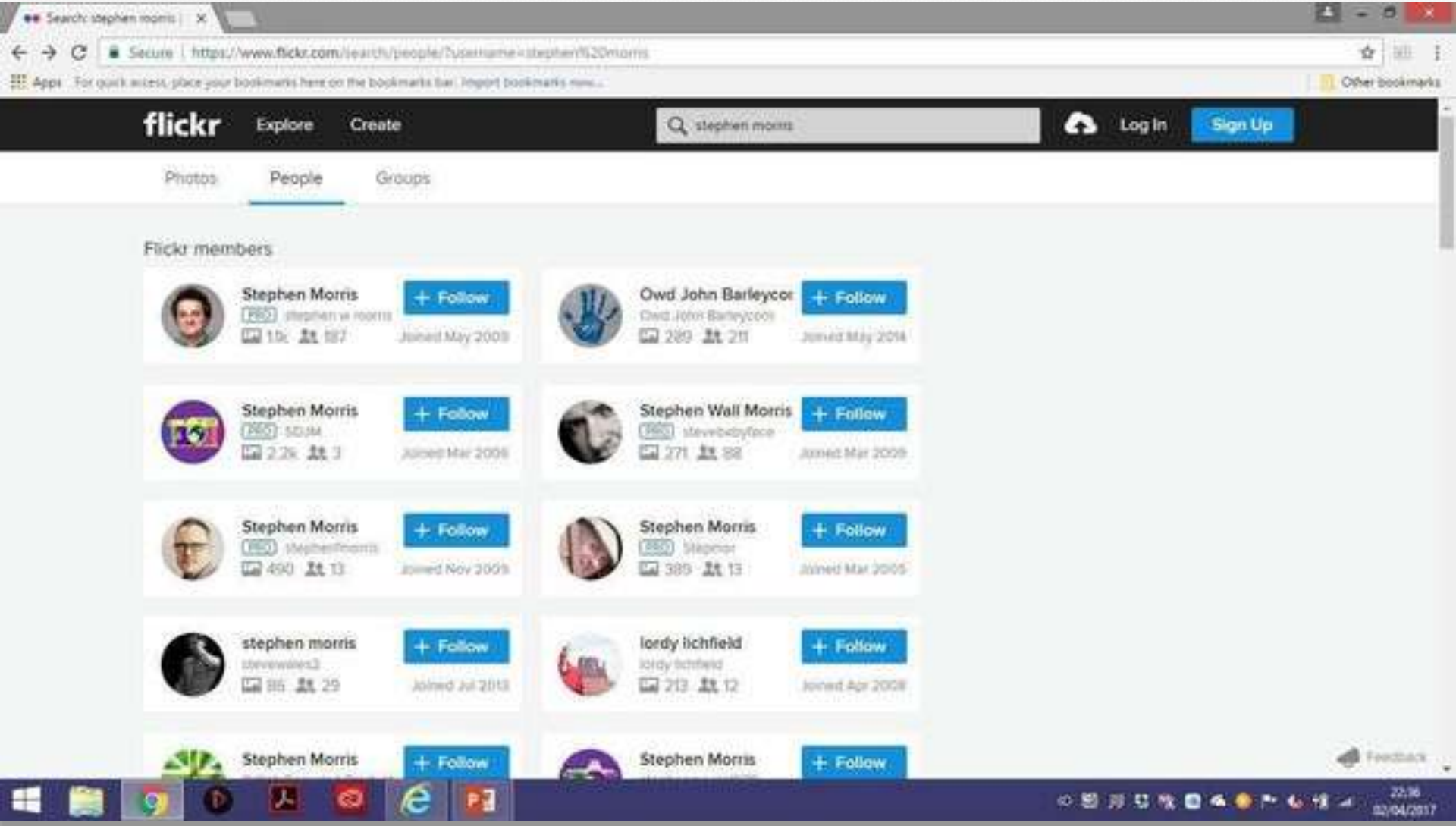

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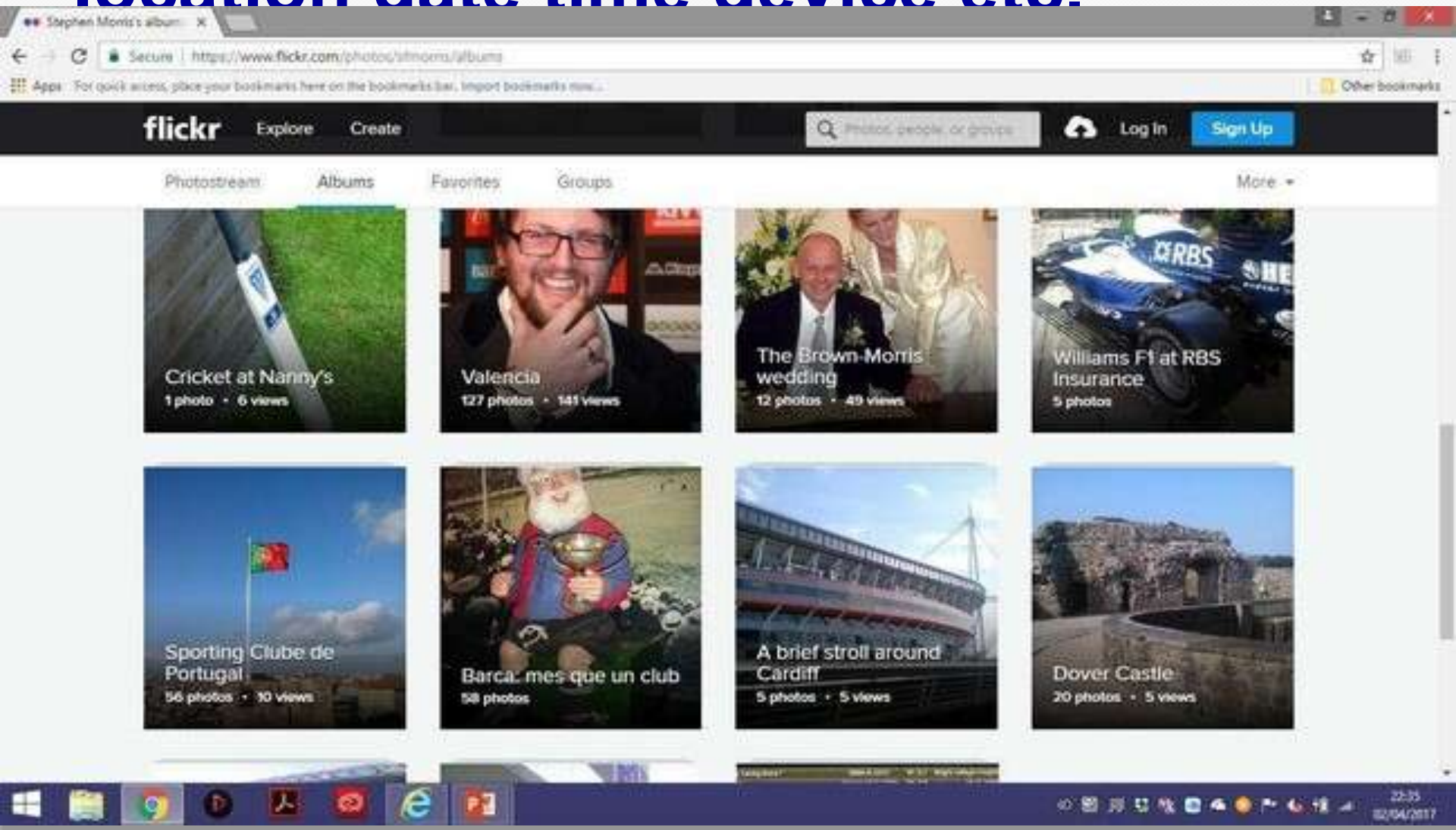

# SNS Specific Search Sites

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https://www.facebook.com/help/

https://twitter.com/search-advanced?lang=en-gb

https://www.linkedin.com/help/linkedin/answer/302

https://inteltechniques.com/menu.html

http://osintframework.com/

https://namechk.com/

http://www.192.com

https://sometag.org/ https://pikdo.net/?hl=en

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SEARCH $ LOGIN

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Name, Email. Username or Phone Location (optional)

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+ MORE OPTIONS

All Locations

United States

California

Florida

Results for **Stephen Morris**

**Stephen Morris**

45 years old from State of New South Wales and State of Victoria

VP Business Development at Captis Intelligence, Inc

Associated with Andrew Verster Cohen, Lindi Giger Rudnicki and 3 more people

**Stephen Morris**

Henderson & Jackson, Tennessee

Chairman at Chester County (TN) Election Commission

Associated with Roy Gene Sharp, Zachary Tex Alexander, Kirk Sawyer and 2 more people

**Stephen R Morris**

Associated with Christine Zethraus, Vanessa Hoelscher, Sandra Bailey and 2 more people

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All Locations

United Kingdom

England

London

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Birmingham

Nottingham

Liverpool

Stephen Morris United Kingdom

'i'l LOGIN

Oxford & London, England
EHS Manager (Rail) freelance at telent Technology Services Ltd
Also known as Steve **Morris** and Steve Gradiosh

**Stephen Morris**

Bolton & Bury, England
Director at campaign for an English Parliament
Associated with Martin Butler and Geoffrey Warburton

**Stephen Morris**

Cardiff & Llanwrtyd Wells, Wales
Airside Support Manager, LGW South Terminal at Menzies Aviation
Associated with Andrew Spry

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## Stephen B Morris

**London** & Borehamwood, **England**

Retired at Retired

Westminster City

## Stephen Morris

**London** & Ashford, **England**

Project Manager at Font Energy Construction Services

Bachelor of Engineering (BEng), Building services Engineering, 2:2 from Loughborough University

## Stephen Morris

**London & London** Borough Of Bromley, **England**

Head of Search at Make Me Local

Associated with Nicole Heyermann, Billy R, Darren Rand Andrew S

## Stephen Morris

**London** & Newcastle Upon Tyne, **England**

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UX Designer at Ticketmaster

fia Stephen Mo rris - P ipl - Peop le S X +

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CV London, England

CV London Borough Of Bromley, England

g Head of SEO at OKA

& BillyR

& Darren R

& Andrew S

## Stephen Morris

Male

Fro m **London** & **Londo n** Borough Of Bro mley, **Eng l and**

g CAREER: Head of SEO at OKA (sinc e 2018)

(@ USER NAM ES: sfm orr is , st ephenfmo rris

® PLACES: London , England (Work)
London Borough Of Bro mley, England

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Stephen Morr is, London, England, Lo n don Borough Of Bromley, Engl and
linkedin.com/in/sfmorris
Pro fess ional Pro fi le & N etwo rk ing - LinkedIn

Stephen M, London Borough Of Bro m ley, Eng l and, sfmorris, Billy R ...
foursquare.com/sfmorris
Member Pro fi le - Foursqua re

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twitter.com/sfmorris
# Micro Blog - Twitter

Stephen Morr is, London Borough Of Br om ley, England ...
pinterest.com/stephenfmorris/
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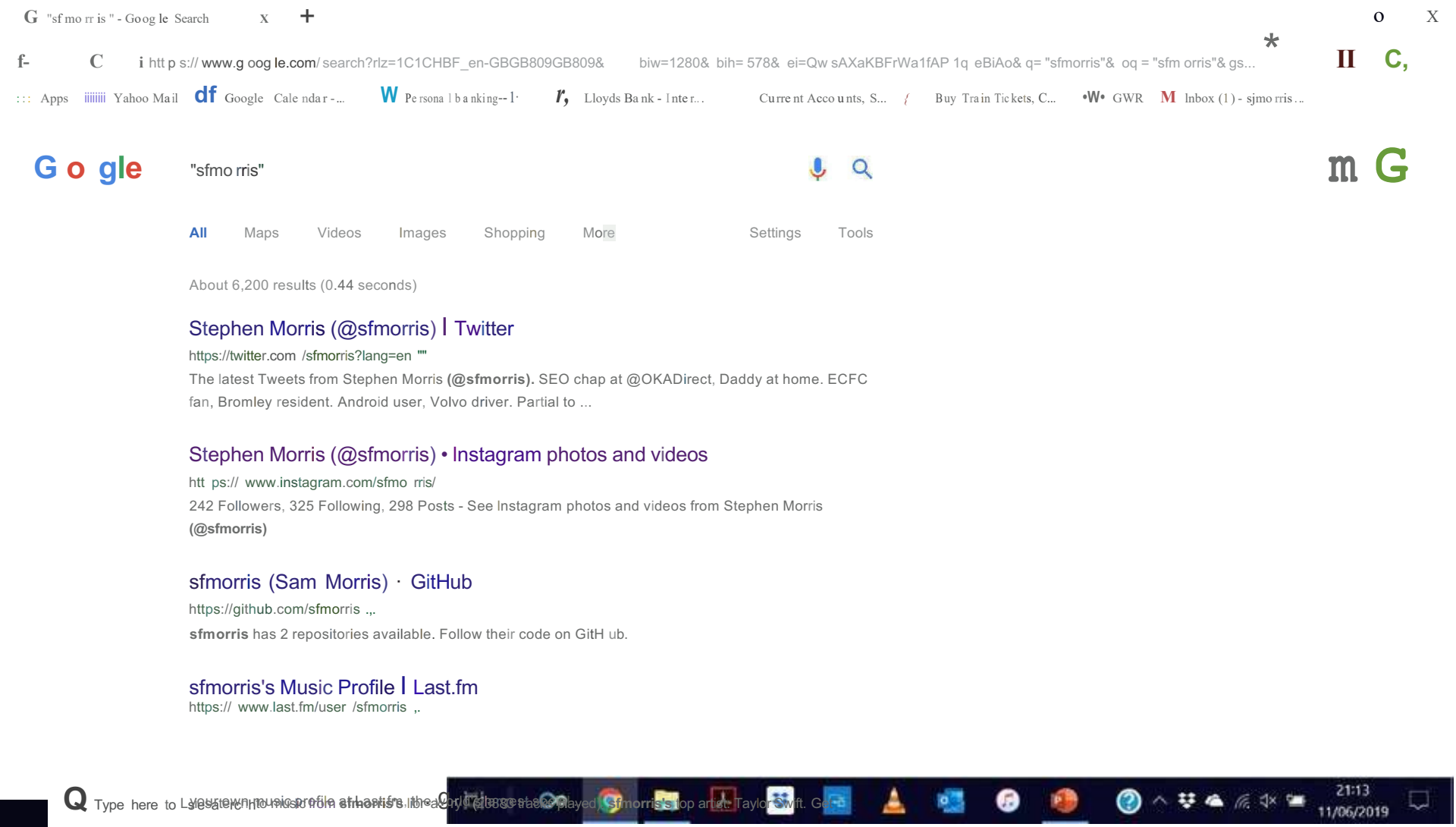
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242 Followers, 325 Following, 298 Posts - See Instagram photos and videos from Stephen Morris (@sfmorris)
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Did you mean: ***"stephen morris"***

### Stephen Morris I F lickr

https: /lwww .flickr.com /photos/sfmorris/

Stephen Morris. Follow. Give Pro. **stephenfmorris.** 14 Followers•45 Following. 490 Photos. Joined 2009. About · Photostream · Albums · Faves · Galleries ...

### Stephen Morris (stephenfmorris) on Pinterest

https://www.pinteresl.eo.uk/stephenfmorris/

Stephen Morris I SEO at TSB. Daddy, London Grecian, real ale drinker, CD collector, Android user. Views expressed are own.

### Images for "stephenfmorris"

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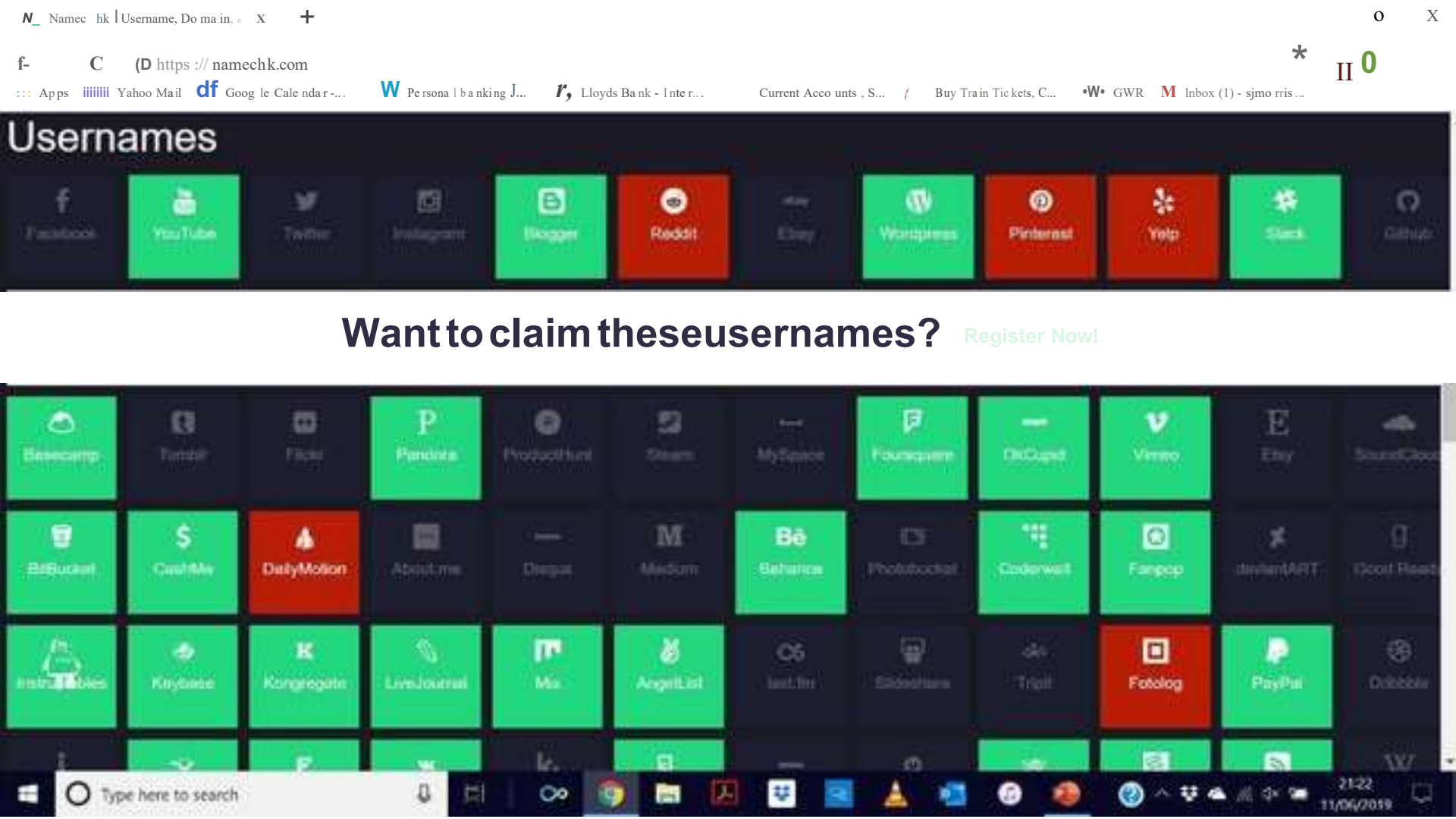
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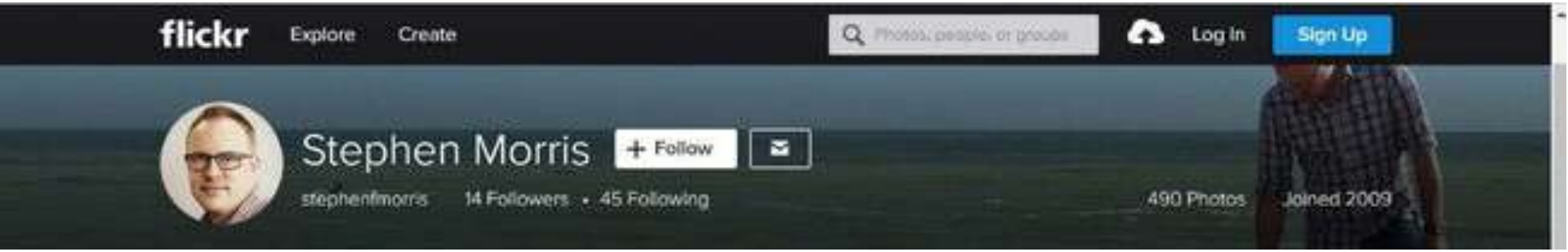


About Photostream Albums Faves Galleries Groups

Joined November 2009 Website http://www.mindspikes.com/

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## Most popular photos

Most faved ...

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# Yasni

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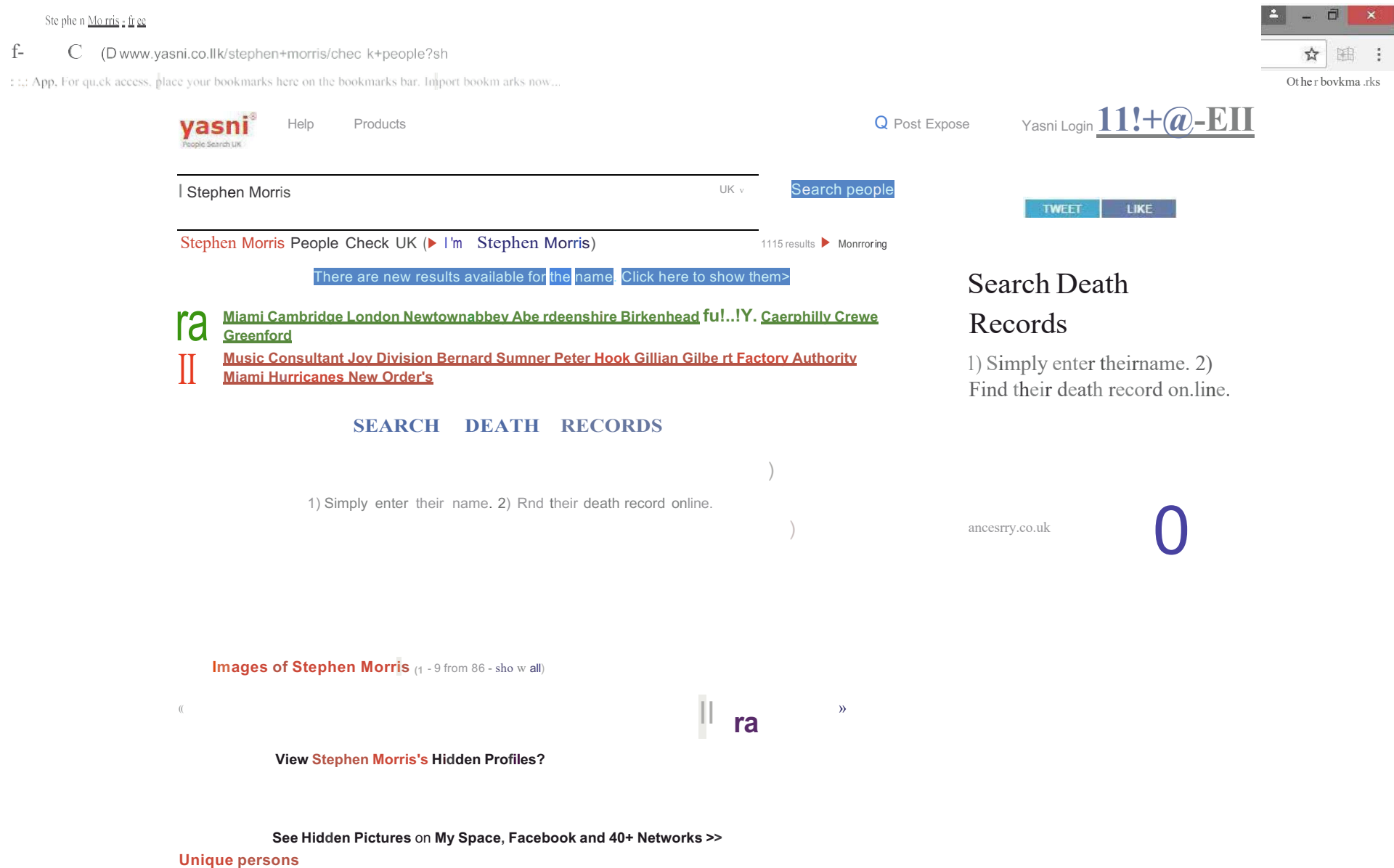
# Yasni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II
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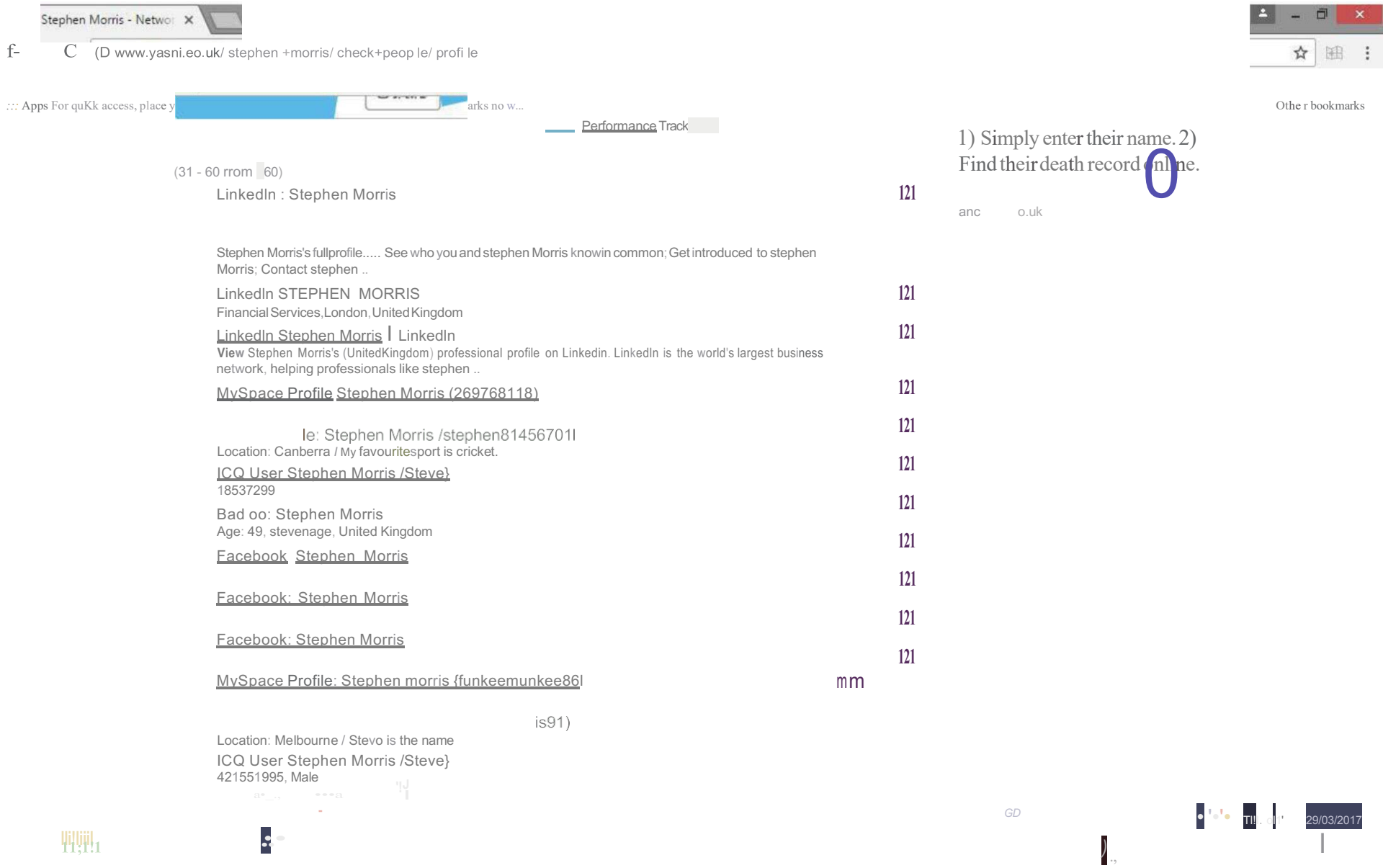
Search Death Records
1) Simply enter theirname. 2) Find their death record on.line.
ancesrry.co.uk
0
Images of Stephen Morris (1 - 9 from 86 - sho w all)
«
II ra
»
View Stephen Morris's Hidden Profiles?
See Hidden Pictures on My Space, Facebook and 40+ Networks >>
Unique persons

# II Stephen Morris, Poet/Artist @ Aspiran; Herault.

Missing person ad from Stephen Morris: roll er skati ng

li I h &Add

# Yasni


Stephen Morris - Networ
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1) Simply enter their name. 2) Find their death record online.
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LinkedIn : Stephen Morris
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Stephen Morris's fullprofile..... See who you and stephen Morris knowin common; Get introduced to stephen Morris; Contact stephen ..
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LinkedIn Stephen Morris | LinkedIn
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121
MySpace Profile Stephen Morris (269768118)
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le: Stephen Morris /stephen81456701l
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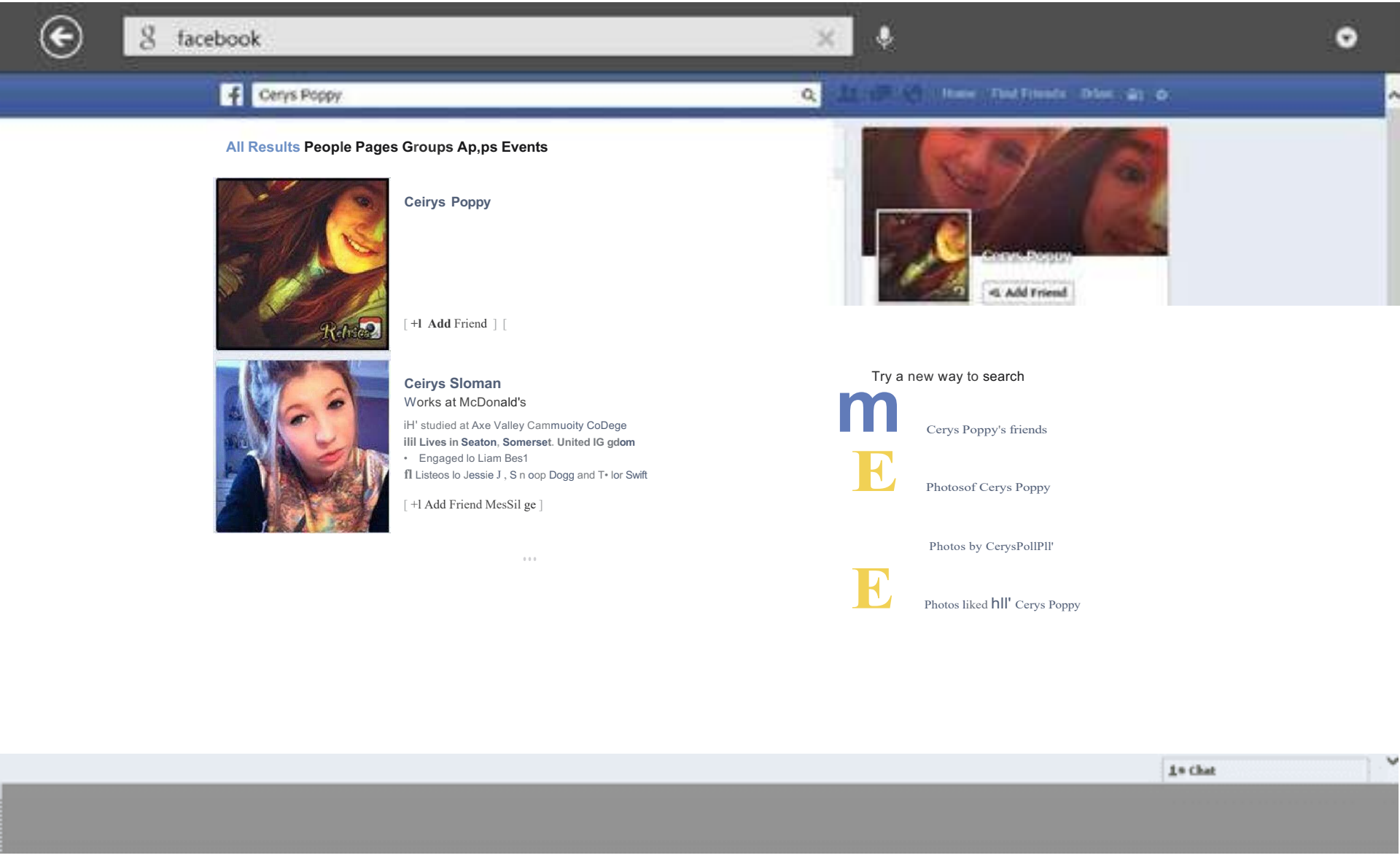
29/03/2017

# Facebook


facebook
Cerys Poppy
All Results People Pages Groups Ap,ps Events
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[ +1 Add Friend ] [
Ceirys Sloman
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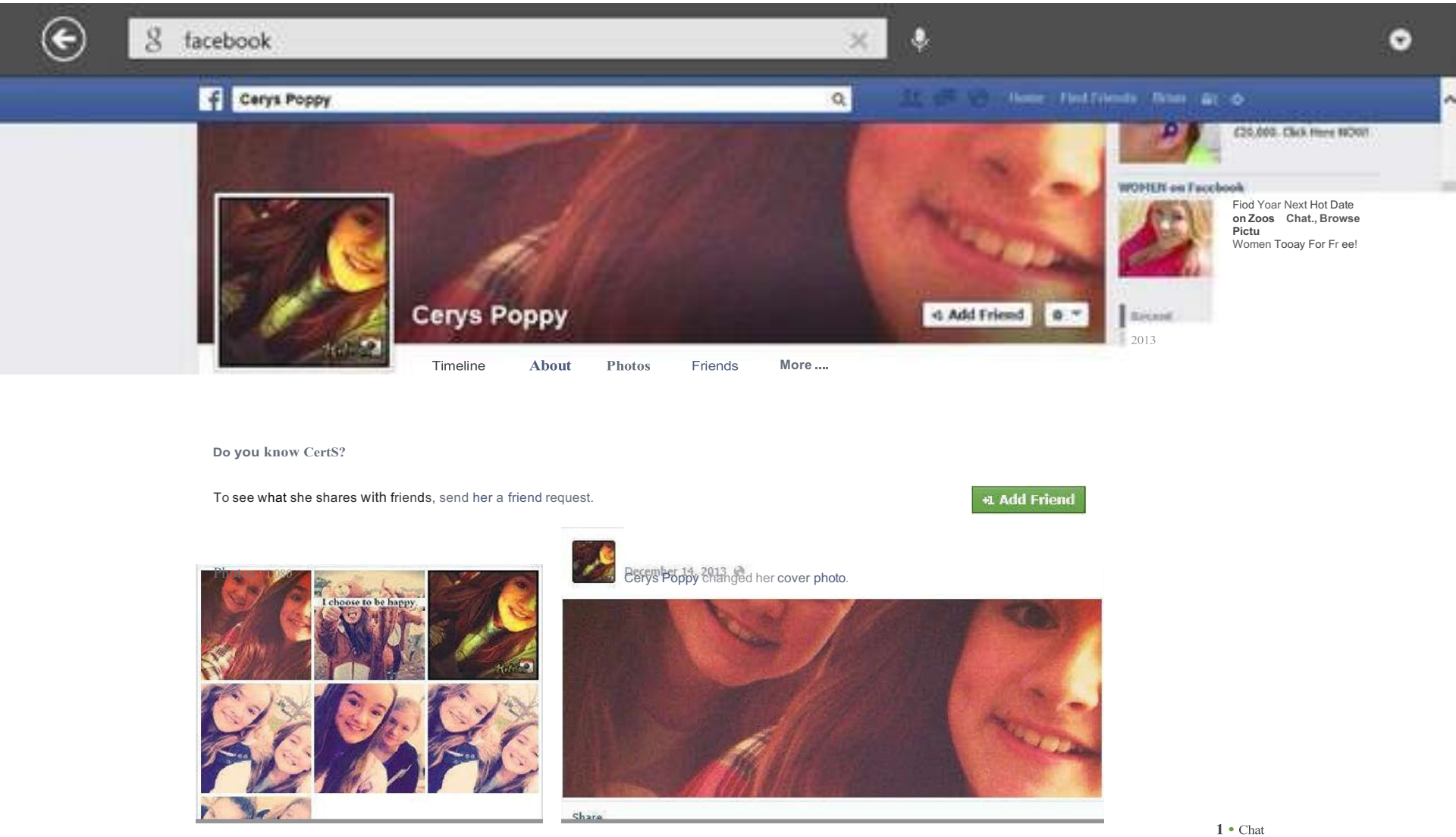
1• Chat

# Facebook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Cerys Poppy
Cerys Poppy
Add Friend
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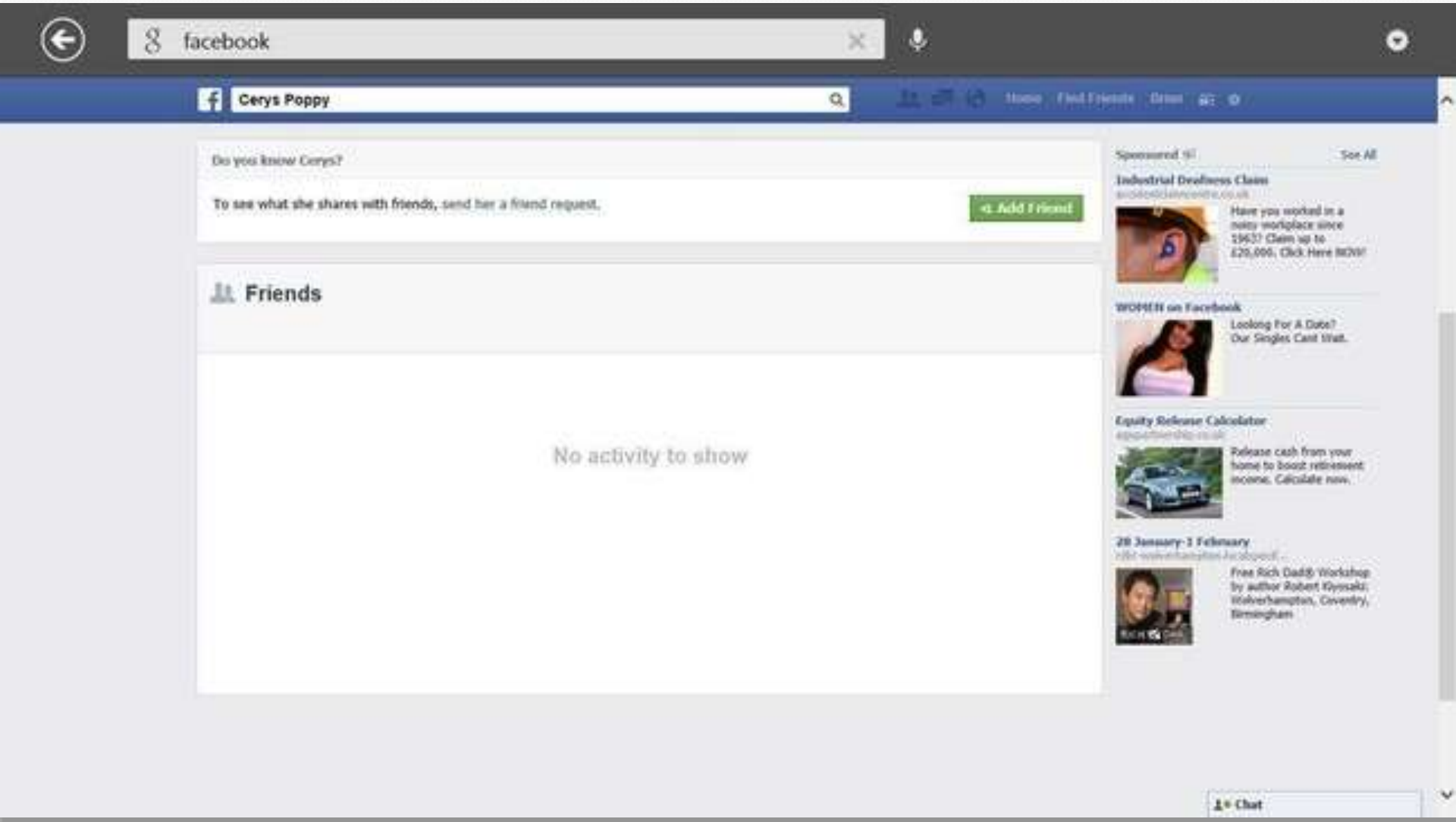
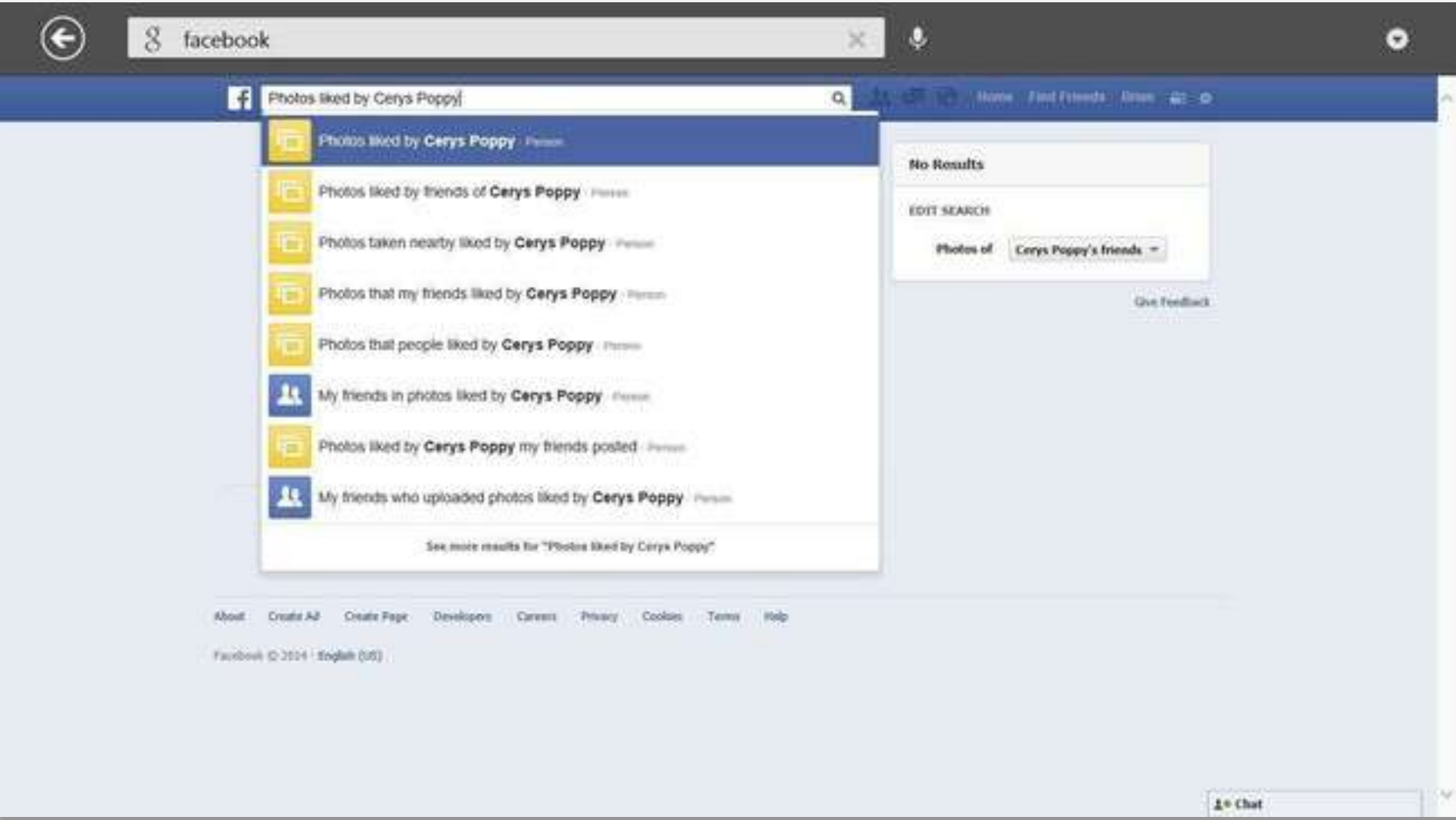
2013
Do you know CertS?
To see what she shares with friends, send her a friend request.
Add Friend
I choose to be happy.
December 14, 2013
Cerys Poppy changed her cover photo.
Share

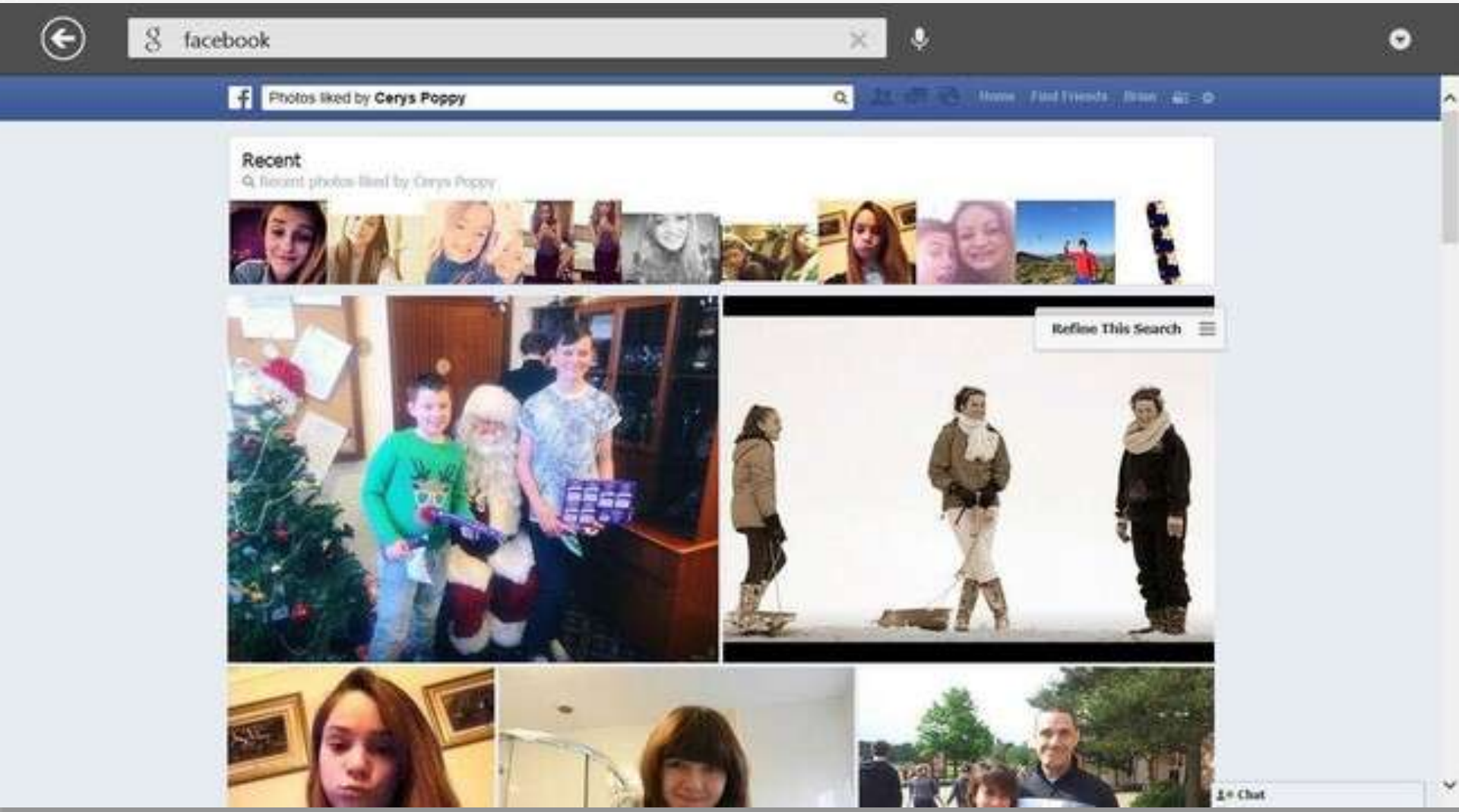
# Facebook – Cerys Poppy friends - private



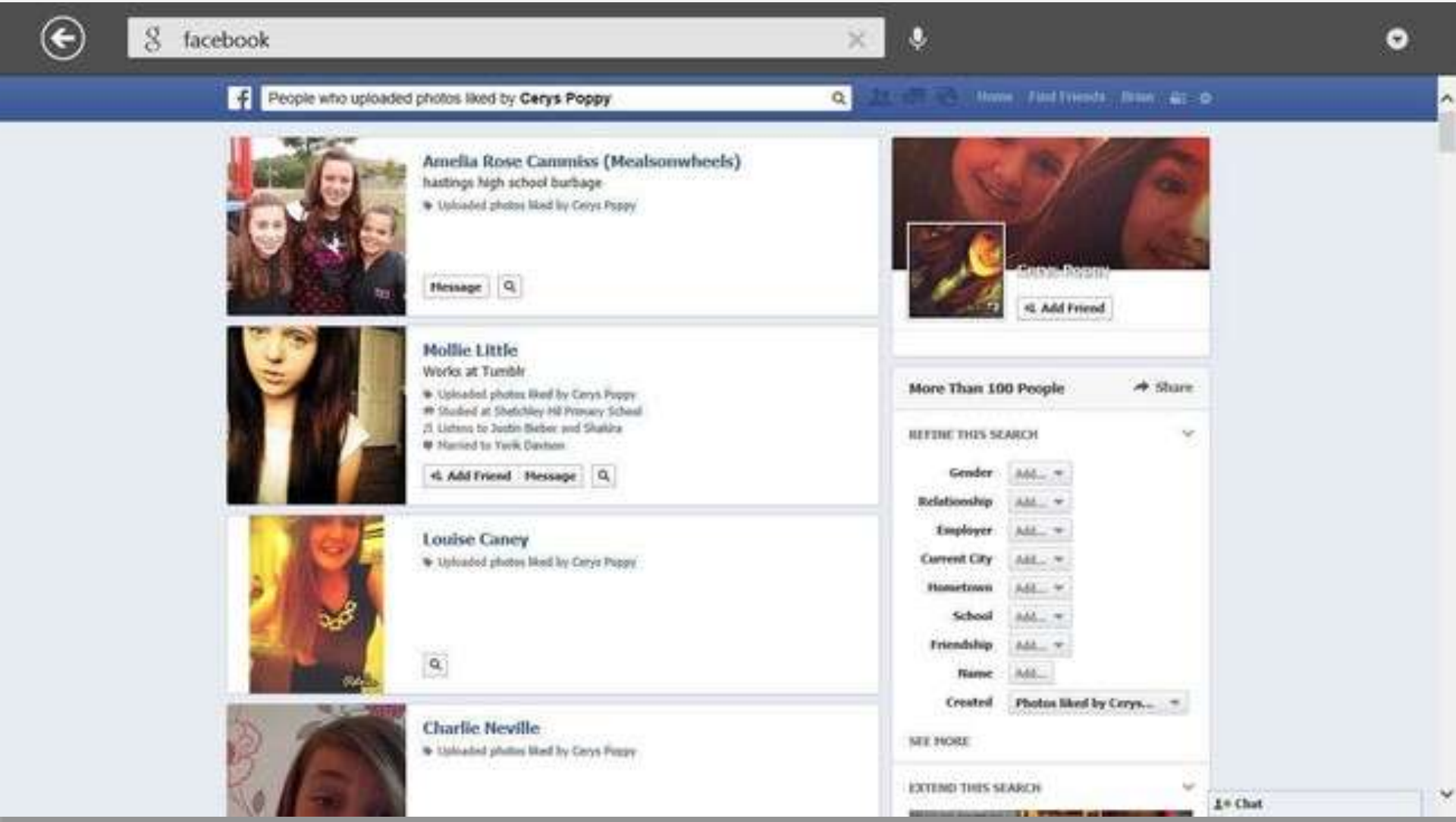
# Facebook – search commands - Graphsearch



# Facebook – photos liked by Cerys Poppy



# Facebook – profile that uploaded these photos – Friends!!



# Facebook Searching - Graphsearch

Facebook uses pages and some regular search engine type search criteria as well as other algorithms and settings

Graphsearch

Home page – settings – language settings – language english us

# Facebook Searching

*Type all of exactly what you want to search*
*Look for hints as you type*
*Maybe go for final choice on list provided*
Photos of ……..
Photos by …….
Photos liked by ……..
Photos commented on by ……..
Photos of .....friends
Photos by ……'s friends
Friends of etc. etc.
*Useful to be on an associated profile to ensure a link*

# Let’s get more personal!

*Find information set at private through profile settings*

*Be specific when searching for information relating to people – the Facebook search box finds all photos or all posts or groups for everyone named Stephen Morris*

*But what if we could find information precisely relating to our specific Stephen Morris, or a business.*

# Let's get more personal!

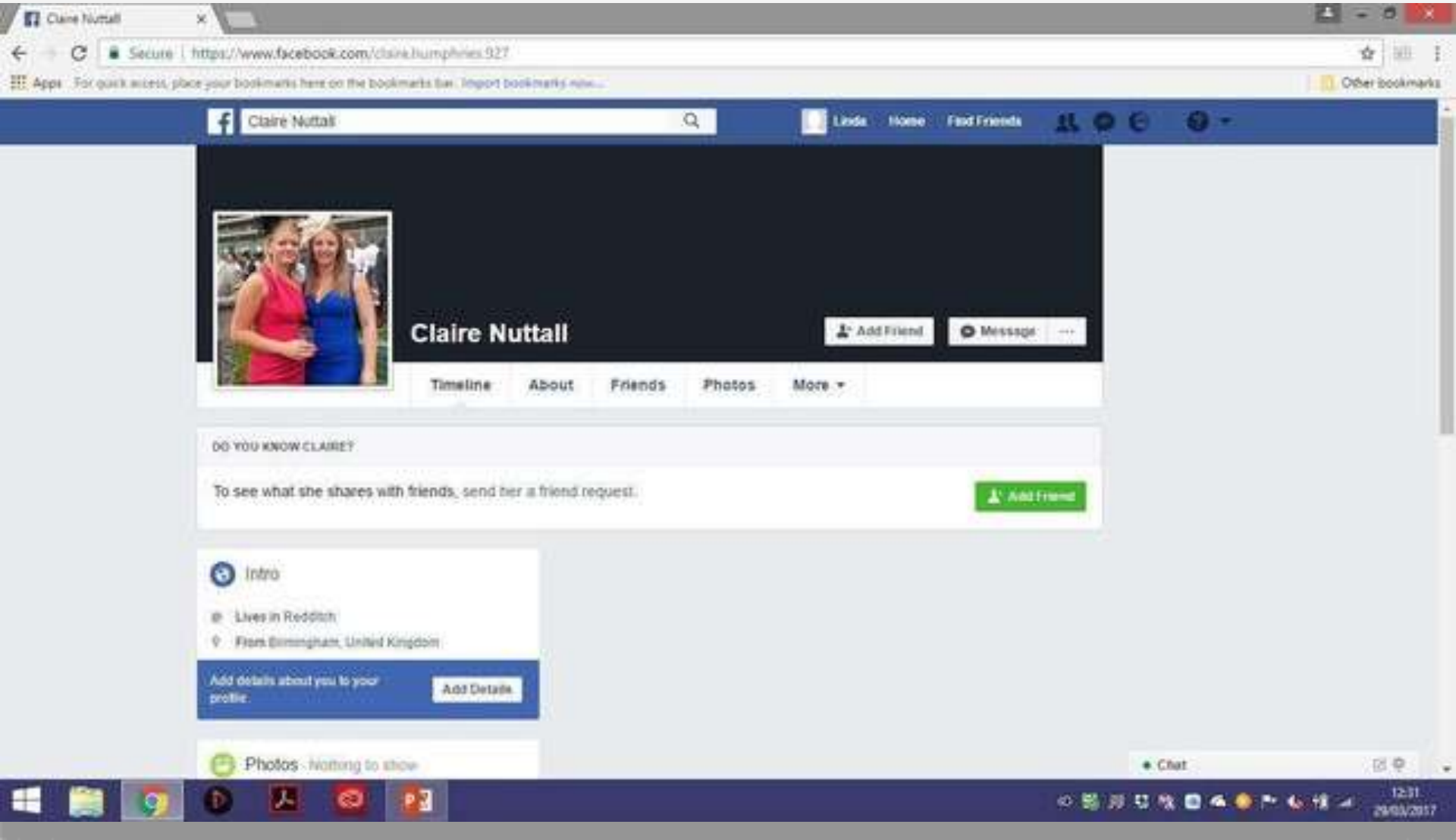
*If you have a Facebook profile, you can lock **your door** to the information you know exists*

*However, you can't lock other doors or corridors across Facebook. Your posts, comments, photos etc etc may be available through other routes*

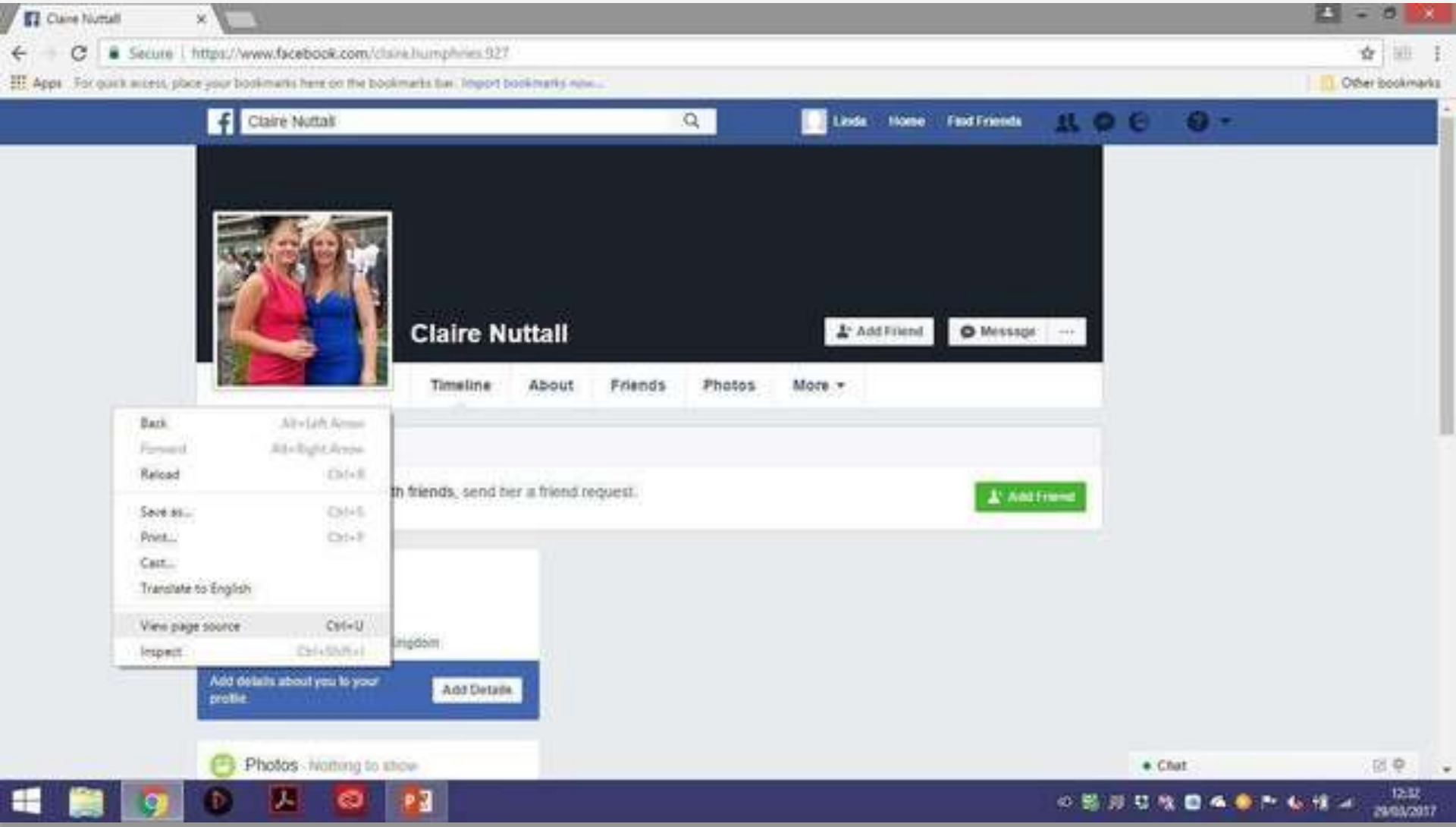
*Also, whilst Facebook may (and it is a big may) apply the security you demand through the Facebook search box – there is another way in.*

*- The URL search bar of your web browser*

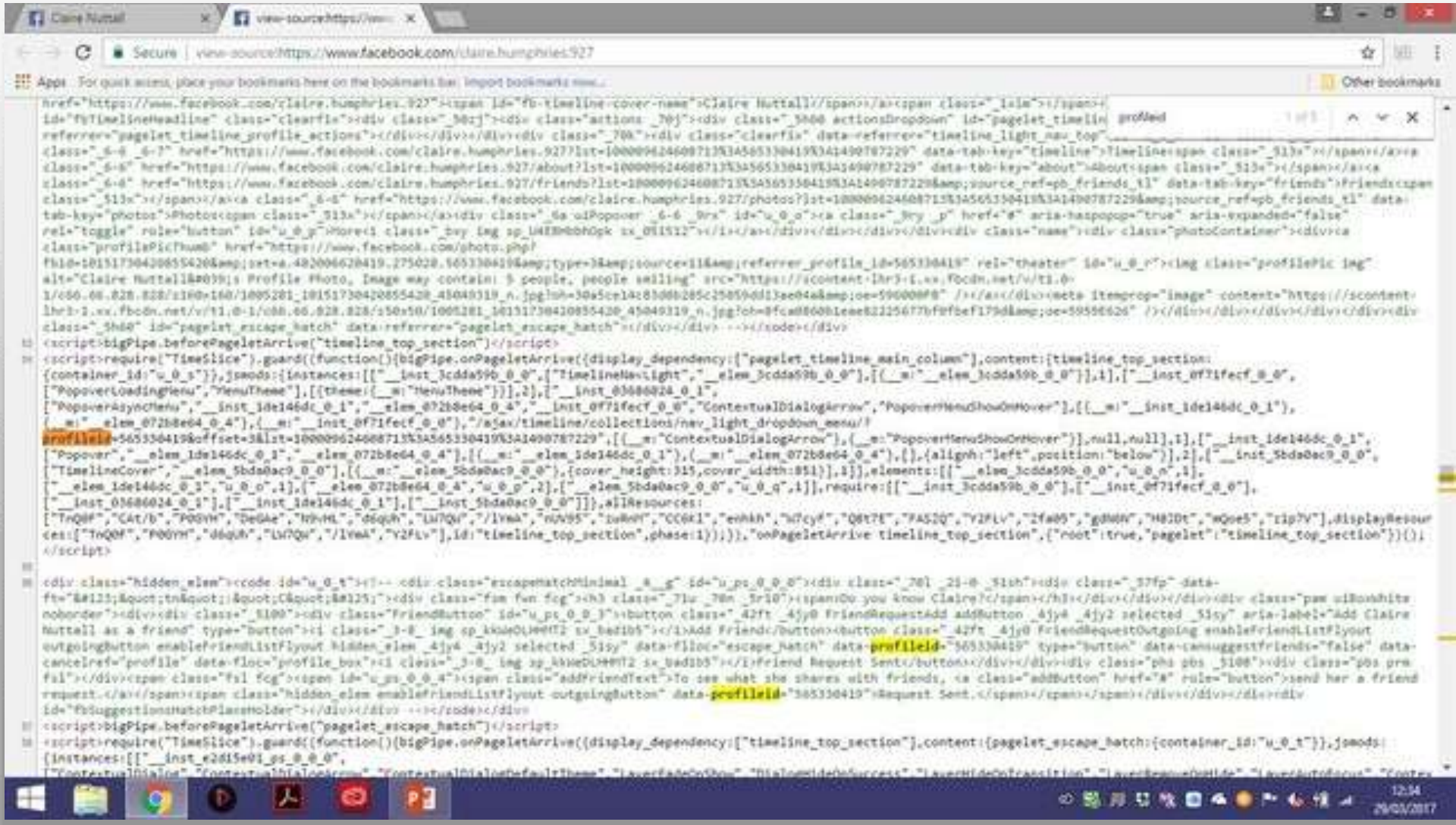
# This profile is completely locked down – no friends, photos etc to show



# Find the Facebook Profile ID – right click on a blank area. Then click ‘View page source’

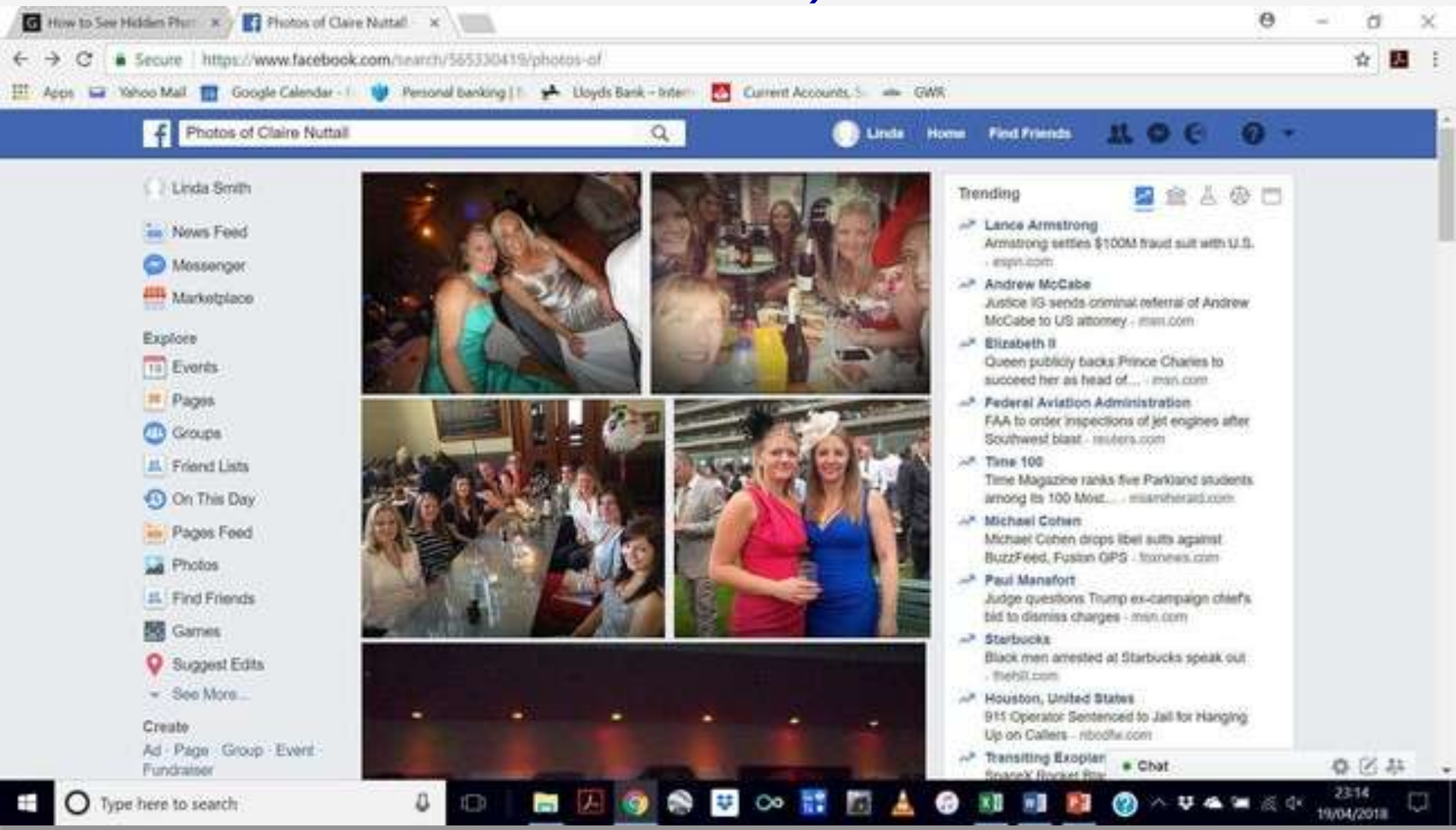


# Ctr–F opens a search box – type profileid - then profile ID is 565330419



# https://www.facebook.com/search/565330419/photos-of

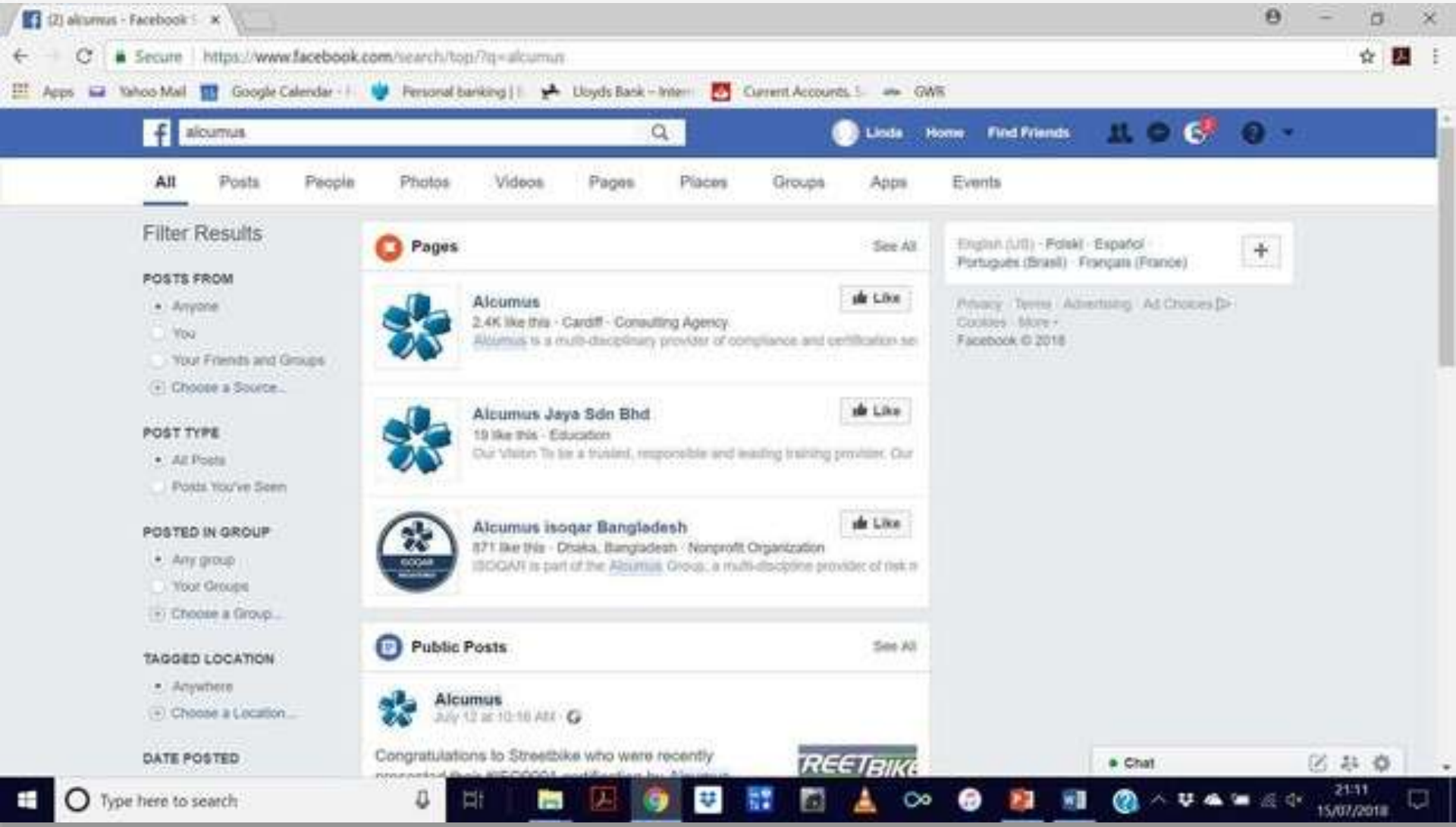
***Profiles – comments – places – husband (location and address)***



# What about businesses – or even anything that is not a personal profile?

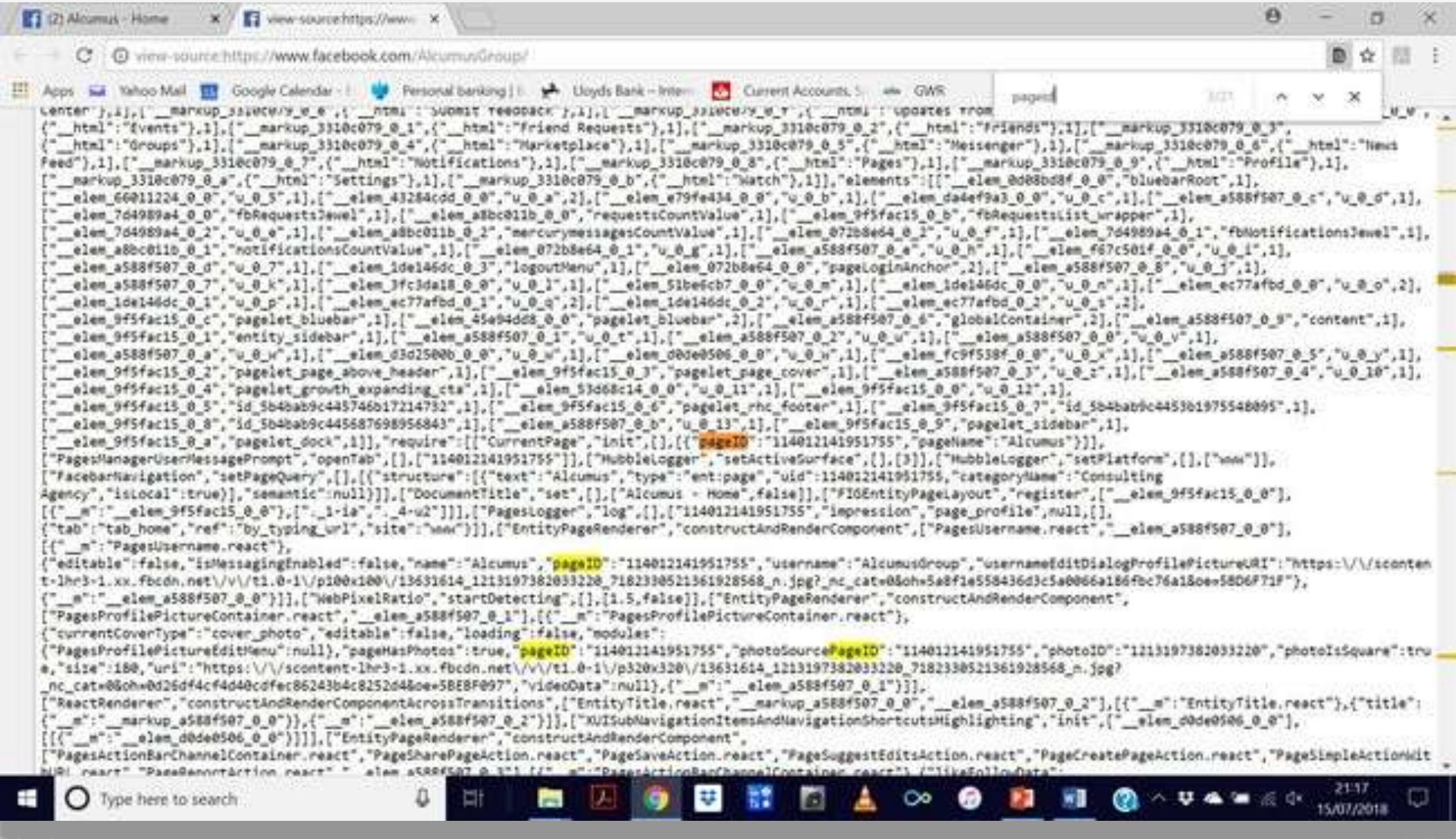
*Using the URL browser we can search specific terms on Facebook and also use keywords to find what we are looking for*

# Lets research Alcumus –
# Type a search in the facebook search box



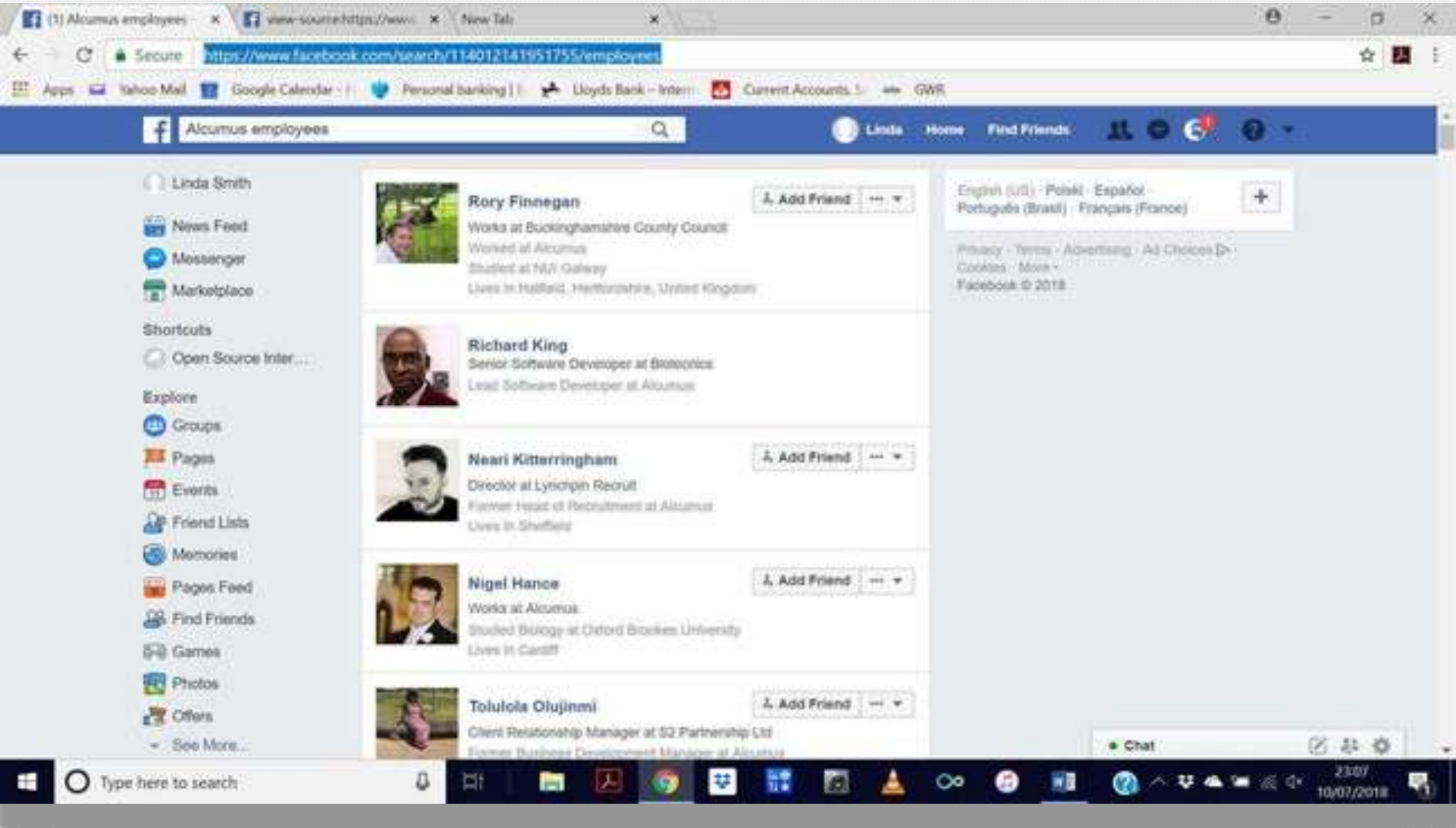
# Employees and other activity not visible directly from here, so – view page source

# This is not a profile – it is a page
# So the command is pageid

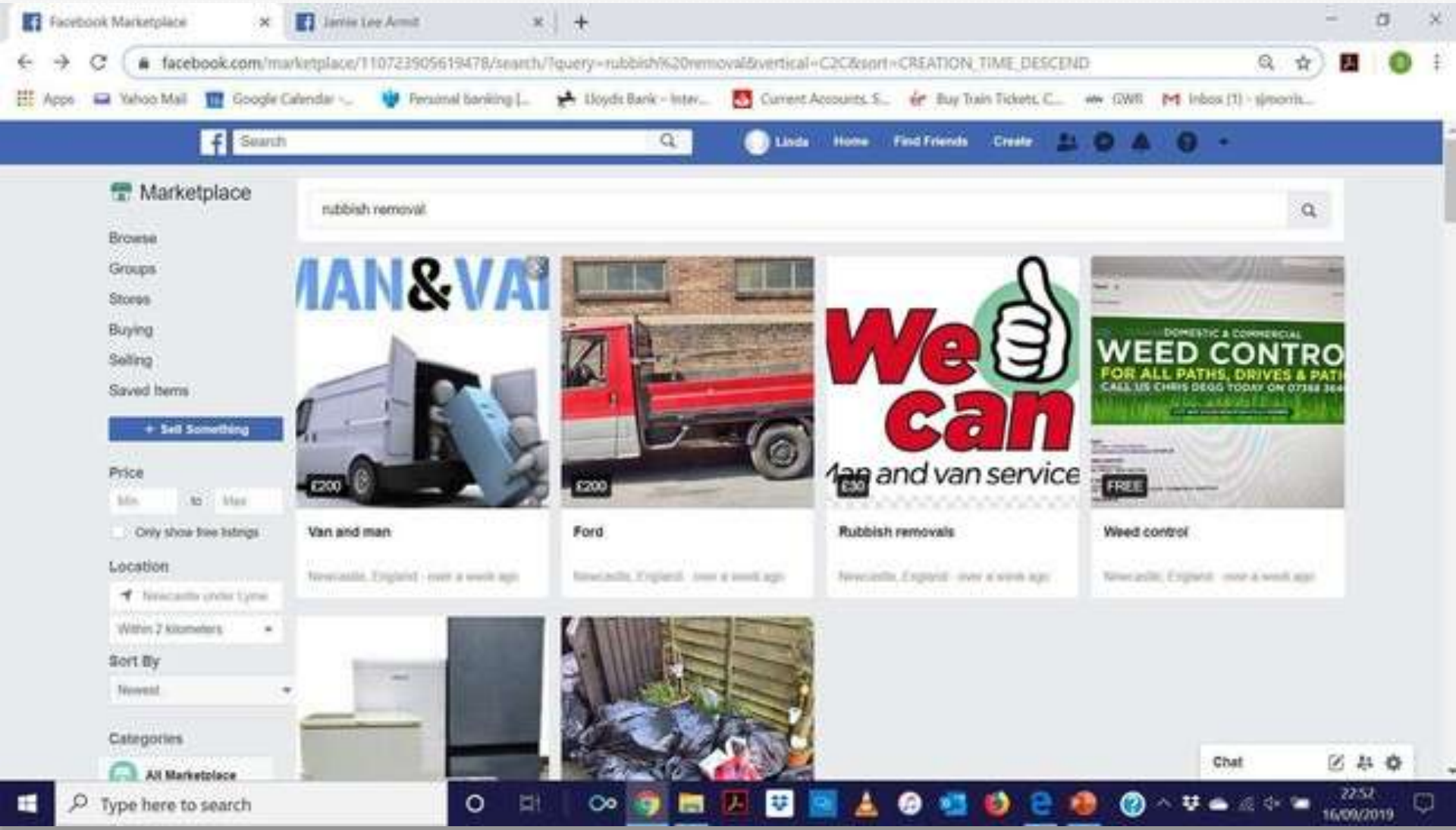


https://www.facebook.com/search/114012141951755/employees

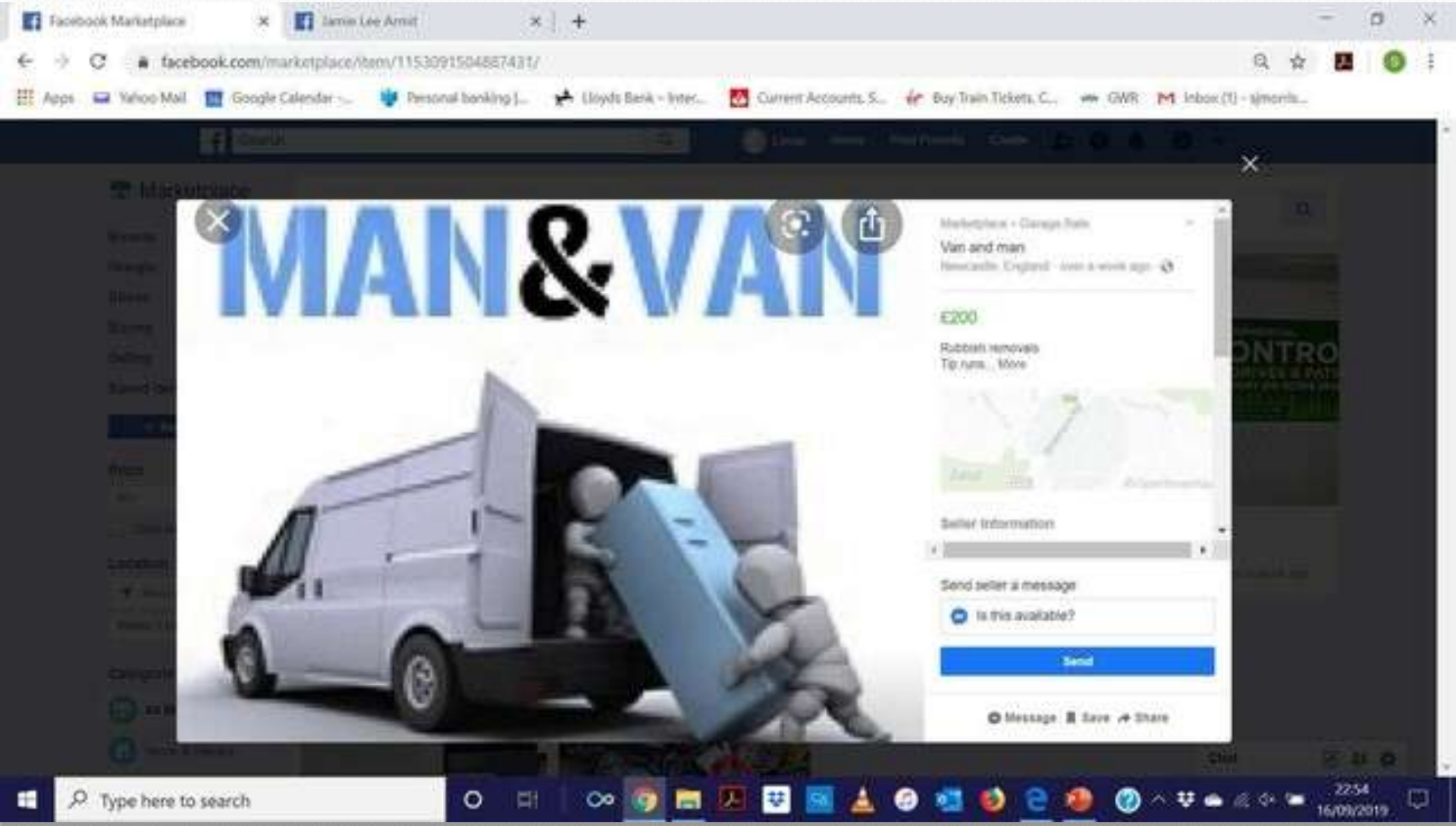
**about 135 people – personal profiles and personal data**



# Market Place – rubbish removal

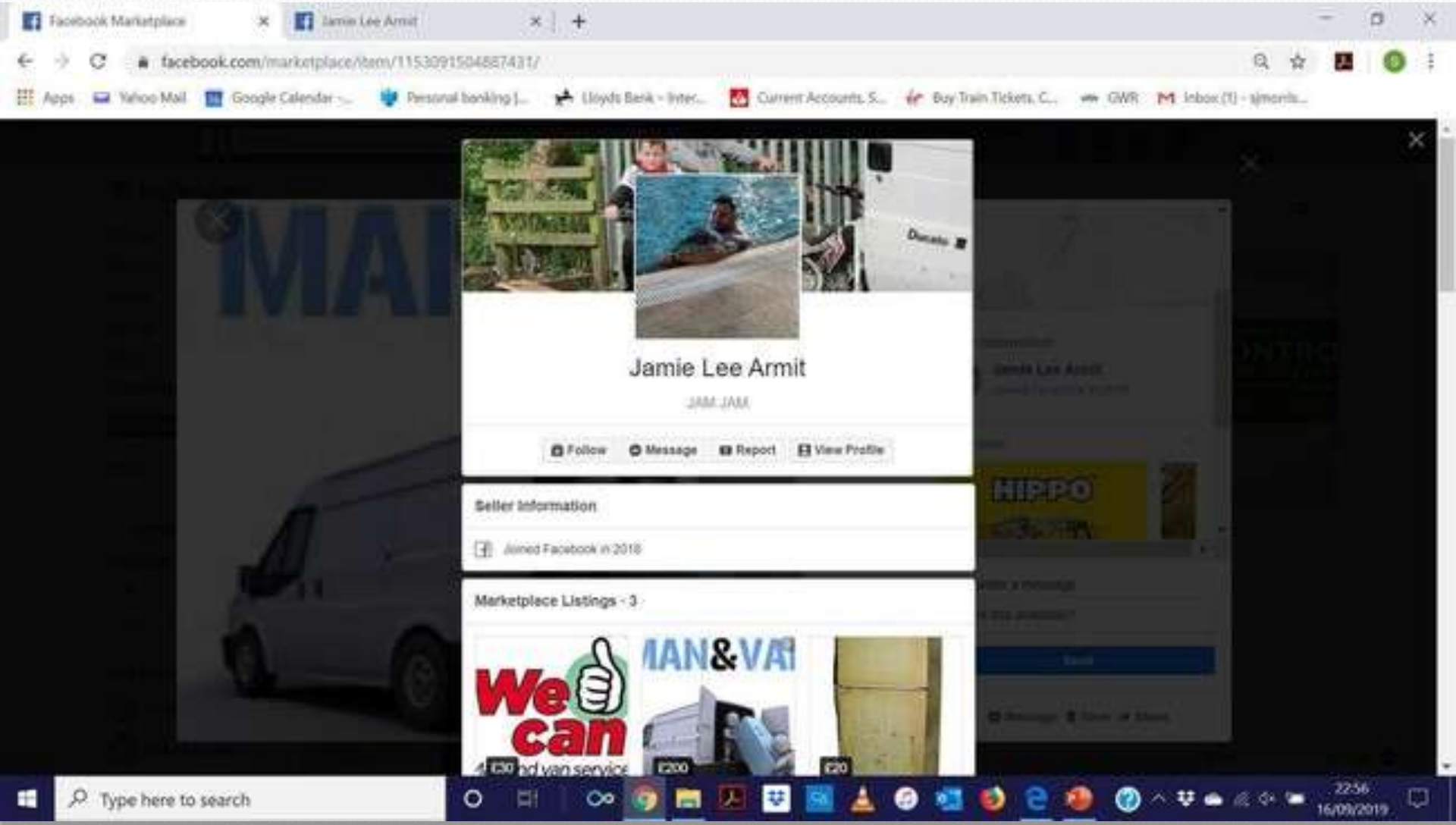


# Market Place – rubbish removal

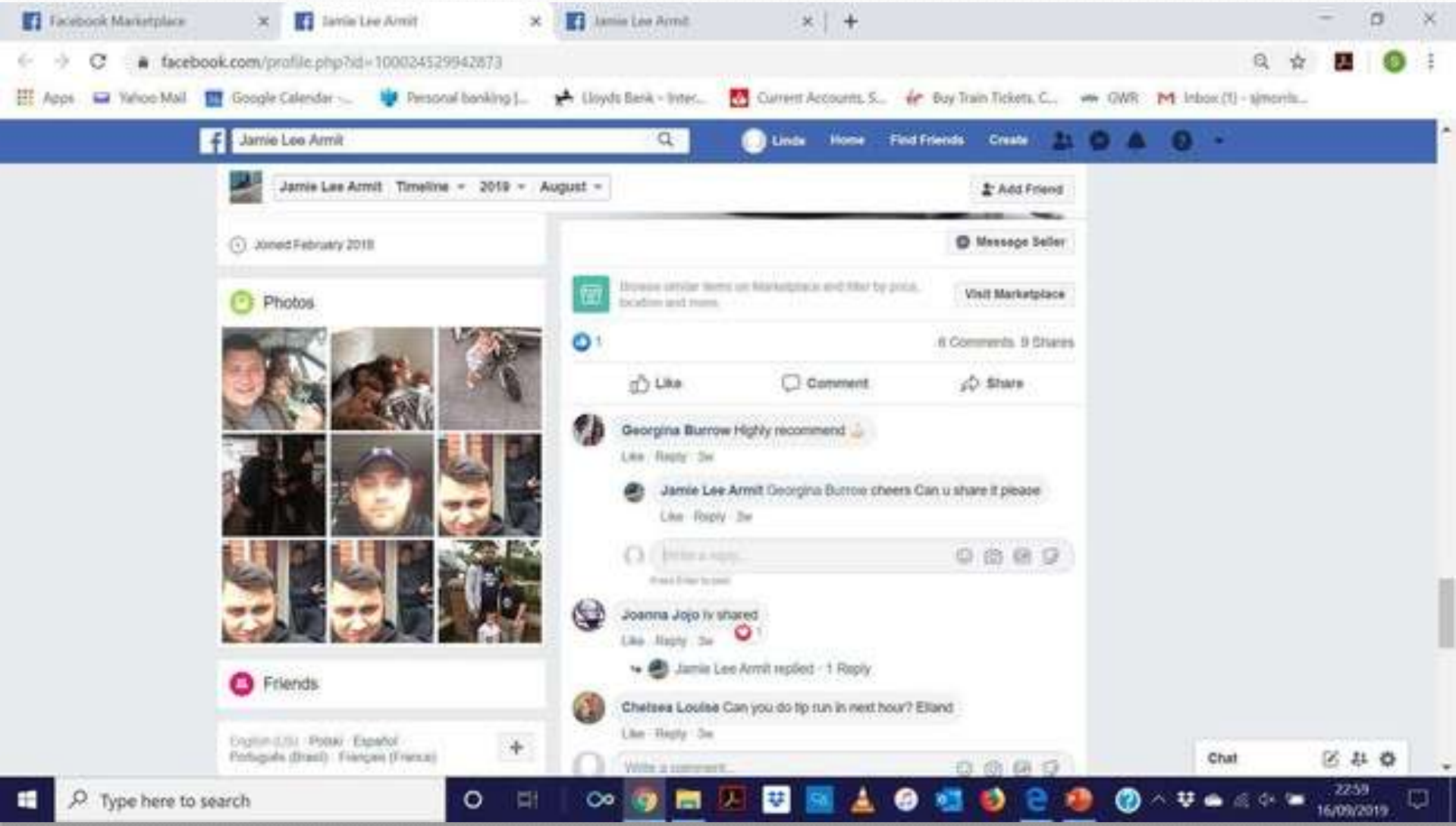


# Market Place – Jamie Lee Armit

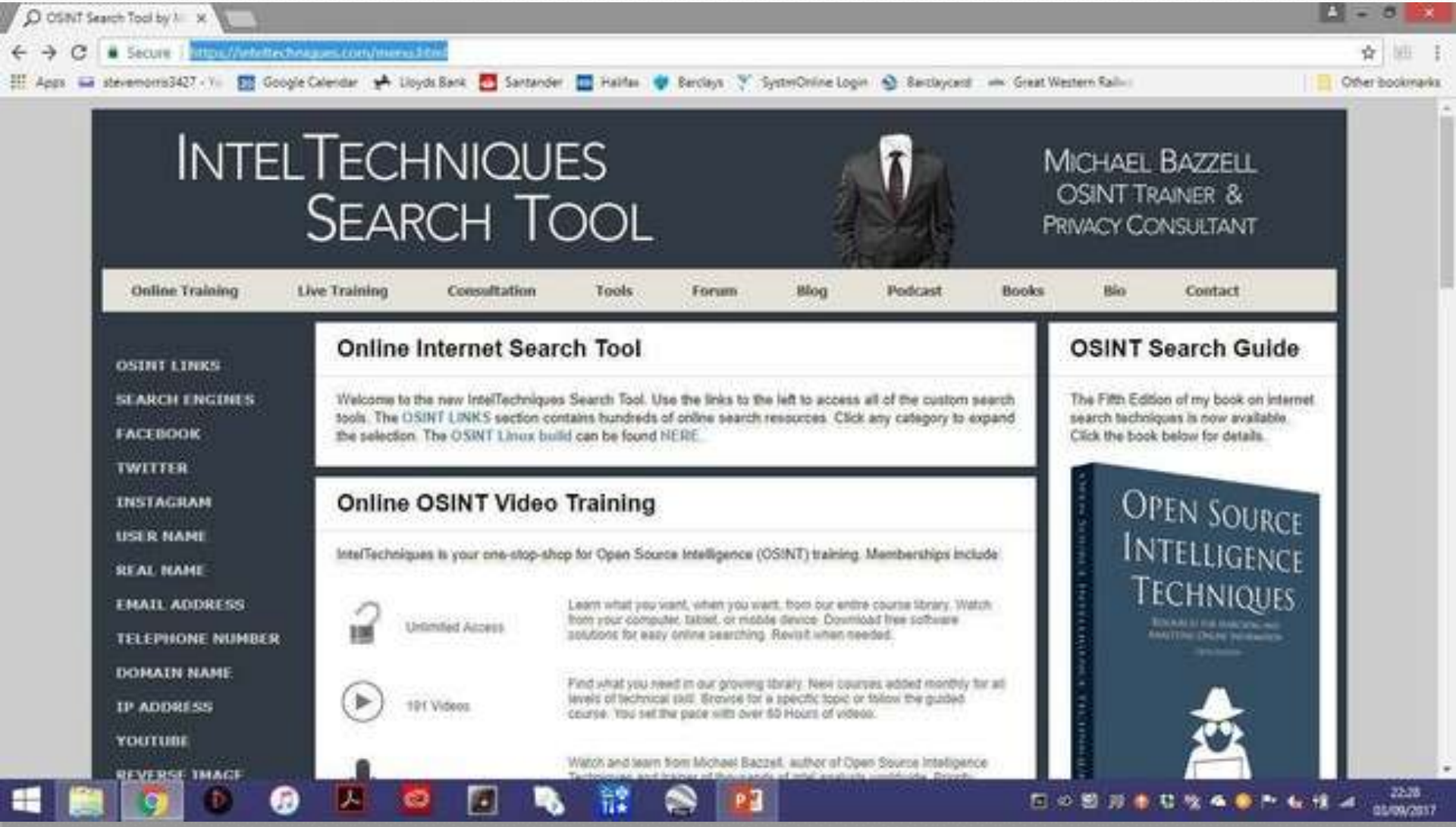
# Market Place – Jamie Lee Armit



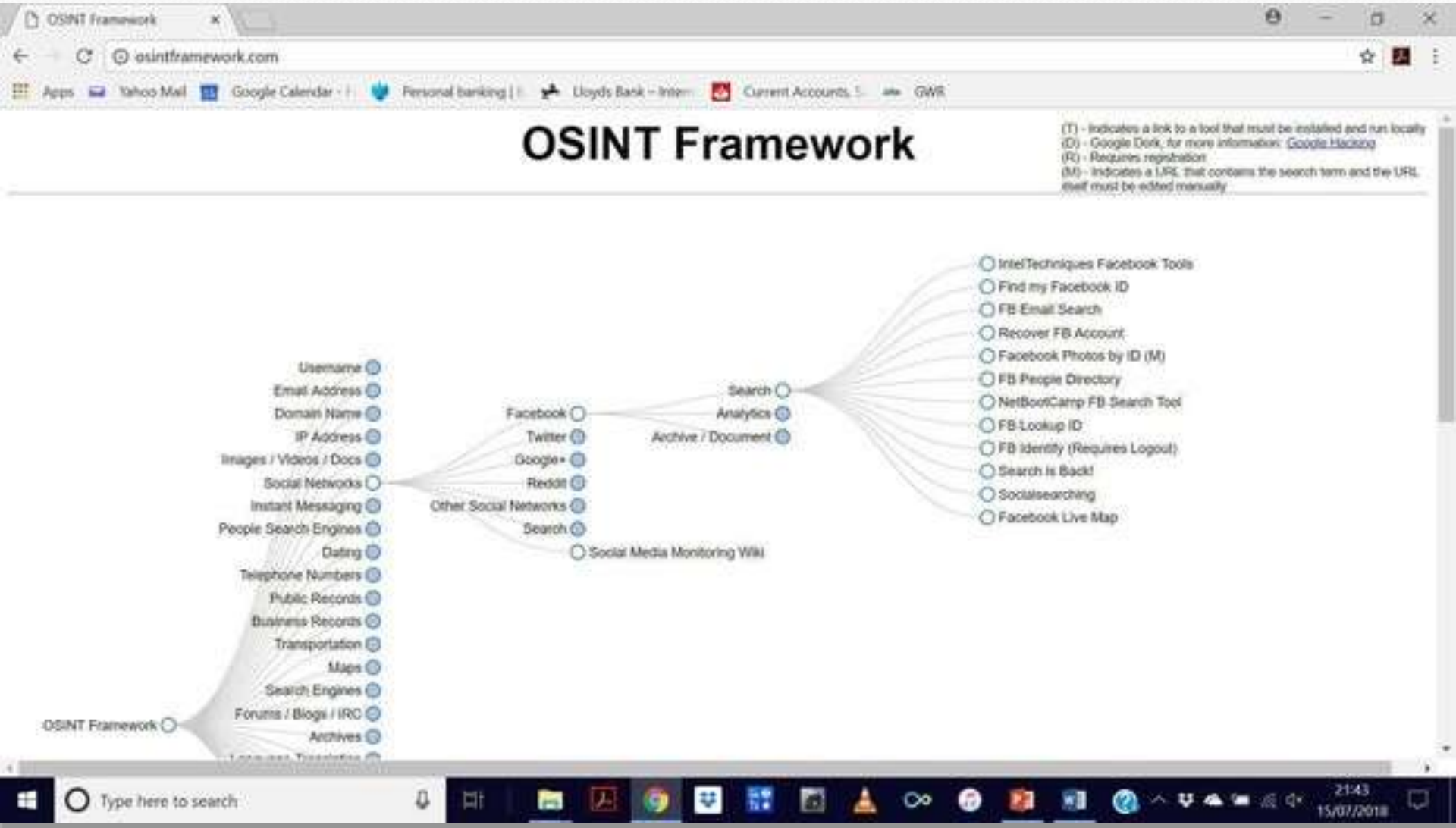
# Personal Profile – Jamie Lee Armit



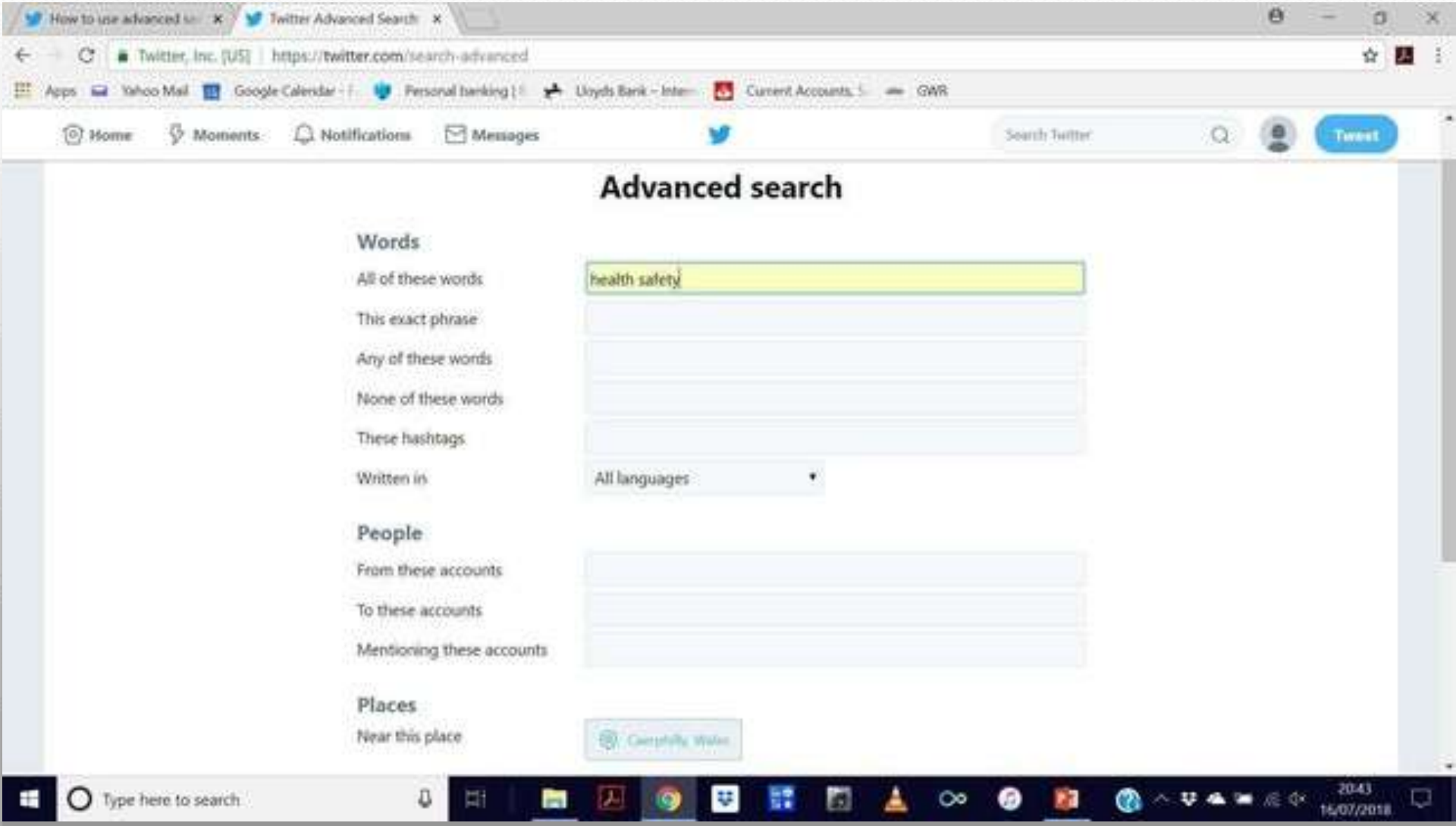
https://inteltechniques.com/menu.html



# http://osintframework.com/



# Twitter – Click ADVANCED SEARCH – enter data



Next steps

- Obtain an email address
- Open accounts/profiles
- Adjust your settings
- Will need a mobile number for authentication

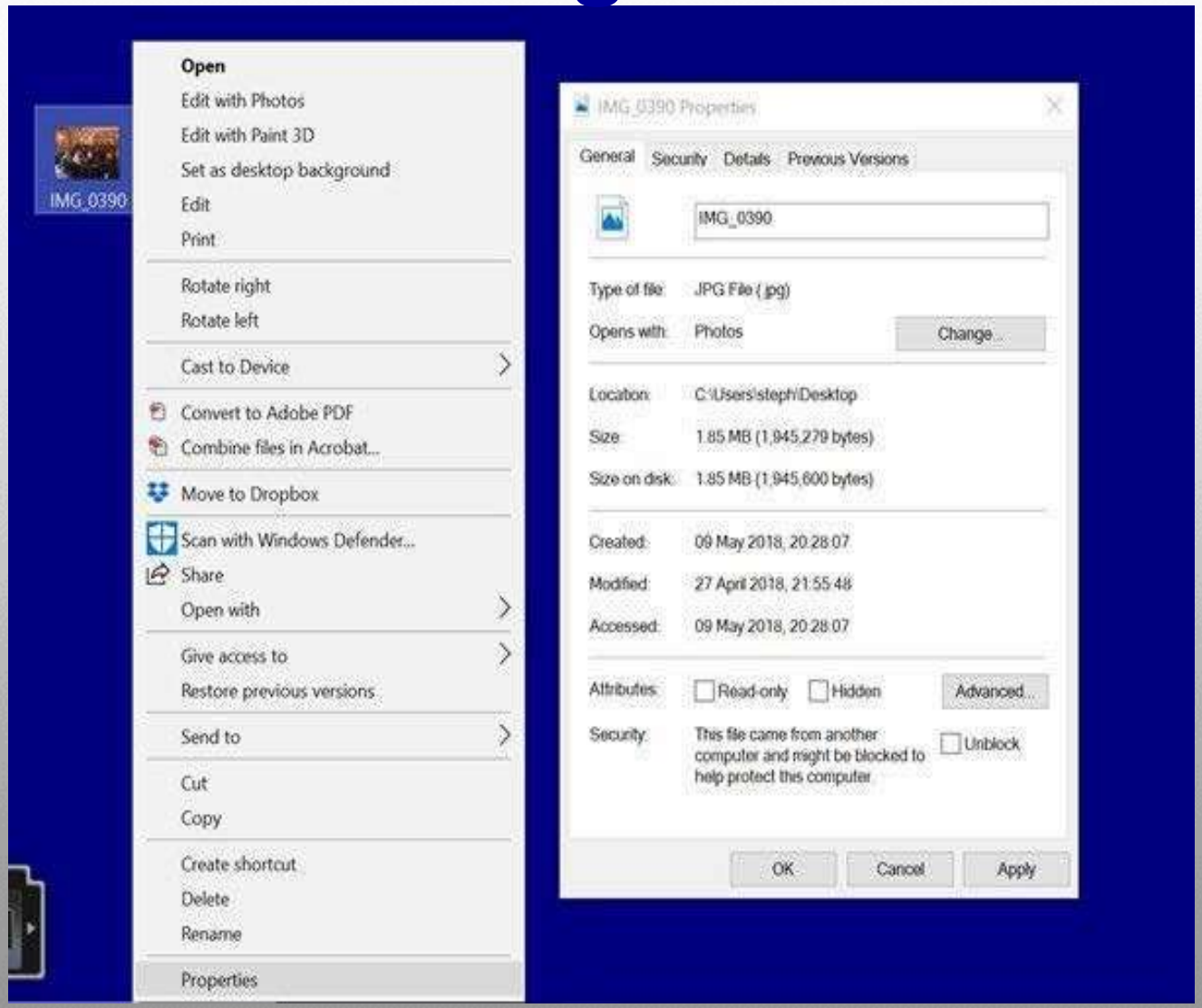
# Images

# First - Terminology

- JPEG, TIFF, GIF, PNG, Raw
- Metadata
- EXIF
- GPS Co-ordinates (percentages or degrees)
- Facial recognition
- Machine learning
- Processing software (adobe elements etc)

# Images

# Images


IMG_0390
Open
Edit with Photos
Edit with Paint 3D
Set as desktop background
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Cast to Device
Convert to Adobe PDF
Combine files in Acrobat...
Move to Dropbox
Scan with Windows Defender...
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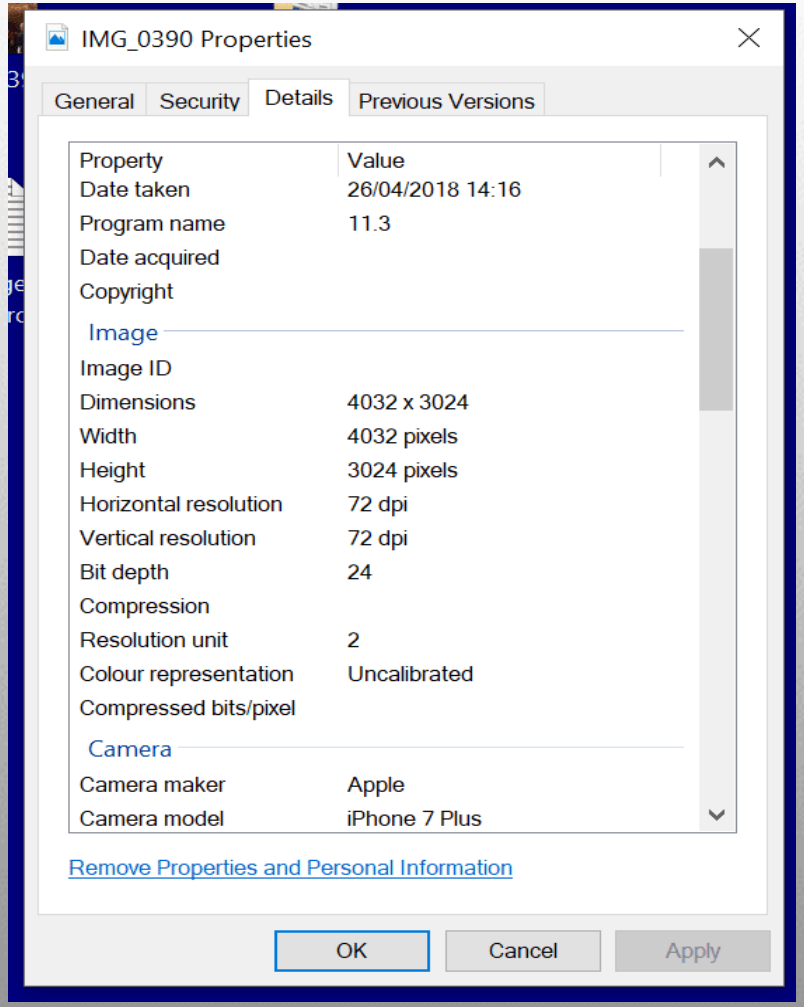
IMG_0390
Type of file: JPG File (.jpg)
Opens with: Photos
Change...
Location: C:\Users\steph\Desktop
Size: 1.85 MB (1,945,279 bytes)
Size on disk: 1.85 MB (1,945,600 bytes)
Created: 09 May 2018, 20:28:07
Modified: 27 April 2018, 21:55:48
Accessed: 09 May 2018, 20:28:07
Attributes: Read-only Hidden
Advanced...
Security: This file came from another computer and might be blocked to help protect this computer
Unblock
OK
Cancel
Apply

# Images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Vertical resolution
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Bit depth
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Compression
Resolution unit
2
Colour representation
Uncalibrated
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Camera
Camera maker
Apple
Camera model
iPhone 7 Plus
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OK
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Longitude
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Cancel
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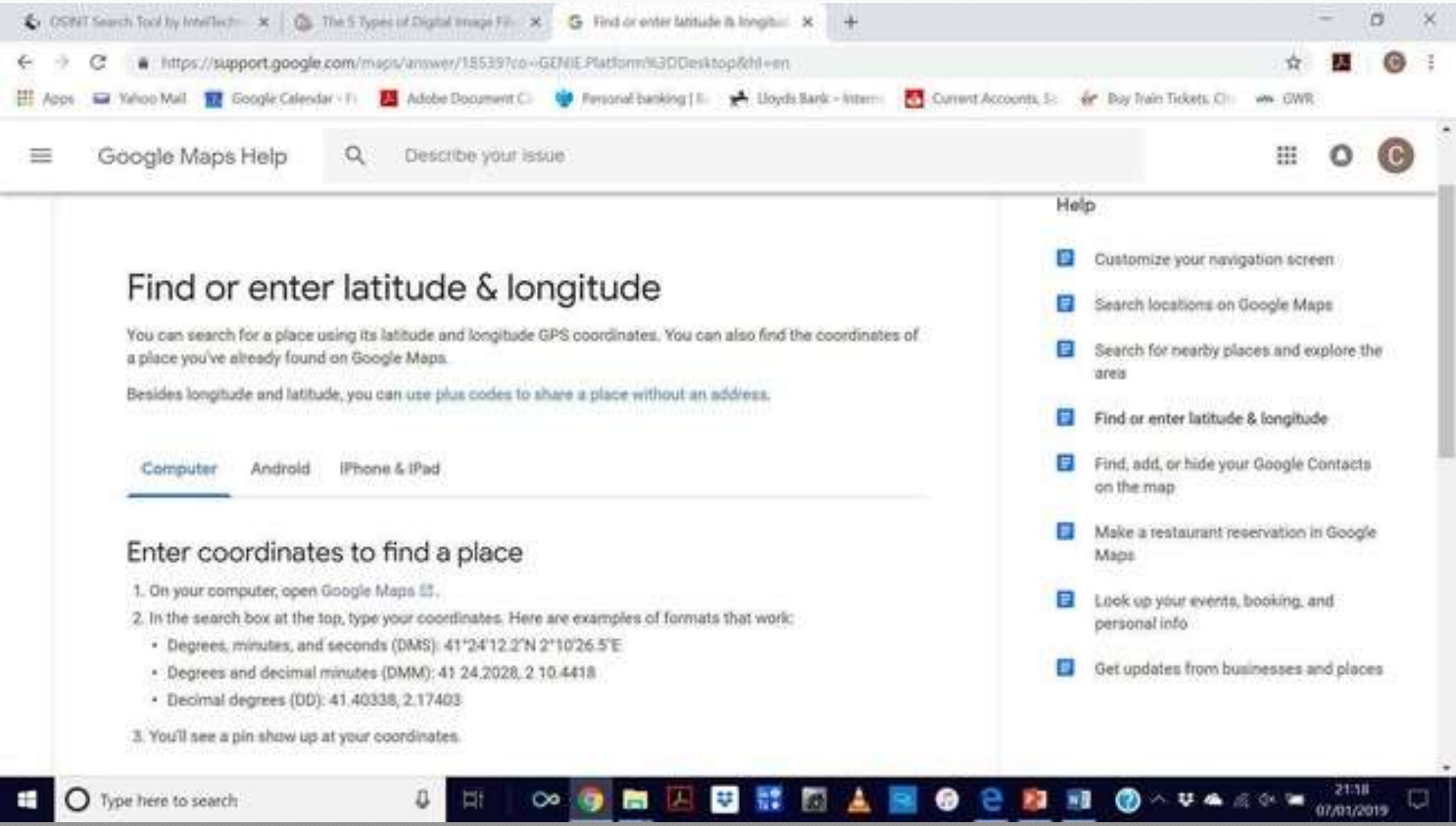
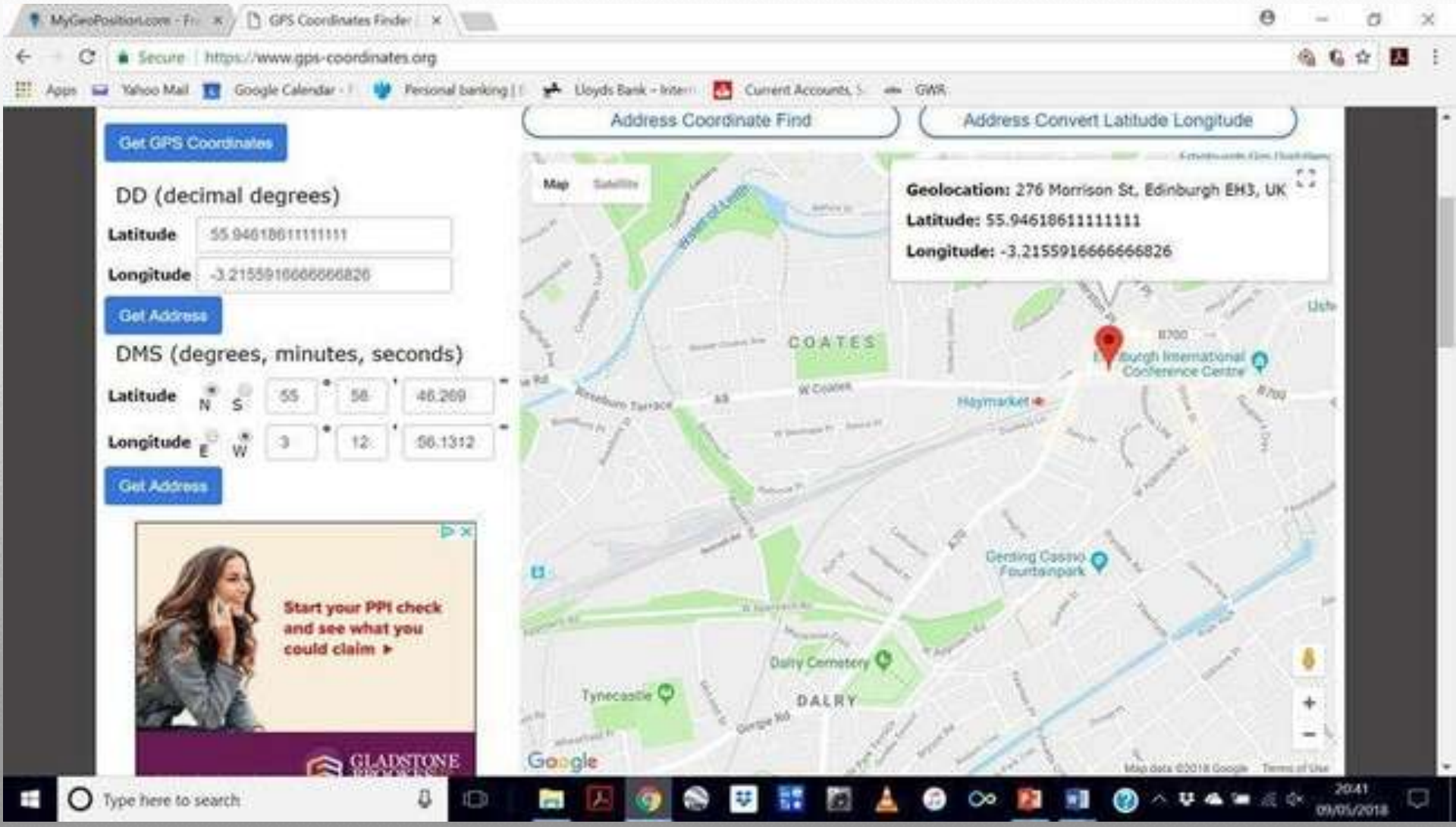
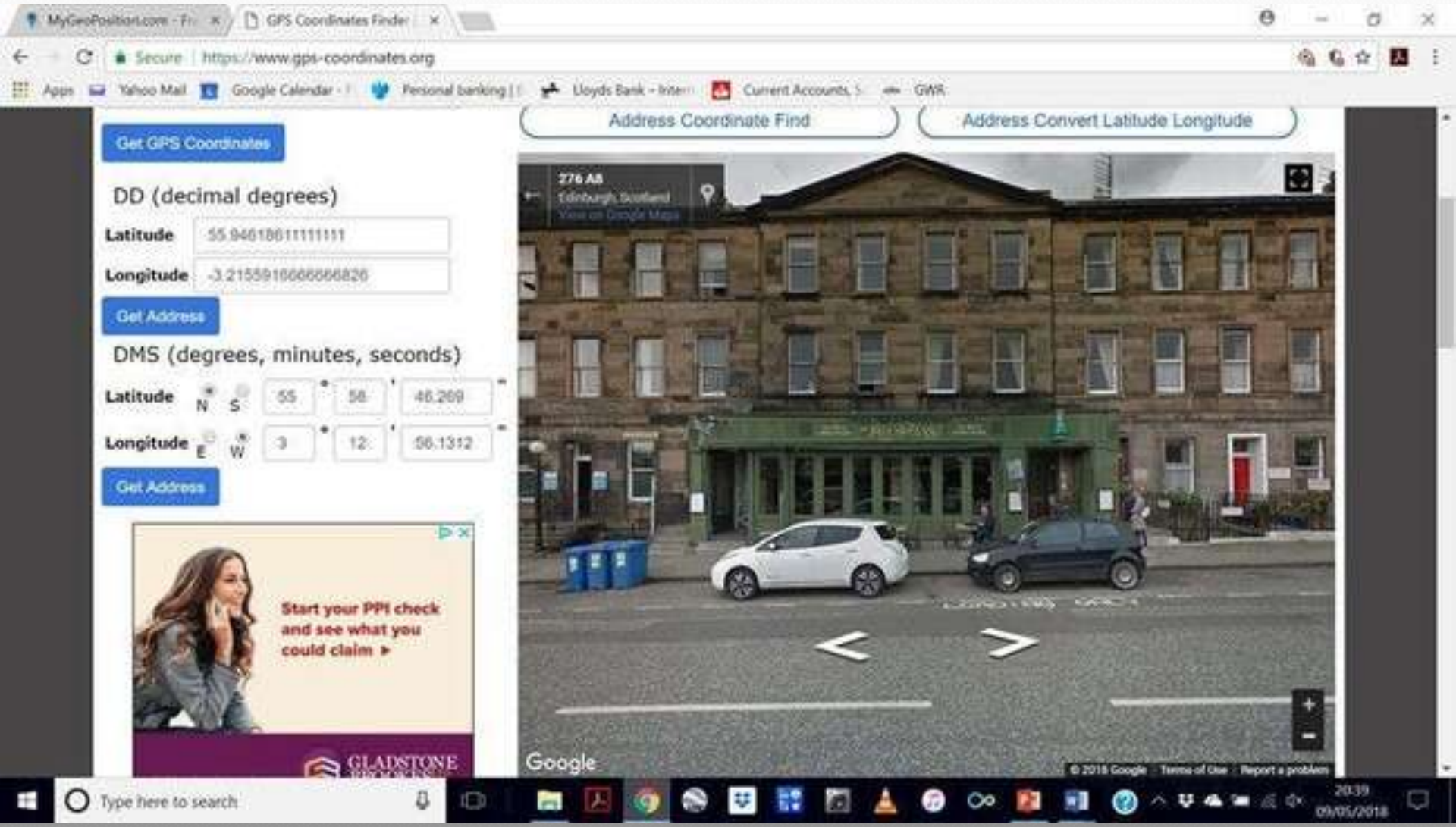
# Google maps help



# https://www.gps-coordinates.org/



# Images


GPS Coordinates Finder
https://www.gps-coordinates.org
Get GPS Coordinates
Address Coordinate Find
Address Convert Latitude Longitude
DD (decimal degrees)
Latitude
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Longitude
-3.2155916666666826
Get Address
DMS (degrees, minutes, seconds)
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58
46.269
Longitude
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Get Address
Start your PPI check and see what you could claim ▸
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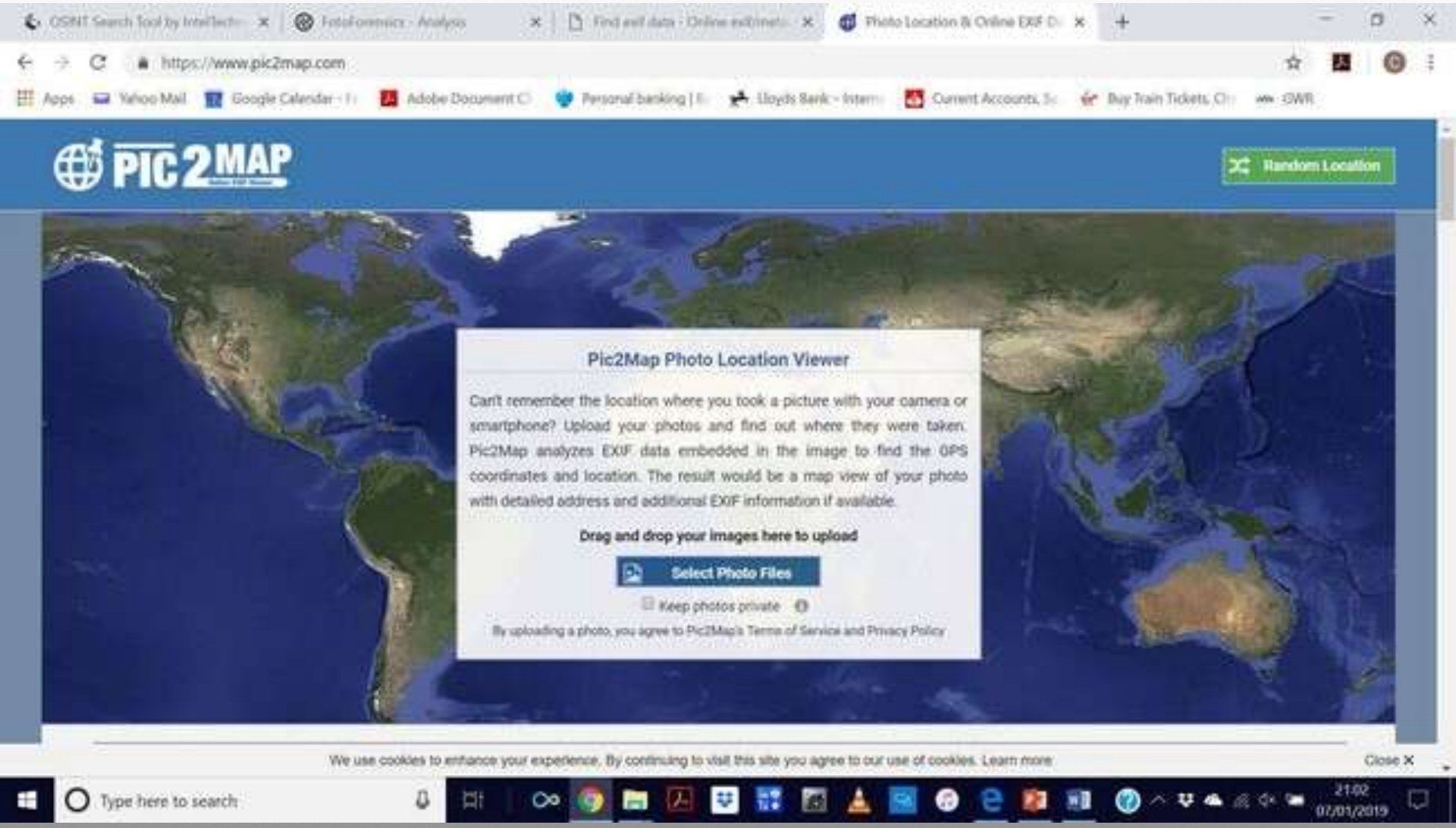
Edinburgh, Scotland
Google
Type here to search

# http://fotoforensics.com/

# https://www.pic2map.com/



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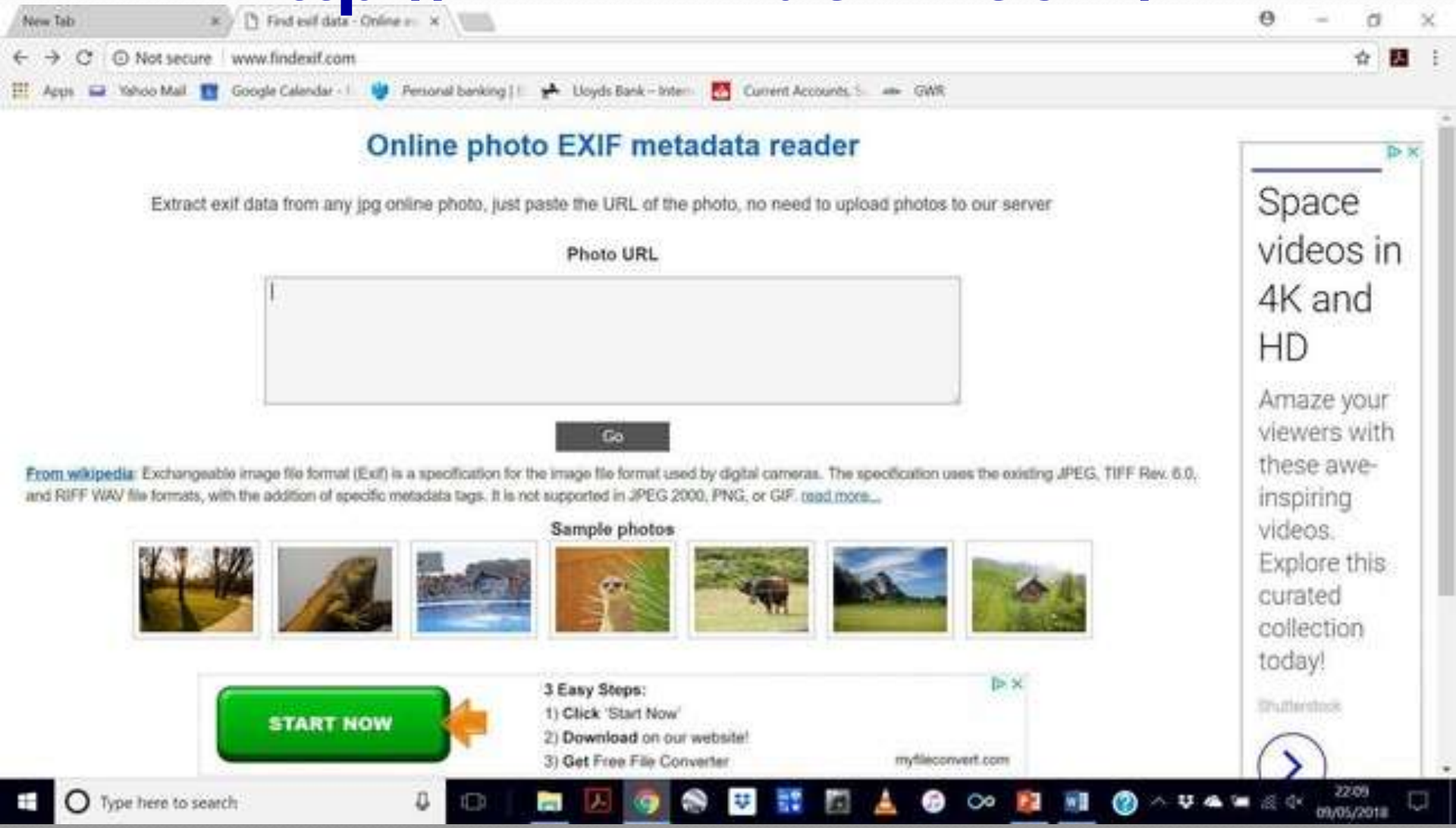

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logo.png

Show all

13/03/2017

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Compare Match

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C i Secure https://www.facebook.com/stephen fmorris *

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• Chat

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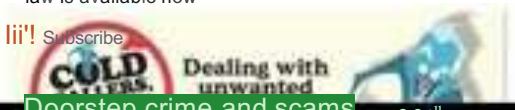


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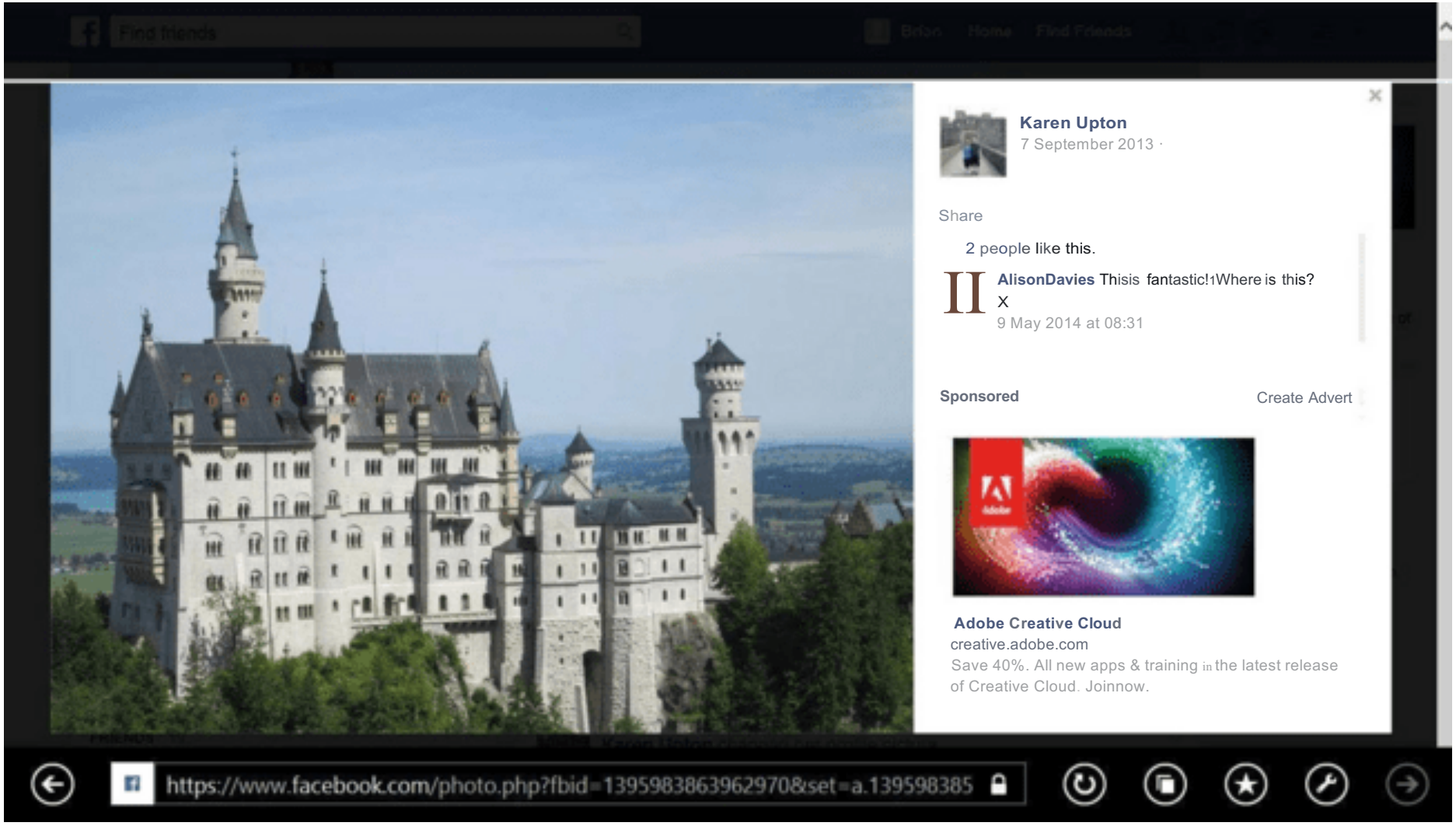
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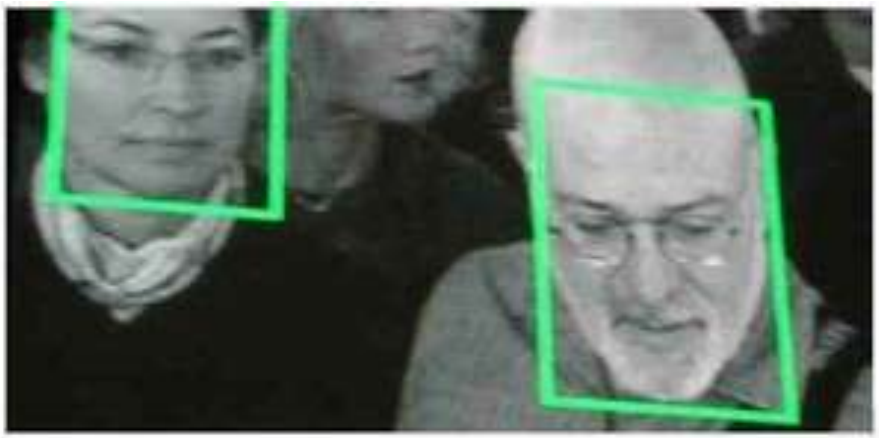

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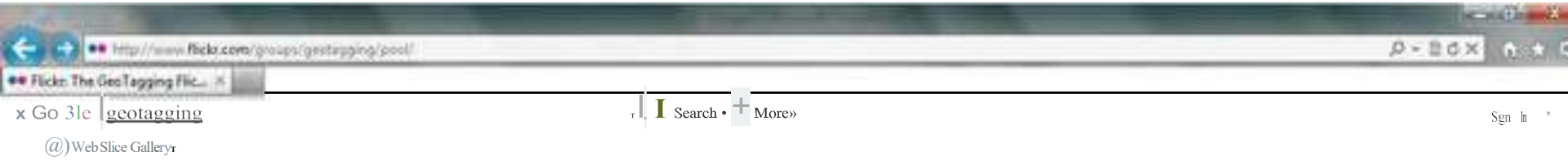


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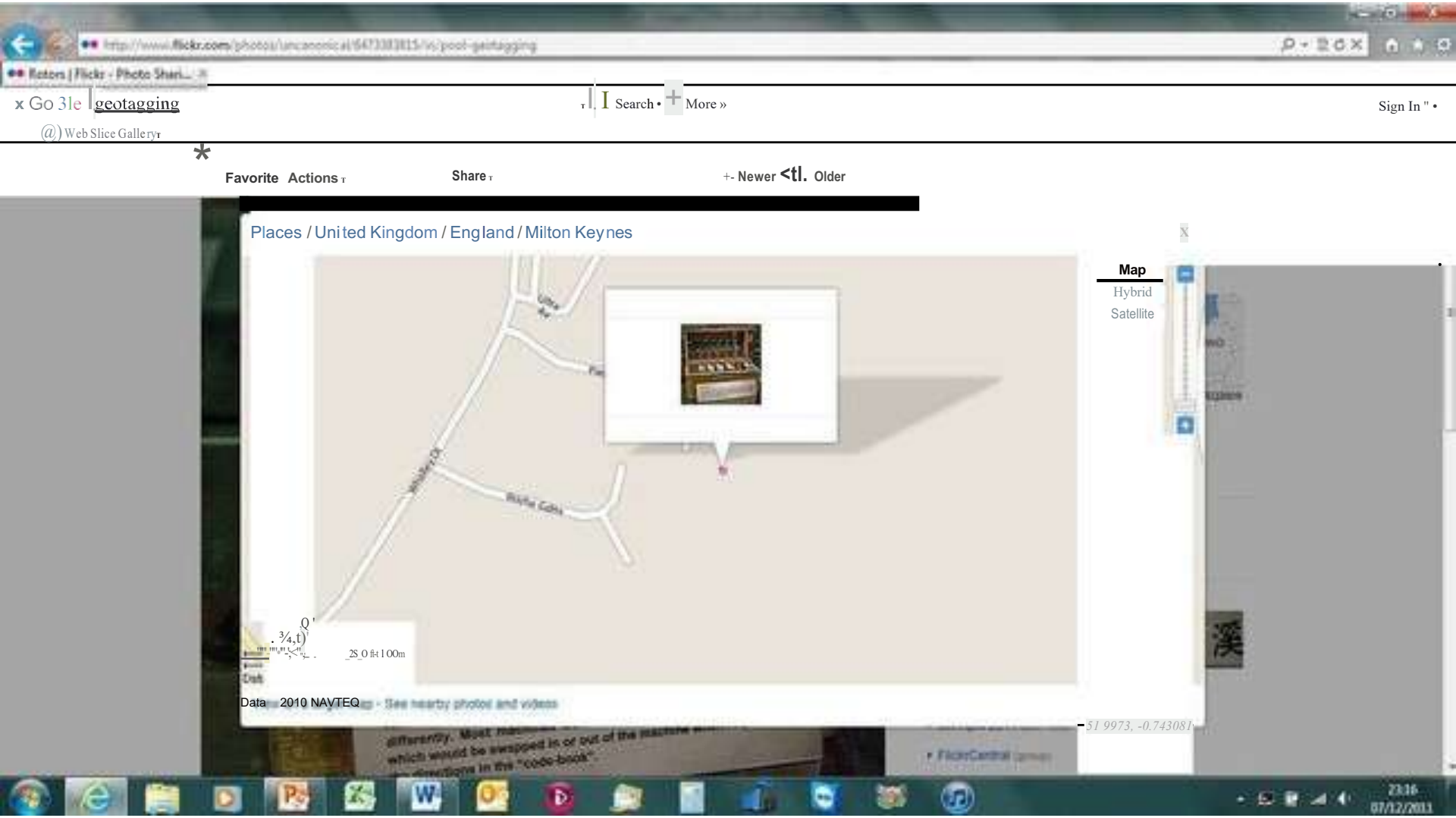
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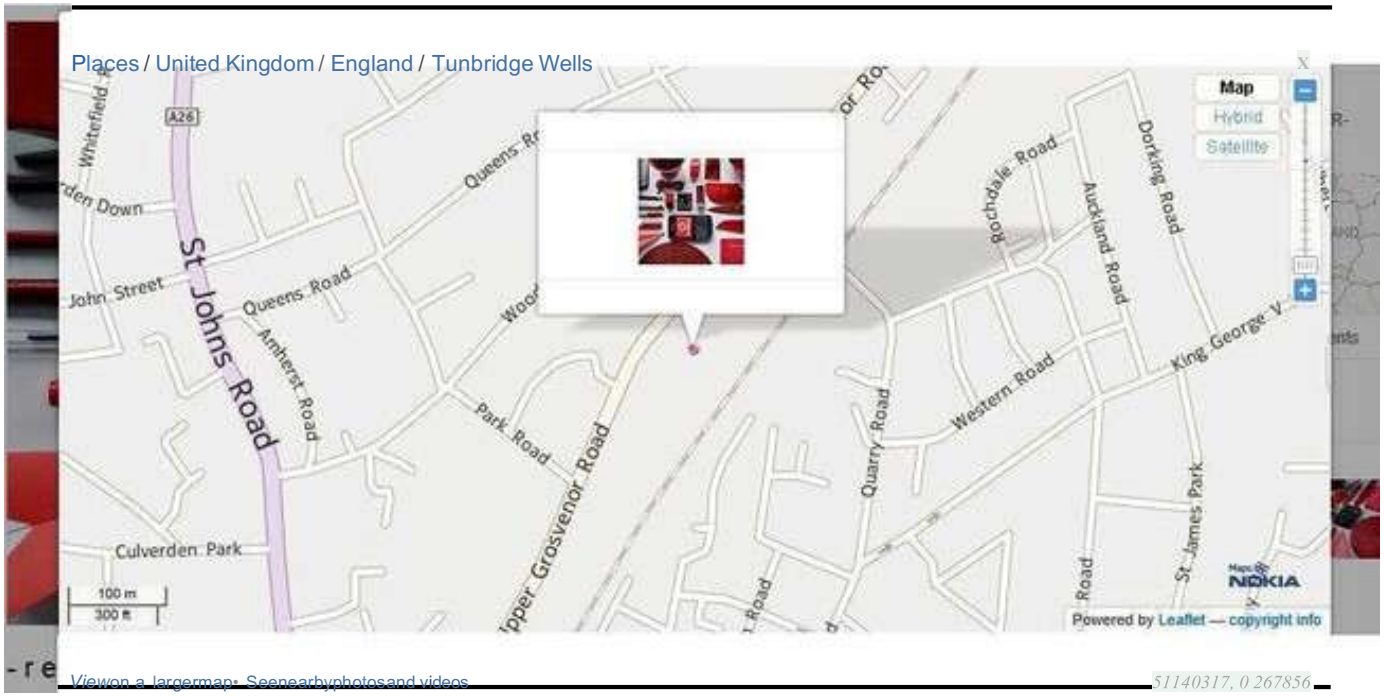


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- Hover mouse of video whilst not playing and it might appear – if not, start the video to force it to link to the site of origin, then hover mouse of playing video
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- Or is it intelligence that provides a link to evidence?
- How can we prevent others identifying the intelligence and methods of investigation?
- Sensitive method of investigation
- CPIA

# 11.10 POLICY ON THE DISPOSAL OF SURPLUS AND UNDERUSED LAND AND PROPERTY OWNED BY THE COUNCIL

## 1. AIMS OF THIS POLICY

1.1. It is government policy that local authorities should dispose of surplus and under-used land and property wherever possible. The Council has fairly wide discretion to dispose of its assets (such as land or buildings) in any manner it wishes. When disposing of assets, the Council is subject to statutory provisions, in a majority of cases to the overriding duty, under section 123 of the Local Government Act 1972, to obtain the best consideration that can be reasonably obtained for the disposal. This duty is subject to certain exceptions that are set out in the General Disposal Consent (England) 2003.

1.2. The way the Council manages its land/property assets can have a significant impact both on the quality of services delivered to the public and the local environment. Effective asset management is essential in bringing 'agility' to land and property assets so that the delivery of the Council's goals and objectives are realised in a sustainable manner, at the right time and on budget. The Strategic Asset Management Plan demonstrates the Council's approach to managing its land/property assets.

1.3. The Council considers the business case for disposing of any assets that are no longer of any use to it and is unlikely to be in the future or which provides only a benefit that is disproportionate to the opportunity cost of the capital tied up in the asset.

1.4. Each asset disposal is treated on its own merits and nothing in this Policy will bind the Council to a particular course of action in respect of a disposal. Alternative methods of disposal not specifically mentioned in this Policy may be used where appropriate, subject to obtaining the necessary authority (see section 9 below).

1.5. This Policy:

- sets out the procedure to be adopted in connection with the disposal of surplus and under-used assets and ensures that requests to purchase Council owned assets are dealt with in a fair and consistent manner and that any person who may have an interest in making an offer to purchase, has the opportunity to do so in circumstances no less favourable than anybody else;

- distinguishes requests for small areas of land that may be considered for sale by private treaty and larger areas with development potential that should be sold on the open market.

1.6. Although this Policy will normally be followed, there will be occasions where the procedure may need to be changed, particularly for larger, more complex land/property sales.

## 2.THE 'SURPLUS' TEST

Land/property will be deemed surplus to the Council's requirements where:

(a) it makes no contribution to the delivery of the Council's services, strategic or corporate objectives;
(b) an alternative site has been identified which would be more cost effective in delivering

the Council's services, strategic or corporate objectives;

(c) it has no potential for strategic or regeneration/redevelopment purposes in the near future;

(d) it will not contribute to the provision of a sustainable pattern of development;

(e) it makes no contribution to protecting and enhancing the natural, built and historic environment, including making no contribution to helping to improve biodiversity.

The Council is required to publish details of land/property, which it has declared surplus to requirements[1].

3. THE 'UNDER-USED' TEST

Land/property will be deemed to be under-used if:

(f) part of the site is vacant and is likely to remain vacant for the foreseeable future;

(g) the income being generated from the site is consistently below that which could be achieved from:

(i) disposing of the site and investing the income;
(ii) an alternative use;
(iii) intensifying the existing use;

(h) only part of the site is used for service delivery and this could be delivered from an alternative site;

(i) it makes no contribution to protecting and enhancing the natural, built and historic environment, including making no contribution to helping to improve biodiversity.

In the case of open spaces, amenity areas and similar sites, the under-used test should also consider the 'community value' of the asset, which would include visual amenity and not be limited solely to income generation or whether the site is vacant etc.

[1]Local Government Transparency Code 2015

The Council is required to publish details of land/property, which it has deemed to be under-used[2].

MEANING OF DISPOSAL

For the purposes of this Policy, a disposal means any freehold disposal, by sale or exchange, of Council owned land/property (including buildings) and any disposal by the granting of a lease or licence for a period greater than 7 years. Leases of 7 years or less or assignment of a term which has not more than 7 years to run are not covered by this Policy, as they are exempt from the statutory requirement to obtain best consideration.

Disposal takes place at the time of completion and not exchange[3].

**Land held for housing purposes**: There is a general power of disposal under section 32 of the Housing Act 1985, with general consents issued by the Secretary of State (see A3.2 of the

general consent).

There is no requirement to obtain market value/best consideration under this general consent. However, the Council is remains subject to general fiduciary duties to taxpayers.

MEANING OF BEST CONSIDERATION

'Best consideration' means achieving maximum 'value' from the disposal, not just maximum price. Disposal at less than market value must contribute to the 'promotion or improvement of the economic, social or environmental wellbeing of the area' [see section 1.2 of Appendix 1].

Unlike private and commercial landowners, a local authority is in the position of a trustee in relation to the land that it holds on behalf of the community and generally has a statutory duty to sell land at the best price reasonably obtainable. The Council will only be able to demonstrate that it achieved the best consideration by obtaining an appropriate valuation of the land.[4]

MEANS OF IDENTIFYING SURPLUS OR UNDER-USED LAND/PROPERTY

Surplus or under-used land/property may be considered for disposal:

(j) following an asset management review;
(k) following the identification of development opportunities;
(l) through a corporate property portfolio review;

[2]Local Government Transparency Code 2015
[3] Section 128(2) Local Government Act 1972 and R (on the application of Structadene Ltd) v Hackney LBC [2001] 2 All ER 225
[4] (Whitstable Society v Canterbury City Council [2017] EWHC 254 (Admin) (15 February 2017))

(m) through the declaration of specific sites as being surplus to requirements;*
(n) through identification in the Local Plan;
(o) following a direct approach from an interested party;
(p) where the disposal helps to deliver other Council objectives e.g. the provision of housing in the Borough;
(q) where management of the land/property is considered suitable for community ownership or has been determined as an 'asset of community value'.

*Where an under-used asset is generating an income, a cost/benefit analysis must be carried out to establish whether it is in the Council's best interests to dispose of the site.

DISPOSAL CRITERIA

6.1 **Open space (including, parks, playing fields & informal open spaces (excluding amenity land on Council housing estates) of 'public value' whether or not there is public access to it**– assets in this category are considered to be valuable community resources, to be enjoyed by the wider community. Open space also enhances the quality of urban life, the character of residential areas, the environment etc. There will be a general presumption against declaring these assets as surplus/under-used unless:

1. alternative provision of equivalent community benefit is made in the locality; or

2. the area in question no longer provides a valued opportunity for sport, recreation or leisure; or
3. there is an excess of provision taking into account the long term recreation and amenity value of such provision; or
4. sport, recreation and leisure facilities can be retained and enhanced through the redevelopment of a small part of the site;
5. there is over provision in the area;
6. the asset is required for the regeneration of the area.

(a) The Council is required by law to advertise the disposal of land designated as 'public open space' in a local newspaper for two consecutive weeks and to consider any objections received. No final decision about the disposal will be made until any objections have been considered by Cabinet, as the response may be material to the decision. Public response may also be an important factor in any determination by the Secretary of State of an application by the Council for specific consent to the disposal.

(b) If the Council is seeking advice as to development or re-development potential, or it is known that the land is to be used for a different use on purchase, it should be noted that the Core Strategy Policy CS14 requires protection and enhancement of existing open spaces. The Development

Policies Plan 2017provides more detailed guidance on open spaces, which are to be protected. The emerging Local Plan (Pre-Submission Dartford Local Plan Feb 2021) also provides detailed guidance on open spaces

(c) There will be a general presumption against disposal of land designated as 'Protected Local Green Space' through either the Local Plan or a Neighbourhood Plan.

Unlike private and commercial landowners, a local authority is in the position of a trustee in relation to the land that it holds on behalf of the community and has a statutory duty to sell land at the best price reasonably obtainable. The Council will only be able to demonstrate that it achieved the best consideration by obtaining an appropriate valuation of the land.[5]

6.2 **Amenity land** - certain rights, environmental or economic conditions may preclude the sale of amenity land for example:

(a) the land is subject to rights of way over it;
(b) the land is a landscaping feature of the local environment, or designated public open space;
(c) sale of the land would incur additional costs for the Council (for example, the re-siting of lamp posts or telephone cables) unless the applicant is willing to finance the additional costs (payable in advance);
(d) the land has been identified for future regeneration or development by the Council;
(e) following a request to purchase amenity land, a review identifies future regeneration or development opportunities for the Council;
(f) the sale of the land may prejudice future development by the Council;
(g) there are management or other issues that would cause inconvenience to the Council if the land was to be sold.

Approaches from private individuals to buy Council owned amenity land (e.g. green space land on council housing estates) to benefit their existing residential property will be considered where:

- there is a broader community benefit to the disposal e.g. a rationalisation of small parcels of 'backland' open space, either rarely used or often misused; or
- there are management/financial issues for the Council e.g. the land is costly to maintain; or
- the applicant has extenuating circumstances e.g. there are health grounds in relation to the applicant and/or their family and the sale of the land would improve their quality of life and would not adversely affect the quality of life of others in the neighbourhood – (the applicant will need to provide evidence to support and justify the application to purchase).

[5] (Whitstable Society v Canterbury City Council [2017] EWHC 254 (Admin) (15 February 2017).)

Where the Council considers that amenity land has development potential and agrees to dispose of the land, the valuation will reflect this. An overage clause may be applied and/or restrictive covenants placed on any future development.

The Council as landowner may, through a development agreement, engage a developer to carry out the development of the site on its behalf. Arrangements may comprise a grant of a lease of the whole site with the developer receiving a fee based partly upon the development value. In circumstances where there is a development agreement or the grant of a lease associated with the disposal, this may trigger the need for an EU tendering exercise [see Appendix 1, section 1.9].

Disposals of amenity land will normally be by private treaty. However, where the Council considers that the amenity land may be of interest to persons other than the applicant, the Council may dispose of the land on the open market.

The procedure for the disposal of amenity land is detailed in Appendix 2.

6.3 **Commercial Properties -** There will be a general presumption against declaring the following categories of assets as surplus/under-used:

1. units designed to meet the needs of new and developing small businesses where there is anticipated to be demand for such units from different occupiers in future;
2. offices/rooms within business centres that have communal reception areas, facilities and services;
3. shop units where there is a community need for continued retail occupation, or where the integrity of a building or parade of shops might be adversely affected by the sale of individual units;
4. sites in industrial estates and sensitive locations where management control by the Council is required to ensure that amenity is maintained;
5. land or property, which provides revenue income for the Council where disposal would adversely impact on the Council's revenue budget.

Allotments

Where land has been purchased or appropriated by the Council for use as statutory allotments, the Council cannot, without the consent of the Secretary of State, sell, appropriate, use or dispose of the land for any purpose other than use for allotments[6].

The Council will consider the disposal of an allotment against the following criteria, having regard to the Secretary of State's guidance on allotment disposal:

6. The allotment in question is not necessary and is surplus to requirement;

[6] Section 8 Allotments Act 1925

7. The number of people on the waiting list has been effectively taken into account;
8. The Council has actively promoted and publicised the availability of other sites and has consulted the National Allotment Society; and
9. the implications of disposal for other relevant policies, in particular, the Local Plan and Neighbourhood Plan policies, have been taken into account.

Assets of Community Value

Every town, village or neighbourhood is home to buildings or amenities that play a vital role in local life. They might include community centres, libraries, swimming pools, village shops, markets or pubs. Local life would not be the same without them, and if they are closed or sold into private use, it can be a real loss to the community.

An 'asset of community value' is an asset, which in the opinion of the Council furthers the social well-being or social interests of the local community (or has done in the recent past). 'Social Interests' can include cultural, recreational and sporting interests[7].

The Council maintains a list of land and buildings, which may from time to time be nominated by the local community as an 'asset of community value'.

In reviewing the future of any asset, the Council will assess all the options, to be sure that it obtains best value. Options include using the asset in a different way, disposing of it on the open market or transferring it to a voluntary or community organisation at less than best consideration to achieve wider social benefits.

Community organisations operate on a business model, often using volunteer effort, community intelligence about local needs and sources of funding not available to local authorities. They are in a position to run a community asset as a social enterprise. The business plan for the community asset transfer should demonstrate financial viability.

The Council may either advertise all community asset transfer opportunities or consider transfer requests from organizations, which currently manage a property, without seeking other bids.

A community asset transfer should contribute to the Council's policies and targets. Where there are competing interests, the Council will consider which of the proposals put forward are viable and sustainable in the long term. The Council will deal with competition for a specific asset by identifying its key objectives in that area, using, for example, deprivation indices, local priorities and the current mix of buildings and services in the area and assess which bid best meets those objectives.

[7] Section 88 Localism Act 2011

MARKETING STRATEGY

Where applicable, the valuer, in consultation with the relevant Director, will determine the marketing strategy for the disposal of surplus or under-used land/property. The marketing strategy may be conducted either in-house or through an external agent. Costs should, where possible, be recovered from the eventual purchaser.

The marketing strategy for sites identified by the relevant Director as being 'strategic', will

require Cabinet approval.

VALUATIONS

8.1 Although there is no particular prescribed route to achieve the best price reasonably obtainable, there may be circumstances in which an actual sale to the market is the only way to achieve it as opposed to one particular sale at a price according to an independent valuation.

8.2 Before disposing of any interest in land for a price, which may be less than the best consideration reasonably obtainable, the valuer will ensure that a realistic valuation of that interest is obtained, following the advice provided in the Technical Appendix to Circular 06/2003. This will apply even for disposals by means of formal tender, sealed bids or auction, and irrespective of whether the Council considers it necessary to make an application to seek the Secretary of State's specific consent. By following this procedure, the Council will be able to demonstrate that it has adopted a consistent approach to decisions about land disposals by carrying out the same step-by-step valuation process on each occasion. Supporting documents will provide evidence, should the need arise, that the Council has acted reasonably and with due regard to its fiduciary duty.

8.3 The return from any disposal is to be maximised unless there are over-riding factors identified in the Corporate Plan or otherwise agreed by the relevant Director or Cabinet, that take precedence over the receipt of capital e.g. preferred use or preferential purchaser.

## 9. DECISION MAKING

9.1 In accordance with the Scheme of Delegations to Officers, the valuer has delegated authority to deal with:

(i) sales of houses in the possession of the Council as mortgagee;
(ii) sales of sites for electricity sub-stations and gas governors;
(iii) the grant, surrender and renewal of licences, wayleaves, and easements;
(iv) grants of grazing licences;
(iv) grant, surrender and renewal of leases where the Property concerned has been previously let;
(v) sales of land/property.

The valuer must check the Scheme of Delegations for any limitations placed on the exercise of his/her delegated authority.

9.2 Except with the consent of the Secretary of State, the Council cannot dispose of land otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained, but see section 3 above for housing land procedure.

Disposals of land/property by way of a short tenancy[8], for a consideration less than the best that can reasonably be obtained, will only proceed on the specific authority of the relevant Director on a report of the relevant Director justifying the reasons for disposal at less than the best that can reasonably be obtained.

9.3 The Council is required by law to advertise the disposal of land designated as ‘public open space’ in a local newspaper for two consecutive weeks and to consider any objections

received. No final decision about the disposal will be made until any objections to the disposal have been considered by Cabinet [see section 6.1.(a) above].

9.4 The marketing strategy for sites identified by the relevant Director as being 'strategic', will require Cabinet approval.

MEANS OF DISPOSAL

1. **Private Treaty** – a sale of land/property negotiated with one or a small number of interested parties either through a direct approach from an individual(s) or through a marketing exercise.

   A private sale without marketing the land may be justified where for example:

   (a) the land to be disposed of is relatively small in size and an adjoining or closely located landowner is the only potential or likely purchaser;
   (b) the Council's corporate objectives and best consideration can best be achieved by a sale to a particular purchaser;
   (c) the purchaser has a particular interest in purchasing the land or a particular association with the land;
   (d) the nature of the Council's land ownership and that of the surrounding land ownership is such that the land must be sold to adjoining or surrounding landowners if best consideration is to be obtained;
   (e) the Council's land is part of a larger area of land that is proposed for development, redevelopment or regeneration and the nature and complexity of the proposed development of the overall site is such that the Council's corporate objectives and best consideration can only be achieved by a sale to a purchaser with an existing interest in land in the area.

[8] The grant of a term not exceeding seven years, or the assignment of a term which at the date of the assignment has not more than seven years to run

2. **Public Auction** – a sale of land/property by open auction available to anyone. The sale will be publicly advertised in advance. A binding legal agreement is created upon the acceptance of a bid by the auctioneer. Reasons justifying sale by this method and how the reserve price is determined must be recorded in writing.

3. **Formal Tender** – a sale of land/property by a process of public advert and tenders submitted by a given date. This is a suitable mechanism where there are identified development proposals. A fair and transparent tender process will need to be adopted.

4. **Exchange of Land** – a transaction involving the exchange of Council owned land with another landowner. The land acquired by the Council will meet at least one of its corporate objectives and will be 'equal' in commercial worth to the land exchanged whether from the value of the land itself or where a payment is made in addition to the land exchanged.

5. **Informal Negotiated Tender** – a transaction involving a public advert that requests informal offers or bids that meet a given specification or set of objectives. The Council may then negotiate further or more detailed terms with one or more individuals who submitted the most advantageous bid or bids.

TIMING OF DISPOSALS & DUE DILIGENCE

The **timing** of any marketing/disposals will need to be considered against the background of the current market conditions, potential for the site value to increase in the future, whether there is a need to raise capital receipts and current planning policies.

In order to properly assess the likelihood of and business case for disposal, the asset holding department in consultation with Legal Services and/or the valuer will carry out early **due diligence** on land/property identified as surplus or under-used. In particular, the asset-holding department will consider the following issues, which have the potential to prohibit disposal or influence the sale price:

11.1 **Reviewing the title -** Once surplus land/property has been identified and a prima facie business case made for its disposal, the title is reviewed to identify whether there are any title issues, which may impact upon the disposal process.

11.2 **Unregistered land** - If the land and property identified for disposal is unregistered, then it is important that the title deeds are located as soon as possible and checked for evidence of the Council's title. This can be achieved through a voluntary application to the Land Registry to register the land/property before it is put on the market.

11.3 **Restrictive covenants** - The land/property may be subject to restrictive covenants, which limit or restrict its use or the extent to which development can

be carried out on it. Whether these are a concern will depend upon the likely use of the land/property following disposal, particularly where surplus land/property is being sold for re-development. A restrictive covenant against a certain type of development may have a significant adverse effect on the land value.

It is possible to apply to the Lands Tribunal under section 84 of the Law of Property Act 1925 for the release or modification of restrictive covenants in some circumstances. This can be a time consuming process and it is usually better undertaken before the land/property is placed on the open market. Alternatively, it is often possible to obtain restrictive covenant indemnity insurance against future losses for breach of a restrictive covenant and a policy with an adequate limit of indemnity cover will satisfy most purchasers.

It is very important that no negotiations are carried out with any adjoining or nearby owners who may have or claim to have the benefit of the relevant covenant, prior to receiving legal advice. If negotiations do take place, then it could materially prejudice the Council's ability to obtain insurance cover against breach of the covenant.

11.4 **Ransom strip** - It will generally be sensible to resolve ransom strip issues prior to offering the property to the open market. It is crucial if the property is to achieve full value on the open market that it has adequate access rights. If development is anticipated, then access may need to be by a different route than that used historically, either because of a physical aspect of or defect with the existing access or for planning purposes or as a consequence of intensification of use. By whichever route access is obtained, a title review should be carried out to establish whether any ransom strips are present.

A ransom strip is an area of land, which is owned by someone other than the Council. If access is only possible via a ransom strip, then the person with title to that strip will hold the key to unlocking the development potential of the land and that may involve payment to the ransom strip owner, either in return for a formal right of way or transfer of ownership of the strip. The conventional approach to valuing ransom strips has been to offer the ransom owner one- third of the uplift in value of the land/property released by unlocking it for development. However, any agreement will ultimately depend on market conditions

and the specifics of the land/property and its locality.

11.5 **Rights of way and other easements** - It is important to establish the nature of any easements benefitting the land/property, so that any that are missing can be addressed, if possible. As well as access rights, the property may benefit from rights to run services over adjoining land, rights to light, rights of support or other property specific rights. It is also useful to check whether the land/property is subject to any rights, which might adversely affect the proposed disposal and subsequent development, for example, public or private rights of way or rights of support.

11.6 **Retaining rights over adjoining land** - It may be the case where surplus land/property is being disposed of, that the Council will be retaining adjoining land. In that case, the Council will consider whether it needs to reserve any rights over the land/property being disposed of for the benefit of that adjoining land, most commonly, access to the public highway or mains utilities.

11.7 **Outline planning consent** - Assessing whether an application for a change of planning use might have the potential to increase the value of the surplus land/property. If the change of use is obtained by the Council, it removes an element of risk and uncertainty for potential buyers, which may lead to an increase in the purchase price that they are willing to pay.

11.8 **Development agreements** - The Council as landowner may, through a development agreement, engage a developer to carry out the development of the site on its behalf. Arrangements may comprise a grant of a lease of the whole site with the developer receiving a fee based partly upon the development value. In circumstances where there is a development agreement or the grant of a lease associated with the disposal, this may trigger the need for an EU tendering exercise [see Appendix 1, section 1.9].

## 3. OTHER STEPS TO FACILITATE THE DISPOSAL PROCESS

When due diligence in accordance with section 11 of this Policy has been completed, there are a number of other steps that can be taken by the valuer to facilitate the disposal process and maximise the value received for the surplus or under-used land/property. The following will be considered:

1. Having regard to legislation and Secretary of State guidance governing the disposal process;
2. Having regard to general guidelines, which are applicable, for example, the Crichel Down rules which apply to most disposals by the Council of property acquired using compulsory purchase or under threat of compulsory purchase. Where the rules are applicable, there is an obligation to offer the property back to the original owner before it can be placed on the open market;
3. Carrying out a site inspection to establish what specific issues there are on the ground, for example, drainage, boundary problems or illegal occupiers. It will also assist when instructing legal advisers or other professionals, who may only have seen the property on plans or in photographs. For some disposals, it may be appropriate for the various professionals to undertake a site visit;
4. Producing a sales pack for auction sales to circulate to interested parties, including title information;
5. Considering the most appropriate pricing structure. In some cases, it may be appropriate to use an overage arrangement whereby the Council receives future payments representing any uplift in value of the land/property once it has been developed or once it has been developed and sold on. Overage provisions and negotiations can be complex, so it would be sensible to discuss the preferred structure with the legal adviser and valuer

prior to agreeing terms for the disposal of the land/property. A calculation of the overage that the Council is likely to receive and the likelihood of that sum being correct given changing market conditions will be important pieces of information in assessing the business case for disposal of surplus/under-used land/property.

6. Considering whether the transaction is caught by the public procurement rules.
7. Considering whether the transaction is caught by the subsidy control rules.

## 4.REFERENCES

(a) A bank reference will be obtained by the valuer in every case where a lease, tenancy or licence is being granted at a rent or fee in excess of any financial limit as may be defined in Financial Regulations and/or Scheme of Delegations to Officers, unless the relevant Director has agreed to dispense with this requirement.

(b) In every case where a lease, tenancy or licence is to be granted to a limited company at a rent or fee in excess of any financial limit as may be defined in Financial Regulations and/or the Scheme of Delegations to Officers, a guarantor will be required, unless the relevant Director has agreed to dispense with this requirement.

## 5. OPTIONS

5.1 Where the Council wishes to grant an option, or an option holder wishes to exercise their option on land, which the Council holds, the Council will consider whether the consideration for either the grant or exercise of the option results in a discount. In relation to the exercise of an option, this will depend on the valuer's assessment of whether, if the option were to be exercised, the terms would be likely to require the Council to accept less than the best price that could reasonably be obtained for that interest at the time of disposal and, if so, whether that would fall within the terms of the General Consent.

5.2 The matters which would need to be considered by the valuer are covered in paragraphs 20 and 21 of the Technical Appendix to Circular 06/2003. If, as a result of the valuer's advice, the Council wishes to seek specific disposal consent, it will provide the Secretary of State with full details of the terms of the option agreement, which is to be entered into or implemented.

## APPENDIX 1

### 1. LEGAL POWERS

**Section 123 - Local Government Act 1972**

2.1 In general, the Council is required to achieve the **'best consideration reasonably obtainable'** when it is disposing of land[9]. Section 123 imposes a duty on the Council to achieve a particular outcome (namely the best price reasonably obtainable): it is not a duty to conduct a particular process (e.g. to have regard to particular factors).

If the disposal is under the 1972 Act, there is neither express power to include covenants on a disposal, nor a prohibition. Where the disposal is a lease, that lease will contain terms and similarly, on the conveyance/transfer of freehold property or on the assignment of a

lease, covenants may likewise be included by virtue of section 111 of the 1972 Act.

Under Section 123(2A), the Council must follow certain statutory requirements to advertise the disposal of land that consists of or forms part of an **open space**.

General Consent

22 If the Council seeks to dispose of land or buildings at less than the market value, then it has to obtain the consent of the Secretary of State for Communities and Local Government. However, the Secretary of State has issued a number of 'general consents' i.e. a set of conditions which, if they apply to a particular transfer, means that the Council does not need to obtain specific permission to transfer at an 'undervalue'. However, the undervalue itself still needs to comply with 'normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer'[10].

The most important of these consents is the General Disposal Consent 2003[11] ('the General Consent') which permits the Council to dispose of land at less than its market value[12], without the need to seek specific permission from the Secretary of State, provided that:

[9] For the purposes of Section 123, the only consideration to which regard may be had is that which consists of those elements of the transaction of commercial or monetary value, capable of being assessed by valuers: R v Pembrokeshire CC ex p Coker [1999] 4 All ER 1007; R v Hackney LBC ex p Lemon Land [2001] EWHC Admin 346 [2002] JPL 405

[10] Circular 06/2003

[11] Annexed to Circular 06/2003

[12] 'Market value' means 'the best price reasonably obtainable for the property'. This is equivalent to the definition of 'market value' in the RICS Appraisal and Valuation Manual (the 'Red Book'), but including any 'Special Value' (i.e. any additional amount which is or might reasonably be expected to be available from a purchaser with a special interest like a former owner)."

- the purpose for which the land is to be transferred is likely to contribute to the 'promotion or improvement' of the economic, social, or environmental well-being of the area; and
- the difference between the market value of the land and the actual price paid for the disposal (if any), is not more than £2,000,000.

The General Consent has been issued to provide local authorities autonomy to carry out their statutory duties and functions and to fulfil such other objectives as they consider to be necessary or desirable. The General Consent does not require the Council to undertake a tendering process i.e. to market test a disposal. However, when disposing of land at an undervalue, the Council remains aware of the need to fulfil its fiduciary duty in a way which is accountable to local people. The Council will not divest itself of valuable public assets, unless it is satisfied that the circumstances warrant such action.

In justifying a disposal of land/property at undervalue, the Council will have regard to the following:

- what community benefits will be realised by the disposal;
- how the interests of local people will be better served by the disposal;
- the financial viability of the Council's plans for the land;
- the subsidy control rules' implications of the disposal;
- the Council's future plans for the land;

- the market value of the land and the difference between that and the proposed disposal value.

## 3. Allotment Acts 1908 to 1950

3.1 For disposal of land held under these Acts, the Council must obtain the consent of the Secretary of State for disposal other than for use as allotments.

## 4. Charities Act 2011

4.1 The Council is trustee of charitable land and property originally gifted to it under the terms of a trust deed. Here, the Council has additional responsibilities, which arise from its role as trustee and will be subject to the more onerous disposal requirements set out in the Charities Act 2011.

It is for the Deed, Trust and Obligations Committee to consider whether charitable land/property is surplus to requirements/under-used in accordance with the requirements of the legislation, any directions issued by the Charity Commission and professional advice. The Committee must operate in a way, which is in the best interests of the charities.

## 5. Housing Act 1985 (as amended)

5.1 Under s32 the local authority has the power to dispose of land and dwellings held for housing purposes. Secretary of State consent will be required unless

the disposal is covered by one of the General Consents relating to the disposal of:

- vacant dwellings for owner occupation;
- occupied dwelling houses to secure tenants;
- dwellings to tenants who have the right to buy acquiring with others;
- dwellings on shared ownership terms;
- housing authority land; and
- reversionary interest in houses and flats.

Disposals will generally be at market value, but discounts may be applicable to qualifying applicants.

## 6. Local Government Act 1988 – Section 25

6.1 The Council may provide a Registered Social Landlord with any financial assistance or gratuitous benefit of land for development as housing accommodation. This includes:

- land for development or access, easements and rights;
- dwelling houses for refurbishment;
- financial assistance for prevention of homelessness; and
- loans to RSLs.

The aggregate value of financial assistance or gratuitous benefit provided by the disposal or grant must not exceed £10 million.

## 7. Town and Country Planning Act 1990 – Section 233

7.1 The disposal of land **held for planning purposes**, follow principles similar to those of s123 of the Local Government Act 1972 and its requirement to obtain best consideration reasonably obtainable. However, it must be noted that the General Consent does not apply and a specific consent from the Secretary of State will be required if the Council is considering disposal at an undervalue.

Under s233(2), the Council must obtain the consent of the Secretary of State to dispose of **common land**, which may involve the requirement to provide land in exchange.

## 8. Subsidy Control

8.1 All land/property disposals need to comply with subsidy control rules[13].

When disposing of land 'at less than best consideration', depending on the nature of the transaction, the Council may be 'subsidising' the purchaser. Where this occurs, the Council must ensure that the nature and amount of subsidy complies with subsidy control rules, particularly if there is no element of competition in the disposal process. Failure to comply with the rules means that the subsidy is unlawful, and may result in judicial review proceedings.

The Council is required to follow a 'five step' process.

1. **Is it a subsidy and what international obligations apply?** – determine which (if any) of the WTO[14], FTAs[15] (notably the TCA[16]) applies (Annex 1 to the BEIS guidance lists these);
2. **Is it a prohibited subsidy?** –under the WTO, the TCA or other FTAs – as these prohibit subsidies in certain circumstances, i.e. subsidies dependent on using domestic goods and unlimited guarantees;
3. **If the TCA applies does the subsidy comply with the principles referred to** (above) – authorities are advised to use the template in Annex 2 to the BEIS guidance to record and retain how they have complied with the principles;
4. **Is the subsidy likely to trigger a dispute under the WTO ASCM or other FTAs?** – this is required by the guidance even if the proposed subsidy is compliant with the TCA. Authorities are advised to undertake a risk assessment using the BEIS guidance's checklist;
5. **Record the award of the subsidy** – information on subsidies must be disclosed in accordance with the TCA requirements.

## 9. Public Procurement

9.1 A straightforward disposal of land/property for a market value price will not be caught by the Public Contracts Regulations 2015[17]. However, when disposing of land the Council is involved in determining the scope of the future development of its land and its intention is to impose on the purchaser certain obligations as to the nature of the development and also perhaps the standards to which the works must be constructed (usually through a development agreement or grant of a lease associated with the disposal), then where the values involved trigger the 2015 Regulations threshold, it is likely that such an

[13] The State Aid (Revocations and Amendments) (EU Exit) Regulations 2020 disapply EU law relating to State aid, from 1 January 2021 (post Brexit).The UK intends to implement its own domestic subsidy control regime, following World Trade Organisation (WTO) subsidies and countervailing measures etc.

[14] World Trade Organisation

[15] UK's Free Trade Agreements

[16] Trade and Cooperation Agreement

[17] As amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020

arrangement may be construed as a public works contract triggering the need for a tendering in accordance with the Council's Contract Standing Orders.

The applicability or otherwise of the public procurement rules will depend on the particular nature of the transaction, how it is structured and its detailed provisions. As a rule, the risk will be higher the more the Council specifies its requirements for any full development and conversely will be lower the more the Council is willing to take a 'hands off' approach. The Council must therefore give due consideration to the possibility of public procurement rules applying to any particular disposal of land and obtain case-specific legal advice before entering into any agreement.

## APPENDIX 2

AMENITY LAND DISPOSAL

1. Approaches from private individuals to buy Council owned amenity land to benefit their *existing* residential property will be considered where:

   - there is a broader community benefit to the disposal e.g. a rationalisation of small parcels of 'backland' open space, either rarely used or often misused; or
   - there are management/financial issues for the Council e.g. the land is costly to maintain; or
   - the applicant has extenuating circumstances e.g. there are health grounds in relation to the applicant and/or their family and the sale of the land would improve their quality of life and would not adversely affect the quality of life of others in the neighbourhood – (the applicant will need to provide evidence to support and justify the application to purchase).

**2. Is it Council owned land?**

Before applying to purchase land in accordance with section 11 below, please check that the land is owned by the Council. You can do this by contacting the Property Services Department on 01322 343434 or email valuation@dartford.gov.uk

**3.Sale price**

3.1 The Council is obliged by law to obtain the best price for any property, or parcel of land, which it sells.

3.2 The sale price is dependent on a number of factors. The price will be negotiated through the Council's valuer. You may seek your own independent advice. If you do so, please let us have the contact details of your appointed agent.

3.3 Even if one or more of the criteria in section 1 above apply, there may be other restrictions imposed on the land (such as restrictive covenants or planning policies) which result in the Council making a decision not to sell.

3.4 Where open space land is concerned, it may also be necessary for the proposals to be advertised and any objections considered.

3.5 Before any sale is approved, the Council's strategic priorities and planning policies will be considered and a recommendation to proceed will only be made if the sale has no adverse impact on the Council's priorities, policies etc.

4.Fees and other charges

4.1 Following the initial internal consultation process, should your application progress to the next stage, before we can start work on your application, you will need to pay the valuer's fee to offset the costs in processing your application e.g. inspection of the site, consideration of any restrictive covenants, Council policies and historical background, valuation of the site and production of a report.

Payment of the fee will not guarantee that your application is approved.

4.2 If the valuer agrees to the disposal and you wish to proceed, you will need to pay the Council's legal fees in advance of any legal work on your application.

4.3 As fees are reviewed on 1st April each year, please check the Council's fees and charges schedule for the applicable fee or contact the Finance Department on 01322 343434 or email finance@dartford.gov.uk

4.4 Any costs associated with making an application to the Secretary of State for consent and where applicable, advertisement costs, may be charged to you.

4.5 Fees and other costs must be paid in advance and are non – refundable. If the sale proceeds, on the completion date, you will also have to pay the agreed purchase price.

4.6 There are no exemptions to the payment of fees and ancillary costs. You will be provided with an invoice detailing the payment method.

5.Open market sale

The Council is generally obliged by law to sell land for the best price reasonably obtainable. This means that in some cases if the valuer considers that the land you have asked to purchase could be of interest to other parties or could be sold for development land, the Council must advertise it for sale on the open market. In such circumstances, you will be sent sales details once prepared and will be able to make an offer for the land along with any other interested party. Costs will be recovered from the eventual purchaser.

6. 'Right to buy' rules

The 'right to buy' rules only apply to Council house tenants who wish to purchase their Council house. These rules cannot be used to purchase additional parcels of land.

7. Legal Advice

The Council's Legal Services cannot provide you with legal advice. We advise you to seek independent legal advice on your proposals. If you do so, please let us have your legal adviser's contact details. If you appoint a legal adviser, we will then deal

with them direct. You are responsible for your legal adviser's fees.

8. Planning, building regulations and restrictive covenants

8.1 Planning permission may be required for change of use or development of the land, or for other matters such as fencing and boundary treatment. . It is likely that land not previously used for garden purposes, building extensions or parking etc. will need planning permission for a change of use. You are responsible for finding out if planning permission is required and you should make your own enquiries about this aspect of your proposals with Development Management, by contacting Planning Admin on 01322 343434 or email planning.admin@dartford.gov.uk

8.2 It is your responsibility to ensure that any consents required are obtained at your cost. Should you submit a planning application to include the Council's land, you must serve the appropriate notice addressed to Valuation Services, Dartford Borough Council, Civic Centre, Home Gardens, Dartford, Kent DA1 1DR. Please note that the Council's role as landowner is different to that of its role as local planning authority. Therefore, although you may be granted planning permission, this does not guarantee that your application to purchase Council owned land will be approved by the Council (as landowner).

8.3 When carrying out work on buildings, there are two issues that need to be considered - whether planning permission is required and whether building regulations consent is required. Work on buildings requiring building regulations consent may also require planning permission. Similarly, applications requiring planning permission may also require building regulations consent. You can do this by contacting Building Control Admin on 01322 343434 or email buildingadmin@dartford.gov.uk

8.4 Any decision by the Council to sell the land to you is separate from any decision by the Council on your planning or full plan or building notice application. You must not assume that planning permission or building regulations consent will be granted automatically if for example you are

intending to change the use of the land. It is your responsibility to check the planning status of the land and building regulations.

8.5 Planning and building control regulation fees are payable by you and are in addition to the Council's valuer's and Legal Services fees and other applicable costs charged under this Policy.

10. Vehicular access

If you are proposing to access the land across the highway, please consult Kent County Council Highways www.kent.gov.uk

11. Complaints

10.2 There is no appeals procedure against a decision to refuse to sell you the land. However, if you feel that you have additional information, or justification to support your application that has not already been considered, or if you amend your application in some way, we may be able to process your application again, based on the new information. Please note that we reserve the right to charge further fees.

10.3 If you consider that the Council has not followed its procedures, you may raise a complaint through the Council's Corporate Complaints Procedure - https://www.dartford.gov.uk/complaints/complaints-7. If you remain dissatisfied with the response, you may complain to the Local Government and Social Care Ombudsman.

12. How to apply

11.5 You can either complete an application form - Council owned amenity land - purchase enquiries – Dartford Borough Council or write to the Council. Your application must be accompanied by a sketch plan identifying the area of land you wish to purchase. Please detail as much information as possible, including the approximate dimensions of the land.

The requirement for applications to be submitted in writing, must be read in conjunction with the Equality Act 2010 and the requirement on the Council to make reasonable adjustments. An example of this would be in assisting you if you have a disability that prevents you from making your application in writing. In such cases, the Council may need to transcribe a verbal application and then produce a written copy for your approval.

The Council will also consider what support should be made available to you, where English is not your first language.

11.6 On receipt of your application, the Council will decide if it wishes to dispose of or keep the land/property you have requested to purchase. This involves an internal process of consultation with Council Officers before a decision is made and before any negotiations can take place. If at this stage, a decision is taken not to sell you the land/property, you will be notified in writing, with reasons.

If, following the initial internal consultation stage, the matter goes forward to the next stage, the valuer will ask you to pay a non-refundable fee plus VAT before he/she can start any work on your application. Your application will not be progressed, until the valuer's fees have been paid.

11.7 Address your application to:

Property Services Manager
Dartford Borough Council Civic
Centre
Home Gardens
Dartford
Kent DA 1 1DR Or

email your application to: valuation@dartford.gov.uk

11.8 If you need assistance to complete your application, please contact Customer Services on 01322 343434 or Relay UK.

13. Valuer's decision

12.4 Providing your application meets the criteria referred to in section 1 above and the valuer's fees are paid in advance, within three months of receipt of the valuer's fee,

the valuer will:

(a) undertake any due diligence checks, inspect the site and value the land;
(b) write to you or your appointed agent, confirming whether the disposal is approved; and
(c) if approved, detail the terms for the disposal of the land and the price payable.

If the timescale cannot be met, the valuer will notify you.

12.5 If the disposal is approved by the valuer, it is for you to form a view on any restrictive covenants, the planning/building regulations position and the suitability of the land for your intended purposes. You proceed at your own risk.

12.6 If the disposal is not approved by the valuer, you will be notified of the decision in writing with reasons.

13.Land transfer process

13.5 Your acceptance of the valuer's terms and price payable for the land need to be confirmed in writing, addressed to the Property Services Manager with payment in advance, of the Council's legal fees. The land transfer process will not be started, until the legal fees are paid. The Council's legal fees are in addition to any fees your solicitor may ask you to pay. Your solicitor's fees are your responsibility.

13.6 The transfer documentation will be prepared by the Council's Legal Services. Providing you have paid the Council's legal fees, the date for completion of the sale will vary depending upon the complexity of the matter and the type of searches and enquiries that are made by you or on your behalf but the process may take up to approximately 3 months from the date you notify the Council in writing, that you accept the terms and price to be paid for the land. If we require longer to process the transfer documentation, we will notify you.

13.7 Generally, the sale of the land is completed with no prior contract or deposit payment. You will pay the purchase price on completion.

13.8 Completion of the sale of the land ends the Council's involvement in the process. You will however need to deal with land registry registration and SDLT (stamp duty land tax) post completion.

Adopted by Cabinet 4 December 2014 - Min.No.78
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Amended pursuant to Managing Director's delegations – 14.03.2017
Amended pursuant to Managing Director's delegations – 01.07.2019
Amended pursuant to Directors' delegated authority – 29 June 2020
Amended pursuant to Directors' delegated authority – 10 March 2021
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## 11.11 PREDISPOSITION, PREDETERMINATION AND BIAS FACTSHEET

**Introduction:**

Bias and predetermination are not explicitly mentioned in the [Member] Code of Conduct. The Code provisions on declarations of interest are about ensuring you do not take decisions where you or those close to you stand to lose or gain improperly. There is

however, a separate concept in law dealing with bias and predetermination, which exists to ensure that decisions are taken solely in the public interest, rather than to further private interests.

Both the courts and legislation recognise that elected councillors are entitled, and indeed expected, to have and to have expressed their views on a subject to be decided upon by their council. Nonetheless, decisions of public authorities do involve consideration of circumstances where a decision-maker must not act in a way that goes to the appearance of having a closed mind and pre-determining a decision before they have all of the evidence before them and where they have to act fairly. Breaches of the rules of natural justice in these circumstances have and do continue to result in decisions of local authorities being successfully challenged in the courts.

To quote a leading judgment "All councillors elected to serve on local councils have to be scrupulous in their duties, search their consciences and consider carefully the propriety of attending meetings and taking part in decisions which may give rise to an appearance of bias even though their actions are above reproach."[1]

While declaring interests will to some extent deal with issues of bias, there will still be areas where a formal declaration is not required under the [Member] Code of Conduct, but councillors need to be clear that they are not biased or predetermined going into the decision-making process. Otherwise, the decision is at risk of being challenged on appeal or in the courts.

The Localism Act 2011 has enshrined the rules relating to pre-disposition and predetermination into statute. In essence, you are not taken to have had, or appeared to have had, a closed mind when making a decision just because you have previously done anything that directly or indirectly indicated what view you may take in relation to a matter and that matter was relevant to the decision.

What is predisposition?

It is part of a councillor's duties to be open to all views, and for anyone – members of the public or organisations – to be able to have access to them. This means that you can be lobbied by people with a particular interest. Lobbying, however, can lead to your impartiality and integrity being called into question, unless you exercise care and common sense.

Clearly, expressing an intention to vote in a particular way before a meeting (predetermination) is different from where you make it clear you are willing to listen to all the considerations presented at the council meeting before deciding on how to vote (predisposition).

[1] Kelton v Wiltshire Council [2015] EWHC 2853 (Admin)

**Predisposition** is where you form a provisional view towards a particular outcome, but remain prepared to consider and weigh relevant factors in reaching the final decision.

It is not a problem for you to be predisposed to a particular view. That predisposition can be strong and can be publicly voiced. You may even have been elected specifically because of your views on a particular issue. It might be in favour of or against a particular point of view, for example an application for planning permission. However, you must be

open to persuasion and the possibility that, however unlikely, you will hear arguments during the debate about the issue that will change your mind about how you intend to vote. As long as you are willing to keep an open mind about the issue, you are entitled to take part in any vote on it.

What is predetermination?

**Predetermination** is where your mind is closed to the merits of any arguments i.e. you make a decision on the issue, without taking all the merits of any arguments into account. If you are involved in making a decision, you should avoid giving the appearance that you have conclusively decided how you will vote at the meeting, such that nothing will change your mind. This impression can be created in a number of different ways, such as quotes given in the press, and what you have said at meetings or written in correspondence.

What is bias?

**Bias** is where you form or show bias against or in favour of a particular person, company or group or a particular site or locality, and/ or give the appearance of bias (bias may include pre-judged ideas based on your own prejudices or political affiliations). It does not matter whether there is actual bias – the legal test for apparent bias is whether a *fair minded observer* aware of all the facts, would conclude there was a *real possibility* of bias.

Rarely will membership of an organisation on its own, such as a national charity, amount to apparent bias. This is unless the organisation has a particular vested interest in the outcome of a specific decision that you are involved in making.

The rules against bias consist of three distinct elements:

- The first seeks accuracy in public decision-making;
- The second seeks the absence of prejudice or partiality on the part of you as the decision-maker. An accurate decision is more likely to be achieved by a decision-maker who is in fact impartial or disinterested in the outcome of the decision and who puts aside any personal strong feelings they may have had in advance of making the decision;
- The third requirement is for public confidence in the decision-making process. Even though you as the decision-maker may in fact be scrupulously impartial, the appearance of bias can itself call into question the legitimacy of the decision-making process. In general, the rule against bias looks to the appearance or risk of bias rather than bias in fact, in order to ensure that justice should not only be done but should manifestly and undoubtedly be seen to be done.

A single councillor who is guilty of bias is enough to strike out the whole decision when challenged before the courts.

Making the decision

There is an important difference between those councillors who are involved in making a decision and those councillors who are seeking to influence it. This is because councillors who are not involved with making a decision, are generally free to speak about how they want that decision to go.

When considering whether there is an appearance of predetermination or bias, if you

are responsible for making the decision, you should apply the following test: 'would a fair-minded and informed observer, having considered the facts, decide there is a real possibility that you had predetermined the issue or were biased?' However, when applying this test, you should remember that it is legitimate for you to be predisposed towards a particular outcome, as long as you are prepared to consider all the arguments and points made about the specific issue under consideration.

**A. How can predetermination or bias arise?** The following are some of the potential situations in which predetermination or bias could arise:

- *Connection with someone affected by a decision* – the council cannot be seen to make an unbiased decision, or a decision, which objectively looks impartial, if a councillor is closely connected with one of the parties involved. This type of bias particularly concerns administrative decision-making, e.g. planning and licensing decisions;

- *Prior involvement* - this sort of bias arises because someone is being asked to make a decision about an issue which they have previously been involved with;

- *Commenting before a decision is made* - once a lobby group or advisory body has commented on a matter or application, it is likely that a councillor involved with that body will still be able to take part in making a decision about it. However, this is as long as they do not give the appearance of being bound only by the views of that body. If the councillor makes comments that make it clear that they have already made up their mind, they may not take part in the decision. If the councillor is merely seeking to lobby a public meeting at which the decision is taking place, but will not themselves be involved in making the decision, then they are not prevented by the principles of predetermination or bias from doing so.

**It is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions, to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, your responsibility as a councillor.**

**B. Predetermination or Bias and the Code**

There is a difference between breaching the [Member] Code of Conduct and being predetermined or biased. It is perfectly possible to act within the Code and still cause a decision you were involved in, to be defective for predetermination or bias. This is because if you render the decision of the council unlawful due to predetermination or bias, this could reasonably be regarded as bringing your council or your office into disrepute.

**C. Find out more** – if you are involved in planning and licensing decision-making, the Probity in Planning Protocol and the Probity in Licensing Protocol offer further guidance. Advice or clarification can be sought from the Head of Legal Services and Monitoring Officer.

**The golden rule is be safe –seek advice if in doubt before you act**.

## 11.12 PROTOCOL ON THE USE OF COUNCIL FACILITIES AND RESOURCES BY COUNCILLORS

### 1. INTRODUCTION

1.1 The Council provides facilities and resources (e.g. IT equipment) to assist Members in carrying out their duties as councillors or as holders of an office within the Council. .

1.2 The [Member] Code of Conduct states 'You must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 and guidance on the Use of Resources by Councillors within the Council's Protocol.'

1.3 The Protocol explains the limitations placed on the use by Members, of the Council's facilities and resources.

## 2. USE OF FACILITIES AND RESOURCES

2.1 Members may use Council facilities and resources for political purposes, in connection with the following business:

(a) holding ward surgeries;
(b) dealing with correspondence from constituents;
(c) communicating group activities;
(d) meetings between group members.

2.2 The Council is prohibited from publishing any material of a party political nature and Members should ensure that when using or authorising the use by others of the Council's facilities and resources, that such facilities and resources are not used for purely political purposes and that the use of Council premises is restricted to premises available to the public generally and paid for at the full hire costs.

2.3 A Member's use of Council facilities and resources must not extend to political parties more generally. Use of Council owned premises for party political purposes (where such meetings are used to further the political aims and objectives of the party concerned) must be restricted to premises available to the public generally and paid for at the full hire costs.

2.4 The use by a Member, of any Council facilities and/or resources for purely political purposes, including designing and distributing party political material produced for publicity purposes and support of any political party or group activity, elections and campaigning, is likely to amount to a breach of the [Member] Code of Conduct.

## 3. PUBLICITY CODE

3.1 The Code of Recommended Practice on Local Authority Publicity[1] provides guidance on a number of aspects of local authority publicity, covering the content, distribution, advertising, cost, timing etc of publicity. The Council is required by legislation[2] to consider the Publicity Code in coming to any decision on publicity, which is defined as any communication, in whatever form, addressed to the public or a section of the public.

3.2 The principle of objectivity requires the Council's publicity to be politically impartial. The Publicity Code acknowledges that a council has to be able to explain its decisions and justify its policies, but this should not be done in a way that can be perceived as a political statement or a commentary on contentious areas of public policy.

3.3 The principle of even-handedness has the effect that the Council's publicity can address matters of political controversy in a fair manner and may contain links to other political sites, or contain

political logos on material hosted for third parties. But the Council should ensure that publicity about it does not seek to affect support for a single councillor or group. The Publicity Code does, however, recognise that it is acceptable to associate publicity with a single member of the Council.

3.4 The onus is placed on individual Members to be aware of and ensure the Council complies with the rules governing local authority publicity.

## 4. ELECTION PERIODS

4.1 Strict rules apply to Councillors' communications and publicity during the election period (which runs from the publication of the notice of election to the close of the polls):

(a) the Chief Officer and Director of Corporate Services may find it necessary to suspend the hosting of material produced by third parties, or to close public forums to avoid breaching any legal restrictions;
(b) any Council publicity on controversial issues will not be published and any views or proposals will not be reported in such a way as to identify them with any individual Members or groups of Members;
(c) publicity relating to individuals involved directly in the election will not be published, unless expressly authorised by or under statute;
(d) Members must not use their Council email address in any ward newsletters, which contain election or campaigning material.

4.2 The Council may publish factual information, which identifies the names, wards and parties of candidates for election.

4.3 In general, the Council should not issue any publicity, w h i c h seeks to influence voters. However, this general principle is subject to any statutory provision, which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity

[1] Published 31 March 2011
[2] Section 2 of the Local Government Act 1986 (as amended)

produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.

4.4 Council decision-making will continue as usual and decisions will be publicised.

4.5 Reactive publicity can include Councillors holding key political or civic positions, if commenting in an emergency or a major news event outside the Council's control.

## 5. PRIVATE/PERSONAL USE

5.1 As a general rule, facilities and resources paid for by the public purse and provided for use in Council business, should only be used for Council business. However, incidental personal use of Council facilities and resources is permissible, provided that the use of any Council facility or resource is not purely in connection with political purposes and there is no cost to the Council nor any liability for the Council arising from its use for secondary purposes, it is a matter for each individual Member as to whether or not they use it for private and family purposes. Members will however need to take into account any additional costs that may arise from extending software

licences and the replacement of equipment. Members must also take into account security issues related to confidential information and the processing and disclosure of information under the Data Protection Act 2018 and UK GDPR.

5.2 Members are under an obligation to ensure that any secondary use of IT equipment supplied by the Council is acceptable and appropriate and that such use does not contravene the [Member] Code of Conduct, Council codes, protocols etc, the Misuse of Computer Act 1990 and any other relevant UK legislation.

5.3 Councillors supplied with a Council computer and internet connection facilities, must sign the Council's standard agreement for the use of IT and comply with the agreement.

## 6. COMPLAINTS AND ALLEGATIONS OF BREACHES OF THIS PROTOCOL

Allegations of any failure to meet this Protocol must be made in writing, to the Monitoring Officer. The Monitoring Officer will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may result in an investigation and a hearing before the Hearing Panel.

## 7. OVERSEEING COMPLIANCE WITH THIS PROTOCOL

The Audit Board oversees compliance with this Protocol.

## 8. FURTHER GUIDANCE

Further advice or clarification can be sought from the Head of Legal Services and Monitoring Officer.

Adopted by the General Assembly of the Council - 30.07.2007 [Min.No.55] Reviewed and adopted by the Audit Board 13 May 2013 [Min.No.5] Reviewed under Directors' delegated authority - 29 June 2020
Reviewed under Directors' delegated authority – 21 October 2022

# 11.13 USE OF COUNCIL FACILITIES AND RESOURCES BY COUNCILLORS FACTSHEET

*The [Member] Code of Conduct states 'You must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 and guidance on the Use of Resources by Councillors within the Council's Protocol'.*

**A. Will I be provided with facilities and resources to carry out my duties as a Councillor? Yes – this may include access to IT equipment.**

**B. Can I use Council facilities and resources for political purposes?**

No – if used for purely political purposes.
Yes, if the use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the Council's functions or of the office to which you have been elected or appointed e.g. use in connection with the following business:

(a) holding ward surgeries;
(b) dealing with correspondence from constituents;
(c) communicating group activities;
(d) meetings between group members.

C. **Can my use of Council facilities and resources extend to political parties more generally?**

No. You may only use Council owned premises for party political purposes (where such meetings are used to further the political aims and objectives of the party concerned) if restricted to premises available to the public generally and paid for at the full hire costs.

D. **Is the onus placed on me to be aware of and ensure the Council complies with the rules governing local authority publicity?** Yes – you must have regard to the Code of Recommended Practice on Local Authority Publicity and not do anything which would cause the Council or you to breach the Code e.g. it would not be appropriate for you to use the Council's resources for political purposes, including party political purposes.

E. **During the election period, can I publicise my Council email address in any ward newsletters which contain election or campaigning material? No**

F. **Is my incidental personal use of Council facilities and resources permissible?**
Yes - provided that the use is not purely in connection with political purposes, there is no cost to the Council nor any liability for the Council and you ensure that any secondary use of IT equipment supplied by the Council is acceptable and appropriate and that such use does not contravene the [Member] Code of Conduct, Council codes, protocols etc, the Misuse of Computer Act 1990 and any other relevant UK legislation.

G. **Find out more** - The Protocol for Use of Council Facilities and Resources by Councillors offers further guidance. Advice or clarification can be sought from the Head of Legal Services and Monitoring Officer.

## 11.14 - LOBBYING FACTSHEET

**A. What is lobbying?** Lobbying and campaigning is the practice of influencing decisions made by central and/or local government at a national or local level. Councillors may be involved in a number of groups or campaigns, either as a member of a particular interest group or as an individual.

**B. Will I always have a prejudicial interest or be conflicted in other ways because of my membership of a lobby or campaign group, particularly if I campaigned on the issue as an individual, during an election campaign?** No - you will not automatically have an interest or be conflicted (through predetermination or bias) in an item under discussion, just because you are a member of a lobby or campaign group and/or have previously campaigned on the issue. You need to consider the following factors in determining whether you have a prejudicial interest or be conflicted in other ways:

(i) The nature of the matter to be discussed;
(ii) The nature of your involvement with the lobby or campaign group;
(iii) The publicly expressed views of the lobby or campaign group;
(iv) What you have said or done in relation to the particular issue.

**C. When will my membership of a lobby or campaign group give rise to a prejudicial interest?**

If *all* of the following conditions are met:

- The matter being discussed, affects the lobby or campaign group's financial position; and
- Your interest affects you to a greater extent than Council Tax payers etc; and
- A reasonable member of the public with knowledge of the relevant facts, would believe that your ability to judge the public interest would be impaired.

Note: A regulatory application, including a matter of consent or approval, licence, permission or registration, made by the other authority/body, is considered to have an impact upon the financial interests of that lobby or campaign group.

**D. Can I participate in the discussion and vote on an item in which I have a prejudicial interest?** Only if you have been granted a dispensation to speak or to speak and vote. Otherwise, you must withdraw from the meeting room during the debate and not vote on the item.

Remember to declare at the beginning of the meeting, or as soon as you become aware of the interest, the existence and nature of the interest and how the business under consideration relates to your membership of the lobby or campaign group.

**E. Do I need to consider whether my membership of a lobby or campaign group raises other conflicts?** Yes – although you may not have a prejudicial interest, you may be conflicted because of actual or perceived predetermination or bias.

**F. Can I represent my constituents if I have a prejudicial interest or am conflicted in other ways?** Yes, by:

- making written representations - these should be addressed to officers;
- arranging for another Member to represent the views of your constituents.
- **Find out more** -The Probity in Planning Protocol and the Probity in Licensing Protocol offer further guidance. Advice or clarification can be sought from the Monitoring Officer or the Head of Legal Services.

Legal/Member Code of Conduct/FAQs on Code of Conduct/Lobbying FAQs

## 11.15 - HOW TO DEAL WITH CONFIDENTIAL INFORMATION FACTSHEET

*The [Member] Code of Conduct states 'You must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those decisions and actions. You should have regard to the guidance in the Council's Protocol on the Release of Confidential Information'.*

**A. What is 'information'?** Information is a broad term. It includes facts, advice and opinions. It also covers written materials, including tapes, videos, CDs, DVDs and other electronic media.

**B. What is 'confidential information'?**

1. if the nature of the information is sensitive or personal, for example it is a business secret;
2. if it is information that you would expect people would want to be private;
3. if it was divulged in a way which implied it should be kept confidential;
4. if disclosing the information would be detrimental to the person who wishes to keep it confidential;
5. If the Council, Cabinet or a Committee/Sub-committee/Board/Panel has agreed to treat the information as exempt.

**C. When can confidential information be disclosed?** When:

1. The person authorised to give it has given you consent to disclose it;
2. You are required by law to do so;
3. The disclosure is made to a third party in order to obtain professional advice, for example a lawyer;
4. The disclosure is in the public interest.

**D. What does 'in the public interest' mean?** Described as something that is of serious concern or benefit to the public, not merely of individual interest. The public interest does not mean 'of interest to the public' but 'in the interest of the public'. The term is not defined in law, so you will need to make a subjective judgment, in which policy and legal interpretations are both involved to some degree.

**E. When can I 'disclose confidential information in the public interest?** You must exercise caution before releasing information. Subject to you being able to justify the disclosure in the public interest (see FAQ F below), information may be disclosed where:

1. A criminal offence is committed;
2. The Council fails to comply with its legal obligations;
3. A miscarriage of justice occurs;
4. The health and safety of an individual is in danger;
5. The environment is likely to be damaged;
6. Information about any of the issues above is deliberately concealed.

**F. Must I justify disclosure of confidential information in the public interest?** Yes – disclosure will be justified when *all* of the following points are met:

1. The disclosure must be reasonable – this is a matter of judgment. However, when making this decision, you should consider carefully why you want to disclose the information, whether it is true, how serious the issue is and who to tell; and
2. The disclosure must be in the public interest; and
3. The disclosure must be made in good faith – the disclosure will not be justified if it is being made to promote your interests or is for political gain; and
4. The disclosure must first be made through the Council's whistleblowing procedure or by challenging the requirement for confidentiality by submitting a request under the Freedom of Information Act 2000 or Environmental Information Regulations 2004.

**G. When would a public interest disclosure not be justified?** If the disclosure would amount to a criminal offence or when information is protected by legal professional privilege, it is unlikely that its release could be justified as being in the public interest.

**H. Find out more** -The Protocol on the Release of Confidential Information offers further guidance. Advice or clarification can be sought from the Monitoring Officer or the Head of Legal Services.

Legal/Member Code of Conduct/FAQs/Release of Confidential Information FAQs

Legal/Member Code of Conduct/FAQS/Use of Resources by Councillors October 2022