

Date: 18 September
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To: Members of the Audit and Corporate Governance Committee
(Councillors: Roger Boote, Peter Bowden, Bob Buxton
Steve Gazzard, Steve Hall, Tony Howard, Geoff Pook,
Ken Potter)

Councillor David Cox – Portfolio Holder, Finance
Councillor Ray Bloxham - Portfolio Holder, Corporate Business
Councillor Ian Thomas – Portfolio Holder, Corporate Services
Chief Executive
Deputy Chief Executives
Head of Service – Finance
Internal Audit, SWAP
External Audit, Grant Thornton

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Audit and Governance Committee
Thursday 27 September 2012
2.30pm
Council Chamber, Knowle, Sidmouth

Members of the public are welcome to attend this meeting.

- A period of 15 minutes has been provided at the beginning of the meeting to allow members of the public to raise questions.
- In addition, the public may speak on items listed on the agenda. After a report has been introduced, the Chairman of the Committee will ask if any member of the public would like to speak in respect of the matter and/or ask questions.
- All individual contributions will be limited to a period of 3 minutes – where there is an interest group of objectors or supporters, a spokesperson should be appointed to speak on behalf of the group.
- The public is advised that the Chairman has the right and discretion to control questions to avoid disruption, repetition and to make best use of the meeting time.

AGENDA

	Page/s
1 Public question time – standard agenda item (15 minutes) Members of the public are invited to put questions to the Committee through the Chairman. Councillors also have the opportunity to ask questions of the Leader and/or Portfolio Holders during this time slot whilst giving priority at this part of the agenda to members of the public.	
2 To confirm the minutes of the meeting of the Audit & Governance Committee held on 28 June 2012.	4 - 7
3 To receive any apologies for absence.	
4 To receive any declarations of interests relating to items on the agenda.	

5	To consider any items which in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances. (Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting).		
6	To agree any items to be dealt with after the public (including the press) have been excluded. There are no items which Officers recommend should be dealt with in this way.		
7	SWAP Governance Arrangements	Head of Internal Audit Partnership	Verbal
8	Statement of Accounts 2011/12		8 - 11
	a) Financial Statement	Head of Service – Finance	Separate document
	b) Annual Governance Statement	Head of Service – Finance	12 - 17
	c) Letter of Representation	Head of Service – Finance	18 - 20
	d) Report to those charged with Governance	External Auditors, Grant Thornton	21 - 49
	e) Letter of objection 2010/11 accounts	External Auditors, Grant Thornton	50 - 58
9	Internal Audit Activity – Quarter 1 2012/13	SWAP	59 - 70
10	Draft Contract Standing Orders	Corporate Procurement Officer	71 - 96
11	Forward Plan	Head of Finance	97

Members remember!

- You must declare the nature of any disclosable pecuniary interests. [Under the Localism Act 2011, this means the interests of your spouse, or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living as if you are civil partners]. You must also disclose any personal interest.
- You must disclose your interest in an item whenever it becomes apparent that you have an interest in the business being considered.
Make sure you say what your interest is as this has to be included in the minutes. [For example, 'I have a disclosable pecuniary interest because this planning application is made by my husband's employer'.]
- If your interest is a disclosable pecuniary interest you cannot participate in the discussion, cannot vote and must leave the room unless you have obtained a dispensation from the Council's Monitoring Officer or Standards Committee.

Decision making and equality duties

The Council will give due regard under the Equality Act 2010 to the equality impact of its decisions.

An appropriate level of analysis of equality issues, assessment of equalities impact and any mitigation and/or monitoring of impact will be addressed in committee reports.

Consultation on major policy changes will take place in line with any legal requirements and with what is appropriate and fair for the decisions being taken.

Members will be expected to give reasons for decisions which demonstrate they have addressed equality issues.

Getting to the Meeting – for the benefit of visitors



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The following buses all terminate at the Triangle in Sidmouth. From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).

From Exeter – 52A, 52B; From Honiton – 52B; From Seaton – 52A; From Ottery St Mary – 379, 387

Please check your local timetable for times.

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Audit and Governance Committee held at Knowle, Sidmouth, on Thursday 28 June 2012

Present: Councillors:
Ken Potter (Chairman)
Peter Bowden (Vice Chairman)
Roger Boote
Bob Buxton
Steve Gazzard
Steve Hall
Tony Howard
Geoff Pook

Also Present: Councillors:
David Cox – Portfolio Holder, Finance
Martin Gammell

Officers: Paul Bacon, ICT Design and Compliance Manager
Simon Davey, Head of Finance
Hannah Whitfield, Democratic Services Officer

Internal Auditors: Andrew Ellins, South West Audit Partnership
Chris Gunn, South West Audit Partnership

External Auditors: Jenny Dwyer, Grant Thornton

The meeting started at 2.30 pm and ended at 4:05 pm.

*1 **Public Questions**

No questions were raised by members of the public.

*2 **Minutes**

The minutes of the meeting of the Audit and Governance Committee held on 15 March 2012 were confirmed and signed as a true record.

A Member of the Committee asked for an update regarding the Electors Challenge on the 2010/11 Accounts relating to the way the District Council was recording parking charge notice income for Off/On Street Parking which had been reported at the last meeting. The Head of Finance advised the Committee that a number of other Councils had experienced similar challenges and the cost of obtaining the opinion was being shared between the authorities. Grant Thornton, who had a duty to respond when an objection was raised, had written to the objector with a provisional view; the objector had 20 days to respond.

RESOLVED: that Grant Thornton's conclusion regarding the Electors Challenge on EDDC's 2010/11 Accounts and costs of the challenge to the Council be reported at a future Audit and Governance Committee.

***3 Declarations of interest**

There were no declarations of interest from Members.

***4 Revenue and Capital Outturn Report 2011/12**

The Head of Finance presented his report on the Revenue and Capital outturn 2011/12. The report set out the final position for the year, comparing the outturn position against budgets set for 2011/12. Variations were highlighted. The report detailed the effect the outturn had on the Council's reserves and balances.

The Head of Finance drew Members' attention to the importance of maintaining balances at above recommended levels during uncertain economic times. However the surplus in the Housing Revenue Account was currently below the targeted level. As a result the 2012/13 budget had been set to bring this balance back into line, and to reflect the new risks associated with HRA self-financing.

During a lengthy debate on the report a number of questions were raised by the Committee. The Head of Finance's responses to these questions included:

- Cabinet had agreed to increased budgets for certain service areas during the year. However there were no service areas that had significantly overspent their budget.
- The maintenance budget had been slightly increased and would continue to be monitored.
- Reserves were not taken into account when calculating the Formula Grant.
- New Homes Bonus (NHB) and Business Rate Retention (BRR) were two government incentives. It was not yet known how these incentives would affect the Formula Grant received from government and therefore the Council's General Fund was being kept at a high level. However it was noted that EDDC had a number of large projects, including Cranbrook and the Science Park that would benefit from the incentives. The NHB and BRR was revenue and could be used to for capital projects.
- Further clarity would be sought regarding the £350 of income being collected on new dwellings near the Exe Estuary and how they affected the Council's finances.
- Service budgets were set cautiously to ensure performance was maintained, however it was noted that savings had been achieved.
- The underspend on the economic development budget funding related to additional funding that Members agreed in the 2011/12 budget to assist work with asset management . This underspend had been transferred to a reserve for use in 2012/13.
- Savings had been made in the Document Centre through an 'invest to save' business plan.
- A report on investment in ICT and savings achieved would be presented at a future meeting.

RESOLVED:

1. that the 2011/12 year end position be noted;
2. that the Head of Finance provide a report on ICT investment and savings achieved to a future Audit and Governance Committee. (The remit of the report to be discussed with the Chairman of the Committee and Councillor Buxton).

***5 Year End Risk Review 2011/12**

Members considered the report of the Management Information Officer setting out risk information for the 2011/12 financial year until March 2012. Members were reminded that the Council's Risk Management Policy required all risks identified by the Council to be reviewed bi-annually. All risk owners had been asked to reassess the overall risk, update their control actions and re-score the risk. The Committee was pleased to note that the Risk Management process was becoming more embedded within the Council.

The Committee discussed the report. In response to a query raised relating to contract letting the Head of Finance explained that Standing Orders were currently being re-written and would be presented to the Committee at their September meeting. Andrew Ellins advised the Committee that SWAP was timetabled to look at contracts in quarter two. Any concerns regarding specific contractors raised by Members would be looked at by SWAP.

The Chairman invited the ICT Design and Compliance Manager to explain processes in place to address the highlighted risks relating to CoCo Compliance and System Design. The Committee heard that the Council was required to comply with government Code of Connection (CoCo) for system security, access and use of government ICT systems and overall information security. The Council had met a majority of the mandatory/strongly recommended controls and were being monitored quarterly for the small number of controls not met. The main Disaster Recovery site with new back up and recovery systems and processes was expected to be in place for July 2012. There would be a regular testing schedule.

The Head of Finance, in response to a question enquiring about call levels to the dedicated fraud line, advised the committee that the line was now handled by the Benefits service however few calls were received that related to non-benefit issues.

RESOLVED: that the Year End Review 2011/12 report be noted.

***6 Internal Audit Plan – Review of 2011/12**

Members considered the report of the Audit Manager which provided the outturn position for the Internal Audit Plan at the end of 2011/12 (quarter 4). It also provided Internal Audit's overall opinion on the systems of internal control at this Council.

In total, 37 audit reviews were completed in 2011/12 – a further audit was due for completion. Andrew Ellins of SWAP advised the Committee that considering the balance of audit work and outcomes, he was able to offer 'reasonable' assurance in respect of the areas reviewed during the year as on balance most were found to adequately controlled. The Council's direction of risk management was encouraging. Any audit receiving a 'partial' assurance would be reviewed to check recommendations had been implemented.

The scoring system was explained to the Committee. Members felt it would be helpful in future to be given brief reasons for an audit receiving a 'partial' assurance. The Committee was advised that SWAP was reviewing its scoring system for the following year.

RESOLVED: that the content of the Internal Audit Annual Report and Opinion be accepted as presented.

***7 Forward Plan 2012/13**

The Committee noted the contents of the forward plan and future meeting dates. Annual Audit Plan 2012/13 was to be amended to 2013/14.

Items to be included:

- 27 September 2012 – Contract Standing Orders
- 8 November 2012 – Annual audit letter, fee letter and ICT review
- 14 March 2013 – Audit Charter

***8 Future of SWAP Partnership**

The Vice Chairman reported that he had recently, on behalf of the Chairman, attended a meeting to consider the future of SWAP. A number of business models had been discussed and a proposal had been put forward which all authorities in the Partnership would need to agree. A report would be presented to a future Committee meeting.

Chairman Date

Agenda Item 8

Audit & Governance Committee

27 September 2012

SD



Statement of Accounts 2011/12

Summary

The Council's Statement of Accounts for 2011/12 has now been audited and is attached for presentation to the Audit & Governance Committee for approval.

Amendments have been made following the audit undertaken by the Council's external auditors Grant Thornton, details of this work and a full report to members is contained on this Agenda.

This report compares the final position on the Council's Accounts compared with the position presented to members in the June Outturn Report to Committee.

Recommendation

Members Approve the 2011/12 Statement of Accounts.

a) Reasons for Recommendation

There is legal requirement for the Council to approve the Council's Statement of Accounts by 30 September; the Council has delegated this function to the Audit & Governance Committee.

b) Alternative Options

The Authority is required to have its accounts approved by 30 September, this is a legislative requirement.

c) Risk Considerations

It is a legal requirement for the Statement of Accounts to be approved by the Council; this has been delegated to the Audit and Governance Committee. The Council would not wish from a legal or reputation point of view not to meet this requirement.

d) Policy and Budgetary Considerations

The Statement of Accounts, although amended through audit, does not materially alter the financial position outlined to members of the Audit & Governance Committee and Cabinet in previous reports. Decisions made at that time by the Council do not require to be revisited in light of the audited Accounts.

e) Date for Review of Decision

Not applicable

1. Introduction

- 1.1 The Accounts and Audit Regulations 2011 set out the requirements for the production and publication of the Annual Statement of Accounts.
- 1.2 Within the regulations there is a requirement that a representative group of Members approve the Annual Statement of Accounts, by 30 September. The Council has delegated this responsibility to the Audit and Governance Committee.

2. Statement of Accounts 2011/12.

- 2.1 The Statement of Accounts for 2011/12 is attached. The explanatory foreword on pages 2 to 6 gives a brief summary as to the layout of the Accounts and the purpose of each of the main statements. Comment is also given on the key financial points to be drawn from the Accounts and assists in making comparisons from the standard budget and Outturn reports presented previously to members and the prescribed format of the Statement of Accounts.
- 2.2 The Revenue and Capital Outturn report presented to this Committee and to the Cabinet in June (where figures are prepared by mid May to meet report deadlines) detailed for members the position on the Councils finances compared with the budgets set.
- 2.3 The Outturn report focuses on key figures relating to the Council's finances and is presented at an earlier stage than the production of the Statement of Accounts. Below comparisons are made between those figures presented at Outturn with the corresponding figures now included in the Audited Statement of Accounts.

General Fund

Outturn Position of Reserve at 31/3/2012	£5.401m ⁽¹⁾
Statement of Accounts	<u>£5.536m</u>
Increase in Reserve	<u>£0.135m</u>

(1) Members agreed to transfer the 2011/12 surplus into the capital reserve, thereby leaving the General Fund Balance in 2012/13 at £4.388m

The difference relates to a few adjustments made by the Finance Team after presenting the Outturn position to members but before the presentation of the Accounts at the end of June. No amendments have been made to this position through the Audit of the Accounts.



The increase in the General Fund Balance of £0.135m mainly relates to two adjustments:

- £76,000 of expenditure correctly reclassified from capital to revenue had been included as general fund expenditure but the entry to fund this expenditure had not been processed at outturn stage.
- An estimate was used to close the outturn position for accumulated absences costs which was £75,000 higher than the actual sum.

Housing Revenue Account

Outturn Position of Reserve at 31/3/2012	£0.623m
Statement of Accounts	<u>£0.624m</u>
Increase in Reserve	<u>£0.001m</u>

The difference is due to roundings

Capital Reserve

Outturn Position of Reserve at 31/3/2012	£3.128m
Statement of Accounts	<u>£3.127m</u>
Decrease in Reserve	<u>£ 0.001m</u>

The difference is due to roundings

There were no amendments made on any other cash reserves held.

2.4 The Unaudited Statement of Accounts presented for audit have been amended through the audit process and details are included on the Agenda in a report from Grant Thornton, the Council's external auditors. The main alterations made are in the areas of;

- Leases:

IFRS (International Financial Reporting Standards) required that SITA vehicles used in our Refuse and Recycling service appear on our balance sheet as assets. A corresponding liability has now been created with a contra entry on the Capital Adjustment account. The annual lease payments have been reclassified between the interest and the principle as in effect we "borrow" money to "buy" the assets. This adjusted both the 2010/11 and 2011/12 Income and Expenditure accounts. None of these adjustments affected the overall finances of the Council and the General Fund Balance.



- Capital funding:

Grants and contributions received in prior years needed to flow through the Income and Expenditure account as income when they are used. We had incorrectly financed the expenditure directly from the reserve or from receipts in advance with showing them in the Income and Expenditure account when used. These are immediately reversed out in the Movement in Reserves Statement; it had no effect on reserves.

- HRA depreciation:

The Council dwellings are revalued as at 31 March each year by the District Valuer (DV). The calculation of depreciation on the council dwellings is a notional amount and is immediately reversed out to reflect the actual valuation from the DV. Therefore the amendment to the method of componentisation and resultant change to the calculated depreciation had no effect on the final value of the assets.

- 2.5 Although a number of amendments have been made to the Accounts by the Audit, which is not a position we would want, it needs to be stressed that this does not affect the financial position of the Council as reported previously.

Legal Implications

The legal requirements for a statement of accounts is set out within the report otherwise there is nothing which requires comment.

Financial Implications

Details are included in the report.

Consultation on Reports to the Cabinet

None

Background Papers

[Cabinet](#) and [Audit & Governance](#) Agendas

Simon Davey
Head of Finance

Audit & Governance Committee
27 September 2012



Draft ANNUAL GOVERNANCE STATEMENT

For the year ended 31st March 2012

Scope of Responsibility

East Devon District Council is required to ensure that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded, properly accounted for, and used economically, efficiently and effectively. The Council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

In discharging this overall responsibility the Council is responsible for putting in place proper arrangements for the governance of its affairs and facilitating the effective exercise of its functions, which includes arrangements for the management of risk.

East Devon's Council's Audit & Governance Committee has approved a code of corporate governance, which is consistent with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government. A copy of the code is on our website at www.eastdevon.gov.uk. This statement explains how East Devon District Council has complied with the code. The Council is required under the Accounts and Audit Regulations 2011 to have an approved annual governance statement which accompanies its statement of accounts.

Purpose of the Governance Framework

The governance framework comprises the systems, processes, culture and values by which the authority is directed and controlled and the activities through which it accounts to, engages with and leads the community. It enables the authority to monitor the achievements of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost effective services.

The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and therefore only provides reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of East Devon District Council's policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them effectively and economically.

The Governance Framework

The governance framework described has been in place for the year ending 31 March 2012 and up to the date of the approval of the statement of accounts.

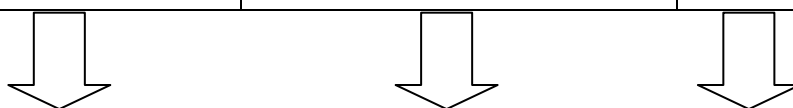
Some of the key features of the governance framework are set out in the following paragraphs:

- The Council has a Corporate Strategy setting out 3 corporate priorities. The Strategy along with the objectives and targets were reviewed in May 2010 to ensure their continuing relevance in the light of the changing economy and other circumstances. This was superseded by the preparation in 2011/12 of a Council Plan for 2012 -16 with 4 core strategies supporting the Plan; Economy, Environment, Finance and Housing Service. Along side the Council Plan we also have produced in 2011/12 for 2012 -16 a Customer Services Plan, a Communication Plan and an ICT Plan. All these documents can be found on the Council's website.
- Delivery of the Corporate Strategy is supported by service plans and individual targets for staff agreed through the annual appraisal process which is recorded and monitored through the Council's performance management systems. Each of the 3 corporate priorities is monitored by Overview and Scrutiny Committee. This Committee drives the scrutiny process on behalf of the public with a view to improving the delivery of public services.
- A Standards Committee is in place to promote and maintain high standards of conduct by members, to consider reports and make recommendations concerning the governance and ethical standards of the Council and advice on the adoption or revision of the Council's Code of Conduct for members, officers and any other related codes or protocols. The Committee meet quarterly if required.
- Audit & Governance Committee exists with wide-ranging terms of reference including the requirement to consider the effectiveness of the Authority's governance arrangements, taking into account corporate risk management, the control environment and associated anti-fraud and anti-corruption arrangements.
- The Council has designated the Deputy Chief Executive as Monitoring Officer (with an advising and deputy role through the Corporate Legal & Democratic Services Manager) to ensure compliance with established policies, procedures, laws and regulations. After consulting with the Head of Paid Service and Chief Finance Officer the Monitoring Officer will report to the full Council if they consider that any proposal, decision or omission would give rise to unlawfulness or maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. The Council also conforms with the requirements of the CIPFA statement on the Role of the Chief Financial Officer in Local Government (2010).
- Maintenance of an internal audit service through the South West Audit Partnership which operates to the standards set out in the Code of Practice for Internal Audit in Local Government in the UK. Internal audit are responsible for monitoring the effectiveness of systems of internal control. The Service operates to an audit plan approved by the Audit and Governance Committee. The Council's Internal Audit function is subject to regular inspection by the Councils external auditors (Grant Thornton UK LLP).
- The Council has a whistle-blowing and anti-fraud and corruption policy.

Below is an overview of the Council's Governance Framework

As stated the Council has an adopted Code of Corporate Governance which is inline with CIPFA/SOLACE documentation on delivering good governance in local government. This defines the corporate governance framework and sets out six core principles of good governance as shown below.

Corporate Governance Framework		
Corporate Governance comprises the systems and processes, cultures and values, by which the council is directed and controlled, and through which we account to, engage with and where appropriate, lead the community.		
1. Focus on purpose of the Council, vision for local area and outcomes for the community.	2. Members and officers working together to achieve a common purpose with clearly defined functions and roles.	3. Promoting values and upholding high standards of conduct and behaviour.
4. Taking informed and transparent decisions scrutinised and risk managed.	5. Developing capacity of Members and Officers to be effective.	6. Engaging with local people to ensure public accountability.



(A) Key Documents: Regular/Annual Review or Production	(B) Key Documents: Ad hoc Review or Production	(C) Contributory Processes/Regulatory Monitoring	
<ul style="list-style-type: none"> • Corporate Strategy (now Council Plan) • Financial Strategy (Medium Term Financial Plan) • Annual Revenue & Capital Estimates • Service Plans • Statement of Accounts • Internal/External Audit Protocol • Council Tax Booklet • Performance Monitoring Reports (Measure Reports & performance indicators) • Financial Monitoring Reports • East Devon Connect • External Audit Report to those charged with Governance • External Audit Review report • Management Assurance Statements • Corporate Governance Statement 	<ul style="list-style-type: none"> • Constitution including Financial and Contract Standing Orders • Scheme of Delegation • Code of Corporate Governance • Anti-Fraud, Theft and Corruption Policy • Complaints Procedure • Communications Strategy • Community Engagement Policy • Customer Service Strategy • Procurement Strategy • Freedom of Information and Employment Policies • Data and Information Quality Policy • Information Security Policy • ICT Strategy • Protocol – Member Officer Relations • Members Code of Conduct • Employees Code of Conduct • Partnership Policy and Guidance • Risk Management Policy and Guidance • Published Agendas, Reports and Minutes of Committees • Whistleblowing Policy • Money Laundering Policy • Retention and disposal of documents Guidelines 	<ul style="list-style-type: none"> • Audit & Governance Committee • Standards Committee • Overview & Scrutiny Committee • Housing Review Board • Independent Remuneration Panel for Members Allowances • Strategic Management Team • Monitoring Officer appointed • S151 Officer Appointed • Head of Paid Service appointed • Customer Complaints/Feedback Process • Procurement & Efficiency Group • Resident's Panel consultation • Asset Management Forum 	<ul style="list-style-type: none"> • Job Descriptions and Person Specifications • Job Evaluation Process • Employee Induction • Employee Surveys • Learning and Development Programme – Employees/Members • Performance Excellence Review • Criminal Conviction Checks • Health & Safety Officers • Fraud Forum • External Audit • Internal Audit • Gift and Hospitality Registers for Employees • Members Register of Interest • Annual Review of Internal Audit, Risk Management & Governance Arrangements

Review of Effectiveness

East Devon District Council has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the work of:

- Internal Audit Annual Report and Opinion 2011/12.
- Internal and external audit and inspection.
- A specific review of the effectiveness of internal control and compliance to the governance framework undertaken in June through the completion of assurance statements by the Strategic Management Team. These were then reviewed by the Group Auditor for SWAP, the Head of Finance, and the Monitoring Officer for compliance and any apparent organisational improvements are included in the Governance Action Plan.
- The mechanisms for maintaining and reviewing the effectiveness of the system of internal control throughout the year include.
 - Cabinet is responsible for considering overall financial and performance management and receives comprehensive budget monitoring reports on a monthly basis and council service performance reports.
 - Overview & Scrutiny Committee holds the Cabinet Committee to account.
 - The Standards Committee meets quarterly when required and at every meeting considers an update report on complaints against councillors which includes learning points and recommended actions. The Committee also keeps under review the Council's policies and procedures for maintaining high ethical standards.
 - The Audit & Governance Committee meet five times a year to provide independent assurance to the Council in relation to the effectiveness of the risk management and internal control environment.
 - The South West Audit Partnership provides an independent and objective assurance service to the Council and completes a programme of reviews each year to inform an opinion on the internal control, risk management and governance arrangements. In 2011/12 this programme included governance audits. The service undertakes fraud investigation and proactive fraud detection work which includes reviewing the control environment in areas where fraud or irregularity has occurred.

Improvements made in Governance arrangements to note include;

- A number of key policies relating to the governance arrangements were rewritten in 2011/12 taking account of advice on best practise from SWAP where relevant. The policies are listed below and were approved by the Audit & Governance Committee.

- Anti-Fraud Theft and Corruption Policy
- Anti-Bribery Policy
- Code of Corporate Governance
- Risk Management Policy and Guidance
- Whistleblowing Policy
- Partnership Policy and Guidance
- Retention and Disposal of Documents Policy

Staff have been made aware of these revised policies.

- In addition to producing a Council Plan with supporting strategies and service plans the Council has produce for the first time a year end report (2011/12) of its activities to consider how well the Council performed against what it set out to achieve.
- The Council has improved its overall assessment of key financial controls as reported by SWAP

Significant Governance and Control Issues Identified – Governance Action plan

Council Members and Officers have been continually updated and advised on the implications of reviews of the effectiveness of the Council's systems of internal control. Plans have been devised and put in place to ensure continuous improvement. The Council's annual review of the governance framework, including the system of internal controls and associated reviews during the year, identified some areas where action is appropriate to enhance the governance and internal control environment and ensure continuous improvement. These are listed below, along with the proposed actions to remedy or improve the position.

Area for Improvement	Suggested Action	Responsible Officer Response	Officer Resp.
Financial Regulations & Contract Standing Orders	These need reviewing to update in terms of organisation restructure, contract process and values need updating. Refresher training for staff is required in this area as there are concerns over the need to embed the importance of this document with staff.	This has been carried forward from 2011/12 and will now be completed in 2012/13. Contracts Standing Order reviewed September 2012 and Financial Regulations by 31 March 2013	Simon Davey
ICT Service Continuity Plan	In the event of a major incident that prevents use of the main data centre at the Knowle the intention is to be able to transfer IT operations to East Devon Business Centre. This is not in operation as yet.	To be completed by October 2012	Paul Bacon

Publication of Contracts Register	The publication of a contracts register on the Council's website. The Government has indicated that this may become a requirement for Councils but this has not been confirmed. Although not a requirement it is considered that this will improve transparency and openness.	To be completed by January 2013	Colin Slater
Emergency Planning	Emergency Planning Audit identified some key weaknesses; an out of date emergency plan, including contact database and the need to define officer responsibility. This was identified as a current weakness by the Street Scene Manager in his Assurance Statement.	To be completed by March 2013	Andrew Hancock

Signed & Dated

Chief Executive 27/9/2012

Signed & Dated

Leader of the Council 27/9/2012

Date: 27th September 2012
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East Devon District Council
Knowle
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Tel: 01395 516551

Dear Sirs

**East Devon District Council
Financial Statements for the Year Ended 31 March 2012**

This representation letter is provided in connection with the audit of the financial statements of East Devon District Council for the year ended 31 March 2012 for the purpose of expressing an opinion as to whether the financial statements give a true and fair view in accordance with International Financial Reporting Standards.

We confirm to the best of our knowledge and belief that the following representations are made on the basis of appropriate enquiries of other officers and members with relevant knowledge and experience (and, where appropriate, of inspection of supporting documentation) sufficient to satisfy ourselves that we can properly make each of the following representations to you in respect of your audit of the above financial statements.

Financial Statements

- i We have fulfilled our responsibilities for the preparation of the financial statements in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in Great Britain ("the Code") as adapted for International Financial Reporting Standards; in particular the financial statements give a true and fair view in accordance therewith.
- ii We have complied with the requirements of all statutory directions and these matters have been appropriately reflected and disclosed in the financial statements.
- iii We acknowledge our responsibility for the design and implementation of internal control to prevent and detect error and fraud.
- iv Significant assumptions used by us in making accounting estimates, including those measured at fair value, are reasonable.
- v We are satisfied that the material judgements used by us in the preparation of the financial statements are soundly based, in accordance with the Code, and adequately disclosed in the financial statements. There are no further material judgements that need to be disclosed.
- vi We confirm that we are satisfied that the actuarial assumptions underlying the valuation of pension scheme liabilities for IAS19 disclosures are consistent with our knowledge. We confirm that all settlements and curtailments have been identified and properly accounted for. We also confirm that all significant retirement benefits have been identified and properly accounted for

(including any arrangements that are statutory, contractual or implicit in the employer's actions, that arise in the UK or overseas, that are funded or unfunded).

- vii Related party relationships and transactions have been appropriately accounted for and disclosed in accordance with the requirements of the Code.
- viii All events subsequent to the date of the financial statements and for which the Code requires adjustment or disclosure have been adjusted or disclosed.
- ix We have not adjusted the misstatements brought to our attention on the audit differences and adjustments summary, attached to the ISA260 Report to those charged with governance as Appendix B, as we do not consider that it materially affects the financial statements. The financial statements are free of material misstatements, including omissions.
- x Except as stated in the financial statements:
 - a. there are no unrecorded liabilities, actual or contingent; and
 - b. none of the assets of the Council have been assigned, pledged or mortgaged there are no material prior year charges or credits, nor exceptional or non-recurring items requiring separate disclosure.
- xi We have no plans or intentions that may materially alter the carrying value or classification of assets and liabilities reflected in the financial statements.
- xii Actual or possible litigation and claims have been accounted for and disclosed in accordance with the requirements of the Code.
- xiii We believe that the Council's financial statements should be prepared on a going concern basis on the grounds that current and future sources of funding or support will be more than adequate for the Council's needs. We believe that no further disclosures relating to the Council's ability to continue as a going concern need to be made in the financial statements.

Information Provided

- xiv We have provided you with:
 - a. access to all information of which we are aware that is relevant to the preparation of the financial statements such as records, documentation and other matters;
 - b. additional information that you have requested from us for the purpose of your audit; and
 - c. unrestricted access to persons within the entity from whom you determine it necessary to obtain audit evidence.
- xv We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.
- xvi We have communicated to you all deficiencies in internal control of which management is aware.
- xvii All transactions have been recorded in the accounting records and are reflected in the financial statements.
- xviii We have disclosed to you all information in relation to fraud or suspected fraud that we are aware of and that affects the entity and involves:
 - a. management;
 - b. employees who have significant roles in internal control; or
 - c. others where the fraud could have a material effect on the financial statements.
- xix We have disclosed to you all information in relation to allegations of fraud, or suspected fraud, affecting the Council's financial statements communicated by employees, former employees, analysts, regulators or others.

- xx We have disclosed to you all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing financial statements.
- xxi We have disclosed to you the identity of the Council's related parties and all the related party relationships and transactions of which we are aware.
- xxii We have disclosed to you all known actual or possible litigation and claims whose effects should be considered when preparing the financial statements.

Other statements

- xxiii We are satisfied that the Annual Governance Statement (AGS) fairly reflects the Council's risk assurance and governance framework and we confirm that we are not aware of any significant risks that are not disclosed within the AGS.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke.

Simon Davey
Head of Finance

East Devon District Council

Annual report to those charged with governance (ISA 260)

September 2012



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1 Executive summary

Purpose of this report

This report has been prepared for discussion between Grant Thornton UK LLP and the Audit and Governance Committee of East Devon District Council (the Council). The purpose of this report is to highlight the key issues arising from the Council's financial statements for the year ending 31 March 2012.

This report meets the mandatory requirements of International Standard on Auditing 260 (ISA 260) to report the outcome of the audit to 'those charged with governance', designated as the Audit Committee. The requirements of ISA 260, and how we have discharged them, are set out in more detail at Appendix A.

The Council is responsible for the preparation of financial statements which record its financial position as at 31 March 2012, and its income and expenditure for the year then ended. We are responsible for undertaking an audit and reporting whether, in our opinion, the Council's financial statements present a true and fair view of the financial position.

Under the Audit Commission's Code of Audit Practice we are also required to reach a formal conclusion on whether the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Audit conclusions

Financial statements opinion

Following certification by the Council's Head of Finance, we were presented with draft financial statements for audit by the statutory deadline of 30 June 2012.

A number of material adjustments have been made to the financial statements that impact both on the Council's comprehensive income and expenditure statement and the Council's reported assets and liabilities in the balance sheet. In addition, there were a large number of other audit adjustments which have resulted in changes to the financial statements.

The most significant adjustments required to the financial statements were in relation to:

- debtors and creditors;
- finance leases;
- grants and contributions; and
- capital financing.

Subject to the required audit adjustments being made, we anticipate providing an unqualified opinion on the Council's financial statements, following approval by the Audit and Governance Committee on 27 September 2012.

Further details of the outcome of the financial statements audit are given in section 2.

Value for Money Conclusion

In providing the opinion on the financial statements we are required to reach a conclusion on the adequacy of the Council's arrangements for ensuring economy, efficiency and effectiveness in its use of resources (the Value for Money Conclusion).

We expect to present an unqualified Value for Money Conclusion in regard to the Council's arrangements to ensure economy, efficiency and effectiveness in its use of resources.

Further details of the outcome of our value for money review are given in section 3.

The way forward

Matters arising from the financial statements audit have been discussed with the Head of Finance. We have made a number of recommendations, which are set out in the action plan at Appendix C. This has been discussed and agreed with the Head of Finance and the finance team.

Use of this report

This report has been prepared solely for use by the Council to discharge our responsibilities under ISA 260, and should not be used for any other purpose. We assume no responsibility to any other person. This report should be read in conjunction with the Statement of Responsibilities and the Council's Letter of Representation.

Acknowledgements

We would like to record our appreciation for the assistance and co-operation provided to us during our audit by the Council's staff.

Grant Thornton UK LLP

September 2012

2 Key audit issues

Matters identified at the planning stage

We report our findings in line with our planned approach to the audit which was communicated to you in our Audit Plan 2011-12 presented to the Committee in March 2012.

Our response to the matters identified at the planning stage are detailed below.

Issue	Audit areas affected	Work completed	Assurances gained
<p>Financial performance pressures affecting the Council's ability to deliver its budget and provide services</p>	<p>All areas of the financial statements</p>	<ul style="list-style-type: none"> We have reviewed the Council's financial performance for 2011-12 against its agreed budget, noting an underspend of £1,013,000 against the General Fund budget and a deficit of £89,766,000 on the provision of services as reported in the Comprehensive Income and Expenditure Statement, which is based on the accounting cost of providing services. Our audit work was tailored to address the risk of understatement of expenditure and overstatement of revenue. 	<ul style="list-style-type: none"> Our audit has identified a number of adjustments reducing the reported deficit on the provision of services reported in the Comprehensive Income and Expenditure Statement. However, these do not affect the General Fund balance which represents the revenue resources available to the Council. These adjustments are detailed in Appendix B.

Issue	Audit areas affected	Work completed	Assurances gained
Incorrect accounting for HRA self financing	Borrowing	<ul style="list-style-type: none"> We have reviewed the accounting transactions processed by the Council with reference to LAAP guidance issued by CIPFA setting out the accounting considerations in respect of the Council taking on £84 million debt due to the implementation of the Housing Revenue Account (HRA) self-financing system. 	<ul style="list-style-type: none"> Our testing confirmed that borrowing of £84 million taken out in the year has been correctly accounted for within the 2011-12 financial statements. Whilst separately disclosed in the HRA Income and Expenditure Account, we recommended that the Council disclose this separately as an exceptional item on the face of the Comprehensive Income and Expenditure Statement due to its material nature.
Incorrect accounting for HRA assets	HRA property, plant and equipment	<ul style="list-style-type: none"> We have reviewed the accounting entries for movements in HRA assets to ensure fully and accurately reflected in the 2011-12 accounts. 	<ul style="list-style-type: none"> Our work identified that the depreciation charge for Council dwellings was based on assumptions which were not considered to be suitable to produce an appropriate estimate. Further details are set out below under the section 'capital accounting'. Following an adjustment of £968,000 to the depreciation charge, we have gained assurance that HRA assets have been correctly accounted for.
Incorrect accounting for heritage assets	Property, plant and equipment	<ul style="list-style-type: none"> We have reviewed the Council's arrangements for the identification of heritage assets to ensure compliance with the principles of FRS 30 which are adopted by the Code for the first time in 2011-12. 	<ul style="list-style-type: none"> We have gained assurance that the Council has appropriate arrangements in place to ensure heritage assets are identified and accounted for correctly.

**Insufficient
action to
address issues
arising from
the 2010-11
accounts audit**

**All areas of
the financial
statements**

We have assessed the progress of implementation of the recommendations made following our 2010-11 accounts audit.

- The Council has addressed a number of the issues that arose during the 2010-11 audit and we have not identified any audit adjustments relating to the Collection Fund or the revaluation of assets. However, we have identified a considerable number of significant adjustments and our audit has again highlighted issues relating to year end cut off which has resulted in adjustments to debtors and creditors balances in the financial statements.
- Whilst the Council has implemented a number of recommendations, some have been raised again as a result of our 2011-12 audit. Further details are set out in Appendix D.

Status of the audit

We carried out our audit in accordance with the proposed timetable and deadlines communicated to you in our Audit Plan 2011-12. Our audit is substantially complete although we are finalising our procedures in the following areas:

- testing of the cash flow statement;
- review of the final version of the financial statements;
- obtaining and reviewing the Council's letter of representation; and
- reviewing post balance sheet events, up to the signing of the accounts.

We anticipate providing an unqualified opinion on the Council's financial statements, following approval by the Audit and Governance Committee on 27 September 2012.

A number of issues arose during the course of the audit, some of which are considered material to the reported financial performance, which should be considered by the Audit and Governance Committee. These are set out in the following paragraphs. Where appropriate, we have made recommendations for improvement, as set out in the action plan at Appendix C.

Other matters arising from the financial statements audit

We were presented with draft financial statements for audit, following certification by the Council's Responsible Finance Officer, by the statutory deadline of 30 June 2012. We recognise that the quality of working papers have improved over the last year and we will continue to discuss with officers where they can be improved, such as ensuring there is sufficient supporting information for new or material transactions and ensuring the final version of working papers have been maintained.

Capital Accounting

Housing Revenue Account depreciation

The financial statements included £1,986,000 of depreciation in respect of Council dwellings. The model for depreciation adopted considers the component parts of the dwellings and their corresponding values and useful economic lives. However, as the carrying value of these dwellings stated in the financial statements takes account of an adjustment factor to reflect that the properties are used for social housing, the carrying value may be less than the value of the components. As the depreciation model did not apply the adjustment factor to component parts, we identified that certain components had a negative value applied leading to a depreciation credit

rather than a charge. We did not consider this a suitable basis for depreciation as it did not appropriately reflect the value of different components.

The Council has adjusted the basis of depreciation, which we now consider to be based on reasonable assumptions and the correct valuation figure. This has led to a reduction of £968,000 in the depreciation charge.

Valuation of property, plant and equipment

A full revaluation of the Council's dwellings was undertaken by the District Valuer as at 31 March 2012. The District Valuer also valued a number of HRA other buildings, which were also considered by the Council's internal valuer. Whilst we are satisfied that this has not led to any valuation issues for the financial statements, we recommend that the Council ensure that responsibility for the valuation of assets is clearly set out to avoid any potential duplication.

Shared ownership properties

The Council has restated its property, plant and equipment balance in relation to a number of properties in which they own a 30% share. The Council has now accounted for these properties as property, plant and equipment valuing these based on a relevant proportion of the full market value of these properties with a credit to the capital adjustment account. We have considered these against the requirements of the Code with reference to IAS16 Property Plant and Equipment, concluding that it is appropriate to account for these as property, plant and equipment on the basis that future economic benefits will flow to the Council as it is probable that the shared owners will seek to buy a further share in the properties. However, we have requested that the Council clarify disclosures relating to these properties in the financial statements.

Finance leases

Assets held under finance leases are included as property, plant and equipment within the Council's balance sheet. However, it was identified that not all SITA vehicles held under finance lease arrangements had been included within the opening property, plant and equipment balance. In addition, the corresponding liability relating to the finance leases had not been correctly recognised. Consequently, the Council has made the following adjustments to the financial statements and updated the related disclosures:

- £377,000 increase in vehicles, plant and equipment at 31 March 2011 increasing the total balance to £5,112,000, with a corresponding reduction in the additions in year; and
- restatement of finance lease liabilities with a corresponding reduction in the capital adjustment account.

Grants and contributions

Our testing identified a number of adjustments to the financial statements to properly reflect the use of grants and contributions and the financing of expenditure. These are summarised as:

- an increase of £277,000 in cultural and related services income in the Comprehensive Income and Expenditure Statement to include section 106 developer contributions that should have been recognised in 2011-12;
- an increase of £1,628,000 in environment and regulatory services income in the Comprehensive Income and Expenditure Statement to recognise grants for which conditions had been met in year;
- a reduction of £1,230,000 capital grants and contributions recognised as taxation and non-specific grant income in the Comprehensive Income and Expenditure Statement to exclude amounts for which conditions had not yet been met and which should be accounted for within the balance sheet as grants receipts in advance; and
- £36,000 which was returned to developers was incorrectly included as expenditure against cultural and related services in the Comprehensive Income and Expenditure Statement.

In addition we identified that the Council had accounted for contributions received as a capital receipt through the capital receipts reserve, despite the income not relating to a sale of property, plant and equipment. Adjustments have been made to the financial statements to recognise the income of £1,693,000 received in the year as a capital contribution within the Comprehensive Income and Expenditure Statement and then being held within the capital grants unapplied balance due to these amounts not being spent in the year.

The adjustments detailed above do not impact on the overall level of resources available to the Council through the General Fund

Reserves

The matters detailed above relating to accounting for property, plant and equipment have impacted on the Council's reserves and resulted in a number of adjustments to the unusable reserves through the Movements in Reserves Statement. In addition, a number of separate discrepancies were identified in relation to the capital adjustment account and the adjustments made in Note 7. For example, not all movements could be reconciled to the other disclosure notes within the financial statements and there were discrepancies in the capital financing entries within different disclosures. Appropriate amendments have now been processed by management to correct these errors and discrepancies.

Debtors and creditors

Our testing identified a credit balance of £613,000 within the overall debtors and payments in advance balance of £3,601,000. This related to amounts received at the year end which were not yet recorded on the ledger. Our work identified:

- not all amounts were in respect of 2011-12. £511,000 related to 2012-13 and so should have been classified as receipts in advance; and
- that amounts relating to 2011-12 debtors raised, were not all set against the relevant category of debtors leading to reclassifications within the disclosure at note 17.

Adjustments have been made to the financial statements for these items.

Our testing also identified £58,000 in relation to rental amounts for which the debtor at 31 March 2012 has been calculated based on the annual agreement rather than the financial year, leading to the balance consisting of amounts in respect of the 2012-13 financial year. Due to the recurrent billing arrangements in place, no adjustments to the revenue recognised in the Comprehensive Income and Expenditure Statement or to the debtors balance are considered necessary. Whilst we have assurance that these amounts are not material, we recommend that the Council ensure appropriate cut-off arrangements are in place to ensure that only transactions relating to the relevant financial year are recognised in the financial statements each year.

Financial instruments

The financial statements are required to contain detailed disclosures in respect of financial instruments. These are defined as contracts that give rise to a right to future economic benefits or an obligation to transfer economic benefits. The Council's

disclosures have been amended in respect of council tax and NNDR balances, as these arise under statute not under contract.

Further disclosure adjustments have been made to ensure that the amounts reported in Note 15 and Note 41 are updated following other audit adjustments.

Other accounts issues arising

Our review of the provision for doubtful debts for HRA rental income included within the financial statements identified that no provision is made for debts below £400 in respect of current tenants. Whilst not individually material, these debts total £63,000 and account for half of the rent arrears in relation to current tenants. We therefore recommend that the Council reviews the policy to consider whether further provision should be made in respect of small balances.

In addition to the matters raised above, there were a number of presentational changes that arose during the course of our audit which have now been processed through the financial statements.

Misstatements

Our audit identified a considerable number of adjustments as a result of the matters set out above under matters arising from the financial statements audit. These have resulted in a significant number of changes to the financial statements, requiring a significant amount of audit work and Council resources to resolve. The overall effect of the misstatements are:

- a decrease in net assets of £2,319,000 due to adjustments in relation to finance lease liabilities and the pension fund;
- a decrease of £3,718,000 in the deficit reported in the Comprehensive Income and Expenditure Statement. £2,403,000 related to changes in the accounting treatment of grants and contributions ; and
- no effect on the general fund balance which represents the revenue resources available to the Council.

The auditor is required to communicate all uncorrected misstatements, other than those considered to be clearly trivial, to the entity's management and to request that management corrects them. All misstatements are set out at Appendix B.

Our audit has identified one amendment to the financial statements that has not been processed by management on the grounds of materiality. This relates to rental debtors as set out above.

Evaluation of key controls

Internal Controls

We have undertaken sufficient work on key financial controls for the purpose of designing our programme of work for the financial statements audit.

Journal entry controls

Journals are used to process manual changes to data within the financial ledger. The Council has procedures in place that define which members of staff may input journals. As noted in previous years journals do not require separate authorisation, although spot checks have been introduced following a previous audit recommendations. Staff are also required to retain evidence to support the journal entries made.

We tested a sample of 17 journals processed by the Council to ensure they have been appropriately posted and are supported by relevant information. For one of the journals in our sample, the supporting information had not been retained. Whilst we were able to gain assurance that the entry was appropriate, the Council should ensure that appropriate supporting evidence is retained for all journals.

Although spot checks are undertaken on journals, our audit has identified a significant number of adjustments processed via journals and we recommend that further controls are introduced to minimise the risk of inappropriate journals being posted at year end leading to errors in the financial statements.

Review of Information Technology

We performed a high level review of the general information technology (IT) control environment as part of the overall review of the internal control system and concluded that there were no material weaknesses within the IT arrangements that could adversely impact on our audit of the accounts. Our audit identified a small number of opportunities where the controls could be strengthened further, however, we did not consider these to pose a risk to the accounts and have been discussed separately with management.

Review of internal audit

We review the internal audit service's overall arrangements for compliance with requirements of the 2006 CIPFA Internal Audit Standards. We undertake a detailed review every three years, with an interim review in intervening years. The last detailed review of the Council's internal audit service was completed in 2010-11 and this work has been reviewed and updated as part of our planned programme of work for 2011-12. We have also assessed the effectiveness of their work through detailed file reviews. From this work, we concluded that the internal audit service meets these requirements and have, therefore, taken assurance that the work of internal audit contributes to an effective control environment at the Council

We draw on this work in forming our overall Value for Money (VfM) conclusion in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources. This work also supports our review of the Annual Governance Statement (AGS) which in turn informs our VfM conclusion and our audit of the financial statements.

Head of internal audit opinion

The Council's internal audit manager has issued his opinion on the effectiveness of the system of internal control and provided a reasonable level of assurance in respect of the areas reviewed during the year.

Management of the risk of fraud

We have sought assurances from the Head of Finance and the Chair of the Audit and Governance Committee in respect of processes in place to identify and respond to the risk of fraud at the Council. From these enquiries we have established that those charged with governance have sufficient oversight over these processes to give them the assurances they require in regard to fraud.

In the course of our accounts audit work, we did not uncover any evidence of fraud or previously undisclosed control weaknesses which might undermine the Council's process for mitigating the risk of fraud.

Annual Governance Statement

We have examined the Council's arrangements and processes for compiling the Annual Governance Statement (AGS). In addition, we have read the AGS and considered whether the statement is consistent with our knowledge of the Council.

We reviewed the draft AGS and, following additional disclosure in respect of whether financial management arrangements comply with the CIPFA Statement on the Role of the Chief Financial Officer in Local Government, we consider the document to be satisfactory in terms of content, a fair representation of Council operations during the year and in line with the Code.

Public questions

The Audit Commission Act 1998 gives electors certain rights:

- the right to inspect the accounts;
- the right to ask the auditor questions about the accounts; and
- the right to object to the accounts.

Questions in relation to the 2011-12 Accounts

We have received two questions from members of the public in relation to the activities of the Council. These related to:

- the robustness and integrity of the arrangements the Council is following in relation to its potential relocation to Honiton and the sale and development of the Knowle Gardens site; and
- the integrity of the relationship the Council has with some third party organisations.

These issues do not relate directly to the 2011-12 financial statements. Consequently, there is no impact upon our audit work on the statement of accounts. However, we are maintaining an ongoing review of the Council's arrangements in relation to the potential relocation. We have advised the correspondents that the issues raised should be referred to the Local Government Ombudsman and the Standards Team at the Department for Communities and Local Government (DCLG).

Update on the 2010-11 Accounts

On the 29 September 2011 we received a notice of objection in relation to the 2010-11 accounts. Whilst the audit of the financial statements were completed, and the audit opinion was issued on that date, the audit was not certified as completed until resolution of the Objection. Further details of the Objection were received on the 14 October 2011 and we accepted the Objection on 24 October 2011.

We have now completed our work in relation to the Objection and have issued our certificate closing the 2010-11 accounts. The details of the objection, together with the work we have completed, is set out in the following paragraphs.

The Objection asked that we sought a declaration of an unlawful item of account, in relation to items of account arising from Penalty Charge Notices (PCN) issued by the Council and that we issue a public interest report on the matter. The stated grounds for the Objection were that such items arising from penalty charge notices issued under Regulation 9 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 did not comply with the requirement in those Regulations to comply with Regulation 3 (2) (b) (i) of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

The Objection was based on the fact that the Council's alleged failure to comply with the Appeal Regulations and the General Regulations, and with the 2004 Act, meant that no lawful demand for penalty payments or financial liability on the part of the motorist could arise and, as a result, it was contended that "the sum total of these ultra vires receipts, having been unlawfully credited to the accounts of the Council, constitutes an item contrary to law".

Following the acceptance of the Objection, we undertook the following work:

- we considered the contents of the Objection and the material provided alongside the Objection;
- we sought and considered the Council's response to the Objection;
- we sought and considered our own legal advice on the issues raised in the Objection; and
- further considered, carefully, all of the further representations made both in response to the provisional view, that we issued to the Objector and the Council on 30 May 2012, and information received in the intervening period.

As a result of our work, we concluded that whilst the wording on the Council's PCN does not replicate the specific wording used in the Regulations, we do not consider that it is required to do so: the Regulations require that the information set out in the Regulations should be provided rather than any specific form of wording. The

Council must decide how best to incorporate that information into the PCN in order to satisfy the Regulations and its own internal practices and procedures.

In conclusion, our decision on the Objection to East Devon District Council's annual accounts for 2010-11 was that there were no grounds for seeking a declaration for unlawful expenditure under section 17 of the Audit Commission Act 1998 or for issuing a report in the public interest under section 8 of that Act.

A full copy of my final view was provided to the Council on 16 August 2012 and is included as a separate agenda item for this Audit and Governance Committee.

Appointed auditors are required to consider all formal objections alongside their audit work on the financial statements. Once an Objection has been accepted, any additional work required to investigate and conclude on the issue raised is subject to a separate fee, based upon the grade related rates prescribed by the Audit Commission. Wherever possible, the auditor should seek to minimise these additional costs.

The cost for considering this Objection, including independent legal costs, was £16,696. This represents the costs incurred to date and in the event that there is any further work required, this will be charged as an additional fee. We will discuss any such work with the Council in advance.

Next steps

The Audit and Governance Committee is required to approve the financial statements for the year ended 31 March 2012. In forming its conclusions the Committee's attention is drawn to the adjustments to the financial statements and the required Letter of Representation.

3 Value for money

Value for money conclusion

The Audit Commission Code of Audit Practice 2010 describes the Council's responsibilities to put in place proper arrangements to:

- secure economy, efficiency and effectiveness in its use of resources
- ensure proper stewardship and governance
- review regularly the adequacy and effectiveness of these arrangements.

For 2011-12 we are required to give our conclusion based on the following two criteria specified by the Audit Commission:

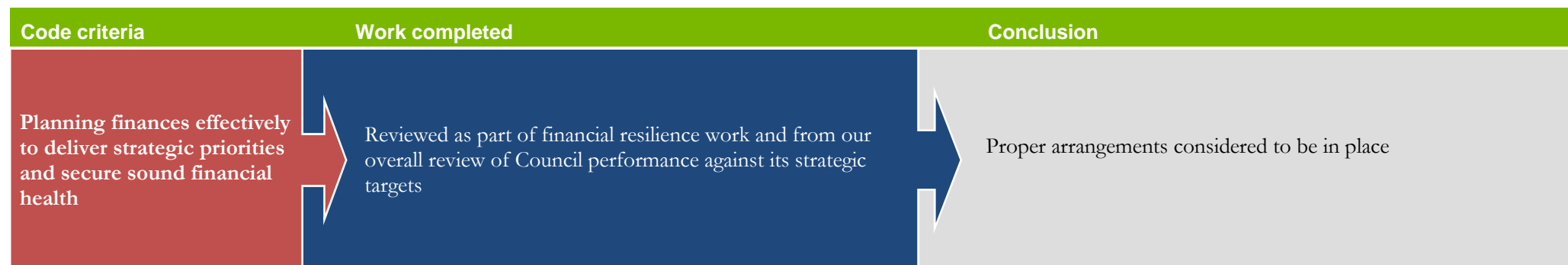
- the Council has proper arrangements for securing financial resilience
- the Council has proper arrangements for challenging how it secures economy, efficiency and effectiveness

In order for us to provide an unqualified conclusion, the Council needs to demonstrate proper arrangements in place for securing economy, efficiency and effectiveness in its use of resources.

We expect to present an unqualified Value for Money Conclusion in regard to the Council's arrangements to ensure economy, efficiency and effectiveness in its use of resources.

Programme of work - review of proper arrangements

Ours work has encompassed a review against proper corporate performance and financial management arrangements as defined by the Code. The findings from our review against these arrangements are detailed below:



Code criteria	Work completed	Conclusion
Having a sound understanding of costs and performance and achieving efficiencies in activities	Considered as part of our risk assessment of the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources	Proper arrangements considered to be in place
Reliable and timely financial reporting that meets the needs of internal users, stakeholders and local people	Reviewed as part of financial resilience work and our audit of the financial statements	Proper arrangements considered to be in place
Commissioning and procuring services and supplies that are tailored to local needs and deliver sustainable outcomes and value for money	Considered as part of our risk assessment of the Council's arrangements to prioritise resources and improve efficiency and productivity	Proper arrangements considered to be in place.
Producing relevant and reliable data and information to support decision making and manage performance priorities	Considered as part of our risk assessment of the Council's arrangements to prioritise resources and improve efficiency and productivity	Proper arrangements considered to be in place

Code criteria	Work completed	Conclusion
Promoting and demonstrating the principles and values of good governance	Considered in our review of the Council's Financial Resilience and our review of the Annual Governance Statement	Proper arrangements considered to be in place
Managing risks and maintaining a sound system of internal control	Considered in our review of the Council's arrangements to secure financial resilience and our review of the Annual Governance report	Proper arrangements considered to be in place
Making effective use of natural resources	Considered as part of our risk assessment of the Council's arrangements to make effective use of natural resources	Proper arrangements considered to be in place
Managing assets effectively to help deliver strategic priorities and service needs	Considered as part of our risk assessment of the Council's arrangements to prioritise resources and improve efficiency and productivity	Proper arrangements considered to be in place
Planning, organising and developing the workforce effectively to support the achievement of strategic priorities	Considered in our review of the Council's Financial Resilience and as part of our risk assessment of the Council's arrangements to prioritise resources and improve efficiency and productivity	Proper arrangements considered to be in place

Securing financial resilience and economy, efficiency and effectiveness

As part of the work informing our 2011-12 Value for Money (VFM) conclusion we have considered whether the Council has appropriate financial systems and processes in place to manage its financial risks and opportunities and to ensure that there are robust medium to long term financial planning arrangements to secure a stable financial position that enables it to continue to operate for the foreseeable future.

The definition of foreseeable future for the purposes of this financial resilience review is 12 months from the date of this report .

We have reviewed the financial resilience of the Council by looking at:

- key indicators of financial performance;
- its approach to strategic financial planning;
- its approach to financial governance; and
- its approach to financial control.

Key outcomes from our programme of work will be reported separately in more detail.

Overall conclusion

On the basis of our work, having regard to the specified criteria published by the Audit Commission, we have concluded that the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2012.

A The reporting requirements of ISA 260

Purpose of report

The purpose of this report is to highlight the key issues affecting the results of the Council and the preparation of the Council's financial statements for the year ended 31 March 2012.

The document is also used to report to management to meet the mandatory requirements of International Standard on Auditing (UK and Ireland) 260.

We would like to point out that the matters dealt with in this report came to our attention during the conduct of our normal audit procedures which are designed primarily for the purpose of expressing our opinion on the financial statements of the Council.

This report is strictly confidential, and although it has been made available to management to facilitate discussions, it may not be taken as altering our responsibilities to the Council arising under the terms of our audit engagement.

The contents of this report should not be disclosed with third parties without our prior written consent.

Responsibilities of the Council and auditors

The Council is responsible for the preparation of the financial statements and for making available to us all of the information and explanations we consider necessary. Therefore, it is essential that the Council

confirm that our understanding of all the matters in this report is appropriate, having regard to their knowledge of the particular circumstances.

Clarification of the roles and responsibilities with respect to internal controls

The Council's management is responsible for the identification, assessment, management and monitoring of risk, for developing, operating and monitoring the system of internal control and for providing assurance to the Audit and Governance Committee that it has done so.

The Audit and Governance Committee is required to review the Council's internal financial controls. In addition, the Audit and Governance Committee is required to review all other internal controls and approve the statements included in the annual report in relation to internal control and the management of risk.

The Audit and Governance Committee should receive reports from management as to the effectiveness of the systems they have established as well as the conclusions of any testing conducted by internal audit or ourselves.

We have applied our audit approach to document, evaluate and assess your internal controls over the financial reporting process in line with the requirements of auditing standards.

Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of testing, we identify any control weaknesses, we will report these to you.

In consequence, our work cannot be relied upon to disclose defalcations or other irregularities, or to include all possible improvements in internal control that a more extensive special examination might identify.

We would be pleased to discuss any further work in this regard with the Audit and Governance Committee.

ISAUK 260 requires communication of:

- relationships that have a bearing on the independence of the audit firm and the integrity and objectivity of the engagement team
- nature and scope of the audit work
- significant findings from the audit

Independence and robustness

Ethical standards require us to give you full and fair disclosure of the matters relating to our independence. In this context we ensure that:

- the appointed audit partner and audit manager are subject to rotation every seven years;
- Grant Thornton, its partners and the audit team have no family, financial, employment, investment or business relationship with the Council;
- our fees paid by the Council do not represent an inappropriate proportion of total fee income for either the firm, office or individual partner; and
- at all times during the audit, we will maintain a robustly independent position in respect of key judgement areas

Audit and non-audit services

Services supplied to the Council for the year ended 31 March 2012 are as follows:

	£
<hr/>	
Audit services	
<hr/>	
Financial statements and Value for Money	111,435
<hr/>	
Certification of claims and returns (estimate)	30,000
<hr/>	
Additional work in respect of objection received	16,696
<hr/>	

Audit quality assurance

Grant Thornton's audit practice is currently monitored by the Audit Inspection Unit, an arm of the Financial Reporting Council which has responsibility for monitoring the firm's public interest audit engagements.

The audit practice is also monitored by the Quality Assurance Directorate of the ICAEW.

Grant Thornton also conducts internal quality reviews of engagements.

Furthermore, audits of public interest bodies are subject to the Audit Commission's quality review process.

We would be happy to discuss further the firm's approach to quality assurance.

B Audit adjustments

Adjustment type

Misstatement - A change in the value of a balance presented in the financial statements

Classification - The movement of a balance from one location in the accounts to another

Disclosure - A change in the way in which a balance is disclosed or presented in an explanatory note

Adjustments to the financial statements

Adjustment type	£000	Account balance	Impact on financial statements
Misstatement	968	Council dwellings depreciation The assumptions underlying the calculation of depreciation were not considered appropriate.	Reduction of £968,000 depreciation charged on Council dwellings in the Comprehensive Income and Expenditure Statement and the Housing Revenue Account. Corresponding adjustments to the Movement in Reserves Statement and disclosures in note 7, note 12, note 22 and HRA disclosures.
Misstatement	277	Section 106 expenditure Not all section 106 developer contributions had been correctly recognised in the Comprehensive Income and Expenditure Statement.	Increase of £277,000 cultural and related services income recognised in the Comprehensive Income and Expenditure Statement. Updated disclosures in notes 26 and 32.
Misstatement	36	Section 106 refunds Amounts had been incorrectly recognised as expenditure in year.	Decrease of £36,000 cultural and related services expenditure recognised in the Comprehensive Income and Expenditure Statement. Updated disclosure in notes 26.

Adjustment type	£000	Account balance	Impact on financial statements
Misstatement	1,628	Grants and contributions Not all grant income had been correctly recognised in the Comprehensive Income and Expenditure Statement for which conditions had been met.	Increase of £1,628,000 environment and regulatory services income recognised in the Comprehensive Income and Expenditure Statement. Updated disclosures in notes 26 and 32.
Misstatement	1,230	Grants and contributions Grant income recognised in the Comprehensive Income and Expenditure Statement included some amounts for which conditions had not yet been met.	Decrease of £1,230,000 taxation and non-specific grant income recognised in the Comprehensive Income and Expenditure Statement with a corresponding increase in the grants receipts in advance balance in the balance sheet. Updated disclosures in notes 11, 26 and 32.
Misstatement	1,693	Grants and contributions Amounts incorrectly accounted for as a capital receipt through the capital receipts reserve.	Decrease of £1,693,000 in the capital receipts reserve with corresponding increase in capital grants and contributions recognised in year and the capital grants unapplied account. Updated disclosures in notes 7, 11, 22 and 32.
Classification	255	Grants and contributions Reclassification of grants receipts in advance from the short term creditors balance.	Decrease of £255,000 in the short term creditors balance with a corresponding increase in the grants receipts in advance balance. Updated disclosures in notes 20 and 32.
Classification	342	Finance lease interest Interest was incorrectly charged to net cost of services in the Comprehensive Income and Expenditure Statement.	Decrease of £342,000 environment and regulatory services expenditure recognised in the Comprehensive Income and Expenditure Statement with a corresponding increase in financing expenditure. Updated disclosures in notes 9 and 26.
Misstatement	377	Property, plant and equipment held under finance leases The property, plant and equipment balance at 31 March 2011 did not include all vehicles held under finance leases.	Reduction of £520,000 in property, plant and equipment additions in year with a corresponding increase in the opening balance of property, plant and equipment, and an increase in the related accumulated depreciation of £143,000. Updated disclosures in notes 12 and 35.

Adjustment type	£000	Account balance	Impact on financial statements
Misstatement	2,175	Finance lease liabilities Finance lease liabilities had not been correctly recognised.	Increase in finance lease liabilities of £2,555,000 at 31 March 2011 and of £2,175,000 at 31 March 2012, with corresponding reductions in the capital adjustment account balance. Updated disclosures in notes 22 and 35.
Disclosure	16	Note 12 Property, plant and equipment A revaluation had been incorrectly disclosed.	No effect on primary financial statements. Updated disclosure only.
Disclosure	180	Note 35 Finance leases Disclosures did not include all assets held under finance leases.	No effect on primary financial statements. Updated disclosure only.
Disclosure	84,376	HRA self-financing Separate disclosure of the HRA self-financing settlement on the face of the Comprehensive Income and Expenditure Statement due to its material nature.	Separate disclosure of £84,376,000 on the face of the Comprehensive Income and Expenditure Statement. No effect on net cost of services.
Classification	2,288	Classification of investments Long term investments were incorrectly classified as short term investments.	Increase in long term investments of £2,288,000 with corresponding reduction in short term investments reported in the balance sheet. No effect on net assets. Disclosures in note 15 updated.
Classification	511	Short term debtors The debtors balance incorrectly included amounts in respect of 2012-13 that should have been accounted for as receipts in advance.	Reduction in Debtors and Payments in Advance balance of £511,000 with corresponding increase in Creditors and Receipts in Advance reported in the balance sheet. No effect on net assets. Disclosures in notes 17 and 20 updated.
Disclosure	102	Note 17 Short term debtors and payments in advance Adjustments between different categories of debtors required to correctly disclose balances.	Disclosures in note 17 updated.

Adjustment type	£000	Account balance	Impact on financial statements
Disclosure	205	Note 19 Assets held for sale Disclosure updated to include all movements in assets held for sale in the year.	Disclosure in note 19 updated.
Misstatement	401	Pension Fund liability An adjustment to the pension fund liability at 31 March 2011 had been incorrectly accounted for in the 2011-12 financial statements.	An increase in the pensions liability and pensions reserve of £401,000 and corresponding increase in actuarial losses on pension assets and liabilities. Disclosures in note 22 and 38 updated.
Disclosure	6	Note 30 Officers' remuneration The 2010-11 remuneration paid to the Chief Executive was incorrectly disclosed and there was an error in the pay bandings disclosed for 2011-12.	No effect on primary financial statements. Updated disclosures only.
Disclosure	-	Note 12 Property, plant and equipment revaluations Note enhanced to disclose the names and qualifications of valuers.	No effect on primary financial statements. Updated disclosure only.
Disclosure	Various	Note 15 and Note 41 Financial instruments Disclosure included amounts that arise under statute and so do not meet the definition of a financial instrument. Financial instrument balances disclosed were also adjusted as a result of other audit adjustments.	No effect on primary financial statements. Updated disclosures only.
Disclosure	Various	Cash flow statement Statement updated as a result of other audit adjustments and to ensure consistent with related disclosures.	No change in the movement in cash and cash equivalents.

Adjustment type	£000	Account balance	Impact on financial statements
Disclosure	Various	Note 26 Amounts reported for resource allocation decisions Adjustments required as a result of adjustments effecting the Comprehensive Income and Expenditure Statement.	No effect on primary financial statements. Updated disclosure only
Disclosure	Various	Note 22 Capital adjustment account Disclosures updated as a result of errors identified and as a result of other audit adjustments.	Updated disclosure only.
Disclosure	Various	Note 34 Capital expenditure and capital financing Disclosures updated as a result of errors identified and as a result of other audit adjustments.	Updated disclosure only.
Disclosure	-	Various disclosures A number of other minor disclosure and presentational adjustments have been processed by the Council which do not need to be brought to the attention of the Audit Committee.	No effect on reported financial position.

Unprocessed adjustments to the financial statements

Adjustment type	£000	Account balance	Impact on financial statements
Misstatement	58	Rental debtors Rental debtors for which recurrent billing arrangements are in place have been calculated based on the annual agreement rather than the financial year leading to the balance including amounts in respect of 2012-13.	Debtors and revenue overstated by £58,000 for 2011-12.

C Action Plan

Rec No	Recommendation	Priority	Management Comments	Implementation date and responsibility
1	<p>Journals Further controls could be introduced to minimise the risk of inappropriate journals being posted at year end leading to errors in the financial statements.</p> <p>In addition, supporting information should be retained for all journals.</p>	High	<p>We will enhance the tracking and checking of year end journal postings. Currently a separate record is maintained by the Financial Services Manager of all year end journals processed by the Finance Team, each of these postings will be verified by another member of the team who has not created the entry to ensure the validity and accuracy of the entries. This will form part of strengthening the close down process to help eliminated errors in the final account preparation.</p> <p>Accountants will be reminded of the necessity to provide supporting information to back up journal entries.</p>	<p>Production of 2012/13 Accounts.</p> <p>Financial Services Manager</p>
2	<p>Review of financial statements A robust review of the accounts should be undertaken to identify areas of inconsistency within the financial statements.</p>	High	<p>We are currently exploring how other Council's manage the accounts preparation in order to learn from best practice in this area. We need be able to create time at the end of the process to give the team the ability to verify and check the accuracy of the statements, especially in the more technically difficult areas such as capital financing, leasing etc.</p>	<p>Production of 2012/13 Accounts.</p> <p>Financial Services Manager</p>
3	<p>Year end accruals of debtors and creditors The Council should ensure that appropriate cut-off arrangements are in place to ensure that only transactions relating to the relevant financial year are recognised in the financial statements each year.</p>	High	<p>This is an area we recognise as a weakness, in some areas we have taken a broad approach to accounting periods in order to reduce staff time looking at individual bills raised. Again we are exploring this issue with other authorities in order to follow best practice in this area, it is hoped that system reports can be produced to extract the information we need rather than the use of staff resources.</p>	<p>Production of 2012/13 Accounts.</p> <p>Financial Services Manager</p>

Rec No	Recommendation	Priority	Management Comments	Implementation date and responsibility
4	<p>Policy for bad debt provision The Council should review the policy for the calculation of the bad debt provision in respect of HRA rental income to consider whether further provision should be made in respect of small balances.</p>	Low	This will be considered in determining the bad debt provision for 2012/13.	<p>Production of 2012/13 Accounts.</p> <p>Financial Services Manager</p>
5	<p>Valuations The Council should ensure that responsibility for the valuation of assets is clearly set out between the internal valuer and the District Valuer to avoid any potential duplication of work.</p>	Medium	This has already been actioned. Our internal valuers will be responsible for all balance sheet valuations other than Council House Dwelling Stock which will be contracted to outside valuers.	Implemented

D Follow-up of prior year issues

2010-11 recommendation	Priority	Management comments	Further audit comments
<p>Working papers We recommend that as part of the accounts closedown procedures a review is undertaken to ensure that the working papers provided are the latest versions supporting the amounts reported in the financial statements.</p>	High	Additional resources will be allocated to the accounts closure procedure including additional time for reviewing the accuracy of the statements and the working papers.	The quality of working papers have improved over the last year and we will continue to discuss with officers where they can be improved, such as ensuring there is sufficient supporting information for new or material transactions and ensuring the final version of working papers have been maintained
<p>Review of draft financial statements A robust review of the accounts should be undertaken to identify areas of inconsistency within the financial statements.</p>	High	Additional resources will be allocated to the accounts closure procedure including additional time for reviewing the accuracy of the statements and the working papers.	<p>Whilst the Council incorporated review of the financial statements into the year end closure arrangements, the time available for review was limited. A number of adjustments have been made to the financial statements, some of which could have been picked up through review to ensure consistency between different parts of the financial statements.</p> <p>A further recommendation has been raised in Appendix C.</p>
<p>Tailoring of financial statements Future financial statements should be tailored further to remove any accounting policies or disclosures that are not applicable to East Devon District Council.</p>	Low	Full disclosures were left in accounts as the first year under IFRS and it was felt that this would make it easier for the auditors to check full compliance with the Code.	The Council have tailored the financial statements to remove a number of accounting policies and disclosures that are not relevant to East Devon. Following the 2011-12 accounts audit, we will discuss with the Council where any further changes could be made.

2010-11 recommendation	Priority	Management comments	Further audit comments
<p>Property, plant and equipment records All assets should be recorded on the fixed asset register to facilitate accurate calculation of depreciation and revaluation adjustments.</p>	Medium	This was the intention for 2010-11 but resources had to be allocated to IFRS changes instead. The intention is this work will now take place with the Housing Assets being transferred to the IPF asset register in readiness for the 2011-12 accounts closure.	Council dwellings have not yet been transferred to the IPF asset register and are still recorded separately. However, this is due to the capability of the fixed asset register system and the Council have liaised with others to understand how the system could be effectively used for HRA properties.
<p>Assets held for sale The Council should consider the reclassification of assets as held for sale when it becomes probable that they will be disposed of through sale, assessing against the criteria set out in IFRS5.</p>	Medium	Closer communication will be required with services when decisions are made on assets which effect their possible classification for the balance sheet.	Our work did not identify any assets that should have been classified as an asset held for sale at year end, however, disclosures were updated to ensure that all movements in year were reflected in note 19.
<p>Journals Further controls should be introduced to minimise the risk of inappropriate journals being posted at year end leading to errors in the financial statements. In addition, supporting information should be retained for all journals.</p>	Medium	Additional resources will be allocated to the accounts closure procedure including additional time for reviewing the accuracy of the statements and the working papers; this will include reviewing year end journals.	A further recommendation has been raised in Appendix C.



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This proposal is made by Grant Thornton UK LLP and is in all respects subject to the negotiation, agreement and signing of a specific contract/letter of engagement.

The client names quoted within this proposal are disclosed on a confidential basis. All information in this proposal is released strictly for the purpose of this process and must not be disclosed to any other parties without express consent from Grant Thornton UK LLP



Grant Thornton

An instinct for growth™

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16 August 2012

Dear Mr Harry

Re: Objection to the 2010-11 Accounts of East Devon District Council - Decision and Statement of Reasons

This letter sets out my decision on your Notice of Objection submitted by you to East Devon District Council's (the Council's) 2010-11 accounts in relation to income received from Penalty Charge Notices (PCNs) in East Devon. Your Objection is contained in your letter of 14 October 2011, sent by e-mail on that date, which I accepted on 24 October 2011. You provided some additional information, dated 7 May 2012 and 28 June 2012, which I have taken into account in my consideration of your Objection.

Your Objection

Your Objection asks that I seek a declaration of an unlawful item of account, in relation to items of account arising from penalty charge notices issued by the Council and that I issue a public interest report on the matter. The stated grounds for the Objection are that such items arise from penalty charge notices issued under Regulation 9 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 which do not comply with the requirement in those Regulations to comply with Regulation 3 (2) (b) (i) of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

In your Objection you have set out in some detail the nature of your concerns. I summarise these concerns as follows:

- You contend the Penalty Charge Notices ('PCNs') issued by the Council do not comply with the relevant legislation, namely the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 ('the General Regulations') and the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 ('the Appeal Regulations');
- In particular, you contend the PCNs issued by the Council do not include the mandatory information set out in section 3(2)(b)(i) of the Appeal Regulations and as a result cannot be considered to be valid Regulation 9 PCNs;

Chartered Accountants

Member firm within Grant Thornton International Ltd

Grant Thornton UK LLP is a limited liability partnership registered in England and Wales: No. OC307742. Registered office: Grant Thornton House, Melton Street, Euston Square, London NW1 2EP

A list of members is available from our registered office.

Grant Thornton UK LLP is authorised and regulated by the Financial Services Authority for investment business.

Cyfrifysddion Siartredig Aelod y DU o Grant Thornton International

Mae Grant Thornton UK LLP yn bartneriaeth atebolrwydd cyfyngedig wedi'i chofrestru yng Nghymru a Lloegr: No OC307863. Swyddfa gofrestredig: Grant Thornton House, Melton Street, Euston Square, London NW1 2EP. Mae rhestr o aelodau ar gael o'n swyddfa gofrestredig.

Awdurdodwyd a Rheolaethwyd Grant Thornton UK LLP gan yr Awdurdod Gyhoeddus a Chyfraith a Busnes buddsoddi.

- You state that it was the intention of Parliament that the relevant information should be made known to the recipient of the PCN in clear terms on the face of the PCN;
- You also refer to section 87 of the Traffic Management Act 2004 ("the 2004 Act") in conjunction with guidance issued by the Secretary of State, which you contend has the effect that the Council must comply with all relevant legislation and regulations and is encouraged to seek "*independent quality assurance*" of its processes. You contend that the Council did not have due regard to the guidance: if they had done so, you contend that they would not have produced the alleged defective PCN; and
- As a consequence of the Council's alleged failure to comply with the Appeal Regulations and the General Regulations, and with the 2004 Act, you contend no lawful demand for penalty payments or financial liability on the part of the motorist can arise and as a result you contend "*the sum total of these ultra vires receipts, having been unlawfully credited to the accounts of the Council, constitutes an item contrary to law*".

Work Carried Out

In the course of considering your Objection I have:

- Considered the contents of your Objection and the material you have provided alongside your Objection;
- Sought and considered the Council's response to your Objection;
- Sought and considered my own legal advice on the issues raised by your Objection; and
- Considered carefully all the further representations you have made, whether specifically referred to in this letter or not. In particular I have considered your response to my Provisional Views letter dated 30 May 2012.

Background Information

The Regulations

The Objection specifically relates to "Regulation 9" PCNs, which is a reference to PCNs issued pursuant to Regulation 9 of the General Regulations:

"Penalty Charge Notices – service by a civil enforcement officer

Where a civil enforcement officer has reason to believe that a penalty charge is payable with respect to a vehicle which is stationary in a civil enforcement area, he may serve a penalty charge notice –

- (a) by fixing it to the vehicle; or
- (b) giving it to the person appearing to him to be in charge of the vehicle."

Part 5 of the General Regulations deals with the enforcement of PCNs, and of relevance to the Objection is the way in which a Notice to Owner (NtO) may be served, pursuant to Regulation 19 of the General Regulations:

"The notice to owner

- (1) Subject to regulation 20, where –
 - (a) a penalty charge notice has been served with respect to a vehicle under regulation 9; and
 - (b) the period of 28 days specified in the penalty charge notice as the period within which the penalty charge is to be paid has expired without that charge being paid the enforcement authority concerned may serve a notice ("a notice to owner") on the person who appears to them to have been the owner of the vehicle when the alleged contravention occurred."

As such, a Notice to Owner (NtO) may be served any time following the expiry of 28 days from the issue of the PCN, if the penalty charge has not been paid.

Pursuant to Regulation 4 of the Appeal Regulations, the recipient of an NtO is able to make representations against the issue of the NtO to the enforcement authority which served the notice. Furthermore, the Appeal Regulations also allow for the recipient of the PCN (which may not be the same as the recipient of the NtO) to make informal representations to the relevant enforcement authority, i.e. the Council, against the penalty charge.

Paragraph 1 of the Schedule to the General Regulations sets out the matters which a PCN served under Regulation 9 must include. And section 3(2) of the Appeal Regulations goes on to state:

- "A penalty charge notice served under regulation 9 of the General Regulations must, in addition to the matters required to be included in it under paragraph 1 of the Schedule to the General Regulations, include the following information –
- (a) that a person on whom a notice to owner is served will be entitled to make representations to the enforcement authority against the penalty charge and may appeal to an adjudicator if those representations are rejected; and
 - (b) that, if representations against the penalty charge are received at such address as may be specified for the purpose before a notice to owner is served –
 - (i) those representations will be considered;
 - (ii) but that, if a notice to owner is served notwithstanding those representations, representations against the penalty charge must be made in the form and manner and at the time specified in the notice to owner."

It is specifically with respect to Regulation 3(2)(b)(i) that your Objection is concerned. You contend that the PCN fails to explicitly identify that representations received before a notice to owner is served will be considered, and that this is contrary to the stipulations of Regulation 3(2)(b)(i) thereby rendering the PCN defective.

The wording of the Appeal Regulations does not require any specific wording to be included in the PCN, but that PCNs must include the information set out therein. I note that you accept this position. Consequently it follows that the Council can decide how best to present that information, so long as that information is in fact included.

Case Law

You have referred specifically to the case of *Pilkington and Bolton Metropolitan Council* (Adjudicator's Decision, T Pilkington and Bolton Metropolitan Council, 19 August 2011). This was directly relevant to the particular point in your Objection. However there have been other relevant cases considered by other Parking Adjudicators, and I draw your attention to *Spencley v Watford* (Directions upon Application for Review of Adjudicator's Decision, Melanie Spencley and Watford Borough Council, Case number WT 05301L, June 2010) and *Wood v Lancashire* (Adjudicator's decision, Jason Mark Wood and Lancashire County Council, Case Number LQ 05550H, 2011). These cases considered the same issue as the Pilkington case.

There are other cases which I consider to be relevant, not because they deal with the specific issue contained within your Objection but because they provide some guidance in law on whether the compliance with the legislation needs to be strict or whether 'substantial compliance' will be sufficient. The cases which I consider to be relevant are R (*on the application of the London Borough of Barnet Council*) v *The Parking Adjudicator* ([2006] EWHC 2357 (Admin)); R (*on the application of Moss*) v *KPMG LLP* ([2010] EWHC 2923 (Admin)); and R (*on the application of Neil Herron & Parking Appeals Limited*) v *The Parking Adjudicator* ([2011] EWCA Civ 905).

I will summarise my views on the implications of these cases on my consideration of your Objection in the following section setting out my provisional views and findings.

In your response to my Provisional Views you have referred to *Saxton v Taunton Deane* (Adjudicator's decision, Paul Saxton and Taunton Deane Borough Council, Case Number TA 05123G). The Taunton Deane PCN was different to that in East Devon District as it did not contain the words "all challenges will be considered on their individual circumstances" and I therefore do not consider this case is as directly relevant to your Objection as the *Pilkington*, *Spencley v Watford* and *Wood v Lancashire* cases to which I have referred. However, I have considered that case and taken your comments into account when coming to my Final View.

PATROL

The Joint Committee of England and Wales for the civil enforcement of Parking And Traffic Regulation Outside London (PATROL) commissioned an independent review of parking documentation and notices, and the report and accompanying documents and guidance notes are intended to be used as reference for councils and the public. As a result PATROL produced a series of specimen documents which attempt to combine the essential requirements of the statutory regulations with principles of good practice and use of Plain English. Notwithstanding, each enforcement authority is to satisfy itself that each document meets the relevant statutory requirements before reliance upon it.

The guidance issued by PATROL sets out in Part III the requirements of the Regulations. It also sets out, at paragraph 34, what the Statutory Guidance says in relation to informal challenges to PCNs prior to the issue of an NtO:

"Enforcement authorities have a duty not to fetter their discretion, so should ensure that PCNs, NtOs, leaflets and any other advice they give do not mislead the public about what they may consider in the way of representations."

The wording of the Model PCN is substantially the same as the wording used by the Council on its PCNs.

My Findings

Whilst the wording on the Council's PCN does not replicate the specific wording used in the Regulations, I do not consider that it is required to do so: the Regulations require that the information set out in the Regulations should be provided rather than any specific form of wording. The Council must decide how best to incorporate that information into the PCN in order to satisfy the Regulations and its own internal practices and procedures.

Regulation 3(2)(b)(i) requires that information is provided "*that, if representations against the penalty charge are received at such address as may be specified for the purpose before a notice to owner is served, those representations will be considered*". The Council's PCN does not explicitly say that if representations are made before an NtO is served, they will be considered but it does say that "*all challenges will be considered on their individual circumstances*". The question therefore is whether the wording of the Council's PCN substantially complies with the requirements of the Regulations and whether the PCN contains sufficient information to adequately inform the motorist of his or her rights.

Having read the PCN as a whole, rather than the small section referred to in your Objection in isolation, I consider that the Council's PCN adequately informs the motorist of his or her rights to challenge the PCN and sets out the information required by the Regulations. As such, I consider that any failure to explicitly confirm that representations "received before the NtO is served" will be considered, is trivial.

I consider that the wording on the PCN is substantially compliant with the Regulations and should not therefore be considered as defective. I do not consider that the PCN wording is ambiguous or would lead the motorist to consider that he or she only had 28 days in which to challenge the PCN. The PCN makes clear what a motorist should do upon receiving the PCN should he or she wish to challenge the same and confirms that all challenges will be considered on their individual circumstances. Later, it confirms that if payment is not made within 28 days, or if it is not successfully challenged, the Council may issue an NtO. The PCN then states what should be done once an NtO has been served. I do not consider that the current wording limits the period during which an informal challenge can be made and I do not consider that it can reasonably be interpreted as doing so.

I have considered carefully these issues further in the light of your additional representations in your response to my Provisional Views. You have set out in great detail why you do not consider that the PCNs meet the requirements of Regulation 3(2)(b)(i) and why you disagree with my reasons for thinking that they do. I do, however, remain of the view for the reasons set out in this letter that whilst other PCNs may be better worded, the PCNs that follow the PATROL specimen contain enough information to satisfy the Regulations and were not defective. I agree that the Council needs to include all the information included in Regulation 3(2), and when I say that I consider the PCN is substantially compliant I mean that I believe it is substantially compliant with the requirement to provide information to the recipient of the PCN that his or her challenges will be considered before an NtO is served. I think it is particularly relevant that the PCN says:

- the Council '*may*' serve an NtO rather than '*will*' serve an NtO, if not paid within 28 days or successfully challenged; and
- all challenges will be considered.

In your response to my Provisional Views you have also referred to:

- an email exchange from Burnley Borough Council; and
- a pending application for Judicial Review.

My comments on these two aspects are as follows.

The email exchange from Burnley Council implies that one officer within the Council believes their PCNs are defective on the same grounds as your Objection. Whilst I have considered that email exchange, I note that this does not constitute a considered legal view, or the Council's formal view. I cannot therefore put great weight on such evidence. And for completeness I have considered the additional information you provided to Mr Tim Watkinson as the District Auditor for Teignbridge District Council and he passed onto me being the representative of the Appointed Auditor for East Devon District Council, dated 7 May 2012. Rochdale Council's explanation is that the email enclosed with your correspondence dated 7 May does not represent the Council's view, but was merely quoting some other person's concerns. I accept this explanation.

On the 6 July 2012 I requested further details of the case from you relating to the Judicial Review. You confirmed on 9 July 2012 that no application had yet been made and that the matter is currently in the pre-action stage. I have carefully considered the information you have provided but I do not consider it necessary to refrain from deciding your Objection until determination of the proceedings for the following reasons:

- No application for Judicial Review has yet been made;
- Should an application be made, there is no guarantee that it will subsequently receive permission to proceed to a substantive hearing;
- In the event that permission is granted, it is unlikely that a substantive decision would be received until 2013, and it could then be appealed;
- I have a duty to the Council, as well as to yourself as the Objector, to determine the Objection within a reasonable time;
- I can only base my determination of the Objection on the current law, rather than any potential future decisions which may or may not change the current legal framework; and
- By making my decision on your Objection, I am not depriving any individual electors of the remedies they may have against their own councils, in the event that the Judicial Review application does decide that certain penalty charge notices were defective. Objecting to unlawful items of account is only one way of challenging the way in which councils run their parking functions.

In reaching my conclusions on your Objection I have considered the cases (some of which are set out above, and below) which appear to be the most relevant to the current issues. Whilst your Objection relies to a significant extent upon the *Pilkington* case to support the claims, (and which is clearly relevant having substantially similar facts to your Objection), I consider that there are two alternative Adjudicator cases which provide a more detailed insight into the issues in consideration: the Adjudicators' decisions in *Spencley*; and the subsequent *Wood* case.

Both cases consider the same issues as the *Pilkington* case and your Objection. In both those decisions, the Adjudicators do not consider that the wording (or lack of) which you have raised concerns about necessarily invalidates the PCN. Neither Adjudicator finds the wording ambiguous, or misleading, and they consider that the PCN has "substantially complied" with the Regulations, which they consider is sufficient to ensure that the statutory requirements can be said to have been met. I consider that whilst these decisions conflict with the *Pilkington* case, it is notable that the *Pilkington* case does not refer to the earlier *Spencley* case, and that the *Wood* case clearly considers the *Pilkington* decision and departs from it, with detailed supporting reasons and analysis. I consider that further support is provided in the *Barnet* judgment. Whilst this judgment concluded that the deficiency in question there (which related to a different issue to your Objection) was too serious for substantial compliance to save it, the decision did acknowledge that substantial compliance could be sufficient in other circumstances such that financial liability for the PCN does not arise.

In addition to those two Adjudicators' decisions, which are not binding on the Courts but may merely be persuasive, the cases of *Moss* and *Herron* are of most relevance. The most relevant part of the *Moss* judgment which holds that strict compliance with the relevant statutory framework is necessary in order to give rise to any financial, or other, liability on the part of the motorist, is clearly rejected by the Court of Appeal in *Herron*. The three Lord Justices in the *Herron* case confirm the approach that should be taken (as it was taken in the Adjudicators' decisions of *Spencley* and *Wood*) when considering whether a local authority has complied with the necessary statutory framework when dealing with civil enforcement of parking penalties. Whilst *Herron* considers different facts, I consider that the judgment can be held to have wider application, and is relevant to the current Objection.

As such, I consider the main points to be taken from the case law and applied to the Objection are:

- There is a *de minimis* exception in respect of any trivial non-compliance with the relevant legislation;
- Subject to that exception, compliance with the statutory specification must be substantial, rather than strict;
- Notwithstanding the above two bullet points, compliance with the statutory specification should not mislead or fail to inform the motorist; and
- A PCN should be treated as valid unless it can be said that in substance, because of the failure adequately to inform the road user, it could not be considered to be a valid PCN.

Finally, I note you have declined my offer to meet with you to discuss my Provisional Views. I have therefore proceeded to provide my final view.

My decision on applying to the court for a declaration of an unlawful item of account

I do not believe that I should apply to seek a declaration from the court for unlawful expenditure under section 17 of the Audit Commission Act 1998. I have set out above that I do not consider the Council's PCNs to be defective. As such, the demands made pursuant to those PCNs cannot be invalid and I do not consider that they can give rise to any unlawful items of account.

An application can only be made to the court should the Auditor consider there is an unlawful item of account. On the basis that I consider the Council's PCNs to comply with the Regulations, and as such do not give rise to any unlawful items of account, I do not consider that I am able to make an application to the court pursuant to section 17 of the Act.

My decision on making a report in the public interest

Whether or not to issue a report in the public interest is a matter for me in the exercise of my discretion. Relevant factors include the quantum of any unlawful item of account or loss, whether there were significant failings in governance, whether the matters that might be the subject of a report are ongoing, whether there has been significant publicity in respect of the issues, whether I have recommendations to make to the Council and whether I believe that my independent view should be expressed in public.

I do not think that I should make a report in the public interest under section 8 of the Audit Commission Act 1998. There is no statutory requirement to give reasons for this decision, but my reasons for not issuing a public interest report are that I do not consider there to be an unlawful item of account and I have identified no failings in governance, so there are no recommendations that I wish to make to the Council or matters to bring to the attention of the public.

Conclusion

In conclusion, my decision on your Objection to East Devon District Council's annual accounts for 2010-11 is that there are no grounds for seeking a declaration for unlawful expenditure under section 17 of the Audit Commission Act 1998 or for issuing a report in the public interest under section 8 of that Act, for the reasons set out above.

Rights of Appeal

You have a statutory right of appeal to the court against my decision not to make an application to the court for a declaration that an item of account is contrary to law, see Section 17(4) of the Audit Commission Act 1998.

Any appeal must be commenced in the High Court. An appeal must be made by filing an appellant's notice in the prescribed form (Form N161) at the Administrative Court Office, Royal Courts of Justice, Strand, London, WC2A 2LL, within 28 days, calculated from the date on which you receive this letter. The procedures relating to statutory appeals are set out in the Civil Procedure Rules 1998 (as amended) and supplemental Practice Directions. I suggest that anyone considering an appeal should take their own legal advice.

I have copied this letter to the Council's Chief Executive.

Yours sincerely

Barrie Morris
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cc Mr Mark Williams, Chief Executive, East Devon District Council

Agenda Item 9

Audit and Governance Committee

27 September 2012

AEE



Internal Audit Plan – Quarterly Update 2012/13

Summary

This report provides the outturn position for the Internal Audit Plan at the end of August 2012, providing an update for Qtr 1 and progress at the time of the report for Qtr 2.

Recommendation

To note the content of the Internal Audit Progress Report.

a) Reasons for Recommendation

As a key element of its Governance arrangements the Council have a partnership arrangement with South West Audit Partnership to deliver an annual internal audit plan. The Audit Manager for SWAP, together with the Council's S151 Officer and in consultation with the Senior Management Team produced an Audit Plan for 2012-13 that was approved by the Audit and Governance Committee in March 2012.

The Committee are required to review the progress of the audit plan.

b) Alternative Options

None

c) Risk Considerations

None

d) Policy and Budgetary Considerations

There are no financial implications associated with this recommendation.

e) Date for Review of Decision

N/A

1 Main Body of the Report

The Audit Committee agreed the 2012/13 Internal Audit plan at its March 2012 meeting. This is a progress report on audit findings during the financial year to date.

Report of Internal Activity for Qtr 1 and Qtr 2 to date

Appendix A – Plan Progress Table with Status and Opinion for each audit

Appendix B – Significant Corporate Risks and Management Action Update

Appendix C – Audit Opinion Definitions

Legal Implications

None

Financial Implications

None

Consultation on Reports to the Cabinet

None

Background Papers

- Approved Internal Audit Plan 2012/13 – Audit and Governance Meeting March 2012.

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Audit and Governance Committee
27 September 2012



East Devon District Council

Report of Internal Audit Activity
Quarter 1 and Quarter 2 to date, 2012/13

Internal Audit ■ Risk ■ Special Investigations ■ Consultancy

Contents

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Our audit activity is split between:

- Operational Audit
- Key Control Audit
- Governance Audit
- IT Audit
- Other Reviews

Role of Internal Audit

The Internal Audit service for East Devon District Council is provided by South West Audit Partnership (SWAP). SWAP has adopted and works to the Standards of the Institute of Internal Auditors and also follows the CIPFA Code of Practice for Internal Audit. The Partnership is also guided by the Internal Audit Charter approved by the Audit Committee at its meeting on 15 March 2012.

Internal Audit provides an independent and objective opinion on the Authority's control environment by evaluating its effectiveness. Primarily the work includes;

- Operational Audit Reviews
- Cross Cutting Fraud and Governance Reviews
- Annual Review of Key Financial System Controls
- IT Audit Reviews
- Other Special or Unplanned Reviews

Overview of Internal Audit Activity

Internal Audit work is largely driven by an Annual Audit Plan. This is approved by the Section 151 Officer, following consultation with the Corporate Management Team and External Auditors. This year's Audit Plan was reported to this Committee at its meeting in March 2012.

Audit assignments are undertaken in accordance with this Plan to assess current levels of governance, control and risk.

Quarter 1 Outturn:

We rank our recommendations on a scale of 1 to 5, with 1 being minor or administrative concerns to 5 being areas of major concern requiring immediate corrective action

Internal Audit Work Programme

The schedule provided at [Appendix A](#) contains a list of all audits as agreed in the Annual Audit Plan 2012/13. It is important that Members are aware of the status of all audits and that this information helps them place reliance on the work of Internal Audit and its ability to complete the plan as agreed.

Each completed assignment includes its respective “control assurance” opinions together with the number and relative ranking of recommendations that have been raised with management. The assurance opinion ratings have been determined in accordance with the Internal Audit “Audit Framework Definitions” as shown in [Appendix C](#).

Where assignments record that recommendations have been made to reflect that some control weaknesses have been identified as a result of audit work, these are considered to represent a less than significant risk to the Council’s operations. However, in such cases, the Committee can take assurance that improvement actions have been agreed with management to address these. [Appendix B](#) highlights action taken in respect of recommendations (since Jan 2012) which had priority scores of 4 or 5 and for which the agreed action date has passed.

Quarter 1 Outturn:

Audit Assignments undertaken in the Quarter

- **Operational Audits**

Operational Audits

Operational Audits are a detailed evaluation of a service's control environment. A risk evaluation matrix is devised and controls are tested. Where weaknesses or areas for improvement are identified, actions are agreed with management and target dated.

In Quarter 1 there were 3 Operational audits planned;

- Housing Revenue Account (HRA)
- Leisure East Devon
- Arts and Culture

The HRA audit has been finalised and given Reasonable Assurance. The Arts and Culture audit is at Draft Stage, with the Leisure East Devon audit in progress. In addition, the Income Collection Audit, scheduled for Quarter 2 is currently in progress. A full update will be provided for the next Update Report.

In Quarter 1 there was 1 Operational Follow-up review planned;

- Risk Management

Risk Management was audited as part of the 2011/12 Audit Plan, where it received Partial Assurance. This non-opinion review has been completed and a final report issued.

In addition to this, 2 further Follow-ups (original scheduled for Quarter 2) have been commenced;

- Emergency Planning
- Street Scene

The Emergency Planning Follow-up is in progress and the Street Scene Follow-up has been completed and a final report issued.

Quarter 1 Outturn:

Audit Assignments undertaken in the Quarter

- **Key Controls; Finance**

Key Control Audits

Key Control Audits are completed to assist the External Auditor in their assessment of the Council's financial control environment. It is essential that all key controls identified by the External Auditors are operating effectively to provide management with the necessary assurance that there is a satisfactory framework on internal control.

The Key Control Audits provide assurance over the main financial systems;

Capital Accounting	Debtors	Payroll
Council Tax and NNDR	Housing and Council Tax Benefits	Treasury Management
Creditors	Main Accounting	Housing Rents

These audits are always undertaken in Qtr 3 (October to December) and therefore no update is currently available for 2012/13.

Information Systems

Information Systems – IT audits provide the Authority with assurance with regards to their compliance with industry best practice. As with Operational Audits, an audit opinion is given.

There were no IT Audits planned for Quarter 1.

SWAP has a specialised IT Audit team and recently recruited a new IT Audit Manager. In order to enable IT Audit Plans to be agreed with the IT Managers at each SWAP Partner site it was planned not to start the IT Plan until Quarter 2.

The agreed 30 days of IT Audit will be delivered between Quarters 2 and 4.

Quarter 1 Outturn:

Audit Assignments undertaken in the Quarter

- **Governance, Fraud and Corruption Audits**

Governance, Fraud and Corruption Audits

Governance, Fraud and Corruption Audits focus primarily on key risks relating to cross cutting areas that are controlled and/or impact at a Corporate rather than Service specific level. It also provides an annual assurance review of areas of the Council that are inherently higher risk. This work will in some cases enable SWAP to provide management with added assurance that they are operating best practice as we will be conducting these reviews at all of our Client sites.

There were 2 Governance audits planned for Quarter 1;

- Creditors Fraud
- Data Security Breaches

At the time of this report, Creditors Fraud is at Discussion Document Stage and Data Security Breaches is in progress. Both of these reviews are being conducted at several of SWAP partner sites. A full update will be provided for the next Update Report.

In addition, 2 Governance Follow-up Reviews were planned for Quarter 1;

- Contract Management
- Partnership Arrangements

Both Contract Management and Partnership Arrangements were reviewed as part of the 2011/12 Audit Plan and received Partial Assurance. At the time of this report, the Partnership Arrangements Follow-up is in progress and the Contract Management Follow-up has been deferred until later in the year at the request of the Manager.

The Bribery Act Follow-up and the Contract Fraud audits, scheduled for Quarter 2, are also currently in progress.

We keep our audit plans under regular review, so as to ensure we are auditing the right things at the right time.

Special Reviews

There have been no special reviews brought to our attention this quarter. Members have asked for some contracts to be reviewed which will be included in a Qtr 2 audit on Contract Fraud.

Future Planned Work

This is detailed in [Appendix A](#) and subject to any changes in agreement with the S151 Officer.

Conclusions

For the audits completed to report stage, each report contains an action plan with a number of recommendations which are given service priorities. Definitions of these priorities can be found in the Categorisation of Recommendations section of [Appendix C](#).





It is not uncommon for audits to be in progress at the end of Quarter 1 as priority is given to finishing off audits in progress from the previous financial year. It is fully expected that when we report the half year position at the end of Quarter 2, we will be able to give a stronger indication of the control environment in 2012/13. Furthermore, the Committee will be aware that in June 2012, SWAP were pleased to provide an Audit Opinion for the Annual Governance Statement for 2011/12 that gave Reasonable Assurance.

Our approach to the audits for 2012/13 reflects this positive assurance and we are seeking to undertake more challenging and cross-cutting reviews rather than traditional service reviews that we have done over recent years, given that these areas have now proven themselves to have adequate and often good internal controls. We shall continue to give ongoing assurance on key controls, but similarly we can do this with less resource than we have previously. A list of all audits planned for 2012/13 and their status at the end of August 2012 are detailed in [Appendix A](#).

Audit Activity	Audit Area	Quarter	Audit Days	Status	Opinion	No. of recs	Recommendations				
							5=Major		1= Minor		
							5	4	3	2	1
Follow Up	Contract Management	1	3	Deferred		0	0	0	0	0	0
Follow Up	Partnership Arrangements	1	3	In progress		0	0	0	0	0	0
Follow Up	Risk Management	1	3	Final	Non	0	0	0	0	0	0
Governance, Fraud & Corruption	Creditors Fraud	1	10	Discussion Stage		0	0	0	0	0	0
Governance, Fraud & Corruption	Data Security Breaches	1	10	In Progress		0	0	0	0	0	0
Operational	HRA	1	15	Final	Reasonable	6	0	0	5	1	0
Operational	Leisure East Devon	1	20	Discussion Stage		0	0	0	0	0	0
Operational	Arts & Culture	1	20	Draft		0	0	0	0	0	0
Follow Up	Bribery Act 2010	2	3	In progress		0	0	0	0	0	0
Follow Up	Emergency Planning	2	3	In progress		0	0	0	0	0	0
Follow Up	Streetscene	2	3	Final	Non	0	0	0	0	0	0
Follow Up	Corporate Information Security Controls -	2	3			0	0	0	0	0	0
Governance, Fraud & Corruption	Contract Fraud	2	10	In progress		0	0	0	0	0	0
Governance, Fraud & Corruption	Committee Reporting - Member Decisions	2	10			0	0	0	0	0	0
Governance, Fraud & Corruption	EU Procurement Rules	2	10			0	0	0	0	0	0
Operational	Income Collection	2	25	In progress		0	0	0	0	0	0
Follow Up	Rents Deposit Scheme	3	3			0	0	0	0	0	0
Governance, Fraud & Corruption	Treasury Management Strategy	3	10			0	0	0	0	0	0
Key Control	Capital Accounting	3	10			0	0	0	0	0	0
Key Control	Creditors	3	10			0	0	0	0	0	0
Key Control	Debtors	3	10			0	0	0	0	0	0
Key Control	Main Accounting	3	15			0	0	0	0	0	0
Key Control	Payroll	3	10			0	0	0	0	0	0
Key Control	Council Tax/NNDR	3	15			0	0	0	0	0	0
Key Control	Housing & Council Tax Benefits	3	15			0	0	0	0	0	0
Key Control	Housing Rents	3	15			0	0	0	0	0	0
Key Control	Treasury Management	3	10			0	0	0	0	0	0
Follow Up	Income and Cashiers	4	3			0	0	0	0	0	0
Governance, Fraud & Corruption	Asset Management Planning	4	10			0	0	0	0	0	0
Governance, Fraud & Corruption	Expenses Claim Fraud	4	10			0	0	0	0	0	0
Operational	E-Procurement	4	15			0	0	0	0	0	0
Operational	Health, Safety & Insurances - Lone working	4	15			0	0	0	0	0	0
Operational	Private Sector Housing Grants	4	15			0	0	0	0	0	0
IT Audits	Qtrs 2, 3 and 4 To be agreed	2-4	30			0	0	0	0	0	0

Audit Framework Definitions

Control Assurance Definitions

Substantial		I am able to offer Substantial assurance as the areas reviewed were found to be adequately controlled. Internal controls are in place and operating effectively and risks against the achievement of objectives are well managed.
Reasonable		I am able to offer reasonable assurance as most of the areas reviewed were found to be adequately controlled. Generally risks are well managed but some systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
Partial		I am able to offer Partial assurance in relation to the areas reviewed and the controls found to be in place. Some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
None		I am not able to offer any assurance. The areas reviewed were found to be inadequately controlled. Risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.

Categorisation Of Recommendations

When making recommendations to Management it is important that they know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. No timeframes have been applied to each Priority as implementation will depend on several factors, however, the definitions imply the importance.

Priority 5: Findings that are fundamental to the integrity of the units business processes and require the immediate attention of management.

Priority 4: Important findings that need to be resolved by management.

Priority 3: The accuracy of records is at risk and requires attention.

Priority 2: Minor control issues have been identified which nevertheless need to be addressed.

Priority 1: Administrative errors identified that should be corrected. Simple, no-cost measures would serve to enhance an existing control.

Definitions of Corporate Risk

Risk	Reporting Implications
Low	Issues of a minor nature or best practice where some improvement can be made.
Medium	Issues which should be addressed by management in their areas of responsibility.
High	Issues that we consider need to be brought to the attention of senior management.
Very High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.



East Devon District Council

Contract Standing Orders

Draft Edition

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A BRIEF GUIDE TO CONTRACT STANDING ORDERS

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DEFINITIONS APPENDIX

A BRIEF GUIDE TO CONTRACT STANDING ORDERS

These contract standing orders, or rules, (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good procurement practice and public accountability and deter corruption. Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

Officers responsible for purchasing or disposal must comply with these procedures. They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract. (For example, if Rule 8.1 would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations or tender submissions).

For the purposes of these rules, where there is a requirement for communication to be in writing, this will generally be deemed to include e-mail (or other e-communication systems e.g. e-tendering), fax transmissions, and hard copy. Exceptions include documents submitted as part of a tendering process.

- Follow the rules whenever you purchase goods or services or order building work.
- Take all necessary legal, financial and professional advice.
- Declare any personal financial interest in a contract. Corruption is a criminal offence.
- Conduct a Value for Money review and appraise the purchasing need.
- Check whether there is an existing corporate contract or framework agreement that you can make use of before undergoing a competitive process.
- Normally allow at least four weeks for submission of tenders (not to be submitted by fax or e-mail).
- Keep bids confidential.
- Complete a written contract or Council order before supply or works begin.
- Identify a contract manager with responsibility for ensuring the contract delivers as intended.
- Keep records of dealings with suppliers.
- Assess each contract after completion to understand how well it met the purchasing need and quality of delivery requirements, including Value for Money.

In accordance with the Constitution, the Section 151 Officer may propose amendments from time to time to these Contract Standing Orders after consultation with Legal Services and the Corporate Procurement Officer. Proposed amendments must then be submitted to the Audit and Governance Committee, with a recommendation from this committee to Council for approval, if appropriate.

Acknowledgement: CIPFA

SECTION 1: SCOPE OF CONTRACT STANDING ORDERS

1. **BASIC PRINCIPLES**

All purchasing and disposal procedures must:

- Achieve Value for Money for public money spent;
- Be consistent with the highest standards of integrity, having regard to the Council's Anti Fraud and Corruption Strategy, the Bribery Act 2010 and the Office of Fair Trading guidance on Anti Competitive Behaviour;
- Ensure fairness in allocating public contracts;
- Comply with all legal requirements;
- Ensure that non-commercial considerations do not influence any contracting decision;
- Support the Council's corporate and departmental aims and policies;
- Comply with the Council Plan, Aims, and Policies.

2. **OFFICER RESPONSIBILITIES**

2.1 **Officers**

2.1.1 Officers responsible for purchasing or disposal must comply with these Contract Standing Orders, Financial Regulations, the Code of Conduct and with all UK and European Union binding legal requirements. Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply.

2.1.2 Officers must:

- Have regard to the Council's purchasing and contract guidance;
- Ensure that the appropriate approved budgetary provision is in place;
- Check whether a suitable corporate contract exists before seeking to let another contract; where a suitable corporate contract exists, this must be used unless there is an auditable reason not to – discuss with Corporate Procurement Officer if unclear;
- Keep the records required by Rule 6;
- Take all necessary procurement, legal, financial and other professional advice as appropriate

2.1.3 When any employee either of the authority or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and obtain legal advice before proceeding with inviting tenders or quotations.

3. EXEMPTIONS, COLLABORATIVE & E-PROCUREMENT ARRANGEMENTS

3.1 The Council and its Cabinet have the power to authorise exemptions from the requirement to seek quotations or invite tenders for specific projects, and any such decision may be a key decision.

3.2 Where an exemption is necessary because of an unforeseeable emergency or appropriate business reasons (**e.g. Life or Death, Increased Costs/Loss of Income, Limited Markets or Reputation**) the Officer, with the approval of their Line Manager or Head of Service, the Head of Finance, Corporate Manager Legal Services, the Corporate Procurement Officer, may jointly approve the exemption but a report must be prepared by the Officer, for the next Cabinet meeting to support the action taken. Terms are defined as:

Life or Death – Is there a significant chance that the life or health of officers, members or the public will be put at real risk?

Increased Costs/Loss of Income – Will the Council incur significant avoidable costs or lose significant income (significant shall be taken to mean material in the sense that it is either material to the project, the service or the Council)?

Limited Markets – Would the Council be wasting its time obtaining quotations as supply of the product or service is demonstrably restricted to one or few businesses (or an approved list if it is recommended by Central Government which evidences that the market has been tested)?

Reputation – Would the Council be criticised for failing to act promptly?

3.3 **No exemption can be used if the EU Procedure applies.**

3.4 All exemptions, and the reasons for them, must be recorded. Exemptions shall be completed as above and a register maintained by Procurement.

3.5 The correct form must be used and is available on the Council's intranet or from Procurement which will monitor the use of exemptions.

3.6 The Corporate Procurement Officer must be consulted prior to commencing a procurement process using any consortium contracts e.g. Government Procurement Service (formerly Office of Government Commerce - Buying Solutions) contracts. The terms and conditions of contract applicable to any consortia arrangement, including the requirement to undertake competition between providers, must be fully complied with.

3.7 In order to secure Value for Money, the authority may enter into collaborative procurement arrangements. The officer must consult the Corporate Procurement Officer where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.

SECTION 1: SCOPE OF CONTRACT STANDING ORDERS

- 3.8 All purchases made via a local authority purchasing consortium e.g. Devon Procurement Services or Eastern Shires Purchasing Organisation (ESPO) are deemed to comply with these contract standing Orders and no exemption is required. However, purchases above the EU Threshold must be let under the EU Procedure, unless the consortium has demonstrated that it has satisfied this requirement already by letting their contract in accordance with the EU Procedures on behalf of the authority and other consortium members.
- 3.9 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract standing orders of the leading organisation, will be deemed to comply with these contract standing orders and no exemption is required. However, advice must be sought from the Corporate Procurement Officer.
- 3.10 The use of e-procurement technology enhances the administrative process for tendering (audit trails etc.) but does not negate the requirement to comply with all elements of these contract procurement rules, particularly those relating to competition and Value for Money.

4. RELEVANT CONTRACTS

- 4.1 All Relevant Contracts must comply with these Contract Standing Orders. A relevant contract is any arrangement made by, or on behalf of, the authority for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:
- The supply or disposal of goods (see also Financial Regulations);
 - The hire, rental or lease of goods or equipment;
 - The delivery of services, including (but not limited to) those related to:
 - the recruitment of staff
 - financial and consultancy services
 - land and property transactions.
- 4.2 Relevant Contracts do not include:
- Contracts of employment which make an individual a direct employee of the authority; or
 - Agreements regarding the acquisition, disposal, or transfer of land (for which Financial Regulations shall apply); or
 - Section 151 Officer dealing in the money market or obtaining finance for the Council.
 - Urgent legal advice

SECTION 2: COMMON REQUIREMENTS

5. **STEPS PRIOR TO PURCHASE**

- 5.1 The Officer must appraise the purchase, in a manner commensurate with its complexity and value and taking into account any purchasing guidance, by
- Taking into account the requirements from any relevant Value for Money review.
 - Appraising the need for the expenditure and its priority.
 - Defining the objectives of the purchase, and the required product specification.
 - Assessing and documenting the risks associated with the purchase and how to manage them.
 - Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
 - Consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring.
 - Drafting the terms and conditions that are to apply to the proposed contract.
 - Setting out these matters in writing if the total value of the purchase exceeds £50,000.
- 5.2 The officer must also confirm that there is member or delegated approval for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the Constitution.

6. **RECORDS**

- 6.1 Where the Total Value is less than £50,000 (see also Financial Regulations), the following records must be kept:
- Invitations to quote and quotations received
 - Written records of communications with the successful contractor or an electronic record if a written record of the transaction would not normally be produced
 - Exemptions made and the reasons for them
 - If the lowest price is not accepted, the reasons why.
- 6.2 Where the Total Value exceeds £50,000 the officer must record:
- The method for obtaining bids (see Rule 8.1).
 - Any contracting decision and the reasons for it.
 - Any exemption under Rule 3 together with the reasons for it.
 - The award criteria in descending order of importance.
 - Tender documents sent to and received from suppliers.
 - Pre-tender market research.
 - Clarification and post-tender negotiation (to include minutes of meetings).
 - Legal advice.
 - The contract documents.
 - Post-contract evaluation and monitoring.
 - Communications with suppliers and with the successful contractor throughout the period of the contract.

SECTION 2: COMMON REQUIREMENTS

- 6.3 Records required by this rule must be kept for six years after the end of the contract. However, written documents which relate to unsuccessful suppliers may be electronically scanned or stored by some other suitable method after 12 months from award of contract, provided there is no dispute about the award.

7. **ADVERTISING AND FRAMEWORK AGREEMENTS**

7.1 **Identifying and Assessing Potential Suppliers**

- 7.1.1 Officers shall ensure that, where proposed contracts, irrespective of their Total Value, might be of interest to potential suppliers located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:

- The Council's website
- Portal websites specifically created for contract advertisements
- National official journals, or
- The Official Journal of the European Union (OJEU)/E Notices/Tenders Electronic Daily (TED), even if there is no requirement within the EU Procedure.

- 7.1.2 Officers are responsible for ensuring that all suppliers for a relevant contract are suitably assessed. The assessment process shall establish that the potential Suppliers have sound:

- Economic and financial standing
- Technical ability and capacity

in order to fulfill the requirements of the authority.

- 7.1.3 For proposed contracts that are expected to exceed £50,000 but NOT £75,000, selection will be in conjunction with the Corporate Procurement Officer by, as a minimum, Invitation to Tender to at least four Suppliers although best practice in relation to advertising is encouraged.

7.2 **Approved Lists**

Approved Lists will not be maintained due to the costs of proper administration and the need to ensure that competition is maximised.

When the Council's e-tendering system becomes available, suppliers interested in doing business with the Council must register online. The system will be accessible via the Council's website.

A register of pre-qualified contractors and consultants maintained by or on behalf of central government (e.g. Constructionline) will not normally be deemed to be an Approved List for the purpose of these Contract Standing Orders

7.3 **Framework Agreements**

- 7.3.1 The term of a Framework Agreement must not exceed four years and, while an agreement may be entered into with one supplier, where an agreement is concluded with more than one, there must be at least three suppliers in number. If this is not possible, the officer must discuss with Procurement.

SECTION 2: COMMON REQUIREMENTS

7.3.2 Contracts based on framework agreements may be awarded by either:

Applying the terms laid down in the framework agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or: where the terms laid down in the framework agreement are not precise enough or complete for the particular call off, by holding a mini competition in accordance with the following procedure.

- inviting the organisations within the framework agreement that are capable of executing the subject of the contract to submit written tenders
- fixing a time limit which is sufficiently long to allow tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract
- awarding each contract to the tenderer which has submitted the best tender on the basis of the award criteria set out in the specifications of the framework agreement.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL PARTNERSHIP ARRANGEMENTS

The Officer must calculate the **Total Value** (excluding VAT) for the period of the contract.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, Officers must seek the advice of the Corporate Procurement Officer or Legal Services.

8.1 Purchasing – Competition Requirements

8.1.1 Where the Total Value for a purchase is within the values in the first column below, the award procedure in the second column must be followed. Short listing shall be done by the persons specified in the third column.

Total Value (excl. VAT)	Award Procedure	Short listing
Up to £5,000	One quotation, confirmed in writing, having regard to Value for Money.	Authorised Officer
£5,001 – £50,000	As above but three written quotations	Officer and Service Manager
£50,001–£75,000	Invitation to Tender to at least four appropriate suppliers (see also 7.1.2)	Officer and Service Manager in consultation with the Corporate Procurement Officer – see Rule 7.1.5
£75,001–EU Threshold	Invitation to Tender by advertisement to at least four appropriate suppliers (see 7.1.2)	Officer and Service Manager in consultation with the Corporate Procurement Officer
Above EU Threshold	EU procedure or, where this does not apply, Invitation to Tender by advertisement to at least four appropriate suppliers (see 7.1.2)	Officer and Service Manager in consultation with the Corporate Procurement Officer and Legal Services
	All purchases made via a local authority purchasing and distribution consortium (e.g. Devon Procurement Partnership, ESPO), are deemed to comply with these contract standing orders and no exemption is required. However, purchases above the EU threshold must be let under the EU procedure, unless the consortium has satisfied this requirement already.	See paragraph 3.7.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

Total Value (excl. VAT)	Award Procedure	Short listing
All values. Collaborative contracts	<p>The Corporate Procurement Officer must be consulted prior to commencing any procurement process using collaborative contracts.</p> <p>The terms and conditions of contract applicable to any collaborative contract, including the requirement to undertake competition between providers, must be fully complied with.</p>	See paragraph 3.6.
All values. ICT	All system developments and purchases of computer equipment or software must be approved by the Corporate Manager ICT or nominated deputy, and awarded in line with these Orders.	Officer, Service Lead, ICT. If above £50,000, also in consultation with the Corporate Procurement Officer.

Link to current procurement directives:

http://www.ogc.gov.uk/procurement_policy_and_application_of_eu_rules_eu_procurement_thresholds.asp

- 8.1.2 Where it can be demonstrated that there are insufficient suitably qualified Suppliers to meet the competition requirement, all suitably qualified suppliers must be invited.
- 8.1.3 There must be no unnecessary dividing up (or disaggregation) of a contract to avoid the application of the provisions of the EU Rules or these Contract Standing Orders. It is an offence to disaggregate the value of a contract in order to deliberately avoid the EU Regulations.
- 8.1.4 Where the EU procedure is required, the Officer shall also consult the Corporate Procurement Officer as appropriate, to agree the method of conducting the purchase. See table at 8.1.

8.2 Assets for Disposal

- 8.2.1 Assets for disposal must be sent to public auction except where better Value for Money is likely to be obtained by inviting quotations and tenders. (These may be invited by advertising on the Council's internet site). In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed as required by Financial Regulations and the Scheme of Delegation.

8.3 Contracts to Provide Services to External Purchasers

- 8.3.1 Legal Services must be consulted where contracts to work for organisations other than the authority are contemplated.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

8.4 Collaborative and Partnership Arrangements

- 8.4.1. Collaborative and partnership arrangements are subject to UK and EU procurement legislation and must follow these contract standing orders. If in doubt, officers must seek the advice of Legal Services and the Corporate Procurement Officer. However, arrangements to share staff with other public bodies may not require a formal procurement process and Legal Services should be consulted.

8.5 The Appointment of Consultants to Provide Services

- 8.5.1 Consultant architects, engineers, surveyors and other professional consultants shall be selected and commissions awarded in accordance with the procedures detailed within these contract standing orders and as outlined at Rule 8.1.1.
- 8.5.2 The engagement of a consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment to be in a form agreed by the Council's solicitor.
- 8.5.3 Records of consultancy appointments shall be maintained in accordance with Rule 6, and be readily accessible by Procurement and Audit.
- 8.5.4 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the Council's Insurance Officer for the periods specified in the respective agreement

9 PRE-TENDER MARKET RESEARCH AND CONSULTATION

- 9.1 The officer responsible for the purchase may, prior to the issue of the Invitation to Tender, consult potential suppliers in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential Supplier. The Officer must not seek or accept technical advice on the preparation of an Invitation to Tender or quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential suppliers or distort competition. If in any doubt, the Officer should seek advice from the Corporate Procurement Officer or Legal Services.

10. STANDARDS AND AWARD CRITERIA

- 10.1 The officer must ascertain what are the relevant British, European or international standards which apply to the subject matter of the contract. The officer must include those standards which are necessary to properly describe the required quality. This includes sustainability standards. Legal Services and the Corporate Procurement Officer must be consulted if it is proposed to use standards other than European standards.
- 10.2 The officer must define and document award criteria that are appropriate to the purchase and designed to secure an outcome giving 'Value for Money' for the authority, before quotations and tenders are sought. The basic criteria shall be:

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

- 'Lowest price' where payment is to be made by the authority when the award criteria is price alone.
- 'Highest price' if payment is to be received, or
- 'Most economically advantageous', where considerations in addition to price also apply.

If the last criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.

10.3 Award criteria must not include:

- Non-commercial considerations
- Matters which discriminate against suppliers, irrespective of size, from the European Economic Area or signatories to the Government Procurement Agreement.

11 INVITATIONS TO TENDER/QUOTATIONS

11.1 The Invitation to Tender shall state that no tender will be considered unless it is received by the date and time stipulated in the Invitation to Tender. No tender delivered in contravention of this clause shall be considered.

All Invitations to Tender shall include the following:

- (a) A specification that describes the authority's requirements in sufficient detail to enable the submission of competitive offers.
- (b) A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
- (c) A requirement for tenderers to complete fully and sign all tender documents including a form of Tender and certificates relating to canvassing and non-collusion.
- (d) Notification that tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense.
- (e) A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and if possible in descending order of importance.
- (f) Notification that no tender will be considered unless it is enclosed in a sealed envelope or container which bears the word 'Tender' followed by the subject to which it relates, but no other name or mark indicating the sender; or, when available, submitted via the Council's electronic tendering system.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

- (g) A stipulation that any Tenders submitted by fax or e-mail shall not be considered, see Rule 13.3 re electronic tendering.
 - (h) The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa.
- 11.3 All Invitations to Tender or Quote must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rule 16).
- 11.4 The Invitation to Tender or Quote must state that the Council is not bound to accept any quotation or tender, either as a whole or in part.
- 11.5 All Suppliers invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.
- 12. SHORTLISTING**
- 12.1 Any shortlisting must be in line with the financial and technical standards relevant to the contract and the award criteria. Special rules apply in respect of the EU Procedure and Legal Services should be consulted.
- 12.2 Evaluation criteria (which may include a scoring system for larger value or complex tenders) must be transparent and any sub-criteria specified. Shortlisting records must be kept and held for the period specified in the Council's Document Retention Policy.
- 12.3 The officers responsible for shortlisting are specified in Rule 8.1.1.
- 13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS**
- 13.1 Suppliers must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of tenders. The EU Procedure lays down specific time periods (consult Legal Services or the Corporate Procurement Officer).
- 13.2 All tenders must be returned to Democratic Services for controlled opening and independent registration, or, when the system is in place, be submitted electronically, through the Council's approved and secure electronic tendering system.
- 13.3 The Council's electronic tendering system should be used when it becomes available and wherever practical. However, tenders received by fax or other electronic means (e.g. email) must be rejected.
- 13.4 The Officer must not disclose the names of potential Suppliers to any staff involved in the receipt, custody or opening of tenders.
- 13.5 Democratic Services shall be responsible for the safekeeping of tenders until the appointed time of opening. Each tender must be:

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

- Suitably recorded so as to subsequently verify the date and precise time it was received
 - Adequately protected immediately on receipt to guard against amendment of its contents
 - Recorded immediately on receipt in the Tender Register.
- 13.6 The Democratic Services team must ensure that all tenders are opened at the same time when the period for their submission has ended. An officer representing the head of service in question must be present. Where the **Total Value** is at or higher than the EU Threshold, the Corporate Procurement Officer may also attend.
- 13.7 Upon opening, a summary of the main terms of each tender (i.e. significant issues that are unique to each tender submission and were not stated in the tender invitation documents such as tender sum) must be recorded in the Tender Register. The summary must be signed by all present. Where an electronic tendering process is used, those involved must verify the results on the electronically submitted documents

14. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION

- 14.1 Providing clarification of an Invitation to Tender to potential or actual Suppliers or seeking clarification of a tender, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an EU Procedure where this might distort competition, especially with regard to price, and in any event special rules may apply and legal advice should be sought.
- 14.2 If post-tender negotiations are necessary after a single-stage tender or after the second stage of a two-stage tender, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best tender and after all unsuccessful suppliers have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documents. Officers appointed by the relevant Head of Service or Corporate Manager to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 14.3 Post-tender negotiation must only be conducted following consultation with the Corporate Procurement Officer who must be consulted whenever it is proposed to enter into post-tender negotiation.
- 14.4 Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

15. EVALUATION AWARD OF CONTRACT, AND DEBRIEFING OF SUPPLIERS

- 15.1 Apart from the debriefing required or permitted by these contract standing orders, the confidentiality of quotations, tenders and the identity of suppliers must be preserved at all times and information about one supplier's response must not be given to another supplier.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

- 15.2 Contracts must be evaluated and awarded in accordance with the award criteria. During this process, officers shall ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.
- 15.3 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.
- 15.4 Officers may accept quotations and tenders received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these contract standing orders. Awarding of contracts that are expected to exceed the approved budget sum shall be referred back to Cabinet subject to consultation with the Head of Finance, in line with the Scheme of Delegation.
- 15.5 Where the **Total Value** is over £50,000, the officer must notify all suppliers simultaneously and as soon as possible of the intention to award the contract to the successful supplier and include the reasons why for unsuccessful bidders. The officer must provide unsuccessful suppliers with a period of at least ten working days in which to challenge the decision before the officer awards the contract. If the decision is challenged by an unsuccessful supplier then the officer shall not award the contract without first seeking the advice of Legal Services.
- 15.6 The officer shall debrief in writing all those suppliers who submitted a bid about the characteristics and relative advantages of the leading bidder. No information, other than the following, should be given without taking the advice of Legal Services:
- How the award criteria were applied.
 - The prices or range of prices submitted, in either case not correlated to suppliers' names.
 - The names of suppliers where there were three or more suppliers.
- 15.7 For EU level contracts, if a supplier requests in writing the reasons for a contracting decision, the officer must give the reasons in writing within 15 days of the request. If requested, the officer may also give the debriefing information at Rule 15.6 above to suppliers who were deselected in a pre-tender shortlisting process.

SECTION 4: CONTRACT AND OTHER FORMALITIES

16. CONTRACT DOCUMENTS

16.1 Relevant Contracts

16.1.1 All relevant contracts above £50,000 shall be in writing in a form approved by Legal Services.

16.1.2 All relevant contracts, irrespective of value, shall clearly specify:

- What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done).
- The provisions for payment (i.e. the price to be paid and when).
- The time, or times, within which the contract is to be performed.
- The provisions for the Council to terminate the contract.

16.1.3 The Council's order form or standard terms and conditions issued by a relevant professional body must be used wherever possible. If any doubt exists, the advice of Legal Services and the Corporate Procurement Officer must be sought.

16.1.4 In addition, every relevant contract or purchase over £50,000 must also state clearly as a minimum:

- That the contractor may not assign or sub-contract without prior written consent.
- Any insurance requirements.
- Health and safety requirements.
- Ombudsman requirements.
- Data protection requirements, if relevant.
- That charter standards are to be met if relevant.
- The Council's requirements concerning Equality, detailed in the EDDC Equality Policy
- Freedom of Information Act requirements.
- Anti bribery/corruption clause
- Where agents are used to let contracts, the agents must comply with the Council's contract standing orders.
- A right of access to relevant documentation and records of the contractor.
- The use of penalty clauses for non or unacceptable performance e.g. quality issues, late delivery. This will be aided by the inclusion of Key Performance Indicators within the contract.

16.1.5 The formal advice of Legal Services must be sought for contracts where any of the following apply:

- Where the total value exceeds £50,000; or
- Those involving leasing arrangements; or
- Where it is proposed to use a supplier's own terms; or
- Those involving the purchase of application software with a total value of more than £50,000; or
- Those that are complex in any other way.

SECTION 4: CONTRACT AND OTHER FORMALITIES

16.2 Contract Formalities

Agreements shall be completed as follows:

Total Value	Method of Completion	By
Purchase orders - up to £50,000	Electronic Order or Signature	Authorised officer (see Rule 16.2.3)
Contracts and licences up to £50,000	Signature	<i>Service Manager</i> or Nominated Deputy (Rule 16.2.3)
£50,001 to £75,000	Signature	Service Manager, Deputy Chief Executive or Legal Services. (Rule 16.2.3)
Above £75,000 or if any of para 16.1.5 applies except ICT software.	Signature or Sealing (as advised by Legal Services)	Deputy Chief Executive or Corporate Manager Legal Services (See also Rule 16.3)
ICT – system developments and purchases of computer equipment or software		
Purchase Orders – up to £30,000. Contracts and licences up to £30,000	Electronic order or signature	Authorised ICT Officer and Corporate Manager ICT or Nominated Deputy
£30,001 to £75,000	Electronic order or signature	Corporate Manager ICT or Nominated Deputy
Above £75,000	Signature or sealing (as advised by Legal Services)	Deputy Chief Executive or the Corporate Manager Legal Services, and the Corporate Manager ICT (See also Rule 16.2.3)

16.2.2 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Chief Executive or Section 151 Officer. An award letter is insufficient.

16.2.3 The Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

16.2.4 For contracts with a value greater than £50,000, the officer responsible for securing a signature must provide the Council's solicitor with the original copy for secure storage. An electronic copy must be sent to the Corporate Procurement Officer.

SECTION 4: CONTRACT AND OTHER FORMALITIES

16.3 Sealing

16.3.1 Where appropriate, contracts are completed by each side adding their formal seal. The fixing of the Council's seal must be witnessed by an authorised officer – Legal Services can advise on this process.

16.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed except in accordance with the Council's Constitution.

16.3.3 A contract must be sealed where:

- The Council may wish to enforce the contract more than six years after its end
- The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services, or
- There is any doubt about the authority of the person signing for the other contracting party.

17. BONDS AND PARENT COMPANY GUARANTEES

17.1 The officer must consult the Head of Finance or delegated officer about whether a Parent Company Guarantee is necessary when a supplier is a subsidiary of a parent company and:

- The total value exceeds £75,000, or
- Award is based on evaluation of the parent company, or there is some concern about the stability of the supplier.

17.2 The Officer must consult the Head of Finance about whether a Bond is needed

- Where the total value exceeds £1,000,000, or
- Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the Supplier i.e. following a formal risk assessment.

18. PREVENTION OF CORRUPTION, AND ANTI COMPETITIVE BEHAVIOUR

18.1 Prevention of Corruption

18.1.1 The officer needs to be aware of the Bribery Act 2010 which introduces general offences of offering or receiving bribes, a specific offence of bribing a foreign public official, and the new corporate offence of failing to prevent bribery; and the Council's Anti Fraud, Theft and Corruption Strategy.

18.1.2 The officer must comply with the Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 18.2 below.

SECTION 4: CONTRACT AND OTHER FORMALITIES

18.1.3 The following clause must be put in every written Council contract except where doing so would conflict with the contract rules associated with a national or local framework:

“The Council may terminate this contract and recover all its loss if the contractor, its employees or anyone acting on the contractor’s behalf do any of the following things:

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the contractor does not know what has been done), or
- (b) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972, or
- (c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.

Any clause limiting the contractor’s liability shall not apply to this clause.”

18.2 Anti-Competitive Behaviour

18.2.1 In its guidance for public sector procurers, the Office of Fair Trading has highlighted practical steps to take to reduce the risks of anti-competitive behaviour, which should be followed where practical:

- (a) Use non-collusion clauses, certificates of independent bids and requests;
- (b) Ensure sufficient credible bidders;
- (c) Look for suspicious bidding patterns
- (d) Keep comprehensive notes of all discussions and potential bidders and systematically scrutinise them for suspicious patterns.

18.2.2 If there is any doubt concerning anti-competitive behaviour during a procurement exercise, or for further guidance, the officer should contact the Corporate Procurement Officer or Legal Services.

19. DECLARATION OF INTERESTS

19.1 If it comes to the knowledge of a member or an employee of the authority that a contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Corporate Manager, Legal and Democratic Services.

19.2 Such written notice is required irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a contract to which the member or employee is directly a party.

19.3 A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of these Contract Standing Orders.

19.4 Democratic Services will maintain a record of all declarations of interests notified by members and officers.

19.5 Democratic Services will ensure that the attention of all members is drawn to the Members’ Code of Conduct.

SECTION 5: CONTRACT MANAGEMENT

20. MANAGING CONTRACTS

- 20.1 Service Managers are to name contract managers for all new contracts. All contracts must have a named Council contract manager for the entirety of the contract.
- 20.2 Contract managers must follow the procedures set out in the Council's Contract Standing Orders.
- 20.3 All variations to contracts are to be in writing in the form of an appropriately authorised variation order.
- 20.4 Payments to contractors will only be made on certification by the designated contract manager, or, where engaged by the Council, the appropriate external architect, engineer or consultant.
- 20.5 Liquidated and ascertained damages must be deducted for all periods of delay in line with the terms of the contract. Any instance, where in the opinion of the Officer/Contract Manager, this does not apply, must be fully justified and authorised by the responsible Deputy Chief Executive, Legal Services and the Section 151 Officer.
- 20.6 The Officer/Contract Manager will consult with the responsible Deputy Chief Executive, Legal Services and the Section 151 Officer promptly on becoming aware of any significant dispute, claim for additional payment in connection with a contract. No liability shall be accepted without the approval of the Cabinet in such cases.

21. RISK ASSESSMENT AND CONTINGENCY PLANNING

- 21.1 A business case must be prepared for all procurements with a potential value over the EU Threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- 21.2 In entering into contract agreements or reviewing existing contracts, managers must consider risk implications and ensure that the Council's Risk Register is updated with any identified risks and that mitigating controls are recorded appropriately.

22. CONTRACT MONITORING, EVALUATION AND REVIEW

- 22.1 All contracts which have a value higher than the EU Threshold limits, or **which are High Risk**, are to be subject to formal review(s) by the contract manager with the contractor. The review may be conducted at a frequency that is determined by the risk value and profile of the contract.
- 22.2 A contract review process must be applied to all contracts deemed to be High Risk, High Value, or High Profile. This process must be applied at key stages of major procurements.
- 22.3 During the life of the contract, the officer must monitor and take any necessary corrective action in respect of:

SECTION 4: CONTRACT MANAGEMENT

- Performance
- Compliance with specification and contract
- Cost
- Any Value for Money requirements
- User satisfaction and risk management
- Key performance indicators included within the contract.

22.4 When the contract is completed the officer must submit a report to the Strategic Management Team. The report must evaluate the extent to which the purchasing need and the contract objectives (as determined in accordance with Rule 5.2) were met by the contract. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

Additional Requirements for Contracts Financed from the Capital Programme

- 22.5 Any officer proposing a project for inclusion in the Capital Programme must complete a Capital Approval Form and submit to Finance in line with the annual budget process.
- 22.6 Any officer proposing a project for inclusion in the Capital Programme must complete a Capital Approval Form and submit to Finance in line with the annual budget process.
- 22.7 The form will include the objectives of the project; a risk assessment and contingency plan; details of how the project will be controlled including appointment of a Project Manager; funding required and any revenue impact that the project may incur.
- 22.8 The Section 151 Officer will provide the Cabinet with a quarterly report on the overall progress of the Capital Programme including any variations. Monthly reports will also be provided to the Strategic Management Team.

DEFINITIONS APPENDIX

DEFINITIONS APPENDIX	
Agent	A person or organisation acting on behalf of the Council or on behalf of another organisation.
Approved List	A list drawn up in accordance with Rule 7.2.
Award Criteria	The criteria by which the successful <i>Quotation or Tender</i> is to be selected (see further Rules 10 and 11.2e).
Award Procedure	The procedure for awarding a contract as specified in Rules 8, 10 and 15.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now in many instances been superseded by <i>Value for Money</i> .
Bond	An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from the contractor's failure.
Cabinet	The Council's Cabinet as defined in the Constitution.
Code of Conduct	The codes regulating conduct of Officers and Members, available on the Council's Intranet.
Constitution	The constitutional document approved by the Council which: <ul style="list-style-type: none"> • allocates powers and responsibility within the Council and between it and others • delegates authority to act to the Cabinet, Other Member Bodies and Officers; regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.
Consultant	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.
Contracting Decision	Any of the following decisions: <ul style="list-style-type: none"> • withdrawal of Invitation to Tender • whom to invite to submit a Quotation or Tender • short listing • award of contract • any decision to terminate a contract.
Corporate Contract	A contract let by the <i>Council</i> to support the Council's aim of achieving Value for Money.

Corporate Procurement Officer	The Council's central procurement officer charged with providing strategic direction and advice to secure <i>Value for Money</i> in the Council's procurement activities.
Council's Solicitor	As identified in the Constitution
Devon Procurement Partnership (DPP)	Collaborative partnership of Devon authorities including councils, Devon & Cornwall Constabulary, Devon & Somerset Fire and Rescue Service.
EU Procedure	The procedure required by the EU where the Total Value exceeds the <i>EU Threshold</i> .
EU Threshold	The contract value at which the EU public procurement directives apply.
European Economic Area	The members of the European Union, and Norway, Iceland and Liechtenstein.
Financial Regulations	The Financial Regulations outlining Officer responsibilities for financial matters issued by the Section 151 Officer in accordance with the Constitution.
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
High Profile	A high-profile purchase is one that could have an impact on functions integral to Council service delivery should it fail or go wrong.
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the EU Threshold values.
Invitation to Tender (ITT)	Invitation to tender documents in the form required by these contract standing orders.
Key Decision	Decisions that are defined as key decisions in the Constitution.
Nominated Suppliers and Sub-Contractors	Those persons specified in a main contract for the discharge of any part of that contract.
Non-commercial Considerations	(a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters'). (b) Whether the terms on which contractor's contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by

	<p>them as self-employed persons of their services only.</p> <p>(c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.</p> <p>(d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').</p> <p>(e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.</p> <p>(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.</p> <p>(g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.</p> <p>(h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 1981 (TUPE) may apply.</p>
Officer	The officer designated by the Deputy Chief Executive or Service Manager to deal with the contract in question.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
Portfolio Holder	A member of the Cabinet to whom political responsibility is allocated in respect of specified functions.
Priority Services	Those services required to be tendered as defined in the EU public procurement directives.
Procurement Strategy	The document setting out the Council's approach to procurement and key priorities for the next few years.
Purchasing Guidance	The suite of guidance documents, together with a number of standard documents and forms, which supports the implementation of these contract standing orders. The guidance is available on the Council's intranet.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	Contracts to which these contract standing orders apply (see Rule 4).
Section 151 Officer	The Service Lead for Financial Services or such other officer as may be designated Section 151 Officer by the Council, including the appointed Deputy Section 151 Officer.
Service Manager	The Officer's immediate superior or the Officer

	designated by the Deputy Chief Executive to exercise the role reserved to the Service Manager by these contract standing orders.
Shortlisting	The process of selecting suppliers who are to be invited to quote or bid or to proceed to final evaluation.
Supplier	Any person who asks or is invited to submit a Quotation or Tender.
Tender	A supplier's proposal submitted in response to an Invitation to Tender.
Tender Record Book	The log kept by Democratic Services to record details of Tenders (see Rule 13.5).
Total Value	<p>The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:</p> <p>(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period</p> <p>(b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months</p> <p>(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48</p> <p>(d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result</p> <p>(e) for Nominated Suppliers and Sub-contractors, the total value shall be the value of that part of the main contract to be fulfilled by the Nominated Supplier or Sub-contractor.</p>
TUPE Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246)	Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.
Value for Money	'Value for money' does not necessarily mean the lowest possible price. It combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, at an appropriate price, from an effective supplier.

Agenda Item 11

Audit and Corporate Governance Committee

27 September 2012



Audit and Corporate Governance Committee Forward Plan 2012/13

Date of Committee	Report	Lead Officer
29 November 2012	<ul style="list-style-type: none">• Internal Audit Activity – Quarter 2 2012/13• Annual Audit Letter• Fee Letter• Requested review of Document Centre and ICT costs	SWAP Grant Thornton Grant Thornton Head of Finance
17 January 2013	<ul style="list-style-type: none">• Certification Report• Internal Audit Activity – Quarter 3 2012/13	Grant Thornton SWAP
14 March 2013	<ul style="list-style-type: none">• Annual Audit Plan 2013/14• Audit Charter	SWAP