

Report to: Council

Date of Meeting 15 April 2026

Heading/Title: Changes to the Constitution – Terms of Reference and Delegated Powers of Committees – Part 2

Cabinet Member(s): Communications and Democracy (Councillor Sarah Jackson)

Director/Assistant Director: Governance (Melanie Wellman)

Author and Directorate: Andrew Melhuish (Democratic Services Manager – Governance Directorate)

Contact Details andrew.melhuish@eastdevon.gov.uk

Key decision No

If a Key Decision has it appeared on Forward Plan N/A

Document classification: Part A Public Document

Exemption applied: None

Report Summary and Recommendations/Decision

The report includes an update on amendments to the Council's Constitution following a review of the Constitution by the Constitution Working Group.

In accordance with the Council's Constitution Full Council is responsible for the changes to the Constitution.

This is a tracked change document setting out a number of changes to the Delegated Powers of Committees Part 2. These set out the Terms of Reference and delegated powers of committees and has been updated using tracked changes to reflect changes in job titles and reflects current operational working arrangements at the Council. A summary of the key changes is included at Appendix 1 and the main document sets out the changes with additions in red and deletions in blue at Appendix 2.

The Terms of Reference have been considered by the Constitution Working Group and it is recommended that Council approves them.

RECOMMENDATIONS:

That the Council:

1. Approves the Terms of Reference and delegated powers of committees Part 2 (Appendix 2) to be included in the Council's Constitution.
2. Delegates authority to the Monitoring Officer in consultation with the Portfolio Holder for Communications and Democracy to make any minor drafting changes to the Terms of Reference prior to publication on the Council's website.

1. Background

Updating of the Constitution

- 1.1 The Constitution Working Group has been carrying out a phased review of key elements of the Constitution over a series of working group meetings.
- 1.2 The Constitution Working Group was set up in 2024 at Annual Council to review the Constitution. The Constitution Working Group is a cross-party membership consisting of:

Councillor Sarah Jackson (Chair & PFH for Communications & Democracy), Councillors Paul Arnott, John Loudoun, Tim Dumper, Mike Goodman, Jenny Brown, Mike Howe, Peter Faithfull and Kim Bloxham and officer support is provided by the Monitoring Officer and Democratic Services Team.
- 1.3 The Terms of Reference were reviewed by the Constitution Working Group and reflect changes to the overall management structure of the Council and to reflect current legislation.
- 1.4 The Terms of Reference of the Overview and Scrutiny Committees has been reviewed separately and is contained in another report set out on the agenda for this meeting.

2. Reasons for Recommendations/Decision

- 2.1 It is important that the Council's Constitution is regularly reviewed to ensure that it remains fit for purpose and meets the Council's requirements.
- 2.2 This report recommends the approval of the Terms of Reference and delegated powers of committees.

3. Options

- 3.1 This work forms part of a review of the Constitution to ensure that it remains up to date and reflects current job titles and working practices.

4. Relevance to Council Plan/priorities

Set out how report links to the Council Plan/priorities:

- A supported and engaged community that has the right homes in the right places, with appropriate infrastructure.

- ☒ A sustainable environment that is moving towards carbon neutrality and which promotes ecological recovery.
- ☒ A vibrant and resilient economy that supports local business, provides local jobs and leads to a reduction in poverty and inequality.
- ☒ A well-managed, financially secure and continuously improving council that delivers quality services.

Having an up-to-date Constitution ensures the Council is able to support its Council Plan and priorities through the governance arrangements set out in the Constitution.

5. Financial Comments/Implications

- 5.1 There are no financial implications arising from this report as the budget for allowances payable to Panel members is from within existing budgets.

6. Legal Comments/Implications

- 6.1 Under Section 9P of the Local Government Act 2000, the Council is required to prepare and keep up to date a Constitution containing the standing orders of the Council and such other information as is required or desirable.

7. Risk Implications

- 7.1 It is important that the Council keeps its Constitution up to date to reflect best practice and any changes in legislation.

8. Equality Implications (Public Sector Equality Duty)

- 8.1 No specific negative equalities implications have been identified with the proposals set out in the new Constitution. Decisions taken by the Council, in accordance with its Constitution, will consider equalities implications and have due regards to its legal duties under the Equality Act 2010. The arrangements for committee meetings will take full consideration of equalities and public accessibility requirements. An Equalities Impact Assessment is not considered necessary for this decision as there are no direct impacts.

9. HR and Workforce Implications

- 9.1 There are no HR and Workforce implications arising from the recommendations in the report.

10.2 Community Safety Implications (Crime and Disorder)

- 10.1 There are no Community Safety Implications arising from the recommendations in this report.

11. Climate Change Implications

- 11.1 There are no Climate Change implications arising from the recommendations in this report.

12. Health & Safety and Health & Wellbeing Implications

12.1 There are no public health, health and safety or health and wellbeing implications arising from the recommendations in this report.

12.2 There are no safeguarding issues that may arise from the recommendations in the report.

13. Procurement and Social Value implications

13.1 There are no procurement and social value implications arising from the recommendations in this report.

14. Land and Buildings (non-housing)/Asset Management Implications

14.1 There are no land and buildings/asset management implications arising from the recommendations in this report.

15. Overview and Scrutiny Committees Comments/Recommendations

15.1 N/A.

16. Digital and Data

16.1 N/A

17. Consultation and Engagement

17.1 The Terms of Reference have been subject to consultation with senior officers to ensure that they met current working practices and legislation.

18. Communications

18.1 Subject to approval by full Council the Council's website will be updated.

19. Next Steps

19.1 To update the Council's website to reflect the recommendations arising from this report.

20. Appendices

Appendix 1 – Summary of key changes

Appendix 2 – Terms of Reference and delegated powers of committees.

21. Background Papers

21.1 None.

Section 2: Terms of reference and delegated powers of committees

Summary of Key Changes

Section	Key Change
General	Member(s) changed to Councillor(s). He/she/him/her changed to they/them.
1.1.5 Cabinet	Clarified that Cabinet may take decisions including those referred by Portfolio Holders or officers, replacing previous wording restricting decisions to “non-delegated” matters. Deletion of historical text that limited key decisions solely to Cabinet.
1.1.11 Terms of Reference	Clarified (d) To determine key decisions unless delegated to Portfolio Holders or Officers
1.1.12 Leaders’s Scheme of Delegation to Portfolio Holders	Delete (i) as this is not required. Renummer (i – vi).
1.1.12 Leader’s Scheme of Delegation to Portfolio Holders – General Delegations to all Portfolio Holders	c) Tender acceptance threshold increased to £200,000, based on best value rather than lowest tender. Updated delegations for leases, licences, asset disposals and covenants, with financial thresholds increased up to £200,000 and responsibilities shifted to the Director of Place.
1.1.16 Specific Delegations to the Portfolio Holder for Finance	b) Delete – authority to accept the recommendations of the Independent Remuneration Panel as this is a function for full Council (Part 4 Council Procedure Rules). c) Delete – authority to agree the establishment of an Interview Panel as this is a function for full Council.
1.1.17 Portfolio Teams	New wording to give more flexibility for setting up informal teams by Portfolio Holders.
1.2 Overview Committee	Existing Terms of Reference for Overview Committee, Scrutiny Committee and Housing Review Board deleted and replaced by a new section (a separate agenda item sets out the details of the proposed new terms of reference – Article 7).
1.5 Licensing and Enforcement Committee	New restriction on membership – only one councillor from the same household.
1.6 Standards Committee	Membership: Membership number should be 7 councillors, plus 3 non-voting Town/Parish Councillor representatives and 2 non-voting Independent Persons and 2 non-voting independent representatives.
1.6.4 Terms of Reference	New responsibility added:

	(d) Advise on the content of documents relating to ethical governance and receive regular updates on declarations of interest and the declaring of gifts and hospitality.
1.6.12 Assessment Sub Committee	Terms of Reference updated wording to clarify roles e.g., Assessment Sub-Committee now explicitly considers complaints rather than only investigation reports). Clearer rules on substitutes, membership eligibility, and alignment with officer employment procedures
1.8 Planning Committee	The Chair and Vice Chair shall not be elected to the same ward. New restriction on membership – only one councillor from the same household. No more than 4 serving members of Cabinet are eligible to serve and no member of Cabinet shall be the Chair of Vice Chair of the Planning Committee.
1.11 Panels and Forums	Clarifies when Cabinet members may or not participate.
1.12 Joint Bodies	Updated list of Joint Bodies to reflect current joint bodies.

Section 2: Terms of reference and delegated powers of committees

Summary of changes

This document sets out tracked changes that have been made and considered by the Constitution Working Group and are recommended to Council.

Additions are marked in red and items deleted are shown in blue.

1.1 Cabinet

- 1.1.1. **Constitution:** Up to 10 Councillors including the Leader and Deputy Leader, as may be appointed by the Leader. The Cabinet does not need to be politically balanced.
- 1.1.2. **Meetings:** 11 times per year (or more frequently as appropriate).
- 1.1.3. The Cabinet will be the executive arm of the Council with the authority to action policies within the plans, strategies and budget approved by the Council.
- 1.1.4. All decisions and actions taken by the Cabinet or a Portfolio Holder shall comply with the relevant Procedure Rules set out in Part 4 of this Constitution. In particular all decisions taken by the Cabinet or a Portfolio Holder will be as a result of considering and debating a written report which shall contain a summary of the legal, financial and all other relevant implications arising from the proposed decision.
- 1.1.5. Subject to this the Cabinet has the power to take all decisions within its remit ~~that are not already~~ including those delegated to **Portfolio Holders** or officers where the relevant **Portfolio Holder** or officer has referred the matter to the **Cabinet for decision**. ~~Only the Cabinet acting collectively may take “key decisions”. All other decisions may be taken by a Portfolio Holder subject to the requirements referred to in this section of the Constitution.~~
- 1.1.6. The membership of Cabinet is not required to follow the rules of proportionality relating to political parties. The Leader of the Council, as elected by Council, shall chair the Cabinet meetings.
- 1.1.7. The Leader will appoint members of the Cabinet as Portfolio Holders, together with any deputies or assistants. The Leader will normally remain without portfolio.
- 1.1.8. The Leader shall have the authority to change the responsibilities and numbers of Portfolio Holders.

- 1.1.9. If for any reason the Leader is unable to act or the office of leader is vacant, the Cabinet must act in the Leader's place or must arrange for a Member of the Cabinet to act in the Leader's place. Members of Cabinet remain in post until such time as the new Leader appoints a new Cabinet.
- 1.1.10. The Leader shall prepare the Forward Plan of key decisions to be made by the Cabinet. For the avoidance of doubt, any reference to partnerships contained below may not include legally binding partnerships.
- 1.1.11. **Terms of reference** are:
- a) To exercise those functions that are not the responsibility of the Council, another Committee or an officer.
 - b) To provide effective strategic leadership to the Council.
 - c) To implement policies as determined by Council, and monitor service delivery.
 - d) To ~~collectively~~ determine key decisions **unless delegated to Portfolio Holders or Officers.**
 - e) To advise the Council on financial and economic policy and to recommend annually, as determined by statute, proposals for the Council Tax. To exercise overall responsibility for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972.
 - f) To maintain overall control of the accounts, approved budgets and receive reports on virement requests in accordance with financial regulations.
 - g) To recommend the fees and charges relating to licences, registrations and all other matters.
 - h) To submit annually to the Council a Performance Plan, to monitor its effectiveness and to establish the Performance Assessment Framework within which the Council will operate.
 - i) To approve (in consultation with Audit and Governance Committee), implement and monitor the Council's Code of Corporate Governance.
 - j) To receive for consultation purposes the Local Development Scheme, Statement of Community Involvement and Annual Monitoring Report.
 - k) To approve Supplementary Planning Documents.
 - l) To consider reports from the Council's external auditors, ombudsman and other bodies and to take or propose appropriate action.
 - m) To prepare, or consider (new or amended policies) from the Overview and Scrutiny Committees for the consideration of Council.

- n) To ensure adequate training and development for all elected **Councillors** **Members**.
- o) To let contracts on behalf of the Council in accordance with Contract Standing Orders.
- p) To oversee the Council's corporate accommodation and to ensure the provision of safe, well maintained premises to staff and public and to recommend the acquisition and disposal of such property.
- q) To be responsible for the acquisition, management, maintenance and disposal and letting of all property of the Council and to consider the views of the Council before making a compulsory purchase order.
- r) To be responsible for the review and implementation of the Council's Asset Management Plan and Capital Strategy.
- s) To prepare and advise Council on proposed changes to Procedural Standing Orders, Financial Regulations, Contract Standing Orders, and delegations.
- t) To take any decisions within these terms of reference that are urgent in nature and also to act on behalf of the Council in any cases where urgent decisions are required and such matters cannot conveniently be dealt with by the Council or by another appropriate committee or under the delegated powers of staff.
- u) To advise the Council on proposals for emergency planning and to ensure an adequate response to incidents affecting the district.
- v) To exercise general control over the information, public relations and publicity services of the Council.
- w) To prepare, submit, implement and revise the Council's ICT Strategy.
- x) To respond on behalf of the Council to external reports and consultation papers.
- y) To authorise exceptions to approved policies only where the particular merits of individual cases justify the exceptions being made.
- z) To appoint a discretionary rate relief panel to determine applications for rate relief from charities and non-profit making organisations in accordance with the provisions of the Local Government Act 1988.
- aa) To appoint or nominate persons to outside organisations which relate to housing, leisure, environmental health, community safety and other functions of the Cabinet.
- bb) To agree the council tax base for each financial year.

1.1.12. **Leader's Scheme of Delegation to Portfolio Holders**

Such decisions as the Cabinet or Leader may from time to time delegate to them subject at all times to the following provisos:

~~(i) The decision in question is not a “key decision”.~~

Renumber rest accordingly (i – vi)

- (ii) The power to make the decision has not previously been delegated to an officer.
- (iii) The Portfolio Holder has considered what consultation is necessary with regard to the proposed decision – including the need to consult with local Ward Councillors.
- (iv) The proposed decision is compliant with the terms and conditions of the existing policy framework.
- (v) Receipt and consideration of a written report containing a summary of the legal, financial and all other relevant implications arising from the proposed decision.
- (vi) Publication of the proposed decision in accordance with the Executive Procedure rules referred to in Part 4 of the Constitution.
- (vii) If the Leader varies the scheme of delegation to Portfolio Holders s/he shall report the changes to the next practicable Council meeting for information.

General Delegations to all Portfolio Holders (subject to requirement that the matter is within the terms and reference of their respective portfolios):

- a) Authority to issue press releases and deal with the press.
- b) Authority to approve proposals and schemes in respect of operational matters that are required to implement the policy framework.
- c) Authority to accept the ~~lowest~~ tender **which achieves best value taking into account financial and/or quality considerations**, provided it falls within **an approved budget and the consideration does not exceed £200K** ~~the sum set by the Cabinet~~, if payment is to be made by the Council, or the highest tender (**not exceeding £200K**), if payment is to be received by the Council, ~~such acceptance to be reported to the next meeting of the Cabinet where tenders or offers are invited by the Council for.~~ **For the avoidance of any doubt reference to tender** shall include but **is** not limited to:
 - i. the carrying out of work in accordance with a Specification and/or Bills of Quantities, or
 - ii. the purchase or sale of vehicles, equipment or machinery surplus to the Council's needs ~~where the consideration exceeds £30,000~~, or

- iii. concessions in accordance with detailed particulars provided the accepted sum is within estimates.
- d) Authority to approve alterations and extensions to schedules/specifications to contracts that do not have the effect of exceeding a previously approved budget sum, subject to legal advice.
- e) Authority to approve a maximum 5% “over-spend” in respect of expenditure on works for a specified project within an approved budget and virement requests in accordance with Financial Regulations.
- f) Authority to approve grant aid if within budget.
- g) Authority to grant or enter into licences, leases and the negotiation of terms following receipt / service of notices under the Landlord and Tenant Act 1954 for the renewal of tenancies provided they are in accordance with the Policy Framework and subject to relevant terms and conditions being negotiated by the Director of **Place Finance** where: (i) the term is 125 years or less; and (ii) either the premium, if payable, exceeds £30,001 but is less than £200,000 and/or the annual licence fee / rent is between £15,001 and £100,000
- h) Authority to agree the variation or release of (a) restrictive covenant(s) benefitting (former) Council owned (non-housing) property where the premium payable exceeds £30,001 **up to £200K** and where in accordance with the Policy Framework and subject to relevant terms and conditions being negotiated by the Director of **Place Finance**.
- i) Authority to agree the variation or release of (a) restrictive covenant(s) burdening Council owned (non-housing) property where the premium payable exceeds £30,001 **up to £200K** and where in accordance with the Policy Framework and Budget and subject to relevant terms and conditions being negotiated by the Director of **Place Finance**.
- j) Authority to increase or alter fees and charges subject to statutory consultation and/or advertisement procedures where applicable.
- k) Authority to dispose of freehold (non-housing) property assets which have a market value between £30,001 and £200,000.

1.1.13. Specific Delegations to the Portfolio Holder for Sustainable Homes and Communities are:

- a) Authority to authorise the execution of Consents to Dealing in favour of approved Housing Associations.
- b) Authority to approve requests to purchase (housing) land from the Council (provided the request has the support of all the local Ward Councillors).
- c) Authority to approve requests by tenants to carry out a business.

- d) Authority (in consultation with Ward Councillors), to determine applications in all cases (other than those where consent may not be withheld) for consent for resale (pursuant to S.104C of the Housing Act 1957, S.19 of the Housing Act 1980 or S.157 of the Housing Act 1985) of former Council dwellings and to determine applications to remove restrictions imposed under those sections.
- e) Authority to approve Housing Association partners for the provision of rented housing, as provided in the Capital Programme.
- f) Authority to agree funding, in connection with tenant participation, under £500 for individuals and/or groups.
- g) Authority to take decisions within the advisory remit of the Housing Applications Review Panel where the Panel so advises.
- h) Authority, in consultation with the Chair of the East Devon Sports Council (plus the particular sport representative where appropriate), to determine submitted applications for revenue support grants for sports clubs under the recreation strategy in respect of qualifying schemes (a maximum of one scheme per organisation to be approved each year).
- i) Authority to agree the variation or release of (a) restrictive covenant(s) benefitting (former) Council owned (housing) property where the premium is £30,001 or more and where in accordance with the Policy Framework and subject to relevant terms and conditions being negotiated by the Director of Housing, Health and Environment.
- j) Authority to agree the release of (a) restrictive covenant(s) burdening Council owned (housing) property where the premium is £30,001 or more and where in accordance with the Policy Framework and Budget and subject to relevant terms and conditions being negotiated by the Director of Housing, Health and Environment.

1.1.14. Specific Delegations to the Portfolio Holder for Strategic Planning are:

- (a) Authority to give written notice required in accordance with the Town and Country Planning regulations authorising the seeking of deemed planning consent for schemes included within the approved Capital and Revenue Programmes.
- (b) Authority to accept renewal of the contract for advertising the weekly list of planning applications on the basis of two or three years so long as the cost does not exceed the annual rate of inflation published for the previous twelve months.
- (c) Authority to authorise emergency action under the Building Act 1984 and Building Regulations, the Town and Country Planning Act 1990, the Local Government (Misc. Provisions) Act 1976 Planning (Listed Buildings and Conservation Areas) Act 1990 and all associated legislation where such action would result in the expenditure of money by the Council.

1.1.15. **Specific Delegations to the Portfolio Holder for Economy and Assets**
are

- a) Authority to approve the grant of wayleaves and easements (in fee simple or for a term certain) where in accordance with the Policy Framework and subject to relevant terms and conditions being negotiated by the Director of Finance.
- b) Authority to approve the disposal of assets to town and parish councils at below market value in line with the Policy Framework and in accordance with the General Disposal Consent (England) Order 2003.

1.1.16. **Specific Delegations to the Portfolio Holder for Finance** are:

- a) Authority to approve financial assistance in respect of the following matters:
 - i. grants under the Ring and Ride scheme;
 - ii. grants to the Citizens Advice Bureaux;
 - iii. Village Shop Rate Relief;
 - iv. Relief from Business Rates in respect of Charities/Good Causes and cases of hardship;
 - v. annual grants to individual Tourist Information Centres.

~~b) Authority to accept the recommendations of the Independent Remuneration Panel.~~

~~e) Authority to agree the establishment of an Interview Panel and all relevant associated procedures/requirements following the resignation of the Head of Paid Service or a Chief Officer. Move to Chair of Council and Leader (Article 4 The Full Council).~~

- d) Authority to appoint a valuer to advise on the rateable values of properties on which the Council is liable for rates and where considered appropriate, lodge appeals.
- e) Authority to approve/determine revenue support or small capital grants through the Lottery or Arts programmes.
- f) Authority to determine applications for feasibility studies (but not project development) costing up to £5,000 for proposed National Lottery Fund schemes.
- g) Authority to approve temporary changes to the charges applied and operational procedures in respect of the management of the Council's car parks.

1.1.17. **Portfolio Teams:**

The Leader and Portfolio Holders can set up a Portfolio Team. The Portfolio Teams will be informal and flexible to advise the portfolio holder utilising the relevant skills and experience within the Council. They do not need to be politically balanced, however, cross-party working is encouraged where possible.

~~Each Portfolio Holder and the Leader will be advised and assisted in carrying out their responsibilities by a group of Members appointed by the Council. The groups will be informal and flexible to establish all-party working within each portfolio area. Their primary function will be to enable the Leader/Portfolio Holders to initiate the review and development of policies to discuss major issues which have yet to be considered by the Cabinet or the implementation of matters which have already been approved in principle and to advise on budget monitoring. It is the prerogative of the Leader/Portfolio Holder to call meetings of the Portfolio Teams and to frame their agendas—although other Group Members and the Chief Executive will be able to suggest topics for discussion and the Cabinet will be entitled to refer items to a Portfolio Team for debate. Portfolio Teams will not be decision-making bodies and their meetings will therefore not be in public. Portfolio Teams will normally be aligned to Portfolios. Portfolio Teams meetings will be divided as follows:~~

~~Leader's~~

~~Climate Action and Emergency Response~~

~~Coast, Country & Environment~~

~~Council and Corporate Coordination~~

~~Communications & Democracy~~

~~Economy~~

~~Finance & Assets~~

~~Strategic Planning~~

~~Sustainable Homes and Communities~~

~~Culture, Leisure, Sports & Tourism~~

Following to be replaced by new Terms of Reference – these changes are set out in Article 7 see separate agenda item.

1.2. Overview Committee

1.2.1. ~~**Membership:** 13 Councillors (subject to the rules relating to political balance / proportionality). The Chair of the Committee shall be a Councillor from the majority party.~~

1.2.2. ~~**Meetings:** 6 times per year (or more frequently as appropriate).~~

1.2.3. ~~**Quorum:** 5~~

1.2.4. ~~**Terms of Reference:** The role of this Committee is to develop new and review existing policy (other than those falling within the remit of the Strategic Planning Committee) and evaluate its implementation. The committee shall also review service delivery options following consultation exercises and consider formative policy proposals. Full details of the Committee and its terms of reference are set out in detail in Article 7 of this Constitution.~~

1.2.5. ~~The Committee shall have the following powers:~~

- ~~a) To assist Council and the Cabinet in the development of the budget and overall policy framework and to make proposals to the Cabinet for new or amended policies;~~
- ~~b) To receive reports (including any report from the Scrutiny Committee) on the effectiveness of policy implementation and to make further recommendations to Council and / or Cabinet as appropriate;~~
- ~~c) To make reports or recommendations to Council and/or any other Council committee or sub-committee or any joint committee or sub-committee on which the local authority is represented with respect to the discharge of any functions of the authority or on matters which affect the authority's area or the inhabitants of that area;~~
- ~~d) To comment upon and make recommendations to the Cabinet on external reports and consultation papers;~~
- ~~e) Delegated budgetary powers in order to procure specialist information services designed to supplement resources ordinarily available to the Committees.~~

Following to be replaced by new Terms of Reference

1.3. Scrutiny Committee

1.3.1. ~~**Membership:** 15 Councillors (subject to the rules relating to political balance / proportionality). The Chair shall be a Councillor from the opposition party / group agreed at Annual Council but in the event that no Councillor is proposed by the opposition then the Leader shall retain the right to nominate the Chair.~~

- 1.3.2. ~~**Meetings:** 10 times per year (or more frequently as appropriate).~~
- 1.3.3. ~~**Quorum:** 5~~
- 1.3.4. ~~**Terms of Reference:** The role of this Committee is to evaluate the effectiveness of service delivery and to scrutinise where and when appropriate. The Committee will also monitor the delivery of the Council Plan.~~
- 1.3.5. ~~The Committee will also develop strong links with partner agencies and act as the Crime and Disorder Committee for the purposes of section 19 of the Police and Justice Act 2006 Full details of the terms of reference are set out in detail in Article 7 of this Constitution.~~
- 1.3.6. ~~The Committee shall have the following powers:~~
- ~~a) To make reports or recommendations to Council and/or any other Council committee or sub-committee or any joint committee or sub-committee on which the local authority is represented with respect to the discharge of any functions of the authority or on matters which affect the authority's area or the inhabitants of that area;~~
 - ~~b) To scrutinise policy decisions and the draft budget to ensure compliance with approved policy objectives and report to Council as appropriate;~~
 - ~~c) To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions of the authority. Where review or scrutiny takes place of a decision made but not yet implemented, the Committee's powers include the ability to recommend the decision be reconsidered by the person or body that made it or to arrange for Council to carry out the review or scrutiny function.~~
 - ~~d) To review the performance of the Cabinet against relevant performance plans and to report to Council as appropriate.~~
 - ~~e) To comment upon and make recommendations to the Cabinet on external reports and consultation papers.~~
 - ~~f) Delegated budgetary powers in order to procure specialist information services designed to supplement resources ordinarily available to the Committees.~~

Following to be replaced by new Terms of Reference for Housing Scrutiny Committee

~~**1.4. Housing Review Board (Housing Overview and Scrutiny Committee)**~~

- 1.4.1. ~~**Membership:** 5 Councillors (subject to the rules relating to political balance / proportionality); 5 tenant and leaseholder representatives; and 2 independent community representatives. The non-councillor members will be co-opted members and shall have the right to vote. Council shall appoint the Chair. The Board will elect its own vice Chair.~~

- 1.4.2. **Meetings:** 4 times per year (or more frequently as required).
- 1.4.3. **Quorum:** 4
- 1.4.4. **Appointments:** Council Members and co-opted members on the Board will be appointed at the annual Council meeting. Tenant and leaseholder representatives on the Board will initially be selected by interview (unless there is no need because the number of candidates equals the number of places) and serve a four year term. Should a vacancy occur during the four year term, the unsuccessful candidate who received the highest score in the last interview, within the previous six months, will normally be offered the appointment. All tenant and leaseholder appointments are subject to Council approval. Normally non-councillor Board members will serve for a maximum of eight years, subject to annual reappointment by the Council, with the objective that every four years one quarter of the non-councillor members will stand down.
- 1.4.5. **Terms of Reference:** The Housing Review Board is one of the Overview and Scrutiny Committees and will consider matters relating to the Council's landlord and housing management functions. The Board will advise the Council's Cabinet on housing policy and operational practice, where this affects the Council's tenants and leaseholders. The Board will keep under review the housing stock options appraisal and monitor the conditions which will influence the future arrangements for the ownership and management of the Council's housing stock. Council officers and others, where appropriate, will support the work of the Board.

1.5. Licensing and Enforcement Committee

- 1.5.1. **Membership:** 15 Councillors (subject to the rules relating to political balance / proportionality). Serving members of Cabinet are not eligible for appointment to this committee. **There shall be no more than one Councillor from the same household appointed to this Committee.**
- 1.5.2. **Meetings:** 4 times per year (or more frequently as appropriate).
- 1.5.3. **Quorum:** 4.
- 1.5.4. **Terms of Reference:** The role of the committee is to carry out the licensing and enforcement functions of the Council relating to:
- (a) Hackney carriage and private hire vehicles, gaming, entertainment, food and miscellaneous licensing, health and safety and certain deposits on highways as set out in Sections B, C and I(5) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
 - (b) Licensing and enforcement functions relating to the Licensing Act 2003

(c) Contaminated land, control of pollution and the management of air quality as set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;

(d) Licensing and enforcement functions relating to the Gambling Act 2005 with the exception of a resolution not to issue a Casino licence and the approval of the licensing policy for gambling (functions of Council).

1.5.5. In particular the Committee will consider and determine:

(a) Applications relating to licences, permits, approvals, orders, consents or similar authorisations, under the above provisions where the relevant officer considers that the matter merits the Committee's attention or is otherwise outside the scheme of delegation to officers.

(b) Whether or not the holder of a licence etc., is a fit and proper person to continue to benefit from the grant of the licence etc.

(c) Amendments to the hackney carriage fare tariff.

(d) The introduction of or amendments to, licence conditions, byelaws, orders, consents, approvals, permits or other similar authorisations.

(e) The institution of prosecution proceedings or other enforcement action where the relevant officer considers the matter merits the Committee's attention.

1.5.6. Licensing Sub-Committee

1.5.7. **Membership:** 3 Councillors. The sub-committee will be chaired by the Chair or Vice-Chair of the Licensing and Enforcement Committee (if present). It will sit as and when required with councillors drawn from the Licensing and Enforcement Committee. Otherwise the sub-committee will elect their Chair for the hearing on the day.

1.5.8. **Quorum:** 2.

1.5.9. **Role:** To determine all licensing applications where a hearing or committee approval is required and any related function in accordance with the Licensing Act 2003 or Gambling Act 2005 and regulations made thereunder; and to carry out any other licensing function already delegated to the Licensing and Enforcement Committee.

1.5.10. In a Council regular election year when there is a need to hold a hearing in the period between election day and the Annual Meeting of the Council, those Members of the Licensing and Enforcement Committee who are re-elected as Councillors may meet as the Licensing Sub-Committee to exercise any of the functions of the Licensing Sub-Committees and shall elect a Chair for the hearing on the day.

1.6. Standards Committee

- 1.6.1. **Membership:** ~~7~~ ~~13~~ Councillors comprising Chair of Council (who will be the Chair) ~~and 6 District councillors~~ (subject to the rules relating to political balance / proportionality), ~~3~~ ~~2~~-non-voting Town/Parish Councillor, ~~2 non-voting Independent Persons representatives~~ and 2 non-voting independent ~~representatives members~~. There shall be substitute ~~members councillors~~ for each political group of the Council entitled to a seat to ensure flexibility in case of any conflict of interest and to ensure political balance.
- 1.6.2. **Meetings:** 4 times per year (or more frequently as appropriate).
- 1.6.3. **Quorum:** 4 committee members (of which three shall be ~~Members Councillors~~ with voting rights).
- 1.6.4. **Terms of Reference:** All elected ~~Councillors Members~~ (and any co-opted members) are subject to the Code of Conduct for Councillors. The Standards Committee will exercise the roles and functions referred to in Article 9 of the Constitution. It is a committee that is subject to the procedural rules of the Local Government Act 1972 and shall be politically balanced unless full Council votes to the contrary unanimously. In addition the Standards Committee will:
- (a) Advise on the discretionary elements of the Local Code; including monitoring and updating.
 - (b) Advise on the implementation of the Local Code, including the training of ~~Members Councillors~~ in matters of conduct and advice to ~~Members Councillors~~ on such issues as the treatment of Disclosable Pecuniary Interests and personal interests and more general conduct issues.
 - (c) To the extent allowed by law make arrangements for ~~Members Councillors~~ to receive dispensations to speak on, or participate in, matters in which they have interests.
 - ~~(d) Advise on the content of documents relating to ethical governance and receive regular updates on declarations of interest and the declaring of gifts and hospitality.~~
 - (d) Appoint such Sub Committees (including Membership thereof) as appropriate to discharge the functions.
- 1.6.5. The Committee will support and be supported by the Council's Monitoring Officer, reinforcing his/her informal role of helping to maintain standards of conduct by encouragement, advice and persuasion.
- 1.6.6. Council will appoint at least one Independent Person to discharge the relevant functions under the Localism Act 2011 and the Council's internal procedures.
- 1.6.7. The Council will appoint members of the Standards Committee at its annual meeting.

1.6.8. The Committee will report directly to the Council, and reports to Council shall be under the name of the Chair. The Committee shall receive guidance from the Monitoring Officer or ~~his~~ ~~their~~ Deputy. The Committee may make recommendations to the Council on changes to the Code of Conduct, procedure, or guidelines relating to the conduct of ~~Councillors~~ ~~Members~~.

1.6.9. Assessment Sub Committee

1.6.10. **Membership:** 3 Councillors drawn as necessary from the Standards Committee, and one non-voting Independent Member, one non-voting ~~Town~~/Parish Member and one Independent Person. The Chair and membership to be rotated and it can be called on an ad hoc basis.

1.6.11. **Quorum:** 3 District Councillors,

1.6.12. **Terms of Reference:** To consider ~~investigation reports~~ ~~complaints~~ referred to the sub-committee by the Monitoring Officer concerning complaints of breaches of the Code by District councillors or ~~Town~~/Parish Councillors within East Devon.

1.6.13. Hearings Sub Committee

1.6.14. **Membership:** 3 Councillors drawn as necessary from the Standards Committee, and one non-voting independent Member, and one non-voting ~~Town~~/Parish Council Member. The membership shall be rotated and it can be called on an ad hoc basis. The Chair of the Council shall Chair if sitting. The membership shall not include any ~~Councillor~~ ~~member~~ who sat on the Assessment Sub-Committee that considered the complaint at the earlier stage, save where to do so would mean that the Hearing Sub-Committee is incapable of being constituted.

1.6.15. **Quorum:** 3 District Councillors.

1.6.16. **Terms of Reference:** To consider investigation reports referred to the sub-committee by the Monitoring Officer concerning complaints of breaches of the Code by District councillors or ~~Town~~/Parish councillors within East Devon.

1.7. Strategic Planning Committee

1.7.1. **Membership:** 15 Councillors (subject to the rules relating to political balance / proportionality). No more than 4 may be from the Cabinet.

1.7.2. **Meetings:** 4 times per year (or more frequently as appropriate).

1.7.3. **Quorum:** 5.

1.7.4. **Terms of Reference:** The role of the committee is to:

(a) To consider and recommend the Local Development Scheme, Statement of Community Involvement and Annual Monitoring Report to Council.

- (b) To consider and recommend Development Plan Documents to Council for submission for examination and subsequent adoption.
- (c) To consider and recommend any Local Development Documents (including Supplementary Planning Documents) which are not Development Plan Documents to Cabinet for adoption.
- (d) To authorise public consultations with regard to planning policy documentation including Development Plan Documents and Supplementary Planning Documents.
- (e) To consider (when appropriate) and advise Cabinet on Neighbourhood Planning matters.
- (f) To consider and adopt any planning policy related document (including evidence and strategy documentation) that is not a Local Development Document.
- (g) To receive reports on planning policy related matters including 5 year land supply, consultations from government, neighbouring authorities and Devon County Council on their planning policies and to approve the Council's response where appropriate.
- (h) To consider and advise Council on matters relating to the Community Infrastructure Levy.
- (i) To provide advice to the Planning Committee on the interpretation of the policies of the Development Plan if requested to do so by either officers or the Planning Committee.
- (j) To designate conservation areas and to agree extensions and alterations to the boundaries of conservation areas.
- (k) To approve the Community Infrastructure Levy Annual Funding Statement
- (l) consideration and approval for publication and submission of the Annual Infrastructure Funding Statement

1.7.5. Cabinet will receive, for consultation purposes, the Local Development Scheme, Statement of Community Involvement and Annual Monitoring Report. Recommendations concerning Supplementary Planning Guidance (and other Local Development Documents which are not Development Plan Documents) shall be made to Cabinet since under regulations dealing with Local Choice functions this must be a function of Cabinet.

1.8. Planning Committee

1.8.1. **Membership:** 16 Councillors (subject to the rules relating to political balance / proportionality). The Chair and Vice Chair shall not be ~~from~~ **elected to** the same Ward and **no more than 4** serving members of Cabinet are ~~not~~ eligible for appointment to this committee **and serving members of Cabinet shall not be the Chair or Vice Chair of the Planning Committee. There shall be no more than one Councillor from the same household appointed to this Committee.**

1.8.2. **Meetings:** 12 per year (or more frequently as required).

1.8.3. **Quorum:** 4.

1.8.4. **Terms of Reference:** To exercise on behalf of the Council powers and duties within existing policies and practices as a District Planning Authority (except such matters as are specifically referred to another Committee of the Council) including the following:

- a) Development Management decisions
- b) Applications for Advertisement Consent (under the Town and Country Planning (Control of Advertisements) Regulations
- c) Tree Preservation Orders
- d) Building Preservation Notices
- e) Enforcement Notices
- f) Building Control
- g) Temporary Markets (powers under S.37 of the Local Government Misc. Provisions Act 1982)
- h) Street Naming
- i) Local Development Orders
- j) Where necessary / appropriate to carry out site inspections before determining a matter.
- k) Remove permitted development rights through Article 4 Directions; Revocation and modification notices, Building Preservation notices and undertake other functions under the Town and Country Planning Acts which are not carried out by officers of the Council or which are not specified as being within the remit of the Strategic Planning Committee.

1.8.5. Where the Cabinet proposes carrying out development on the Council's own land which requires planning permission the Cabinet shall submit its proposals to the Planning Committee for decision. The Planning Committee having carried out the appropriate consultation through the Assistant Director Planning Strategy & Development Management shall then, if it is so minded, grant permission unconditionally or subject to such conditions as may be thought fit. If after due consideration the Planning Committee is not minded to grant planning permission then the matter shall be referred to Council for the Council itself to make a final decision.

1.9. Audit and Governance Committee

1.9.1. **Membership:** 10 Councillors (subject to the rules relating to political balance / proportionality) and a co-opted non-voting Independent Member who shall be suitably qualified to support elected representatives in scrutinising local authority finances.

1.9.2. **Meetings:** 5 per year (or more frequently as required).

1.9.3. **Quorum:** 3.

1.9.4. **Terms of Reference:** The purpose of the Audit and Governance Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process. The Committee shall:

- a) Consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
- b) Seek assurance that action is being taken on risk related issues identified by auditors and inspectors.
- c) Be satisfied that the authority's assurance statements, including the Statement of Internal Control, properly reflect the risk environment and any actions required to improve it.
- d) Following review of the effectiveness of the system of internal control, and in consultation with Cabinet approve the annual governance assurance statement.
- e) Approve internal audit's strategy, annual work plan and monitor performance.
- f) Review a summary of internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary.
- g) Receive the annual report of internal audit and review the effectiveness of internal audit.
- h) Consider those reports of external audit and inspection agencies not the province of the Cabinet in addition to those referred to it by the Cabinet.
- i) The monitoring of the use of the Regulation of Investigatory Powers Act.
- j) Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- k) Review the external auditor's opinion and reports to **Councillors Members**, and monitor management action in response to issues raised by external audit.
- l) Approving the Council's annual statement of accounts, income and expenditure and balance sheet or record of receipts and payments.
- m) To receive any issue referred to it by the Chief Executive, Monitoring Officer, Director of Finance, or any Council body.
- n) Ensuring oversight of information governance across the Council including the creation of an Information Governance Board and Information Governance Working Group, the Board to provide an annual report on its work to the committee.

1.10. Personnel Committee

1.10.1. **Membership:** 15 Councillors (subject to the rules relating to political balance / proportionality). The Leader, Deputy Leader and Portfolio Holder with Human Resources responsibilities shall be members. There shall be substitute ~~councillors~~ ~~members~~ for each political group of the Council entitled to a seat to ensure flexibility in case of any conflict of interest and to ensure political balance and that the Sub Committees can be constituted.

1.10.2. The Committee may invite a representative of the Union (Unison) and / or representatives from the body of employees to attend when relevant for them to do so. These attendees will not have any voting rights.

1.10.3. **Meetings:** 4 times per year (or more frequently as required)

1.10.4. **Quorum:** 4

1.10.5. **Terms of Reference:**

- a) Council has delegated to the Committee the power to determine the terms and conditions on which employees hold office including procedures for their dismissal (s.112 Local Government Act 1972) and to devise and develop overall employment policies (including relating to Health & Safety, grievances and employee relations, retirements, redundancies), training and development plans.
- b) Consider and make recommendations to Council in relation to the Pay Policy Statement.
- c) Consider and determine collective disputes between the Council as employer and the Union
- d) Monitor the management performance information and develop and monitor implementation of any related organisational improvement plan
- e) Council has delegated the following functions to the Personnel Committee through one of its Sub Committees (as detailed below) to be discharged in accordance with the Officer Employment Procedure Rules and having regard to the model procedures and associated guidance of the Joint Negotiating Committee for Local Authority Chief Executives and Chief Officers;
 - Consider any allegations/complaints regarding the conduct and any capability issues of the Chief Officers.
 - To take appropriate action (including suspension) where appropriate in relation to any of the Chief Officers) save that such action shall not include dismissal which may only be a decision of the Council.

- To recommend to Council the preferred option(s) for resolution and parameters of any negotiation that may lead to the redundancy of, or severance payment to, any of the Chief Officers including where this arises out of a fixed term contract.
- To recommend to Council on the appointment of Chief Officers and their remuneration and terms and conditions of service.
- To hear and determine any grievance submitted by the Head of Paid Service or by an employee against the Head of Paid Service provided in either case that it has been referred by the Monitoring Officer.

1.10.6. **Interviewing (Chief Officers) Sub Committee**

1.10.7. **Membership:** 7 Councillors drawn from the membership of the Personnel Committee which shall include at least one member of the Cabinet (subject to the rules relating to political balance / proportionality). Substitute ~~members~~ **councillors** can be used when necessary.

1.10.8. **Quorum:** 7

1.10.9. **Terms of Reference:** To make recommendations on the appointments of the Chief Officers to the Council (including temporary appointments) when vacancies arise in these posts and to take such other action as it deems necessary leading up to the making of those appointments.

1.10.10. **Investigating and Disciplinary Sub Committee**

1.10.11. **Membership:** 5 Councillors drawn from the membership of the Personnel Committee (subject to the rules relating to political balance / proportionality) none of whom shall have sat on any Grievance Sub Committee relating to the same matter and which shall include at least one member of the Cabinet (which may not be the Leader). Substitute ~~councillors~~ **members** can be used when necessary.

1.10.12. **Quorum:** 5

1.10.13. **Terms of Reference:** To consider disciplinary matters (including the authority to suspend) in relation to Chief Officers which are recommended to be dealt with by this Committee in the relevant Conditions of Service and the Council's Disciplinary Procedure for Statutory and Chief Officers. The Committee will have detailed regard to the Officer Employment Procedure Rules contained in the Constitution. The Committee will also consider and, in the absence of any appeal, recommend to Full Council any decisions regarding redundancy of Chief Officers.

- 1.10.14. **Employment Appeals Sub Committee**
- 1.10.15. **Membership:** 5 Councillors drawn from the membership of the Personnel Committee (subject to the rules relating to political balance / proportionality) none of whom shall have sat on any Investigating and Disciplinary Committee relating to the same matter and which shall include at least one member of the Cabinet (which may not be the Leader). Substitute **members councillors** can be used when necessary.
- 1.10.16. **Quorum:** 5
- 1.10.17. **Terms of Reference:** To determine appeals from the Chief Officers against any decision of the Investigating and Disciplinary Committee involving disciplinary sanctions amounting to less than dismissal. To determine redundancy decisions following an appeal from the decision of the Investigating and Disciplinary Committee with the decision then recommended to Full Council for approval. To consider any appeal by the Head of Paid Service in relation to a grievance following a decision of the Investigating and Disciplinary Committee in accordance with Stage 2 of the model procedures and associated guidance of the Joint Negotiating Committee for Local Authority Chief Executives.
- 1.10.18. **Grievance Sub Committee**
- 1.10.19. **Membership:** 5 Councillors drawn from the membership of the Personnel Committee (subject to the rules relating to political balance / proportionality).
- 1.10.20. **Quorum:** 3
- 1.10.21. **Terms of Reference:** To determine grievances by / against the Head of Paid Service that cannot be resolved informally in accordance with the model procedures and associated guidance of the Joint Negotiating Committee for Local Authority Chief Executives and Chief Officers
- 1.11. **Panels and Forums**
- 1.11.1. Panels and forums may be either permanent or ad hoc groups set up to assist and advise Cabinet or any of the Overview and Scrutiny Committees to deal with such matters as they may deem necessary within their remit or to deal with matters referred to them by the Cabinet.
- 1.11.2. Panels and Forums will normally consist of 7 Councillors, with a quorum of 3.
- 1.11.3. Members of the Cabinet are not permitted to form part of a Panel or Forum appointed by any of the Overview and Scrutiny Committees but may be called upon **to** attend to provide explanation or advice. A Cabinet Member may form part of a Cabinet appointed Panel or Forum.

- 1.11.4. The terms of reference and responsibilities of a Panel or Forum will be defined when they are set up; there shall be explicit consideration whether any specific restriction in terms of eligibility of ~~Members~~ **Councillors** to sit on the panel or in its terms or reference or operation would be helpful in managing potential conflicts of interest, or public perceptions of conflict of interest.
- 1.11.5. A Panel or Forum will normally sit in public. They will not have any direct executive role. They will be chaired by an elected Councillor.
- 1.11.6. **Panels:** These are defined as groups of Councillors and/or staff set up to develop, for example, a particular policy or project. Their life span is likely to be that of the duration of the task they have been set, but they might have a role in continuing monitoring and review.
- 1.11.7. **Forums:** These include representatives of outside interests facilitated by the Council discussing specific areas of activity. Forums may have a permanent role to ensure that specific policies are properly considered, co-ordinated and delivered. They will be an important vehicle for ensuring the involvement of the community in policy development and review. Where recommendations involve expenditure, an assessment of the service improvement which should result should be included, together with funding proposals.

1.12. **Joint Bodies**

- 1.12.1. At Annual Council, ~~Members~~ **Councillors** are also formally appointed to the following Joint Bodies:

Arts and Culture Forum

Budleigh Salterton Beach Management Plan Steering Group

Cranbrook Strategic Delivery Board (**Cranbrook Placemaking Group**)

County Committees including East Devon Highways and Traffic Orders Committee

Team Devon Joint Committee

East and Mid Devon Community Safety Partnership

Exeter and East Devon Enterprise Zone Board

East Devon Traveller Forum

Exmouth Beach Management Plan Steering Group

Exmouth Queens Drive Delivery Group

~~Heart of the South-West Joint Committee~~

Lower Exe Mooring Authority Management Committee

Recycling and Waste Partnership Board

Sidmouth Beach Management Plan Steering Group

[Sidmouth Port Royal Project Reference Group](#)

STRATA (Joint Executive Committee and Joint Scrutiny Committee)

South East Devon Habitat Regulations Executive Committee

Woodbury, Exmouth and Budleigh Community Health and Wellbeing Board