# Constitution

East Devon District Council
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# Contents

Part 1 Summary and Explanation (page 3)

Part 2 Articles of the Constitution (page 7)

Part 3 Responsibility for Functions

Section 1 Responsibility (page 45)

Section 2 Terms of reference and delegated powers of committees (page 52)

Section 3 Delegated powers of officers (page 74)

Part 4 Rules of Procedure

4.1 Procedural Standing Orders (page 111)

4.2 Access to Information Procedure Rules (page 126)

4.3 Budget and Policy Framework Procedure Rules (page 138)

4.4 Executive Procedure Rules (page 142)

4.5 Overview and Scrutiny Procedure Rules (page 145)

4.6 Financial Regulations (page 151)

4.7 Contract Standing Orders (page 174)

4.8 Officer Employment Procedure Rules (page 196)

Part 5 Codes and Protocols

5.1 Members' Code of Conduct (page 198)

5.2 Code of conduct for employees (page 212)

5.3 Code of good practice for councillors and officers dealing with planning matters (page 219)

5.4 Protocol for relationships between Councillors and Officers (page 235)

5.5 Council's petition scheme (page 252)

5.6 Councillor champion protocol (page 262)

5.7 Councillor DBS Checks and Safeguarding Protocol (page 264)

5.8 Councillors' Gifts and Hospitality Protocol (page 269)

Part 6 Members' Allowance Scheme (page 274)

Part 7 Management Structure (page 280)

Part 8 STRATA Terms of reference and rules of procedure (page 281)

Part 9 South East Devon Habitats Regulations Executive Committee Terms of reference and rules of procedure (page 300)

# Part 1 Summary and Explanation

## 1. The Council's Constitution

1.1. This document contains East Devon District Council's constitution. It sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that the Council is efficient, transparent and accountable to local people.

1.2. The Constitution is divided into 15 Articles. These set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## 2. What's in the constitution?

2.1. Article 1 of the Constitution commits the Council to its role as Community Leader, and its twofold strategic purpose to deliver outstanding service and plan for the future of the District.

2.2. The Council's Plan confirms that the Council's ambition is to keep East Devon an outstanding place. The four priorities which underpin this ambition are:

- 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

Articles 2 – 15 explain the rights of citizens and how key parts of the Council operate. These are:

Members of the Council (Article 2)

Citizens and the Council (Article 3)

The Full Council (Article 4)

Chairing the Council (Article 5)

The Cabinet (Article 6)

Overview of decisions (Article 7)

Regulatory and other committees (Article 8)

The Standards Committee (Article 9)

Joint arrangements (Article 10)

Officers (Article 11)

Decision making (Article 12)

Finance, contracts and legal matters (Article 13)

Review and revision of the Constitution (Article 14)

Suspension, interpretation and publication of the Constitution (Article 15)

## 3. How the Council operates

3.1. The Council is composed of 60 Councillors elected every four years. Details of the Councillors and of the electoral arrangements that applied with effect from May 2003 are set out at the end of Article 2.

3.2. Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Code of Conduct is set out in Part 5.1 of this document. The Council's Standards Committee trains and advises District and Parish Councillors on the code of conduct.

3.3. All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council elects the Leader of the Council. The Leader appoints the Deputy Leader and other members of the Cabinet. Council appoints the membership of other committees. The Council has ultimate responsibility for reviewing performance of the Cabinet and other committees and may question the decisions made by them.

## 4. How decisions are made

4.1. The Council is the primary body in respect of setting out overall policies (the policy framework) and budgeting and is responsible for ensuring performance review of the Cabinet and other Committees.

4.2. The Cabinet is the part of the Council that is responsible for operational decisions. Currently, the Cabinet is made up of the Leader of the Council and 9 other Councillors.

4.3. When major decisions are to be discussed or made, these are published in a Forward Plan (in so far as they can be anticipated). Meetings of the Cabinet are generally open to the public except where personal or confidential matters are being discussed.

4.4. The Cabinet has to make decisions that are in line with the Council's overall policies and budget. If it wishes to make a decision that is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

## 5. Overview and Scrutiny

5.1. The Council has three Overview and Scrutiny Committees (the Overview Committee, the Scrutiny Committee and the Housing Overview & Scrutiny Committee). The Overview and Scrutiny Committees support the work of the Cabinet and the Council as a whole. It allows citizens to have a greater say in Council matters by holding public

inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny Committees also monitor the decisions of the Cabinet. The Scrutiny Committee can call-in a decision which has been made by the Cabinet but not yet implemented. It enables them to consider whether the decision is appropriate. It may recommend that the Cabinet reconsider the decision. It is also the Council's statutory Crime and Disorder Committee. The Overview and Scrutiny Committees may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

5.2. Although not strictly part of the Overview and Scrutiny Framework, all Councillors may participate in either the Leader of the Council's or a Portfolio Holder's 'Team', the purpose of which is to engage Members in the discussion and assessment of relevant matters before they are the subject of formal reports to the Cabinet.

## 6. Other committees

6.1. In addition to the Cabinet and the Overview and Scrutiny Committees the Council has appointed a range of other Committees to assist it in carrying out its work. Details of these Committees and Joint Bodies are set out in Part 3, Section 2 of the Constitution.

## 7. Outside bodies

7.1. At the 2012 Annual Council meeting, it was also agreed that formal appointment of councillor representatives to outside bodies will only now be made where the outside body meets one or more of the following criteria:

a) The Council makes a financial contribution to the outside body;
b) There is a clear need for the business of the outside body to be reported back to Council;
c) The Council has a partnership relationship with the outside body.

7.2. Councillors appointed are required to engage with the relevant Portfolio Holder to ensure information is both fed back, and fed into, each outside body, panel and forum that meets the criteria (a-c) above.

## 8. The Council's Officers

8.1. The Council's officers give advice, implement decisions and manage the day-to-day delivery of services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Protocol governs the relationship between officers and Members of the Council – see Part 5 of the Constitution.

## 9. Citizen's rights

9.1. Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

9.2. Where members of the public use specific Council services, for example, those relating to planning applications or as a Council tenant, they have additional rights. These are not covered in this Constitution.

9.3. Citizens have the right to:

- Vote at local elections if they are registered
- Contact their local Councillor about any matters of concern to them
- Obtain a copy of the Constitution
- Attend meetings of the Council, the Cabinet and its committees except where, for example, personal or confidential matters are being discussed. The right to attend meetings of the Council, the committees and the Cabinet, to inspect their agendas, reports and minutes, and the timetable of their meetings for the current Council year are set out in Part 4.2 of the Constitution under the Access to Information Procedure Rules.
- Petition to request a referendum on a mayoral form of executive
- Contribute to investigations by the Overview and Scrutiny Committees
- Find out, from the Cabinet's Forward Plan or website, what major decisions (known as key decisions) are to be discussed/decided by the Cabinet or decided by the officers, and when;
- Attend meetings of the Cabinet where key decisions are being discussed or decided (subject to the proviso that the Cabinet can meet in private to discuss certain confidential/exempt matters)
- See reports and background papers (except where, for example, personal or confidential matters have been discussed), and any record of decisions made by the Council and Cabinet
- Complain to the Council about the standard of service, the actions or lack of action by staff
- Complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process
- Complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct
- Inspect the Council's accounts and make their views known to the external auditor
- Exercise rights under the Freedom of Information legislation

9.4. The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact: Andrew Melhuish – Democratic Services Manager.

# Part 2 Articles of the Constitution

## 1 Article 1: The Constitution

### 1.1 Powers of the Council

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

### 1.2 The Constitution

1.2.1 This Constitution, and all its appendices, is the Constitution of the East Devon District Council

### 1.3 Purpose of the Constitution

1.3.1 The purpose of the Constitution is to:

- To Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- Enable the Cabinet to act quickly and effectively within the Council's approved policy framework whilst at the same time ensuring the delivery of efficient, transparent and accountable decision-making;
- Support the involvement of citizens in the process of local authority decision-making;
- Help Councillors represent their constituents more effectively;
- Enable decisions to be taken efficiently and effectively;
- Create a powerful and effective means of holding decision-makers to public account;
- Ensure that no one will review or scrutinise a decision in which they were directly involved;
- Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- Provide a means of improving the delivery of services to the community.

1.3.2 The Constitution recognises the Council's role as a Community Leader and its strategic responsibility for community planning and best value in service delivery. Its overall objective is, therefore, to organise its activities so as to ensure that they demonstrably contribute to the outcomes identified through the community planning process.

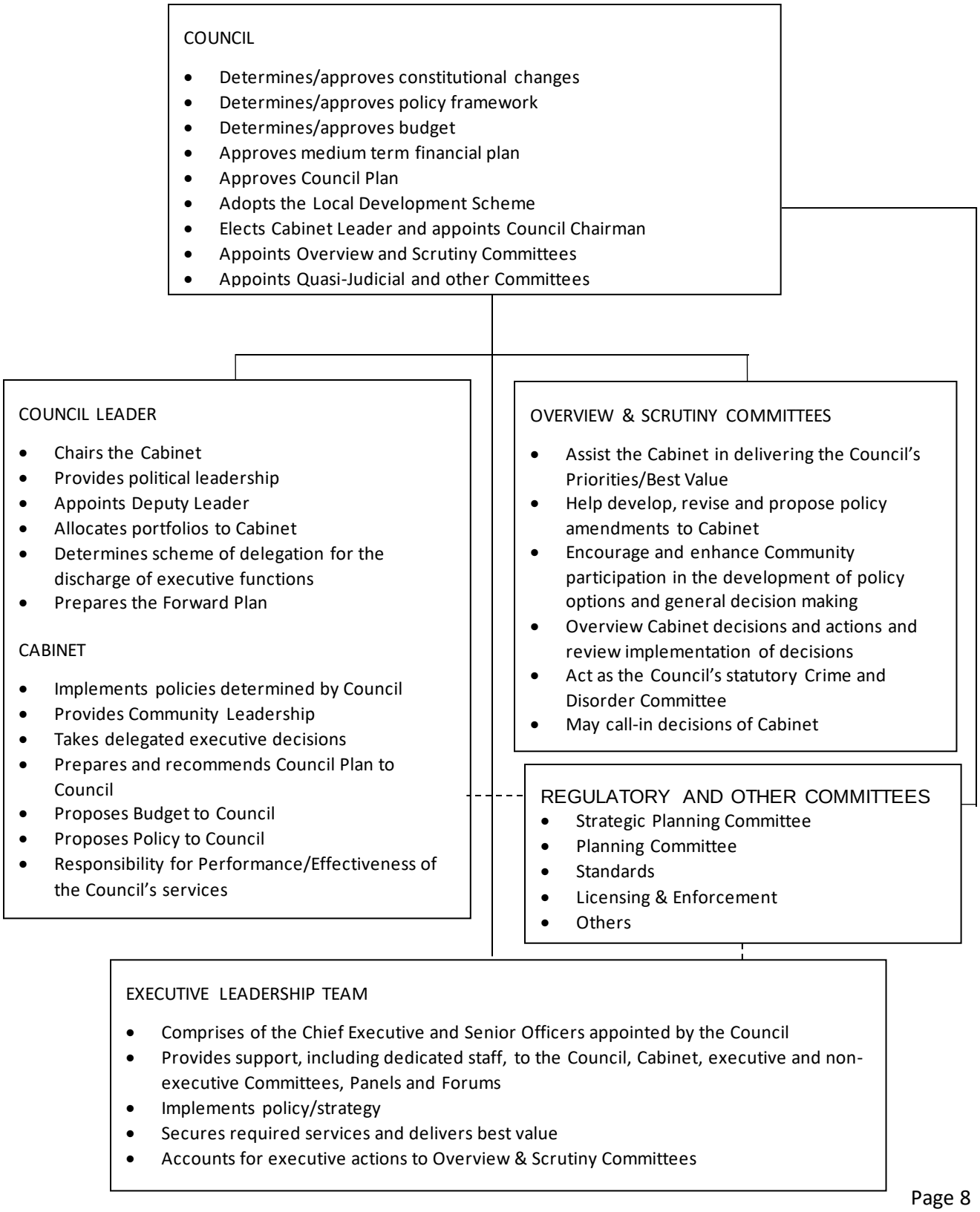
1.3.3 The Council believes in the importance of partnership working in order to effectively discharge its community role, achieve best value and continuous improvement.

### 1.4 Interpretation and Review of the Constitution

1.4.1 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option that is considered to be closest to the purposes stated above.

1.4.2 The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

1.4.3 The following illustrates the Council's Constitutional structure in a diagrammatic form. It is explained in the rest of Part 2 of this Constitution.



# 2 Article 2: Members of the Council

## 2.1 Composition and eligibility

2.1.1 **Composition**: The Council will comprise 60 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State. Details of the current Councillors and of the wards that they represent are set out at the end of this Article.

2.1.2 **Eligibility**: Only registered voters of the district or those living or working there will be eligible to hold the office of Councillor.

## 2.2 Election and terms of Councillors

2.2.1 The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2011. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. Different arrangements apply to the term of office of Leader; see Article 6.

## 2.3 Roles and functions of Councillors

2.3.1 **Key roles** – Councillors are or will:

a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
b) consider the budget proposed by the Cabinet and vote on the final budget;
c) advise the Cabinet on decisions and policies that affect local issues including through the Council's Overview and Scrutiny Committees (including the Housing Overview & Scrutiny Committee);
d) participate in regulatory decision-making through its planning and licensing functions;
e) review and question policies and decisions taken by the Cabinet
f) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
g) effectively represent the interests of their Ward and of individual constituents;
h) respond to constituents' enquiries and representations, fairly and impartially;
i) be familiar with the needs, priorities and aspirations of their local community by being accessible and by being involved in consultation with them and working with other local organisations;
j) represent the Council on other bodies; and
k) maintain the highest standards of conduct and ethics consistent with the Council's Code of Conduct.

2.3.2 **Rights and duties**: Councillors will:

(a) have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

(b) not make public information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it

For these purposes, "confidential" and "exempt" information is defined in the Access to Information Rules in Part 4 of this Constitution.

## 2.4 Conduct

2.4.1 Councillors will at all times observe the Members' Code of Conduct and such other codes as the Council may from time to time adopt and include or refer to in Part 5 of this Constitution.

## 2.5 Allowances

2.5.1 Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution unless lawfully withheld, for example, following a decision of the Standards Committee.

## 2.6 Political Groups

2.6.1 Councillors may belong to local political groups. The groups are entitled under the Local Government (Committees and Political Groups) Regulations to nominate Councillors to fill a proportion of the seats on certain committees of the Council.

2.6.2 At meetings of the Council and the committees, individual Councillors may have regard to the views of their political group on policy matters provided they also take into account other relevant considerations. However this would exclude, for example, individual planning applications.

## 2.7 External Representation

2.7.1 The Council recognises the importance of its relationship with the communities it represents and all those who receive its services in order to provide desired outcomes. It achieves these aims in the following ways:

(a) by making appropriate Councillor appointments to other bodies; and

(b) by ensuring that the Councillor representative role is meaningful and recognises the needs of the electorate.

# Ward detail

| Name of Ward | Description of Area | No of Cllrs | Councillor Contact Details |
|---|---|---|---|
| Axminster | The Parish wards of Town, Raymonds Hill and Weycroft in the Parish of Axminster. | 3 | Paul Hayward<br>Sarah Jackson<br>Simon Smith |
| Beer and Branscombe | The Parishes of Beer and Branscombe. | 1 | John Heath |
| Broadclyst | Parishes of Broadclyst, Clyst Honiton, Clyst Hydon, Clyst St Lawrence and Farringdon. | 3 | Sarah Chamberlain<br>Paula Fernley<br>Eleanor Rylance |
| Budleigh and Raleigh | The Parishes of Bicton, Budleigh Salterton, East Budleigh, Colaton Raleigh and Otterton. | 3 | Charlotte Fitzgerald<br>Melanie Martin<br>Henry Riddell |
| Clyst Valley | Parishes of Clyst St. George, Clyst St. Mary and Sowton. | 1 | Mike Howe |
| Coly Valley | The Parishes of Colyton, Farway, Northleigh, Offwell, Southleigh and Widworthy. | 2 | Paul Arnott<br>Helen Parr |
| Cranbrook | Cranbrook. | 3 | Kevin Blakey<br>Kim Bloxham<br>Sam Hawkins |
| Dunkeswell & Otterhead | The Parishes of Awliscombe, Combe Raleigh, Cottleigh, Dunkeswell, Luppitt, Monkton, Sheldon, Stockland, Upottery and Yarcombe. | 2 | Colin Brown<br>Yehudi Levine |

| Name of Ward | Description of Area | No of Cllrs | Councillor Contact Details |
|---|---|---|---|
| Exe Valley | Parishes of Brampford Speke, Huxham, Nether Exe, Rewe, Stoke Canon, Upton Pyne and Poltimore | 1 | Fabian King |
| Exmouth Brixington | | 3 | Aurora Bailey<br>Maddy Chapman<br>Cherry Nicholas |
| Exmouth Halsdon | | 3 | Tim Dumper<br>Fran McElhone<br>Daniel Wilson |
| Exmouth Littleham | | 3 | Brian Bailey<br>Nick Hookway<br>Anne Hall |
| Exmouth Town | | 3 | Olly Davey<br>Joe Whibley<br>Eileen Wragg |
| Exmouth Withycombe Raleigh | | 2 | Steve Gazzard<br>Matt Hall |
| Feniton | Buckerell, Feniton to include the Parish Ward of Gittisham Village. | 1 | Alasdair Bruce |
| Honiton St Michaels | (to include the Parish Ward of Gittisham Vale). | 3 | Violet Bonetta<br>Jenny Brown<br>Roy Collins |
| Honiton St Pauls | | 2 | John O'Leary<br>Tony McCollum |

| Name of Ward | Description of Area | No of Cllrs | Councillor Contact Details |
|---|---|---|---|
| Newbridges | Parishes of Dalwood, Kilmington, Musbury and Shute and Whitford. | 1 | Iain Chubb |
| Newton Poppleford and Harpford | The Parish of Newton Poppleford and Harpford. | 1 | Christopher Burhop |
| Ottery St Mary | Parish wards of North, Tipton St John and Town in the Parish of Ottery St Mary. | 3 | Peter Faithful<br>Vicky Johns<br>Bethany Collins |
| Seaton | The Parish of Seaton. | 3 | Marcus Hartnell<br>Steve Hunt<br>Dan Ledger |
| Sidmouth Rural | The Parish wards of Salcombe Regis and Sidbury in the Parish of Sidmouth. | 1 | John Loudoun |
| Sidmouth Sidford | The Parish wards of North, Primley, Sidford Village and Sidmouth West in the Parish of Sidmouth. | 3 | Stuart Hughes<br>Mike Goodman<br>Marianne Rixson |
| Sidmouth Town | The Parish wards of East and South in the Parish of Sidmouth. | 2 | Ian Barlow<br>Sophie Richards |
| Tale Vale | Parishes of Talaton, Broadhembury, Payhembury and Plymtree. | 1 | Richard Jefferies |
| Trinity | Parishes of Axmouth, Combpyne Rousdon and Uplyme. | 1 | Susan Westerman |

| Name of Ward | Description of Area | No of Cllrs | Councillor Contact Details |
|---|---|---|---|
| West Hill and Aylesbeare | Parishes of West Hill and Aylesbeare. | 1 | Jessica Bailey |
| Whimple and Rockbeare | Parishes wards of Whimple and Rockbeare Rockbeare and Rockbeare Marsh Green in the Parishes of Wimple and Rockbeare. | 1 | Todd Olive |
| Woodbury and Lympstone | The Parish of Lympstone and the Parish wards of Exton, Woodbury and Woodbury Salterton in the Parish of Woodbury. | 2 | Ben Ingham<br>Geoff Jung |
| Yarty | Parishes of All Saints, Chardstock, Membury and Hawkchurch. | 1 | Duncan Mackinder |

# 3 Article 3: Citizens and the Council

## 3.1 Citizen's rights

3.1.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution:

**Voting and petition rights:**

(a) Citizens on the electoral roll for the area have the right to vote.

(b) Citizens have the right to sign a petition to request a referendum for an elected mayor form of Constitution.

(c) Citizens have the right to sign a petition on any matter within the Council's purview (excluding certain issues including Licensing and Planning matters) and for any such petition to be considered by the Council as set out in the Council's Petitions Scheme. The Council's petition scheme is set out at Part 5 of this Constitution.

**Information rights:**

(d) To attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

(e) To attend meetings of the Cabinet when key decisions are being considered (unless confidential or exempt information is likely to be considered);

(f) To find out from the Forward Plan what key decisions will be taken by the Cabinet and when;

(g) To see reports and background papers (except where confidential or exempt information has been considered); and any records of decisions made by the Council and the Cabinet;

(h) To inspect the Council's accounts and make their views known to the external auditor; and

(i) To request access to information under the Freedom of Information legislation.

**Right to complain:**

(j) To the Council itself under its complaints scheme;

(k) To the Local Government Ombudsman after using the Council's own complaints scheme; and

(l) To the Monitoring Officer about a breach of the Councillors' Code of Conduct.

## 3.2 Citizen's responsibilities

3.2.1 Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

# 4 Article 4: The Full Council

## 4.1 The Role of the Council

4.1.1 Council is the policy making body from which the policy framework will be established. Council has responsibility for ensuring that the correct structures are in place for the effective implementation and delivery of its services. Once the structures are agreed and appointments made, the Cabinet (acting by itself and through portfolio holders and officers) is delegated the responsibility of policy implementation and effective service delivery. The election of the Leader and removing him/her from office, will be the responsibility of Council. The Leader appoints the Deputy Leader and Cabinet. Council appoints all other committees.

4.1.2 Each year the Council will appoint a Chair who may not then be a Member of the Cabinet. The Council shall normally meet six times a year unless a need is identified for any additional meetings.

## 4.2 Functions that only Full Council may exercise

4.2.1 Adopting and changing the Constitution.

4.2.2 Approving or adopting the policy framework (see paragraph 4.5), the budget (see paragraph 4.3) and any application to the Secretary of State in respect of any Housing Land Transfer (see paragraph 4.4).

4.2.3 Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function that is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget.

4.2.4 Electing the Leader and removing them from office, appointing Committees and the Chair and Vice Chair of those Committees with the exception that the Leader appoints Cabinet and the Housing Overview & Scrutiny Committee shall appoint its Vice Chair.

4.2.5 Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them.

4.2.6 Appointing representatives to outside bodies unless the appointment is made by the Cabinet or has been delegated by the Council.

4.2.7 Adopting an allowances scheme under Article 2.5.

4.2.8 Changing the name of the area or a parish and conferring or removing the title of honorary alderman.

4.2.9 Confirming the appointment, dismissal and redundancy of the Head of Paid Service and Chief Officers.

4.2.10 Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.

4.2.11 Expressing its views to the Cabinet before the Cabinet resolve to make a compulsory purchase order.

4.2.12 All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet.

4.2.13 Receiving the annual out-turn report on treasury management activities.

4.2.14 Functions relating to elections that are not carried out by the Chief Executive or other delegated officer.

4.2.15 Power to resolve not to issue a casino premises licence.

4.2.16 All other matters which, by law, must be reserved to Council.

## 4.3 Council meetings

4.3.1 There are three types of Council meeting: (a) the annual meeting; (b) ordinary meetings; (c) extraordinary meetings; and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

## 4.4 Responsibility for functions

4.4.1 The Council will keep under review Part 3 of this Constitution setting out the responsibilities for the Council's functions that are not the responsibility of the Cabinet.

## 4.5 Budget

4.5.1 The budget includes the allocation of financial resources both revenue and capital to different services and projects, proposed contingency funds and reserves, setting the council tax and decisions relating to the control of the Council's borrowing requirement, control of investments and the setting of virement limits.

## 4.6 Housing Land Transfer

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

## 4.7 Policy Framework

4.7.1 The policy framework means approving and adopting the following plans and strategies some of which must, by law, be a Council decision (under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000) or other legal provision) while others are reserved to Council as a matter of local choice:

| **Plan or Strategy** | **Must be a Full Council decision by law** | **Reserved to Full Council by local choice** |
|---|---|---|
| Asset Management Plan | ✓ | |
| Climate Change Strategy | | ✓ |
| Commercialisation Strategy | | ✓ |
| Community Infrastructure Levy (C.I.L) | ✓ | |
| Contaminated Land Strategy | | ✓ |
| Council Plan | ✓ | |
| Crime and Disorder Reduction Strategy | ✓ | |
| Cultural Strategy | | ✓ |
| Empty Homes Strategy | | ✓ |
| Financial Strategy (including Medium Term Financial Plan) | ✓ | |
| Gambling Policy (Statement) | ✓ | |
| Homelessness and Rough Sleeping Strategy | | ✓ |
| Housing Strategy/Business Plan | | ✓ |
| Licensing Policy (Statement) | ✓ | |
| Local Development Scheme / Development Plan Documents / [and any replacement documents e.g. Local Plan] | ✓ | |
| Local Nature Reserve Strategy | | ✓ |
| Private sector Renewal Policy | | ✓ |
| Public Health Strategic Plan | | ✓ |
| Treasury Management Strategy Statement | ✓ | |
| Waste Strategy | | ✓ |

# 5 Article 5: Chair of the Council

## 5.1 Role and function of the Chair

5.1.1 **Ceremonial Role** - primary responsibility for civic and ceremonial functions, and shall attend functions both within and outside the District to represent the Council; host functions in order to promote the Council and its interests; attend and participate in ceremonial events ensure that the Council's services and achievements are appropriately celebrated and publicised.

5.1.2 **The Council Meeting** - The Chair shall be elected annually by the Council. The Chair will have the following responsibilities:

a) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary having regard to appropriate advice;

b) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;

c) To ensure that at the Council meeting Councillors who are not on the Cabinet or who are not Chairs of Committees are able to hold the Cabinet and Committee Chairs to account;

d) Generally, to be the conscience of the Council.

5.1.3 **The Standards Committee** - The Chair will also be Chair of the Council's Standards Committee.

5.1.4 In the absence of the Chair of Council, the Vice-Chair will have the above roles and functions.

# 6 Article 6: The Cabinet

## 6.1 Role

6.1.1 The Cabinet will carry out all of the local authority's functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution. The Cabinet makes operational decisions in accordance with Council policy. Its responsibility for providing policy advice, community planning, best value and performance will be supported by the Overview and Scrutiny Committees (and any panels/forums set up with specific responsibilities).

## 6.2 Form and composition

6.2.1 The Leader will determine the size of the Cabinet (also referred to as the Executive) within statutory limits. The Leader will appoint between two and nine other councillors to the Cabinet. The Leader and other Members of the Cabinet collectively form the Cabinet. None of the Members of the Cabinet will be Members of the Overview and Scrutiny Committees. Some of the Cabinet will have portfolios allocated by the Leader.

## 6.3 Leader

6.3.1 The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

a) they resigns from the office; or

b) they ares suspended from being a Councillor under Part III of the Local Government Act 2000; or

c) they are no longer a Councillor; or

d) they are removed from office by resolution of the Council;

e) The election of another Leader at the Annual Council meeting.

## 6.4 The Leader and the Cabinet

6.4.1 The Leader has responsibility for the smooth running of the Cabinet.

6.4.2 The Leader chairs all meetings of the Cabinet.

6.4.3 The Leader appoints the Deputy Leader and may remove them from office.

6.4.4 The Leader has responsibility for the allocation of portfolios (and scheme of delegated powers) to the Cabinet Members and may vary them in writing at their discretion, subject to Article 6.9. The portfolio areas of responsibility are set out in Article 6.12. The Leader may appoint Cabinet Members without portfolio.

6.4.5 The Leader has overall responsibility for matters relating to and arising from Corporate Governance including the publication of a formal annual report presenting an objective and understandable account of the Council's activities and achievements, its financial position and performance and proposed future objectives.

## 6.5 The Deputy Leader

6.5.1 The Deputy Leader will be a councillor on the Cabinet appointed to the position of Deputy Leader by the Leader. The Deputy Leader will hold office until:

a) they resign from office; or

b) they are suspended from being a Councillor under Part III of the Local Government Act 2000; or

c) they are no longer a Councillor; or

d) they are removed from office by the Leader.

6.5.2 The Deputy Leader will carry out the functions of the Leader when they are unable to act, or the office of Leader is vacant.

## 6.6 Other Members of the Cabinet

6.6.1 The other Members of the Cabinet will be Councillors appointed to the position by the Leader. They shall individually hold office until:

a) they resign from office; or

b) they are suspended from being Councillors under Part III of the Local Government Act 2000; or

c) they are no longer Councillors; or

d) they are removed from office, either individually or collectively by the Leader.

## 6.7 Members of the Cabinet who are Portfolio Holders

6.7.1 During their period as a Portfolio Holder each Councillor will be expected to work closely with key staff. This will require an effective system of relevant information provision to those Councillors. Responsibility for the identification of such information lies with the Portfolio Holder and/or the key staff who will also be expected to brief the appropriate Councillor on important operational items which may be happening as part of delegated Council business. Portfolio Holders expected to speak at Cabinet meetings or called in to speak at Overview and Scrutiny Committees or other Council meetings, must also be briefed by appropriate staff who will be entitled to accompany them at such meetings and able to speak there in their own right.

6.7.2 The generic role of a Portfolio Holder will include:

a) Collective responsibility for policy implementation as a Cabinet Member;

b) Specific responsibility for speaking at the Cabinet on issues within allocated portfolios;

c) The exercise of delegated powers;

d) Occasional responsibility for speaking on behalf of the Council at outside meetings where Councillor attendance is required;

e) An acceptance of the need to be well informed, and where appropriate to undergo training about relevant current issues;

f) Responding to media requests as appropriate in relation to topical issues. In this respect, each Councillor should attend media training sessions;

g) Speaking at Council meetings on issues relevant to the allocated portfolio;

h) Attendance at Overview and Scrutiny Committees to speak on particular performance issues and to assist on the preparation of policy issues.

## 6.8 Proceedings of the Cabinet

6.8.1 Proceedings of the Cabinet will take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution. In addition, they may appoint sub-committees, panels and forums to assist or advise in the carrying out of any of its functions.

## 6.9 Responsibility for functions

6.9.1 The Leader will maintain a list in Part 3 of this Constitution setting out whether the Cabinet itself, or which individual Members of the Cabinet, or officers are responsible for the exercise of particular executive functions.

## 6.10 Leader and Portfolio Teams

6.10.1 The Leader and each Portfolio Holder will be advised and assisted in carrying out their responsibilities by a group of Members. The groups will be informal and flexible to establish all-party working within each portfolio area. They will be of up to 15 members and shall as far as reasonably practicable reflect the political balance of the Council. The Monitoring Officer will work with Group Leaders to agree the composition of the Portfolio Teams.

6.10.2 Their primary function will be to enable the Leader/Portfolio Holders to initiate the review and development of policies and to discuss major issues that have yet to be considered by the Cabinet. They may also assess the implementation of matters that have already been approved in principle and to advise on budget monitoring.

6.10.3 It is the prerogative of the Leader/Portfolio Holder to call meetings of their Portfolio Teams and to frame their agendas. Members of a Portfolio Team and the Chief Executive can however suggest topics for discussion and the Cabinet will be entitled to refer items to a Portfolio Team for debate.

6.10.4 Portfolio Teams will not be decision-making bodies and their meetings will not therefore be in public. Their meetings will not be scheduled in the Council Calendar but will be serviced by the relevant Senior Officer. In all other respects Portfolio Teams will identify the working arrangements with which they are most comfortable. The appropriate officer will undertake the co-ordination and distribution of agendas, background papers and prepare short notes (not minutes) of the meetings.

## 6.11 Assistant Portfolio Holders

6.11.1 An Assistant Portfolio Holder shall be a Councillor appointed at the discretion of the Leader to any Portfolio and who assists the Portfolio Holder by contributing to the policymaking process within Cabinet for their respective area. In that regard they will support a Portfolio Holder with their work, is invited to and expected to attend Cabinet briefings, Cabinet meetings and attend meetings the Portfolio Holder has outside the Council or with officers. Assistant Portfolio Holders are not legally a part of the Cabinet, have no voting rights at Cabinet and have no authority to make executive decisions.

6.11.2 An Assistant Portfolio Holder is not precluded from sitting on any of the Overview and Scrutiny Committees but must be mindful of any role they have played in relation to the matter under consideration and have regard to the requirements of paragraph 2 of the Overview and Scrutiny Procedure Rules (Part 4.5) of this Constitution which prevents any member being involved in scrutinising a decision which they have been directly involved in.

## 6.12 Cabinet portfolios

| Member | Portfolio | Detail |
|---|---|---|
| Councillor Richard Jefferies | **Environment – Climate & Nature** | - Net Zero strategy and Compliance<br>- Best practice in Green Planning and Carbon Neutral Construction<br>- Ecology policy development<br>- Developing the Council's Green Initiatives<br>- Community responses to COVID-19<br>- Post COVID-19 recovery<br>- Council's effective response to Brexit (inc. implications for the authority, residents and businesses of East Devon)<br>Emergency Planning |
| Councillor Geoff Jung | **Environment – Operations** | - Habitat Mitigation<br>- Ecology Policy Implementation<br>- Wildlife and Habitat Conservation<br>- Wildlife and Cemeteries<br>- Flooding (inc flood resilience)<br>- Nutrient Management Plans<br>- Beaches & Foreshores<br>- Countryside and Open Spaces<br>- AONB protection and enhancement<br>- Environmental Health<br>- Community Health & safety<br>- Household Refuse & Recycling<br>- Streetscene Services<br>- Parks & gardens (maintenance)<br>- Play / skate parks and sports grounds (maintenance)<br>- Public Toilets<br>- Cemeteries and Allotments<br>- Licensing |

| Member | Portfolio | Detail |
|---|---|---|
| Councillor Sarah Jackson | **Communications & Democracy** | - Governance Review<br>- Constitutional Reform<br>- Public Democratic Engagement<br>- Freedom of Information / Subject Access<br>- Democracy & Elections<br>- Democratic Services<br>- Democratic Outreach to Parishes and Towns<br>- Member Declarations of Interest<br>- Anti-Bribery Policy<br>- Member Development<br>- Press & Media enquiries / liaison<br>- Direct communications to residents<br>- External Communications inc. press & media and direct to resident communications<br>- Public Digital Interface (inc website functionality and content and transactions, EDDC app, social media, and Firmstep)<br>- Branding and Marketing<br>Public Consultations |
| Councillor Paul Hayward | **Economy & Assets** | - Economic Development<br>- Rural Economy<br>- Business Support<br>- Business Grants (inc AIR / ARG)<br>- Business Intelligence<br>- Exmouth and Axminster Regeneration<br>- Enterprise Zone<br>- Broadband Provision and Improvements<br>- External Investment<br>- Asset Portfolio Acquisition Management & Transfer<br>- Assets Improvements and Repairs<br>- Revenue Generating Assets (inc. Beach Huts, buildings but excluding Car Parks)<br>- Car Parks as a property asset |
| Councillor Sam Hawkins | **Finance** | - Audit & Governance<br>- Budget Preparation & Monitoring<br>- Capital Project Monitoring<br>- Council Tax<br>- Land Charges<br>- Procurement<br>- Revenues & Benefits<br>- Treasury Management<br>- Car Parks revenue |
| Councillor John Loudoun | **Council, Corporate Co-ordination & External Engagement** | - Cabinet Cohesion<br>- Internal Planning and Policy Development and Delivery (inc Council / Corporate / Service Planning)<br>- Lead Member Coordination and reporting<br>- External bodies |

| Member | Portfolio | Detail |
|---|---|---|
| | | - Member report liaison<br>- Regional Engagement with other authorities<br>- Customer Services and care (including complaints)<br>- Staff Health and Safety<br>- Legal Services<br>- Human Resources<br>- Officer Learning and Development<br>- Organisational Development<br>- Payroll Services (including pay, benefits and reward)<br>- Performance Monitoring<br>- Management Information<br>- Systems Thinking<br>- Equality<br>- IT Client Lead for Service related projects and staff IT equipment |
| Councillor Todd Olive | **Place, Infrastructure & Strategic Planning** | - Development Management & Building control<br>- Growth Point<br>- NPPF<br>- Local Plan Review and Policy<br>- National Park Review<br>- Neighbourhood Plans<br>Strategic Planning & Delivery |
| Councillor Dan Ledger | **Sustainable Homes & Communities** | - Affordable Homes<br>- Community Development & Support<br>- Gypsies & Travellers<br>- Health & Wellbeing<br>- Homelessness<br>- Housing Enabling<br>- Social Inclusion<br>Private Housing |
| Councillor Nick Hookway | **Culture, Leisure, Sport & Tourism** | - Visitor Economy and Tourism Strategy<br>- Events programme<br>- Event delivery<br>- Arts and Culture<br>- Leisure provision and policy<br>- Sports Strategy for East Devon<br>- Play and sports events<br>- Park and garden events<br>- LED operations |

## 6.13 Cabinet committees

6.13.1 The Leader or the Cabinet may delegate any of its functions to a committee of the Cabinet. Committees of the Cabinet shall report to the Cabinet. The Leader or the Cabinet may establish decision-making committees which may only include Cabinet members. The Leader or the Cabinet may establish advisory committees, the membership of which need not be limited to Cabinet members. The Leader or the Cabinet may change them, abolish them, or create further ones, at its own discretion.

6.13.2 Committees established by the Leader or the Cabinet shall be empowered to perform these functions with immediate effect unless the Leader or the Cabinet impose any express restriction when they are established. Unless stated otherwise, all decision-making committees will continue in operation until expressly abolished by the Leader or the Cabinet and all advisory or consultative committees will continue in operation only until the first meeting of the Cabinet in the next civic year following their establishment when they must be expressly renewed or they cease to exist.

6.13.3 All functions that have been delegated to a committee established by the Leader or the Cabinet can still be taken by the Cabinet as the parent body (where the Cabinet has delegated that function) or by the Leader either personally or in accordance with the Leader's delegation of those functions to an individual Cabinet member or an alternative committee of the Cabinet.

6.13.4 The establishment, abolition or cessation of committees and the amendment of their terms of reference will be reported to Full Council in due course for noting in the Council's Constitution.

**EdenServe (LATCo) Shareholder Committee Terms of Reference and Rules of Procedure**

**Shareholder Committee**

**Membership**: 5 Cabinet Members including the Leader of the Council, Deputy Leader, Cabinet Member with Portfolio Responsibility for Environment Operations, the Cabinet Member with Portfolio Responsibility for Finance, and ~~2~~ 1 other Cabinet Members.

The Head of Paid Service, the Chief Finance Officer (Section 151 Officer), the Monitoring Officer, the Director of Place and representatives of Council companies shall be invited to meetings on a non-voting basis.

The Committee will appoint the Chair and Vice Chair from the SHC membership at the first meeting of each civic year ~~be chaired by the Cabinet Member with Portfolio Responsibility for Environment Operations~~.

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

**Quorum**: 3

**Reserves**: Members of the Shareholder Committee may appoint reserve members from within the Cabinet, including substituting membership with the relevant Cabinet portfolio lead for the company activities being considered.

**Competency**: All members of the Shareholder Committee and Cabinet members attending as reserves must:

(a) undertake mandatory training in the relevant law and procedures which relate to the Committee's work; and

(b) undertake further mandatory training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

**Terms of reference**: The purpose of the Shareholder Committee is to represent the Council's interests as the owner of East Devon District Council's companies. The Shareholder Committee shall approve and oversee the Council's strategic objectives across its companies and to support the development of these companies in line with the Council's regulations and ambitions. The Shareholder Committee will provide strategic oversight of the Council's companies and provide assurance to the Cabinet that these companies are compliant with the Council's constitution, rules and procedures; its corporate objectives; are achieving best value; and are fit for purpose.

The Shareholder Committee will not have operational control over the Council's companies. The day-to-day operation of each company is the responsibility of the directors of each company. Operational liaison with the Council's companies will be between the client service of the Council and the managing director of each company. The following matters are reserved for the Shareholder Committee. In the event that the Committee was not minded to determine any matter reserved to it, it may refer those matters to the Leader or Cabinet for determination:

(a) The Shareholder Committee has the right to access the following information from Council companies to undertake the work of the Sub-Committee:

  (i) The statutory accounts of the company;
  (ii) Business plans including risk registers;
  (iii) Reports on major projects;
  (iv) Any reports on engagement and commercial activity; and
  (v) Any additional information it considers necessary to undertake the work of the Committee.

(b) To hold the Council's companies to account, providing strategic oversight of the arrangements with the companies including the delivery by the companies of the Council's policy aims;
(c) To appointment/remove company directors;
(d) To appoint auditors;
(e) To approve changes to the constitution of the company;
(f) To exercise any shareholder consents;

(g) To approve the business plans of each of the Council's companies and any in-year variations to it, including providing strategic advice to the Cabinet on the robustness and suitability of each of the business plans;

(h) To approval any matter outside of the business plan and/or which exceeds the thresholds as detailed in the reserved matters within the Shareholder Agreement

(i) To approve any proposals to make a significant capital or revenue investment in any of the Council's companies;

(j) To approve any other Reserved Matters provided for in the Shareholder Agreement;

(k) To take any decisions in relation to the overall commissioning arrangements;

(l) To prepare and maintain a strategic risk register in relation to the Council's companies;

(m) To review and analyse the annual statement of accounts of each of the Council's companies;

(n) To determine the distribution of any surplus or the issue of any dividends from any of the Council's companies

(o) To be consulted on the following by the Council's companies:

(i) the strategy, business plan, financial and corporate performance of the company;
(ii) Company policies;
(iii) matters reserved for shareholder approval as and when appropriate; and
(iv) emerging issues and opportunities which may impact the company, to discuss solutions proposed by the company.

(p) To provide assurance that:

(i) strategic commissioning arrangements for the Council's companies are fit for purpose or provide recommendations to ensure that they are;
(ii) the overarching performance arrangements for each of the Council's companies are fit for purpose or provide recommendations to ensure that they are;
(iii) the arrangements for Council's companies comply with the Procurement Act 2023;
(iv) all Council's companies are complying with the relevant statutory and regulatory framework for their respective areas of operation.

(q) To prepare and present a strategic report to the Cabinet at least once a year on the overall governance, financial and performance arrangements for the Council's companies.

**Overview and Scrutiny Terms of Reference (including Overview Scrutiny, Scrutiny Committee and Housing Overview & Scrutiny Committee.**

It is a statutory requirement that Councils with executive governance arrangements (Cabinet) must have an overview and scrutiny function. EDDC has an Overview Committee, a Scrutiny Committee and a Housing Overview & Scrutiny Committee ("the Overview and Scrutiny Committees'). Collectively, the Overview and Scrutiny Committees fulfil a check and constructive challenge function for decisions, actions, and policies made by the Cabinet in order to improve services in East Devon. The Overview and Scrutiny Committees operate in accordance with the committee procedure rules in Part 4 to fulfil the statutory 'overview and scrutiny' functions.

The legal provisions affecting the Overview and Scrutiny Committees are contained in section 21 of the Local Government Act 2000 and regulations under section 9 and 32 of the Local Government Act 2000, the Police and Justice Act 2006 and the Local Government and Public Involvement in Health Act 2007.

The Overview and Scrutiny Committees have no decision-making powers but make recommendations for improvements. Each committee can appoint time-limited Task and Finish Forums to undertake specific scrutiny reviews and make recommendations back to that committee. They may also undertake 'Spotlight Sessions' to inform Councillors who can then delve deeper into topics.

These terms of reference should be read in conjunction with the scrutiny protocol and call in procedures.

**Membership, Chair and Quorum of each Committee**

| | |
|---|---|
| Number of Members | 15 |
| Substitute Members permitted | No |
| Political Balance Rules apply | Yes |
| Appointments/Removals from Office | By resolution of full Council |
| Restrictions on Membership | Cabinet members cannot be members of a committee |
| Restrictions on Chair/Vice Chair of Overview Committee and Housing Overview & Scrutiny Committee | None. The Chair and Vice Chair may be any member of the committee. |
| Restrictions on Chair/Vice Chair of Scrutiny Committee | The Chair should not be any member of the ruling group. |
| Quorum | 5 councillors |
| Number of ordinary meetings per Council year: | |
| Scrutiny Committee | 6 |
| Overview Committee | 4 |
| Housing Overview & Scrutiny Committee | 4 |
| Additional meetings may be convened at the request of the Chair, having taken advice from relevant officers. | |

**Membership of Housing Overview and Scrutiny Committee**

The Housing Overview and Scrutiny Committee consists of 8 Council Member representatives; 5 tenant and leaseholder representatives; and 2 independent community representatives. The non-councillor members are co-opted members and have the right to vote. Normally non-councillor committee 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. Council officers and others, where appropriate, will support the work of the committee.

**Overview and scrutiny function**

In respect of their functions, the Overview and Scrutiny Committees will:

1. Assist the Cabinet / Council in budget and policy development;
2. Consider any matter affecting the district of East Devon or its inhabitants and businesses;
3. Ensure active engagement of councillors, the public, media, stakeholders, partners and officers in the work of the Council and the Committee and to enable the voice of the wider community to be heard within the Council;
4. Make reports and/or recommendations to the Full Council and/or the Cabinet, Council, other Committees and/or partner bodies;
5. Scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to discuss their activities and performance.
6. The Overview Committee and the Scrutiny Committee will consider the directorate plans and draft budget by way of a joint meeting between the two committees in December and January each year respectively, (or such time as is appropriate).
7. Consider requests by Cabinet, Council or any other Committee of the Council, and, where appropriate, to add such requests to the work programme;
8. Review Government policy as appropriate, and assess the impact on the Council's area and make relevant recommendations to Cabinet or Council;
9. Review national best practice and guidance on effective scrutiny and recommend any changes as a result to Cabinet or Council;
10. Report annually to full Council on the work undertaken.

The work of the Overview and Scrutiny Committees is underpinned by the following guiding principles of effective scrutiny promoted by the Centre for Governance and Scrutiny:

- Provide constructive "critical friend" challenge;
- Amplify the voice and concerns of the public;
- Be led by independent people who take responsibility for their role;
- Drive improvement in public services.

**Role of the Overview and Scrutiny Committees (Overview Committee, Scrutiny Committee and Housing Overview and Scrutiny Committee)**

**Role of the Housing Overview and Scrutiny Committee:**

- Consider matters relating to the Council's landlord and housing management functions
- Advise the Cabinet on housing policy and operational practice affecting tenants and leaseholders.
- Scrutinise decisions that Cabinet is planning to take or has taken on housing policy and operational practice affecting tenants and leaseholders.
- Maintain an active involvement in the ongoing review of the options for the future ownership and management of Council owned homes and make recommendations.
- Promote good practice and oversee service improvements
- Monitor performance on core housing management activities and report to the Cabinet.
- Assist the Cabinet monitor and prepare the Housing Revenue Account budget and the Housing Revenue Account Business Plan.
- Promote tenant and leaseholder involvement, and the updating and implementation of the Resident Involvement Strategy.
- Encourage good practice in relation to equality and diversity issues, and ensure that the needs of vulnerable tenants are satisfied.
- Advise and scrutinise on any other matters affecting the Council's landlord duties and responsibilities.

**Role of the Overview Committee**

- Develop new and review existing policy (other than that falling within the remit of the Strategic Planning Committee) at its own initiative and at the request of Council or Cabinet.
- Receive reports on the effectiveness of policy implementation and make recommendations to Council and/or Cabinet, as appropriate.
- Have delegated budgetary powers in order to procure specialist information services designed to supplement resources ordinarily available to the Committee.
- Conduct research and carry out or oversee community and other consultations and develop formative policy proposals for recommendation to Council and/or Cabinet.
- Comment upon and make recommendations to Council and/or Cabinet on external reports and consultation papers.
- Question members of the Cabinet and/or committees and Senior Officers about their views on issues and proposals affecting the area.
- Liaise with external organisations operating in the area to ensure that the interests of local people are enhanced by collaborative working.
- Consider which items from the Cabinet Forward Plan will be added to the Overview Committee's annual Work Programme for pre-decision scrutiny prior to formal decisions being taken, and have regard to referrals made to it for pre-decision scrutiny, by Council or Cabinet.

**Role of the Scrutiny Committee**

- Hold the Cabinet (the Council's policy and decision-making group) to account.
- Examine decisions that have been made by the Cabinet and Council officers.
- Evaluate performance and progress in relation to the Council Plan priorities, Council's policy objectives, performance targets and/or particular service areas.
- Ensure that consultation, where necessary, has been carried out
- Highlight areas for improvement.
- Make recommendations to the Cabinet and/or Cabinet arising from the outcome of the scrutiny process.
- Exercise the right of call-in, for reconsideration of decisions made but not yet implemented by the Cabinet and/or a Portfolio Holder member of the Cabinet.
- Ensure services are effective and responsive to the needs of East Devon's residents by:
- Review services, including the performance of other public bodies in the area.
- Ensure the public are consulted where change is being proposed.
- Ensure that services delivered represent value for money.
- Encourage public involvement by:
- Consider issues that are of interest to the local community.
- Provide accessible information on the scrutiny process and activities.
- Carry out the role of the Crime and Disorder Committee, as required for the purposes of section 19 of the Police and Justice Act 2006, including the scrutiny of the East and Mid Dvon Community Safety Partnership.

**Excluded matters**

The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012 excludes from referral to Overview and Scrutiny the following:

a) a planning decision;
b) a licensing decision;
c) any matter concerning an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview Committee or Scrutiny Committee.

A matter does not fall within the above if it consists of an allegation relating to items (i) to (iii) and it is alleged that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis.

# 7 Article 8: Regulatory and Other Committees

## 7.1 Regulatory and Other Committees

7.1.1 The Council will also appoint the following Committees/Sub Committees:

Strategic Planning Committee

Planning Committee

Licensing and Enforcement Committee

Personnel Committee (from which the Investigating and Disciplinary Sub Committee, Employment Appeals Sub Committee and Interviewing (Chief Officers) Sub Committee will be drawn)

Audit and Governance Committee

7.1.2 Their terms of reference and delegated powers are set out in Part 3 of this Constitution. No other Committee or Sub Committee shall be established unless authorised by resolution of the Council or under the provisions of the Licensing Act 2003.

# 8 Article 9: Standards Committee

## 8.1 Standards Committee

8.1.1 The Council meeting will establish a Standards Committee and an Assessment Sub Committee and a Hearings Sub Committee. The Standards Committee will meet four times each year and is subject to the political balance rules unless full Council has unanimously waived this requirement.

## 8.2 Composition

8.2.1 **Membership**: The membership of the full Standards Committee shall comprise the Chair of the Council, six Councillors, three non-voting independent Members and three non-voting Town/Parish Council Members; One member of the Cabinet may be a member of the Committee (but excluding the Leader at all times); The independent Members shall be persons who are not Councillors or officers of the Council or any other body having a standards committee; The Parish Members shall be a member of a Town or Parish Council wholly or mainly in the Council's area and who shall not be Councillors or officers of the Council.

8.2.2 **Independent Members and Independent Persons**: An independent Member's appointment shall normally be for a term of four years and may be extended by the Council for up to a further four years.

8.2.3 **Town/Parish Members**: A Town/Parish Member's appointment shall normally be for a term of four years and may be extended by the Council for up to a further four years. A Parish Member's appointment shall automatically determine if they cease to be a Member of the Town or Parish Council wholly or mainly in the Council's area.

8.2.4 **Chairing the Committee**: The Chair of the Council shall be the Chair.

8.2.5 The composition of the Assessment Sub Committee shall be three district councillors plus an independent Member and a Parish Member, drawn by the Monitoring Officer from the Standards Committee, and one of the Independent Persons. The Independent Member, Parish Member and Independent Person shall be non-voting.

8.2.6 The composition of the Hearings Sub Committee shall be three district councillors plus an Independent Member and a Parish Member, drawn by the Monitoring Officer from the Standards Committee as required for each hearing. The Independent Member and Parish Member shall be non-voting.

8.2.7 **Quorum**: The quorum for meetings of the Committee, Assessment Sub Committee and Hearings Sub Committee is specified in the Terms of Reference (Part 3 Section 2) but shall comprise at least three Members with voting rights.

## 8.3 The role and function of the Standards Committee

8.3.1 Discharging the Council's standards related functions under Part III of the Local Government Act 2000 and the Localism Act 2011.

8.3.2 Promoting and maintaining high standards of conduct by Councillors, co-opted Members and Council officers.

8.3.3 Considering reports referred to the Committee by the monitoring officer and making recommendations concerning the governance and ethical standards of the Council.

8.3.4 Assisting the Councillors and any co-opted Members to observe the Council's Code of Conduct for Members.

8.3.5 Advising the Council on the adoption or revision of the Council's Code of Conduct for Members; a Code for officers, and any related codes or protocols.

8.3.6 Monitoring the operation of the Council's Code of Conduct for Members.

8.3.7 Advising, training or arranging to train Councillors on matters relating to the Council's Code of Conduct.

8.3.8 To grant dispensations to Councillors from requirements relating to Disclosable Pecuniary, Other Registerable and / or Non-Registerable Interests set out in the Council's Code of Conduct for Members [so far as not delegated to the Monitoring Officer] where:

a) the committee considers that the dispensation is in the interests of persons living in the authority's area; or

b) without a dispensation, each Member of the Cabinet would be unable to participate in the matter; or

c) the committee considers that it is otherwise appropriate to grant a dispensation.

8.3.9 To discharge statutory functions relating to compliance with the Code of Conduct for Parish Councils wholly or mainly in its area and the Members of those Parish Councils.

8.3.10 To appoint sub-committees to undertake these functions.

## 8.4 The role and function of the Assessment Sub Committee

8.4.1 To receive reports from the Monitoring Officer on valid complaints to determine the appropriate action to be taken.

8.4.2 The Assessment Sub-Committee will consider the Monitoring Officer's report and, having regard to the "Local Assessment Criteria" and the views of the Independent Person, it will take a decision on how a complaint progresses, on the basis of one or more of the following options:

a) No further action

b) Monitoring Officer investigation

c) Other action

d) Referral to the Police

e) Referral to Independent Investigation

8.4.3 The Assessment Sub Committee may also grant dispensation in the same circumstances as the Standards Committee.

## 8.5 The role and function of the Hearings Sub Committee

8.5.1 To conduct hearings into allegations of breach of the Code of Conduct following an investigation report referred by the Monitoring Officer.

8.5.2 The Committee will make findings of fact and determine whether there has been any breach of the Code of Conduct, the Council's Standing Orders, or Financial Regulations.

8.5.3 Where appropriate to impose sanctions on a Member found to have failed to comply with the Code of Conduct including:

a) censuring or reprimanding the Member;

b) publishing its findings in respect of the Member's conduct;

c) reporting its findings to Council [or to the Parish Council] for information or sanctions;

d) recommending to the Member's Group Leader (or in the case of un- grouped Members, recommending to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;

e) recommending to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;

f) recommending to Council that the Member be replaced as Executive Leader;

g) instructing the Monitoring Officer to [or recommend that the Town/Parish Council] arrange training for the Member;

h) removing [or recommending to the Town/Parish Council that the Member be removed] from all outside appointments to which they has been appointed or nominated by the authority [or by the Town/Parish Council];

i) withdrawing [or recommend to the Parish Council that it withdraws] facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or

j) excluding [or recommending that the Town/Parish Council exclude] the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

8.5.4 The Hearings Sub Committee may also grant dispensations in the same circumstances as the Standards Committee.

# 9 Article 10: Joint Arrangements

## 9.1 Arrangements to promote well being

9.1.1 The Council, or the Cabinet, in order to promote the economic, social or environmental wellbeing of its area (and subject to the matter in question being included in the Council's community strategy) may:

a) enter into arrangements or agreements with any person or body;

b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and

c) exercise on behalf of that person or body any functions of that person or body.

## 9.2 Joint Arrangements

9.2.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions that are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

9.2.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions that are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

9.2.3 Except as set out below, the Cabinet may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.

9.2.4 Details of joint arrangements (if any) including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

## 9.3 Access to Information

9.3.1 The Access to Information Rules in Part 4 of this Constitution apply.

9.3.2 If all the members of a joint committee are Members of the Cabinet/executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.

9.3.3 If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

## 9.4 Delegation to and from other Local Authorities

9.4.1 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Cabinet/executive of another local authority.

9.4.2 The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

9.4.3 The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

## 9.5 Contracting Out

9.5.1 The Council and/or the Cabinet (in respect of executive functions only) may contract out to another body or organisation functions that may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contacting principles, provided there is no delegation of the Council's discretionary decision making.

## 9.6 Strata Service Solutions Ltd

9.6.1 The Council has together with Exeter City and Teignbridge District Council agreed to the creation of Strata Solutions Services ("Strata") (a company wholly owned by the three authorities to provide ICT functions across the three authorities). The Council is required to appoint an officer of the Council as a member of the Strata Board and this decision has been delegated to the Head of Paid Service. In addition there is a Joint Executive Committee and Joint Scrutiny Committee. The Council has agreed to the appointment of the Leader of the Council as the Council's representative on the Joint Executive Committee. The three Members appointed to the Joint Scrutiny Committee are appointed by the Council annually. The Terms of Reference and Rules of Procedure governing the operation of the Joint Executive Committee and Joint Scrutiny Committee are exclusively contained within Part 8 of this Constitution.

## 9.7 South East Devon Habitat Regulations Executive Committee

9.7.1 The Council has together with Exeter City and Teignbridge District Council agreed to the formation of a joint committee to be responsible for ensuring the timely delivery and effective mitigation arising from new development which might impact three sites of European wildlife importance. The Council has agreed to the appointment of the Portfolio Holder for Strategic Development as the Council's representative on the joint committee an appointment which is made annually. The Terms of Reference and Rules of Procedure governing the operation of the Joint Executive Committee and Joint Scrutiny Committee are exclusively contained within Part 9 of this Constitution.

# 10 Article 11: Officers

## 10.1 Management Structure

10.1.1 The Council will employ such officers as it considers necessary to carry out its functions.

10.1.2 The Council will appoint persons for the following posts, who will be designated Chief Officers:

| Post | Functions and areas of responsibility |
|---|---|
| **Chief Executive** | Overall corporate management and operational responsibility (including overall management responsibility for all officers).<br>Provision of professional advice to all parties in the decision-making process.<br>Representing the Council on partnership and external bodies (as required by statute or the Council).<br>Acting as the Council's Electoral Registration Officer, Returning Officer and Acting Returning Officer for all relevant electoral purposes |
| **Director of Governance** | Services include Legal, Democratic Services, Licensing and Information and Complaints |
| **Director of Finance** | Services include Accountancy and Audit, Benefits, Revenue Collection. Responsible for asset management, car parking and major projects |
| **Director for Housing, Health and Environment** | Services include Housing, Environmental Health, Streetscene and Countryside and Leisure |

10.1.3 In addition to the above the Council may appoint one or more further Directors or equivalent to assist the Chief Officers; together with the Chief Officers this shall be the Senior Management Team.

10.1.4 All other staff will be appointed by a Chief Officer or by one of their managers.

10.1.5 **Head of Paid Service, Monitoring Officer and Chief Financial Officer** – The Council will designate the following posts to assume the appropriate statutory responsibilities and these post holders shall be referred to as the Statutory Officers:

| Post | Statutory Designation |
|---|---|
| **Chief Executive** | Head of Paid Service |
| **Director of Governance** | Monitoring Officer |
| **Director of Finance** | Chief Finance Officer (S151 Officer) |

10.1.6 **Structure**. The Head of Paid Service will determine and publicise (within this Constitution) a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This will be set out at Part 7 of this Constitution.

## 10.2 Functions of the Head of Paid Service

10.2.1 **Discharge of functions by the Council**. The Head of Paid Service will report to Full Council on:

a) the manner in which the discharge of the Council's functions is co- ordinated;

b) the number and grades of officers required for the discharge of functions;

c) the organisation of the officers; and

d) the appointment and proper management of the authority's staff.

10.2.2 Restrictions on functions - The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

## 10.3 Functions of the Monitoring Officer

10.3.1 **Maintaining the Constitution**: The Monitoring Officer will maintain an up-to- date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

10.3.2 **Ensuring lawfulness and fairness of decision making**: After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council (or to the Cabinet in relation to an executive function) if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

10.3.3 **Supporting the Standards Committee**: The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

10.3.4 **Conducting investigations**: The Monitoring Officer will conduct investigations into Standards matters and where appropriate make reports or recommendations in respect of them to the Standards Committee.

10.3.5 **Proper officer for access to information**: The Monitoring Officer will ensure that decisions of the Cabinet, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

10.3.6 **Advising whether executive decisions are within the budget and policy framework**: The Monitoring Officer (together with the Chief Finance Officer) will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

10.3.7 **Providing advice**: The Monitoring Officer will provide advice to all Councillors on the scope of powers and authority to take decisions, issues relating to probity and the policy framework.

10.3.8 **Acting as the Corporate Complaints Officer**.

10.3.9 **Contributing to corporate management**: The Monitoring Officer will contribute to the corporate management of the Council.

10.3.10 **Maintaining the Corporate and District / Parish Register of Council Members' Interests**.

10.3.11 **Monitoring and Reviewing the Constitution**: The Monitoring Officer (together with the Head of Paid Service) will monitor and review the operation of the Constitution in accordance with the contents of Article 14.

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

## 10.4 Functions of the Chief Finance Officer

10.4.1 **Ensuring lawfulness and financial prudence of decision making**: After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

10.4.2 **Administration of financial affairs**: The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

10.4.3 **Contributing to corporate management**: The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

10.4.4 **Providing advice**: The Chief Finance Officer will provide advice on financial impropriety, and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

10.4.5 **Give financial information**: The Chief Finance Officer will provide financial information to the media, members of the public and the community.

## 10.5 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

## 10.6 Conduct

10.6.1 Officers will comply with the Officers' Code of Conduct set out in Part 5 of this Constitution and any Member/Officer Protocol/Code of Conduct and policies as the Council may from time to time adopt.

## 10.7 Employment

10.7.1 The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution and such other relevant standing Orders as from time to time may be required.

# 11 Article 12: Decision Making

## 11.1 Responsibility for Decision Making

11.1.1 The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

## 11.2 Principles of Decision Making

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

a) within legal and financial parameters;

b) proportionality (i.e. the action must be proportionate to the desired outcome);

c) due consultation and the taking of professional advice from officers;

d) respect for human rights;

e) a presumption in favour of openness (including explaining what options were considered and giving the reasons for decisions);

f) clarity of aims and desired outcomes;

g) promotion of equality;

h) reduction in crime and disorder;

i) sustainability;

j) compliance with Members' and Officer Codes of Conduct

## 11.3 Types of Decision

11.3.1 Decisions reserved to Full Council: Decisions relating to the functions listed in Article 4 (policy framework and budget) will be made by the Full Council and not delegated.

11.3.2 Key decisions: A "key decision" means an executive decision which is likely:

(a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or

(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council's area:

(i) In accordance with section 38 of the Local Government Act 2000, in determining the meaning of "significant" regard shall be had to any guidance for the time being issued by the Secretary of State

(ii) the Council has determined that significant expenditure or savings shall be defined as the Council incurring expenditure or the making of savings of £100,000 or more;

(iii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

## 11.4 Decision making by the Full Council

11.4.1 Subject to Article 12.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## 11.5 Decision making by the Executive

11.5.1 Subject to Article 12.8, the Cabinet will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## 11.6 Decision making by Overview and Scrutiny Committees

11.6.1 The Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## 11.7 Decision making by other committees and sub-committees established by the Council

11.7.1 Subject to Article 12.8, other Council committees (and sub-committees) will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

## 11.8 Decision making by Council bodies acting as Tribunals

11.8.1 The Council, its committees, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

# 12 Article 13: Finance and Contracts

## 12.1 Financial Management

12.1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Rules set out in Part 4 of this Constitution.

## 12.2 Contracts

12.2.1 Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

# 13 Article 14: Review and Revision of the Constitution

## 13.1 Duty to monitor and review the constitution

13.1.1 The Monitoring Officer (together with the Head of Paid Service) will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

## 13.2 Protocol for monitoring and review of the Constitution by Monitoring Officer

13.2.1 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer will:

a) Observe meetings of different parts of the Member and officer structure;

b) Undertake an audit trail of a sample of decisions;

c) Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and

d) Compare practices in the Council with those in other comparable authorities, or national examples of best practice.

## 13.3 Changes to the Constitution

13.3.1 Only Full Council can approve changes to the Constitution.

# 14 Article 15: Suspension, Interpretation and publication of the Constitution

## 14.1 Suspension of the Constitution

14.1.1 Suspension of the Articles: The Articles of this Constitution may not be suspended

14.1.2 Suspension of the Rules of Procedure: A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors entitled to attend the meeting in question is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

## 14.2 Interpretation

14.2.1 The ruling of the Chair of Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1 and to relevant professional advice.

## 14.3 Publication

14.3.1 The Chief Executive will make the Constitution available electronically to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.

14.3.2 Copies of this Constitution will be available for inspection at Council offices and other appropriate locations. Copies of the full Constitution may be purchased by members of the local press and the public on payment of a reasonable fee.

14.3.3 A summary of the Constitution will be regularly maintained and kept up to date and be freely available within the district of East Devon.

# 15 Schedule 1: Description of Executive Arrangements

## 15.1 The following parts of this Constitution constitute the executive arrangements:

15.1.1 Article 6 (The Cabinet) and the Executive Procedure Rules.

15.1.2 Article 7 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules.

15.1.3 Article 10 (Joint arrangements).

15.1.4 Article 12 (Decision making) and the Access to Information Procedure Rules.

15.1.5 Part 3 (Responsibility for Functions).

# Part 3: Responsibility for Functions

## 1. Section 1: Outline of responsibilities as required by Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

**1.1. Local Choice Functions**

1.1.1. Local Choice Functions which may be, but need not be, the responsibility of the Cabinet:

| | Functions | Decision making body | Membership | Delegation of Functions |
|---|---|---|---|---|
| 1 | **Local Act Functions**<br>Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Functions and Responsibilities Regulations | Nil | Nil | Nil |
| 2 | **Determination of Appeals**<br>The determination of an appeal against any decision made by or on behalf of the authority | Employment Appeals Sub Committee | 5 Councillors appointed by Council | |
| 3 | **Local Area Agreements**<br>Functions under sections 106, 110, 111 and 113 of the Local Government Public Involvement in Health Act 2007 | Cabinet (to make final decisions after considering the views of the relevant Overview and Scrutiny Committee) | 10 Councillors | |
| | | Overview and Scrutiny Committee | 28 Councillors (combined) | |

| | Functions | Decision making body | Membership | Delegation of Functions |
|---|---|---|---|---|
| 4 | **Contaminated Land**<br>Any function relating to contaminated land | Council: policies and strategies | 60 Councillors | |
| | | Cabinet: determination of action relating to the Council's own land and advising Council on policies and strategies | 10 Councillors | Director of Housing, Health and Environment |
| | | Licensing and Enforcement Committee on enforcement matters | 15 Councillors | Director of Governance / Director of Housing, Health and Environment |
| 5 | **Pollution**<br>The discharge of any function relating to the control of pollution or the management of air quality | Council: policies and strategies | 60 Councillors | |
| | | Cabinet: determination of action relating to the Council's own land and advising Council on policies and strategies | 10 Councillors | Director of Housing, Health and Environment |
| | | Licensing and Enforcement Committee on enforcement matters | 15 Councillors | Director of Housing, Health and Environment |
| 6 | **Abatement Notices**<br>The service of an abatement notice in respect of statutory nuisance | Director of Housing, Health and Environment | | EHOs designated by the Director of Housing, Health and Environment |

| | Functions | Decision making body | Membership | Delegation of Functions |
|---|---|---|---|---|
| 7 | **Noise and Statutory Nuisance Act 1993**<br>The passing of a resolution that Schedule 2 to the Act should apply in the Council's area | Council | 60 Councillors | Nil |
| 8 | **Statutory Nuisance Inspections**<br>The inspection of the Council's area to detect any statutory nuisance | Director of Housing, Health and Environment | | EHOs designated by the Director of Housing, Health and Environment |
| 9 | **Statutory Nuisance Complaints Investigation** | Director of Housing, Health and Environment | | EHOs designated by the Director of Housing, Health and Environment |
| 10 | **Land Ownership for Planning Purposes**<br>The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land | Chief Executive, Director of Governance | | Assistant Director Strategic Planning & Development Management and Development Management Officers and Legal Officers |
| 11 | **Land Ownership generally**<br>The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 | Chief Executive, Director of Governance | | Assistant Director Strategic Planning & Development Management and Development Management Officers and Legal Officers |

| | Functions | Decision making body | Membership | Delegation of Functions |
|---|---|---|---|---|
| 12 | **Appointments to other organisations**<br>The appointment of any individual<br>(a) to any office other than an office in which he is employed by the Council<br>(b) to any body other than<br>(i) the authority;<br>(ii) a joint committee of two or more authorities: or<br>(c) to any committee or sub committee or such a body, and the revocation of any such appointment | Cabinet (in respect of those functions that are the responsibility of the Cabinet) | 10 Councillors | |
| | | Council (for all other appointments) | 60 Councillors | |
| 13 | **Staff Secondments**<br>The making of agreements with other local authorities for the placing of staff at the disposal of those authorities | | | Chief Executive |

1.1.2. Note: Where any of the above involve the preparation of a strategic or other relevant policy for the Council to approve the Cabinet will initially prepare and then submit the draft plan or strategy after consideration of the views of the relevant Overview and Scrutiny Committees provided this does not relate to a function which cannot legally be that of the Cabinet.

## 1.2. Responsibility for Council Functions

1.3. Responsibility for Council Functions are functions not permitted to be the responsibility of the Cabinet:

| | Committee | Membership | Functions | Delegation of functions |
|---|---|---|---|---|
| A | **Licensing and Registration functions** (in so far as not covered by any other paragraph of this Schedule) Licensing and Enforcement Committee | 15 Councillors | Such functions as are set out in Schedule 1 to the Functions Regulations as are applicable to a District Council | See detailed list under delegated powers to officers (Part3) |
| B | **Functions relating to Health and Safety at Work** Licensing and Enforcement Committee | 15 Councillors | Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer. | See detailed list under delegated powers to officers (Part 3) |
| C | **Functions relating to Elections** Council | 60 Councillors | Functions relating to elections as set out in Schedule 1 to the Functions Regulations (except paragraphs 2, 7, 10, 12, 13, 14, 16, 17, 18, 19, 20 – all of which are delegate | Chief Executive – in respect of paragraphs 2, 7, 10, 12, 13, 14, 16, 17, 18, 19, 20. |
| D | **Functions relating to name and status of areas and individuals** Council | 60 Councillors | Functions set out in Schedule 1 of the Functions Regulations | |

| | Committee | Membership | Functions | Delegation of functions |
|---|---|---|---|---|
| | | | | |
| EB | **Functions relating to community governance**<br>Council | | Proposals relating to the reorganisation of parishes As set out in Schedule 1 of the functions regulations with the exception of paragraphs 1, 2, 3, 5, 6, 7, 8, 9 which are delegated to the Chief Executive | To the Chief Executive in respect of paragraphs 1,2,3, 5,6,7,8 and 9 |
| F | **Power to make, amend, revoke or re-enact byelaws**<br>Council (on report from the relevant committee) | 60 Councillors | | |
| | **Power to enforce byelaws:**<br>a) Planning Committee | 16 Councillors | | See detailed list under delegated powers to officers in part 3 |
| | **Power to enforce byelaws:**<br>b) Licensing and Enforcement Committee | 15 Councillors | | Director of Housing, Health and Environment / Director of Governance |
| Fa | **Functions relating to smoke-free premises**<br>Licensing and Enforcement Committee | | | |
| G | **Power to promote or oppose local or personal Bills**<br>Council | 60 Councillors | | |

| | Committee | Membership | Functions | Delegation of functions |
|---|---|---|---|---|
| H | **Functions relating to pensions etc.**<br>Council | 60 Councillors | | |
| I | **Miscellaneous Functions (not otherwise already allocated or delegated)**<br>Audit and Governance Committee | 10 Councillors | Duty to receive and approve of the Authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be) – item 45 | |
| | Council | 60 Councillors | Power to make Standing Orders – items 36 and 38 | Monitoring Officer |
| | Council (for Head of Paid Service and Chief Officers) | 60 Councillors | Power to appoint staff etc. as referred to in items 37, 39, 40, 43, 44, 44A | Chief Executive for other staff |
| | Council | 60 Councillors | Power to make payments or provide other benefits in cases of maladministration etc. (subject to consultation with the Chair of the Council)(item 48) | Monitoring Officer |

## 1.4. Responsibility for Executive Functions

| | Committee | Membership | Functions | Delegation of functions |
|---|---|---|---|---|
| | **Council** | | Powers relating to Overview and Scrutiny Committees (voting rights of co-opted members)(Item 44B) | |
| | **Planning Committee** | | Powers relating to the protection of important hedgerows/complaints about high hedges (Item 46, 47/47A) | See delegated powers to officers, Part 3 |
| | **Council** | | Power to make an order identifying a place as a designated public place for the purses of police powers in relation to alcohol consumption | Chief Executive |
| | **Cabinet** | 10 Councillors | Details of the Cabinet's powers are set out in Section 2 of this Part 3 of the Constitution | Details of the delegations to the Portfolio Holders and staff are set out in Sections 2 and 3 of part 3 of the Constitution |

# 2. Section 2: Terms of reference and delegated powers of committees

## 2.1. Cabinet

2.1.1. **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.

2.1.2. **Meetings**: 11 times per year (or more frequently as appropriate).

2.1.3. 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.

2.1.4. 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.

2.1.5. Subject to this the Cabinet has the power to take all decisions within its remit including those delegated to Portfolio Holders or officers where the relevant Portfolio Holder or officer has referred the matter to the Cabinet for decision.

2.1.6. 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.

2.1.7. The Leader will appoint members of the Cabinet as Portfolio Holders, together with any deputies or assistants. The Leader will normally remain without portfolio.

2.1.8. The Leader shall have the authority to change the responsibilities and numbers of Portfolio Holders.

2.1.9. 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.

2.1.10. 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.

2.1.11. **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 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.

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.

2.1.12. **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 power to make the decision has not previously been delegated to an officer.

(ii) The Portfolio Holder has considered what consultation is necessary with regard to the proposed decision – including the need to consult with local Ward Members.

(iii) The proposed decision is compliant with the terms and conditions of the existing policy framework.

(iv) Receipt and consideration of a written report containing a summary of the legal, financial and all other relevant implications arising from the proposed decision.

(v) Publication of the proposed decision in accordance with the Executive Procedure rules referred to in Part 4 of the Constitution.

(vi) If the Leader varies the scheme of delegation to Portfolio Holders they shall report the changes to the next practicable Council meeting for information.

2.1.13. **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 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, 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. For the avoidance of any doubt reference to tender shall include but is not limited:

   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, 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 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.

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.

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.

2.1.14. **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 Members).
c) Authority to approve requests by tenants to carry out a business.
d) Authority (in consultation with Ward Members), 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.

2.1.15. **Specific Delegations to the Portfolio Holder for Place, Infrastructure & 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.

2.1.16. **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.

2.1.17. **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 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.

c) Authority to approve/determine revenue support or small capital grants through the Lottery or Arts programmes.

d) Authority to determine applications for feasibility studies (but not project development) costing up to £5,000 for proposed National Lottery Fund schemes.

e) Authority to approve temporary changes to the charges applied and operational procedures in respect of the management of the Council's car parks.

2.1.18. **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.

## 2.2 Overview and Scrutiny Terms of Reference (including Overview Scrutiny, Scrutiny Committee and Housing Overview & Scrutiny Committee.

2.2.1 It is a statutory requirement that Councils with executive governance arrangements (Cabinet) must have an overview and scrutiny function. EDDC has an Overview Committee, a Scrutiny Committee and a Housing Overview & Scrutiny Committee ("the Overview and Scrutiny Committees'). Collectively, the Overview and Scrutiny Committees fulfil a check and constructive challenge function for decisions, actions, and policies made by the Cabinet in order to improve services in East Devon. The Overview and Scrutiny Committees operate in accordance with the committee procedure rules in Part 4 to fulfil the statutory 'overview and scrutiny' functions.

2.2.2 The legal provisions affecting the Overview and Scrutiny Committees are contained in section 21 of the Local Government Act 2000 and regulations under section 9 and 32 of the Local Government Act 2000, the Police and Justice Act 2006 and the Local Government and Public Involvement in Health Act 2007.

2.2.3 The Overview and Scrutiny Committees have no decision-making powers but make recommendations for improvements. Each committee can appoint time-limited Task and Finish Forums to undertake specific scrutiny reviews and make recommendations back to that committee. They may also undertake 'Spotlight Sessions' to inform Councillors who can then delve deeper into topics.

2.2.4 These terms of reference should be read in conjunction with the scrutiny protocol and call in procedures.

2.2.5 **Membership, Chair and Quorum of each Committee**

| | |
|---|---|
| Number of Members | 15 |
| Substitute Members permitted | No |
| Political Balance Rules apply | Yes |
| Appointments/Removals from Office | By resolution of full Council |
| Restrictions on Membership | Cabinet members cannot be members of a committee |
| Restrictions on Chair/Vice Chair of Overview Committee and Housing Overview & Scrutiny Committee | None. The Chair and Vice Chair may be any member of the committee. |

| | |
|---|---|
| Restrictions on Chair/Vice Chair of Scrutiny Committee | The Chair should not be any member of the ruling group. |
| Quorum | 5 councillors |
| Number of ordinary meetings per Council year: | |
| Scrutiny Committee | 6 |
| Overview Committee | 4 |
| Housing Overview & Scrutiny Committee | 4 |
| Additional meetings may be convened at the request of the Chair, having taken advice from relevant officers. | |

## 2.2.6 Membership of Housing Overview and Scrutiny Committee

2.2.6.1 The Housing Overview and Scrutiny Committee consists of 8 Council Member representatives; 5 tenant and leaseholder representatives; and 2 independent community representatives. The non-councillor members are co-opted members and have the right to vote. Normally non-councillor committee 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. Council officers and others, where appropriate, will support the work of the committee.

## 2.2.7 Overview and scrutiny function

In respect of their functions, the Overview and Scrutiny Committees will:

a) Assist the Cabinet / Council in budget and policy development;
b) Consider any matter affecting the district of East Devon or its inhabitants and businesses;
c) Ensure active engagement of councillors, the public, media, stakeholders, partners and officers in the work of the Council and the Committee and to enable the voice of the wider community to be heard within the Council;
d) Make reports and/or recommendations to the Full Council and/or the Cabinet, Council, other Committees and/or partner bodies;
e) Scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to discuss their activities and performance.
f) The Overview Committee and the Scrutiny Committee will consider the directorate plans and draft budget by way of a joint meeting between the two committees in December and January each year respectively, (or such time as is appropriate).
g) Consider requests by Cabinet, Council or any other Committee of the Council, and, where appropriate, to add such requests to the work programme;
h) Review Government policy as appropriate, and assess the impact on the Council's area and make relevant recommendations to Cabinet or Council;
i) Review national best practice and guidance on effective scrutiny and recommend any changes as a result to Cabinet or Council;
j) Report annually to full Council on the work undertaken.

2.2.8 The work of the Overview and Scrutiny Committees is underpinned by the following guiding principles of effective scrutiny promoted by the Centre for Governance and Scrutiny:

a) Provide constructive "critical friend" challenge;
b) Amplify the voice and concerns of the public;
c) Be led by independent people who take responsibility for their role;
d) Drive improvement in public services.

## 2.2.9 Role of the Overview and Scrutiny Committees (Overview Committee, Scrutiny Committee and Housing Overview and Scrutiny Committee)

2.2.9.1 **Role of the Housing Overview and Scrutiny Committee:**

a) Consider matters relating to the Council's landlord and housing management functions
b) Advise the Cabinet on housing policy and operational practice affecting tenants and leaseholders.
c) Scrutinise decisions that Cabinet is planning to take or has taken on housing policy and operational practice affecting tenants and leaseholders.
d) Maintain an active involvement in the ongoing review of the options for the future ownership and management of Council owned homes and make recommendations.
e) Promote good practice and oversee service improvements
f) Monitor performance on core housing management activities and report to the Cabinet.
g) Assist the Cabinet monitor and prepare the Housing Revenue Account budget and the Housing Revenue Account Business Plan.
h) Promote tenant and leaseholder involvement, and the updating and implementation of the Resident Involvement Strategy.
i) Encourage good practice in relation to equality and diversity issues, and ensure that the needs of vulnerable tenants are satisfied.
j) Advise and scrutinise on any other matters affecting the Council's landlord duties and responsibilities.

2.2.9.2 **Role of the Overview Committee**

a) Develop new and review existing policy (other than that falling within the remit of the Strategic Planning Committee) at its own initiative and at the request of Council or Cabinet.
b) Receive reports on the effectiveness of policy implementation and make recommendations to Council and/or Cabinet, as appropriate.
c) Have delegated budgetary powers in order to procure specialist information services designed to supplement resources ordinarily available to the Committee.

d) Conduct research and carry out or oversee community and other consultations and develop formative policy proposals for recommendation to Council and/or Cabinet.
e) Comment upon and make recommendations to Council and/or Cabinet on external reports and consultation papers.
f) Question members of the Cabinet and/or committees and Senior Officers about their views on issues and proposals affecting the area.
g) Liaise with external organisations operating in the area to ensure that the interests of local people are enhanced by collaborative working.
h) Consider which items from the Cabinet Forward Plan will be added to the Overview Committee's annual Work Programme for pre-decision scrutiny prior to formal decisions being taken, and have regard to referrals made to it for pre-decision scrutiny, by Council or Cabinet.

2.2.9.3 **Role of the Scrutiny Committee**

a) Hold the Cabinet (the Council's policy and decision-making group) to account.
b) Examine decisions that have been made by the Cabinet and Council officers.
c) Evaluate performance and progress in relation to the Council Plan priorities, Council's policy objectives, performance targets and/or particular service areas.
d) Ensure that consultation, where necessary, has been carried out
e) Highlight areas for improvement.
f) Make recommendations to the Cabinet and/or Cabinet arising from the outcome of the scrutiny process.
g) Exercise the right of call-in, for reconsideration of decisions made but not yet implemented by the Cabinet and/or a Portfolio Holder member of the Cabinet.
h) Ensure services are effective and responsive to the needs of East Devon's residents by:
i) Review services, including the performance of other public bodies in the area.
j) Ensure the public are consulted where change is being proposed.
k) Ensure that services delivered represent value for money.
l) Encourage public involvement by:
m) Consider issues that are of interest to the local community.
n) Provide accessible information on the scrutiny process and activities.
o) Carry out the role of the Crime and Disorder Committee, as required for the purposes of section 19 of the Police and Justice Act 2006, including the scrutiny of the East and Mid Dvon Community Safety Partnership.

**2.2.10 Excluded matters**

2.2.10.1 The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012 excludes from referral to Overview and Scrutiny the following:

a) a planning decision;
b) a licensing decision;

c) any matter concerning an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview Committee or Scrutiny Committee.

2.2.10.2 A matter does not fall within the above if it consists of an allegation relating to 2.2.10.1 items (a) to (c) and it is alleged that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis.

## 2.3. Licensing and Enforcement Committee

2.3.1. **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.

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

2.3.3. **Quorum**: 4.

2.3.4. **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).

2.3.5. 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.

2.3.6. **Licensing Sub-Committee**

2.3.7. **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.

2.3.8. **Quorum**: 2.

2.3.9. **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.

2.3.10. 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.

## 2.4. Standards Committee

2.4.1. **Membership**: 7 Councillors comprising Chair of Council (who will be the Chair) (subject to the rules relating to political balance / proportionality), 3 non-voting Town/Parish Councillor, 2 non-voting Independent Persons and 2 non-voting independent representatives. There shall be substitute 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.

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

2.4.3. **Quorum**: 4 committee members (of which three shall be councillors with voting rights).

**Terms of Reference**: All elected Councillors (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 Councillors in matters of conduct and advice to 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 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.

(e) Appoint such Sub Committees (including Membership thereof) as appropriate to discharge the functions.

2.4.4. The Committee will support and be supported by the Council's Monitoring Officer, reinforcing their informal role of helping to maintain standards of conduct by encouragement, advice and persuasion.

2.4.5. Council will appoint at least one Independent Person to discharge the relevant functions under the Localism Act 2011 and the Council's internal procedures.

2.4.6. The Council will appoint members of the Standards Committee at its annual meeting.

2.4.7. 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 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.

2.4.8. **Assessment Sub Committee**

2.4.9. **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.

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

2.4.11. **Terms of Reference**: To consider 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.

2.4.12. **Hearings Sub Committee**

2.4.13. **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 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.

2.4.14. **Quorum**: 3 District Councillors.

2.4.15. **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.

## 2.5. Strategic Planning Committee

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

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

2.5.3. **Quorum**: 5.

2.5.4. **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

2.5.5. 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.

## 2.6. Planning Committee

2.6.1. **Membership**: 16 Councillors (subject to the rules relating to political balance / proportionality). The Chair and Vice Chair shall not be elected to the same Ward and no more than 4 serving members of Cabinet are 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.

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

2.6.3. **Quorum**: 4.

2.6.4. **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.

2.6.5. 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 Strategic Planning & Development Management & 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.

## 2.7. Audit and Governance Committee

2.7.1. **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.

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

2.7.3. **Quorum**: 3.

2.7.4. **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 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.

## 2.8. Personnel Committee

2.8.1. **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 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.

2.8.2. 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.

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

2.8.4. **Quorum**: 4

2.8.5. **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.

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

2.8.7. **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 can be used when necessary.

2.8.8. **Quorum**: 7

2.8.9. **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.

2.8.10. **Investigating and Disciplinary Sub Committee**

2.8.11. **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 members can be used when necessary.

2.8.12. **Quorum**: 5

2.8.13. **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.

2.8.14. **Employment Appeals Sub Committee**

2.8.15. **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 can be used when necessary.

2.8.16. **Quorum**: 5

2.8.17. **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.

2.8.18. **Grievance Sub Committee**

2.8.19. **Membership**: 5 Councillors drawn from the membership of the Personnel Committee (subject to the rules relating to political balance / proportionality).

2.8.20. **Quorum**: 3

2.8.21. **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.

2.9. **Independent Remuneration Panel**

2.9.1. **Membership:** The ("IRP") shall be comprised of up to 5 members of the public ("IRP Members")

2.9.1.1. IRP Members will be sought via advert in accordance with the Council's standard recruitment arrangements. Recruitment should be by public advertisement and direct approach to appropriate business and community/voluntary sector organisations who command local respect and public confidence and would be able to nominate persons who should have the necessary skills, integrity, independence and who are recognisable members of the local business and voluntary/community sectors within their respective areas.

2.9.1.2. As part of this a person specification shall be drawn up to ensure that candidates who are appointed:

- are able to demonstrate a high degree of personal integrity;
- are not members of any local authority and are not disqualified from being or becoming a member of a local authority;
- have, if possible, the appropriate level of skill, knowledge and understanding of setting remunerations;
- have the necessary time and commitment for the role;
- Are not affiliated to any political party – candidates must disclose the extent of their connections to a political party and whether these are such as to risk the effective discharge of the IRP's functions were the candidate to be appointed;
- A knowledge of local government is preferable however a lack of familiarity will not be a bar to appointment.

2.9.1.3. IRP Members will be shortlisted, interviewed and appointed by the Monitoring Officer, in consultation with political group leaders.

2.9.1.4. The term of office of IRP Members will be four years in the first instance, and a Panel Member may be reappointed for a further consecutive 4-year term. A Panel member shall not serve more than two terms – 8 years in total. The Council or its Standards Committee may remove an IRP Member in circumstances where:

2.9.1.4.1. the IRP Member is disqualified from being a member of an authority or is found guilty of any conduct which brings the office into disrepute e.g. being found guilty of a criminal offence, an act of dishonesty or other serious misconduct;

2.9.1.4.2. the IRP Member is considered to have demonstrated a serious lack of diligence or incompetence; or

2.9.1.4.3. the IRP Member becomes an elected or co-opted member (or an employee) of the authority.

2.9.1.5. The IRP shall:

2.9.1.5.1. appoint its own Chair at the first meeting of each municipal year;

2.9.1.5.2. require a quorum of 3 at all meetings;

2.9.1.5.3. meet a minimum of once per municipal year with additional meetings convened as necessary;

2.9.1.5.4. Otherwise devise its own rules for the conduct of meetings in consultation with the Council's Monitoring Officer providing that they are consistent with legislative requirements and general good governance requirements.

2.9.2. **Quorum: 3**

2.9.3. **Terms of Reference:**

2.9.3.1. Function: Under the Local Authorities (Members' Allowances) (England) Regulations 2003, Local Authorities must establish and maintain an Independent Remuneration Panel. The purpose of the Panel is to make recommendations to the Local Authority about the allowances to be paid to Councillors.

2.9.3.2. Role and Responsibilities: The Independent Remuneration Panel ("IRP") shall advise and make its recommendations to East Devon District Council.

2.9.3.3. The Independent Remuneration Panel ("IRP") shall through the form of a report to East Devon District Council:

2.9.3.3.1. recommend to Council a Councillors' Allowances Scheme which sets out recommendations for:

- the amount of basic allowance that should be payable to elected councillors;
- the roles, responsibilities and duties for which special responsibility allowances should be paid and the amounts for such allowances;
- whether travelling and subsistence allowances should be paid and if so, the duties to which they should apply and the amount;
- whether childcare and dependent carers' allowances should be paid and if so, the duties to which they should apply and the amount of these allowances and the means by which they are determined;
- whether a basic allowance should be paid to co-opted members and if so, the amount;
- whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated as permitted in law;
- whether any annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should apply.

2.9.3.3.2. on a four yearly basis, or if otherwise requested, propose recommendations as to any required amendments to the Councillors' Allowances Scheme in relation to the following matters:

- the amount of basic allowance that should be payable to elected councillors;
- the roles, responsibilities and duties for which special responsibility allowances should be paid and the amounts for such allowances;
- whether travelling and subsistence allowances should be paid and if so, the duties to which they should apply and the amount;
- whether childcare and dependent carers' allowances should be paid and if so, the duties to which they should apply and the amount of these allowances and the means by which they are determined;
- whether a basic allowance should be paid to co-opted members and if so, the amount;
- whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated as permitted in law;
- whether any annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should apply.

2.9.3.4. In making its recommendations above, the IRP shall undertake a full review of the Councillors' Allowance Scheme as well as obtaining the views of officers and councillors of the Council to which it relates and having regard to the following general principles:

- that councillors undertake their council work for the sake of public service and not private gain;
- the varying demands placed upon councillors, dependent upon their roles and responsibilities;
- the need to fairly and equitably compensate councillors, so far as the panel thinks appropriate, for the time and effort they can reasonably be expected to devote to their work as a councillor;
- the need for the scheme to be economic, efficient to administer and effective;
- the requirement for their report and recommended changes to the scheme of allowances to be easy to understand and adequately justifiable to the electorate;
- That recommendations should confirm with existing legislation and anticipate likely future legislation so far as possible.
- The Panel will also have regards to comparative data on the allowances paid by other similar local authorities.

2.9.3.5. The IRP shall be required in reporting its recommendations to include guidance on what is to be encompassed by each relevant allowance so as to ensure that the Councillors' Allowance Scheme is consistently applied.

2.9.4. **Panel Allowances:** To reflect the valuable contributions and expertise a member of the Panel brings to this work an allowance of £400 is payable to each Panel member. Travel and subsistence allowances will be paid to IRP Members, at the rate approved by the Council annually within the limits determined by the Secretary of State.

2.9.5. **Lead Officer:** The Council's Monitoring Officer will be the lead officer and principal contact officer for the IRP. Democratic Services will provide support to the Panel.

## 2.10. EdenServe (LATCo) Shareholder Committee

2.10.1. **Membership**: 5 Cabinet Members including the Leader of the Council, Deputy Leader, Cabinet Member with Portfolio Responsibility for Environment Operations, the Cabinet Member with Portfolio Responsibility for Finance, and ~~2~~ 1 other Cabinet Member~~s~~.

2.10.2. The Head of Paid Service, the Chief Finance Officer (Section 151 Officer), the Monitoring Officer, the Director of Place and representatives of Council companies shall be invited to meetings on a non-voting basis.

2.10.3. The Committee will appoint the Chair and Vice Chair from the SHC membership at the first meeting of each civic year ~~be chaired by the Cabinet Member with Portfolio Responsibility for Environment Operations~~.

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

2.10.5. **Quorum:** 3

2.10.6. **Reserves:** Members of the Shareholder Committee may appoint reserve members from within the Cabinet, including substituting membership with the relevant Cabinet portfolio lead for the company activities being considered.

2.10.7. **Competency:** All members of the Shareholder Committee and Cabinet members attending as reserves must:

2.10.8. undertake mandatory training in the relevant law and procedures which relate to the Committee's work; and

2.10.9. undertake further mandatory training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

2.10.10. **Terms of reference:** The purpose of the Shareholder Committee is to represent the Council's interests as the owner of East Devon District Council's companies. The Shareholder Committee shall approve and oversee the Council's strategic objectives across its companies and to support the development of these companies in line with the Council's regulations and ambitions. The Shareholder Committee will provide strategic oversight of the Council's companies and provide assurance to the Cabinet that these companies are compliant with the Council's constitution, rules and procedures; its corporate objectives; are achieving best value; and are fit for purpose.

2.10.11. The Shareholder Committee will not have operational control over the Council's companies. The day-to-day operation of each company is the responsibility of the directors of each company. Operational liaison with the Council's companies will be between the client service of the Council and the managing director of each company.

2.10.12. The following matters are reserved for the Shareholder Committee. In the event that the Committee was not minded to determine any matter reserved to it, it may refer those matters to the Leader or Cabinet for determination:

## 2.11. Panels and Forums

2.11.1. 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.

2.11.2. Panels and Forums will normally consist of 7 Councillors, with a quorum of 3.

2.11.3. 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 attend to provide explanation or advice. A Cabinet Member may form part of a Cabinet appointed Panel or Forum.

2.11.4. 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 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.

2.11.5. 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.

2.11.6. **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.

2.11.7. **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.

## 2.12. Joint Bodies

2.12.1. At Annual Council, Members 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

Lower Exe Mooring Authority Management Committee

Recycling and Waste Partnership Board

Sidmouth Beach Management Plan Steering 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

# 3. Section 3: Delegated Powers of Officers

**General Provisions**

3.1. In this Constitution references to Senior Officers are references to the Chief Executive (reference to whom shall for the avoidance of any doubt also include any interim Chief Executive), Directors (including the Monitoring Officer and Chief Finance Officer). For the avoidance of doubt, it is confirmed that a Director may exercise the delegated powers of the Chief Executive in their absence or other unavailability.

3.2. A Senior Officer and (where specified) an Assistant Director or Corporate Lead or other person is authorised to exercise such powers as are shown in this scheme of delegation including those reasonably implied or reasonably incidental to the matters specified. Every such power shall be exercised in the name of the Council. Where a power is shown to be exercisable by a Senior Officer and an Assistant Director or Corporate Lead then any of them may exercise the said power.

3.3. Exercise of the powers is without prejudice to the right of the Council and/or the Cabinet to withdraw or amend any such power, and the person with a delegated power may decline to exercise it and refer the decision to the appropriate body.

3.4. In addition to these delegated powers, powers are also exercisable by staff through Financial Regulations, Contract Standing Orders, and elsewhere in this Constitution.

3.5. The delegated powers shall be exercised in accordance with Council policy and Standing Orders, Financial Regulations and any other guidance given by a Senior Officer.

3.6. Another officer nominated by either a Senior Officer or Assistant Director or Corporate Lead may also exercise any power delegated to that Senior Officer or Assistant Director or Corporate Lead.

3.7. The Chief Executive (or in their absence a Director) may also exercise all powers set out in this scheme.

3.8. Where a power delegated to an officer is expressed to be exercisable in consultation with the Chair of a Committee, in the absence of that Chair the consultation shall take place with the Vice-Chair.

3.9. A reference to any statute or regulation or similar includes any subsequent amendment or replacement.

3.10. In the event of any position ceasing to exist following reorganisation, changes of job title or responsibilities the delegated powers set out herein for that role and any specific delegation given by the Council acting through one of its committees shall be exercised by the Senior Officer who has for the time being been allocated the statutory functions relevant to the power being exercised.

**Senior Officers**

3.11. To take urgent decisions in consultation with either the Leader or Deputy Leader of the Council or the relevant Committee Chair in any case where it is not practicable to refer the matter to a meeting of the Council, the Cabinet or other Committee. Any Senior Officer other than the Chief Executive taking an urgent decision shall notify the Chief Executive at the time of carrying out the consultation. A report on any major decision taken shall subsequently be made and the decision shall in any event be based on a written report that contains an assessment of the legal, financial and all other relevant implications.

3.12. To exercise all powers and duties delegated to them so far as the law permits. There is also a delegation to carry out all statutory powers and duties, so far as the law permits, relating to the statutory functions in their remit in the absence of a specific delegation to an officer, Portfolio Holder or committee.

3.13. To authorise and issue any documents for the purposes of any of the Council's functions, including all court proceedings.

3.14. To take all necessary action for the economic, efficient and effective day to day management, administration and supervision of their service subject to compliance with the Council's policies on the management, employment and remuneration of staff (or in their absence the agreement of the Head of Paid Service) including but without prejudice to the generality of the foregoing:

a) The appointment of staff within the approved budget and in accordance with the Council's grading policy for their service;

b) The taking of any disciplinary action, including suspension or dismissal of an employee, after consultation with the Head of Paid Service;

c) The approval of changes to the establishment structure subject to existing budgetary provision, and the approval of the Head of Paid Service;

d) Consent or Refusal of consent to Officers in their respective Services who make application to engage in any other business or to take up any other additional appointment to the work of the Council.

3.15. To administer formal cautions within the Guidelines set out in relevant Ministry of Justice Guidance in consultation with the Monitoring Officer or any Solicitor employed by the Council.

3.16. To serve such Notices as might be necessary to enable duly authorised persons to obtain entry to premises to permit or facilitate the carrying out of any of the powers or duties of the Council or the Cabinet and in the event of such entry being refused to take such proceedings as might be necessary to effect such entry.

3.17. To exercise statutory powers of entry and inspection for the purposes of any functions performed by their service.

3.18. To require information as to ownership of land or premises and, in the event of such information not being provided to institute such proceedings as might be necessary to obtain such information.

3.19. To authenticate any documents necessary for the exercise of the delegated powers described above.

3.20. To sign Statements of Truth in civil proceedings as required by Civil Procedures Rules.

3.21. To appoint consultants, suppliers and contractors up to a contract value of £100k within budgetary provision.

3.22. Authority to reimburse (up to a limit of £250) a claim for loss or damage to an employee's property arising during the course of their employment.

3.23. In consultation with the relevant Portfolio Holder to enter into Memorandums of Understanding where what is covered is within the scope of the service.

3.24. In consultation with the relevant Portfolio Holder to submit bids for funding which fall within the scope of the service and, in consultation with the Directors of Governance and Finance, to enter into any related documentation for any funding secured. This delegation is subject to approval of the submission of bids by the Executive Leadership Team.

3.25. To make minor amendments to policies to reflect changes in legislation, statutory fees, organisational changes and / or to address any other incidental matter.

**Consultation**

3.26. All officers exercising a delegated power are expected to consult with the appropriate Cabinet Member or Committee Chair where any doubt arises as to the exercise of a function delegated to that Officer.

3.27. All officers exercising a delegated power are expected to consult with the local Ward councillors where the exercise of a function delegated to that Officer would significantly affect a person or group of persons resident in that councillors Ward or otherwise be of particular importance or significance to that Ward as opposed to residents of the district generally.

3.28. Special arrangements for consultation with Ward Councillors on planning applications are set out in the delegations to the Director of Place.

3.29. **Powers delegated to the Chief Executive**

3.29.1. To determine applications for all licences or registrations (other than those specifically falling to be dealt with by the Director of Housing, Health and Environment.)

3.29.2. In consultation with the Chair or Vice Chair of the Licensing and Enforcement Committee to amend, as necessary from time to time, the regulations prescribing standard conditions for sex establishments.

3.29.3. To exercise those functions relating to elections as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 in paragraphs 2, 7, 10, 12, 13, 14, 16, 17, 18, 19, 20.

3.29.4. To exercise those functions relating to community governance as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 in paragraphs 1, 2, 3, 5, 6, 7, 8, 9.

3.29.5. To exercise those functions relating to local government pensions as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 in paragraph 1.

3.29.6. In consultation with the Leader of the Council and the Portfolio Holder for Finance and Council and Corporate Coordination authority to agree individual staff redundancies (other than any relating to a Chief Officer) in accordance with the Council's adopted policy and procedure. To prepare a quarterly summary of any such redundancies for information to the Cabinet, the Overview and Scrutiny Committees and Audit and Governance Committee.

3.29.7. To authorise in writing such Officer or Officers of the District Council as the Chief Executive may from time to time decide as an Authorised Officer or Officers for all or some of the purposes of Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1982 and for such officer or officers to act in pursuance thereof.

3.29.8. To give the Council's consent or consultation response (as appropriate) under Section 31 Anti-Social Behaviour Act to a proposed police authorisation or proposed withdrawal of authorisation under Section 30.

3.29.9. To make a closure order in relation to premises where a premises licence or temporary event notice has effect under the Licensing Act 2003 and he believes that a public nuisance is being caused by noise coming from the premises and its closure is necessary to prevent that nuisance; to cancel such closure order; and to authorise an environmental health officer to exercise such power or duty, under sections 40 and 41 of the Anti-Social Behaviour Act 2003.

3.29.10. To serve a closure notice on the person having control of or responsibility for the activities carried on at the premises if satisfied the premises is or has been used for the unlicensed sale of alcohol for consumption on or in the vicinity of the premises, and to make application to a justice of the peace for a closure order following service of a closure notice, under sections 19 and 20 of the Criminal Justice and Police Act 2001.

3.29.11. To make an order for the temporary appointment of Town/Parish Councillors under section 91 of the Local Government Act 1972.

3.29.12. Authority to approve the absence of a Councillor from attending meetings of the Council for a period longer than 6 months on the provision of a justifiable reason.

3.29.13. To take appropriate action (including issuing notices and taking relevant decisions) to administer the First Homes scheme in relation to any property secured as such through a S106 agreement in accordance with agreed Council policy.

3.30. **Powers delegated to the Director of Place**

3.30.1. In consultation with the Chair or Vice-Chair of the Planning Committee, the Town/Parish Council and the Ward Member(s), power to determine requests for street naming.

3.30.2. Car Parking delegations, which are also exercisable by the Corporate Lead Finance, are set out under paragraphs 3.32.21 to 3.32.27 below.

3.30.3. **The following relate to Planning and Building Control and are also exercisable by Assistant Director Planning and Development**

3.30.4. Authority, in common with other Senior Officers where appropriate and in consultation with the relevant Portfolio Holders, to take appropriate action in those cases where to await Committee authorisation would result in unreasonable delay in taking action to issue or serve such notices, proceedings or licences as are within the purview of the Committee concerned and fall to be dealt with by the Officer in so far as such issue or service is not already authorised or delegated.

3.30.5. Authority in consultation with the Chair or Vice-Chair of the Planning Committee to take emergency action under the Building Act 1984 and Building Regulations, the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Local Government (Misc. Provisions) Act 1976 and all associated legislation including prosecution.

3.30.6. Authority to serve notices to recover expenses under section 55 Planning (Listed Buildings and Conservation Areas) Act 1990.

3.30.7. Power to serve counter notices of the Council's requirements as to demolition arrangements, in accordance with S.8 of the Building Act 1984, on persons giving notice of intention under the Act to carry out a demolition.

3.30.8. Power to determine Building Regulations matters including service of notices, and applications including dispensations and relaxations except where major policy decision or objection from consultee.

3.30.9. Power to serve Notices to uncover works under the Building Act 1984 and Building Regulations.

3.30.10. Power to take emergency action in relation to dangerous structures.

3.30.11. The unquestioned right to bring before the Planning Committee matters which it is considered the Committee should decide or of which they should be made aware.

3.30.12. General Authority to enter, survey, examine and inspect premises and land for the purpose of determining whether any powers should be exercised or statutory notices served, monitor the progress of works, ascertain whether the requirements of a notice served or an undertaking accepted or conditions imposed have been complied with and to designate and issue authorisations in writing to officers of the Authority for these purposes as a consequence of the following legislation (as amended): Town and Country Planning Act 1990; Planning (Listed Buildings and Conservation Areas) Act 1990; Building Act 1984; Part 8 of the Anti-Social Behaviour Act 2003 (in respect of high hedges).

**Determining planning applications**

3.30.13. **The types of application** are:

a) 'Minor' Applications which comprise;
- 1 to 9 dwellings (or the number of dwellings is not specified in the application), for full or outline planning permission (where site area is less than 0.5 Ha.) or for approval of reserved matters for residential development of the same size;
- Approval of reserved matters for up to 9 dwellings as a phase of a larger development;
- All types of office development of less than 1000 sq.m. floor area or less than 0.5 Ha;
- All types of industrial development – general, light, storage and warehousing, research and development of less than 1000 sq.m. floor area or less than 0.5 Ha;
- All types of retail development of less than 1000 sq.m. or less than 0.5 Ha;
- Gypsy and traveller sites up to 9 pitches;
- Small development such as stable blocks outside the curtilage of a dwelling;
- Other minor developments

b) 'Major' Applications which comprise;
- Applications for the following which exceed the size limitations set out under 'Minor' applications;
- Residential development;
- Offices, research and development;
- All industrial development;
- All retail and commercial development;
- Gypsy and traveller sites;
- Large scale leisure and recreation proposals;
- Other major applications

c) 'Other' Applications comprise;
- Householder (excludes flats) extensions or development within the curtilage of a dwelling;
- Changes of use (where no operational development is involved or such work is Permitted Development);
- Advertisement Consent (including those dealt with by Quality Councils);
- Listed Building Consent for internal and external alterations and demolition;
- Conservation Area Consent;
- Notifications relating to Trees in Conservation Areas;
- Works to TPO trees;
- Agricultural notifications for new buildings and agricultural or forestry related works (but not dwellings);
- Certificates of appropriate alternative development;
- Notifications under the Hedgerow Regulations;

- Telecommunication notifications under the General Permitted Development Order;
- Hazardous substances notifications

3.30.14. **Ways of determining applications**: Applications can be determined solely by officers under delegated powers, by officers under delegated powers in consultation with the Chair (or Vice Chair in the absence of the Chair) of Planning Committee ("Chair's Delegations") or by the Planning Committee. Subject to paragraph 3.27.27 (Applications that must be determined by Committee) below applications shall be determined as follows;

- 'Other' Applications: If, prior to a decision being taken, the Ward Member expresses a contrary view from the officer recommendation and such view is on the basis of material planning considerations then the Ward Member will receive a copy of the draft report and the application will be considered at Chair's Delegations where the Chair shall decide if the application is to be referred to the Planning Committee or whether it shall be determined at Chair's Delegations. Where the Ward Member is in agreement with the officer recommendation notwithstanding any contrary views to the officer recommendation expressed by consultees, Parish Councils/Town Councils, neighbours or other interested parties the application will be determined under delegated powers by the Assistant Director Strategic Planning & Development Management and Development Management.
- 'Minor' Applications: If both the Town Council / Parish Council and the Ward Member agree with the officer recommendation then the application is delegated to the Assistant Director Planning and Development. If, prior to the decision being taken, the Ward Member expresses a contrary view to the officer recommendation and such view is on the basis of material planning considerations, then the application shall be considered by the Planning Committee. If the Ward Member is in agreement with the officer recommendation but the Town Council / Parish Council expresses a contrary view then the application will be determined at the Chair's Delegations.
- 'Major' Applications: May be determined at Chair's Delegations where officers have recommended the application for approval on the basis it is in accordance with the development plan or for refusal on the basis it is considered contrary to adopted polices and in either case where, prior to the decision being taken, no contrary view has been expressed by the Ward Member or the Town or Parish Council. Otherwise the application should be determined by the Planning Committee.
- NOTE: In the event that a planning application in which the Council has a financial interest is capable of being determined under delegated powers that decision may only be taken by the Assistant Director Planning and Development.

3.30.15. **Applications that must be determined by the Planning Committee** are where**:**

- Applicant is a district councillor or an officer (of any service within the Council) or is a close relative of a district councillor or an officer (of any service within the Council);

- The application relates to land owned by a district councillor or an officer (of any service within the Council);
- Application where the Assistant Director Planning and Development is recommending a material departure from adopted policy (applications which are not material departures include where (i) the relevant local plan policy to which a departure is proposed is out of conformity with the National Planning Policy Framework; or (ii) the application relates to an already approved scheme where the principle of development is accepted, is still capable of implementation and only minor changes are proposed; or (iii) the application relates to the conversion of listed buildings and the proposal complies with paragraph 79 of the NPPF in terms of representing the optimal viable use of a heritage asset; or (iv) extensions to residential curtilages within the countryside; or (v) the application relates to a scheme where the principle of development is accepted through the prior approval procedure);
- There are financial implications for the Council (e.g. EDDC is the applicant/landowner) and the officer recommendation is in conflict with any comments relating to material planning considerations received on the application from a member of the public, a statutory consultee, a Town or Parish Council or a Ward Councillor;
- Any application referred at the discretion of the Assistant Director Planning and Development and / or at the request of the Chair of Planning Committee following Chair's Delegations.
- Note: 'close relative' in this section means either; (i) a spouse or civil partner, a person living with the district councillor or officer as husband or wife or living with them as if they are civil partners, or (ii) a parent, sibling or child (or the spouse / civil partner or someone living with them in that capacity of any of these persons) of the district councillor or the officer.
- Note: Non-material amendment applications are excluded from the operation of this paragraph.

3.30.16. Ward Councillors have the following opportunities to comment on applications:

- Where a Ward Councillor has commented on an application within the initial 21 day consultation process, they will receive a further 3 working days consultation with the draft report following which the application will be determined in accordance with the delegated powers detailed above;
- Ward Councillors will automatically be sent the draft report if the Officer's view is contrary to the view of the Town/Parish Council on 'minor' applications with an invitation to the Chair's Delegations where the matter will be discussed;
- Ward Councillors will be sent a copy of a draft report and given notification of any application in their Ward which will be discussed at a Chair's Delegations with at least 3 working days' notice

3.30.17. Other planning delegations to Assistant Director Planning and Development are :

- Appropriate assessment under the Habitats Regulations;
- Environmental Impact Assessment screening and scoping opinions;
- Notifications under Circular 14/90 (overhead lines and electrical plant);
- Notifications by other statutory bodies for permitted development works;
- Certificates of lawful use for existing development, following consultation with the Director of Governance;
- Certificates of lawful use for proposed development;
- Non-material and minor amendment applications;
- Discharge of conditions;
- Footpath diversion orders, unless there is an objection to the diversion from a Ward Member, in which case the application shall be referred to the Planning Committee;
- Consultation responses to other authorities on development and policy proposals;
- Service of planning contravention notices;
- Obtaining independent viability appraisals;
- Obtaining independent agricultural appraisals;
- To determine all applications for prior approval under the Town and Country Planning (General Permitted Development) (England) Order 2015 other than where there is an objection from a ward member in relation to one or more of the relevant technical issues being considered under that application in which case the application be determined in consultation with the Chair of the Planning Committee;
- To agree to requests from external bodies and council departments, in consultation with the Chair of Planning Committee and the relevant Ward Member(s), to withdraw requests for planning obligations where these have previously been a requirement of a resolution of the council but have not yet formed part of an engrossed Section 106 agreement and the relevant body or council department no longer consider it to be necessary. [No amendments as a result of viability issues to be considered under the delegated powers];
- Deeds of variation where the change complies with the adopted policy of the Council, unless a ward member takes a contrary view to the officers within 3 working days of receipt of a draft report detailing officers' views. In the event of a contrary view being taken the matter will be reported to the Chair's Delegations for decision. Where any change included in a deed of variation does not comply with policy the decision on the variation will be considered at the level of the original decision on the application;
- To amend and add to the conditions and heads of terms contained within any report on an application considered by the Planning Committee or the Chair's Delegations where such changes do not conflict with the purpose of the draft condition or heads of terms, unless a Ward member takes a contrary view to the officers within 3 working days of receipt of a draft report detailing officers' views. In the event of a

contrary view being taken the matter will be reported to the Chair's Delegations for decision;

- To determine which non-designated heritage asset should be included on the Council's Local List.
- Deeds of variation to amend mortgagee exemption clauses in line with the securitisation working group template clause in consultation with the Chair of the Planning Committee.
- To suggest modifications to planning policy documents to the Planning Inspectorate as required to address concerns and issues raised by the Inspector through the plan examination process.
- to agree and enter into planning performance agreements, service level agreements and similar performance related documentation.

3.30.18. Telecommunication notifications: Where the Assistant Director Planning and Development /Ward Councillor/Town/Parish are in agreement (or no comment received within the response period) the decision is delegated to the Assistant Director Strategic Planning & Development Management and Development Management. If any contrary view has been submitted from any of these parties these notifications are to be considered at the Chair's Delegations.

3.30.19. County Matter applications: Where there are no objections raised by Planning Officers such applications to be delegated to the Assistant Director Planning and Development. In the case of an objection by Planning Officers this to be subject to consultation with the Chair or Vice Chair in his absence and Ward Member(s) for consideration and decision under delegated powers.

3.30.20. Neighbourhood Areas: Authority to designate, in consultation with the Leader of the Council and Ward Member(s), Neighbourhood Areas where the area proposed to be designated is contiguous with the Town/Parish boundary and there are no strategic sites contained within the area proposed to be designated.

3.30.21. Legal action covers

- No formal consultation with Town/Parish Councils.
- The decision whether to take enforcement action and issue related notices to be delegated to the Assistant Director of Planning and Development in consultation with the Director of Governance.
- The decision to take direct action and court injunctions is delegated to Assistant Director Planning and Development in consultation with the Director of Governance and Chair/Vice Chair.
- Issuing of a Stop Notice to be delegated to the Assistant Director Planning and Development in consultation with the Director of Governance.
- To confirm no further action is to be taken where a material breach of the legislation has been identified to be delegated to Assistant Director Planning and Development in consultation with Chair/Vice Chair Town/Parish Councils and Ward Councillors to be notified of any agreed action or where no action is to be taken.

3.30.22. Community Infrastructure Levy covers:

3.30.22.1. Authority to progress the service of notices in connection with the operation of the Community Infrastructure Levy Regulations 2010 for the collection of monies;

3.30.22.2. Authority to determine whether to take any enforcement action under Community Infrastructure Levy Regulations 2010 following the non-payment of any liability

3.30.23. Notes on interpretation of delegated planning powers are:

- Expressions of "concern" or "preference" are not material planning reasons, or objections, neither are requests for "Site Inspection" or "reference to Committee"
- A decision of approval cannot be delegated if it involves a substantial departure from the provisions of the Development Plan and requires reference to the Secretary of State

3.30.24. Matters which the Assistant Director Planning and Development, in consultation with the Chair/Vice-Chair of the Planning Committee, consider are of such interest, importance or controversy that the Planning Committee should determine them can be so referred.

**The following relate to Countryside functions and are also exercisable by Assistant Director Countryside Environment and Ecology:**

3.30.25. To manage local and community nature reserves in accordance with the adopted management plans.

3.30.26. To set charges for visitors events and the marketing and promotion of activities on nature reserves.

3.30.27. To organise and run events and activities to protect habitat and encourage learning about the importance of the natural environment.

3.30.28. To appoint and supervise volunteers to support the work on nature reserves.

3.30.29. To lead for the Council on matters affecting the Areas of Outstanding Natural Beauty.

3.30.30. To act as client officer for LED and monitor performance.

3.30.31. Production of Natural Landscapes Management Plans under the Countryside and Rights of Way Act 2000.

3.30.32. To take action to conserve and enhance the natural beauty of a Natural Landscape under the National Parks and Access to the Countryside Act 1949.

3.30.33. Exercise powers and duties for the protection of wildlife under the Wildlife and Countryside Act 1981.

3.30.34. To appoint wardens and manage public access to Local Nature Reserves and run education and information programmes under the National Parks and Access to the Countryside Act 1949 and Wildlife and Countryside Act 1981.

3.30.35. Carry out works to a Local Nature Reserve.

3.30.36. Entering into management or access agreements over land under the National Parks and Access to the Countryside Act 1949 and Wildlife and Countryside Act 1981.

3.30.37. **Tree Preservation Orders**: Authority for the making of provisional Tree Preservation Orders.

3.30.38. In consultation with the Assistant Director Planning and Development authority for confirming/non-confirming, modifying, varying or revoking Tree Preservation Orders where there is no objection within 28 days of the relevant notification being given.

3.30.39. In consultation with the Assistant Director Planning and Development the authority to non-confirm Tree Preservation Orders where there is an objection within 28 day of the relevant notification being given.

3.30.40. In consultation with the Assistant Director Planning and Development and the Chair/Vice Chair of the Planning Committee authority for confirming, modifying, varying or revoking Tree Preservation Orders where there is an objection within 28 day of the relevant notification being given.

3.30.41. To enter, survey, examine and inspect premises and land for the purpose of determining whether any powers should be exercised or statutory notices served, ascertain whether an offence has been committed and the taking of samples from any tree or hedgerow or samples of soil and issue authorisations in writing to officers of the Authority for these purposes as a consequence of the following legislation (as amended); Chapter 1 of Part VIII of the Town and Country Planning Act 1990 Hedgerow Regulations 1997.

3.30.42. **Representation**: To object on behalf of the Authority to the granting of any licence, registration or consent, or to a variation of a licence, registration or consent already granted, when it is considered appropriate to make such a representation.

3.30.43. To make representations to any Government Department, the Office of Fair Trading or any other body which has a power to prohibit or restrict any trading activity with a view to such powers being exercised when it is considered appropriate to make such a representation.

3.30.44. To issue export certificates.

3.30.45. **Legal Proceedings**: To appear on behalf of the Authority in proceedings including making application for a warrant and for an Order for the forfeiture of any goods or documents.

3.30.46. **Climate change**: To undertake periodic carbon footprinting exercises to inform the Climate Strategy and Action Plan and to implement those actions and projects approved by Cabinet or to carry out such actions which are necessary to help inform Cabinet and / or Council decision taking.

3.30.47. **Powers also delegated to the Assistant Director Place, Assets & Leisure**

3.30.48. Authority to make listing and compensation decisions relating to the Community Right to Bid (asset register) provisions under the Localism Act 2011.

3.30.49. **The following relate to Property matters and are also exercisable by the Assistant Director Place, Assets & Leisure**

3.30.50. Authority to serve notices under the Landlord and Tenant Act 1954 where there is no reason to oppose an application for the renewal of a tenancy and the proposed new tenancy falls within the criteria set out in paragraph 3.30.61 below.

3.30.51. Authority (after consultation with the relevant Portfolio Holder) to serve notices under the Landlord and Tenant Act 1954 where there is no reason to oppose an application for the renewal of a tenancy and the proposed new tenancy falls within the criteria set out paragraph 3.30.63 below.

3.30.52. Authority (after consultation with the relevant Portfolio Holder) to serve notices under the Landlord and Tenancy Act 1954 opposing the renewal of a tenancy agreement.

3.30.53. Authority to negotiate renewal terms following receipt of a notice under the Landlord and Tenant Act 1954 offering the Council a new tenancy where the term/premium payable/rent payable under the Council's proposed new tenancy fall within the limits set out in paragraph 3.30.61 below.

3.30.54. Authority (after consultation with the relevant Portfolio Holder) to negotiate renewal terms following receipt of a notice under the Landlord and Tenant Act 1954 offering the Council a new tenancy where the term/premium payable/rent payable under the Council's proposed new tenancy fall within the limits set out in paragraph 5.32.42 below.

3.30.55. Authority to end a tenancy in favour of the Council whether or not it is protected under the Landlord and Tenant Act 1954.

3.30.56. Authority to serve a notice under the Landlord and Tenant Act 1954 requesting a new tenancy where the term/premium payable/rent payable under the Council's proposed new tenancy fall within the limits set out paragraph 3.30.61 below.

3.30.57. Authority (after consultation with the relevant Portfolio Holder) to serve a notice under the Landlord and Tenant Act 1954 requesting a new tenancy where the term/premium payable/rent payable under the Council's proposed new tenancy fall within the limits set out paragraph 3.30.63 below.

3.30.58. Authority to accept the early surrender of a licence/lease of Council property.

3.30.59. Authority to grant landlord's approval to minor modifications and alterations to Council property where the property is leased out.

3.30.60. Authority to grant wayleaves and easements to public utility companies and statutory undertakers where they are determinable upon 12 months' notice or less or there is a 'lift and shift' clause agreed.

3.30.61. Authority to grant or enter into licences and leases providing they are in accordance with the Policy Framework and Budget, where; a. the term is 7 years or less, and b. if a premium is payable it is £30,000 or less, and c. the annual licence fee/rent is £15,000 or less.

3.30.62. Authority to grant landlord's approval to assignments and sub-lettings where acceptable references have been received and where the lease allows for such assignments and sub-lettings.

3.30.63. Authority (after consultation with the relevant Portfolio Holder) to grant or enter into licences and leases provided they are in accordance with the Policy Framework and the Budget, where a. the term is more than 7 years but does not exceed 125 years, and b. if a premium is payable it is £30,000 or less, and c. the annual licence fee/rent is £15,000 or less.

3.30.64. Authority (after consultation with the relevant Portfolio Holder) to dispose of property assets which have a market value which does not exceed £30,000.

3.30.65. Sale of vehicles, equipment or machinery surplus to the Council's needs where the consideration does not exceed £30,000.

3.30.66. Authority to negotiate and agree revised licence fees/rents pursuant to licence fee/rent review clauses contained in licences/leases.

3.30.67. Authority to grant express tenancies at will.

3.30.68. Authority to negotiate and agree a premium for the; a. variation or release of (a) restrictive covenant(s) benefitting (former) Council owned (non-housing) property, or b. variation or release of (a) restrictive covenant(s) burdening Council owned (non-housing) property, and where in either case the premium payable is £10,000 or less and in the case of (b) it is within the Policy Framework and Budget.

3.30.69. Authority (after consultation with the relevant Portfolio Holder) to negotiate and agree a premium for the; a. variation or extinguishment of (a) restrictive covenant(s) benefitting (former) Council owned (non-housing) property, or b. release of (a) restrictive covenant(s) burdening Council owned (non-housing) property, and where in either case the premium payable exceeds £10,000 but is £30,000 or less and in the case of (b) it is within the Policy Framework and Budget.

3.30.70. Authority (after consultation with the relevant Portfolio Holder) to obtain/grant wayleaves or easements (in fee simple or for a term certain) to non-public utility companies or non-statutory undertakers over Council property/for the benefit of Council property where the premium payable does not exceed £30,000.

3.30.71. Authority to grant garden licences and access licences where the licence period is for a fixed period and thereafter continues from month to month until determined by either side on one months' notice.

3.30.72. Authority to negotiate and agree dilapidation terms with an outgoing tenant.

3.30.73. Authority (after consultation with the relevant Portfolio Holder) to acquire property assets for a previously approved project where the consideration payable does not exceed £30,000.

3.30.74. Authority to approve tenant's charging Council property.

3.30.75. Authority, in consultation with the relevant Portfolio Holder, to agree variations to leases.

3.30.76. Authority (after consultation with the relevant Portfolio Holder) to negotiate and accept or decline the transfer of property offered to the Council in accordance with the terms of a planning obligation (S106 agreement) provided such transfer is in accordance with the Policy Framework and the Budget.

3.31. **Powers delegated to the Monitoring Officer**

3.31.1. To decide whether or not in relation to remedies in the Complaints Procedure, financial compensation should be paid.

3.31.2. To grant dispensations to Councillors to allow them to participate in matters where they have a Disclosable Pecuniary, Other Registerable and / or Non-Registerable Interest under the Code of Conduct on the following grounds:

(a) That without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;

(b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.

3.31.3. To discharge those functions related to Standards and the Localism Act 2011.

3.31.4. To discharge duties relating to the Community Right to Challenge.

3.31.5. To update the Constitution as and when required to:

(a) comply with any statutory requirements, and;

(b) to make changes to the Councillors listed in Article 2 and details in the name and description of area of wards and number of councillors to reflect any in year changes;

(c) revise Article 6 in relation to any changes made to portfolio holders, assistant portfolio holders, portfolio names and areas of responsibility and make any consequential amendments to the Leader's Scheme of Delegation to Portfolio Holders and Delegated Powers of Officers so that any specific powers align to changed portfolios.

3.31.6. To revise the Membership of Committees to reflect the wishes of any group to make minor in year changes to their appointments.

3.31.7. To revise as appropriate the makeup of the Panels, Forums and Joint Bodies when there are changes to the Portfolios or Assistant Portfolio positions in year.

3.32. **Powers delegated to the Director of Finance**

3.32.1. To provide all necessary information regarding the Council Tax base and precepts except where the determination must be made by the Council.

3.32.2. To implement systems and procedures across the Council necessary to comply with the Director of Finance's role as the Authority's Chief Finance Officer (s151 officer) including the operation of an internal audit function.

3.32.3. To enter into business rate pooling arrangements.

**The following relate to Revenues and Benefits and are also exercisable by Assistant Director Revenues and Benefits**

3.32.4. The administration and payment of Housing Benefit and the Council Tax Reduction Scheme and all related functions.

3.32.5. The administration, collection, recovery and enforcement of Council Tax and all related functions.

3.32.6. The administration, collection and recovery of Business Rates and all related functions.

3.32.7. The administration, collection and recovery of Housing Benefit overpayments and all related functions.

3.32.8. To carry out officer reviews of council tax, housing benefit and Council Tax Reduction Scheme decisions in accordance with regulations.

3.32.9. To undertake fraud investigations linked to Council Services and to make appropriate determinations including penalties and other sanctions, and to take such proceedings as may be necessary subject to consulting with the Director of Governance where appropriate.

3.32.10. The administration, collection and recovery of sundry debts due to the Council and all related functions.

3.32.11. To take such proceedings as may be necessary to recover monies due to the Council.

3.32.12. To write off bad and irrecoverable debts relating to the Revenue and Benefits function within financial limits determined by the Director of Finance.

3.32.13. To award discretionary Council Tax and Business Rate reliefs and Government Grant Schemes which are in line with agreed Council Policy or in line with Government Guidance which falls outside existing policy in consultation with the Finance Portfolio Holder and where costs are recovered from Government.

3.32.14. To appoint enforcement agents for the recovery of outstanding debts including those related to S106 and community infrastructure levy payments and to refer debts to enforcement agents or collection agencies.

**The following relates to general matters and civil parking enforcement and are also exercisable by the Corporate Lead Finance**

3.32.15. To write off bad and irrecoverable debts and stores other than those which might involve action by the External Auditor.

3.32.16. To raise and repay loans to the Council in accordance with the Treasury Management Strategy and at such rates of interest as appear reasonable.

3.32.17. To make investment in respect of fund balances in accordance with the Treasury Management Strategy and at such rates of interest as appear reasonable.

3.32.18. To make payments on behalf of the Council as necessary.

3.32.19. In consultation with Senior Officers to effect such insurances as are considered necessary.

3.32.20. To determine any matters in relation to applications for grants that are ancillary to the scheme approved by the Council.

**The following car parking delegations to also be exercisable by the Director of Place**

3.32.21. Authority to take any action in connection with civil parking enforcement, including the service of notices and the removal of vehicles.

3.32.22. To exercise the Council's powers and duties under the Traffic Management Act 2004 and Road Traffic Regulation Act 1984.

3.32.23. To manage, patrol and collect income from Council car parks.

3.32.24. Authority to amendment the Parking Places Orders including charges for car parking permits and car parking tariffs except where the changes are more than minor and where any objections made to such changes cannot be overcome or where the charges / tariffs would be increased by more than 5%.

3.32.25. In consultation with the portfolio holder, agree alternative temporary uses of car parks.

3.32.26. In consultation with the portfolio holder, to offer special rate car parking charges.

3.32.27. Authority to enter into lease arrangements for individual car parking spaces in the Council's car parks.

**The following relates to Authority for Court Attendance**

3.32.28. Authority under Section 223 of the Local Government Act 1972 for the following officers to prosecute or defend on the Council's behalf, or to appear on the Council's behalf in proceedings for the recovery of Council Tax or Non-Domestic Rates before a Magistrates Court: Director of Finance Assistant Director Revenues and Benefits Manager, Council Tax Manager, Revenues Manager and Team Leader posts within Revenues and Benefits Further officers may be authorised by the Chief Executive, Monitoring Officer or Deputy Monitoring Officer.

3.33. **Powers delegated to the Director of Housing, Health & Environment, Assistant Director Environmental Health and Licensing**

3.33.1. The Director of Housing, Health and Environment, Assistant Director of Environmental Health and Licensing, Licensing Manager, Senior Licensing Officer, Licensing Officers and Assistant Licensing Officers be authorised persons for the purposes of Section 13 of the Licensing Act 2003 (authority to carry out inspections etc.).

3.33.2. The authority to make any decision under the Licensing Act 2003 (Hearings) Regulations 2005 and any amendment thereof and to the Council's Procedure for Hearings which does not have to be decided under the Act or Regulations by a committee or sub-committee.

3.33.3. Authority to make determination of premises licence or variation of premises licence, provisional statement, club premises certificate or variation of club premises certificate under the Licensing Act 2003 provided that no relevant representations have been made or where any relevant representation which has been made has been resolved through written agreement between the parties to amend the application and the determination is in accordance with the terms of the written agreement.

3.33.4. Authority to make the determination of applications to vary or remove the designated premises supervisor or application for or to renew a personal licence, transfer a premises licence, consideration of interim authority notice under the Licensing Act 2003 provided that (with the exception of requests to be removed as the designated premises supervisor) no notice of objection has been given by the Senior officer of police.

3.33.5. Authority to decide whether a representation is frivolous or vexatious under the Licensing Act 2003.

3.33.6. All other functions under the Licensing Act 2003 and regulations made there under not already delegated to a committee of the Council.

3.33.7. The authority to grant permits subject to a condition restricting their number in respect of amusements with prizes machines in premises licensed for the sale of alcohol for consumption on the premises following the second appointed day under the Licensing Act 2003 or such earlier date as legislation may provide.

3.33.8. The Director of Housing, Health and Environment, Assistant Director Environmental Health and Licensing, Licensing Manager, Senior Licensing Officer, Licensing Officers and Assistant Licensing Officers be authorised persons for the purposes of Section 304 of the Gambling Act 2005 (authority to carry out inspections and enforcement functions etc.).

3.33.9. The Director of Housing, Health and Environment, Assistant Director Environmental Health and Licensing authority to make minor changes to the procedure for hearings under the Gambling Act 2005 to comply with changes to relevant regulations or for efficient administration.

3.33.10. Authority to carry out all functions under the Gambling Act 2005 which have not been delegated to a committee of the Council.

3.33.11. Authority to make determination of premises licence or variation of premises licence, provisional statement or application for club gaming/club machine permits under the Gambling Act 2005 provided in all cases that no representations/objections have been made or have been withdrawn.

3.33.12. Authority to make the determination of applications for other permits, of consideration of temporary use notice, and of cancellation of licensed premises gaming machine permits, all under the Gambling Act 2005.

3.33.13. The Director of Housing, Health and Environment, Assistant Director Environmental Health and Licensing and Licensing Manager delegated power to issue and renew all Hackney Carriage and Private Hire licences to applicants, subject to all Councillors being given 7 days' notice of officers proposals under delegation in cases where drivers have 6 to 9 penalty points issued in one year or 9 penalty points in a three period, as exempt information, and if after this period a representation has been made by a Member, the decision be made in consultation with the Chair of Committee.

3.33.14. The power to approve, in consultation with the Chair or Vice Chair of the Licensing and Enforcement Committee, the type of Specialist Classic Cars which may be licensed for private hire in respect of applications for initial licensing of such cars being more than four years old from the date of first registration as shown on the registration document.

3.33.15. The Director of Housing, Health and Environment, Assistant Director Environmental Health and Licensing be appointed as the authorised officer for the purpose of Part II of the Local Government (Miscellaneous Provisions) Act 1976 to sign any licences granted by the Council under the Town Police Clauses Act 1847 or under Part II of the 1976 Act.

3.33.16. Without prejudice to the power granted to an authorised officer (or constable) under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976, in any case which the Director of Governance considers to be of such urgency that the matter cannot wait until the next meeting of the Licensing and Enforcement Committee to suspend or revoke the licence of a hackney carriage driver, private hire driver, hackney carriage vehicle, private hire vehicle or private hire operator on any of the grounds specified in the Local Government (Miscellaneous Provisions) Act 1976.

3.33.17. The power to authorise in writing such officer or officers of the District Council as they may from time to time decide as an authorised officer or as authorised officers for all or some of the purposes of Part II of the 1976 Act and for such officer or officers to act in pursuance thereof or the Town Police Clauses Act 1847.

3.33.18. Authority to the Director of Housing, Health and Environment, Assistant Director Environmental Health and Licensing and Licensing Manager, Senior Licensing Officer and Licensing Officer to act as authorised officers for the purposes of paragraph 25(3) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, [as supplemented by paragraph 25A] which give authority to exercise the powers in paragraph 25(1) and (2) of the said schedule in relation to a sex establishment in the District of East Devon and to act as authorised officers for the purposes of Part II of the Local Government (Miscellaneous Provisions) Act 1976, to act in pursuance of that Part of the 1976 Act or the Town Police Clauses Act 1847 other than in connection with the signing of licences granted by the Council.

3.33.19. To take legal proceedings against persons who contravene the Public Health (Shell Fish) Regulations.

3.33.20. In consultation with the Director of Governance, to agree to institute legal proceedings for all dog related offences.

3.33.21. Power to serve a Planning Contravention Notice and in the event of non-compliance with any requirement of the Notice to institute proceedings in respect thereof.

3.33.22. Subject to the applicant showing housing need, to exercise in consultation with the Director of Governance, the Council's discretion in giving a voluntary waiver of the right to recover improvement grants for breach of conditions, under the Housing Act 1974 (other than a nominal 5 pence to satisfy the requirements June 2020 94 of S.73(v) of the Housing Act 1974) where this would encourage a Building Society to lend money on an unimproved property.

**3.34. Powers Delegated to the Director of Housing, Health and Environment**

3.34.1. **Powers which relate to Environmental Health and Streetscene and are also exercisable by the Assistant Director Environmental Health and Licensing and Assistant Director Streetscene**

3.34.2. General Authority to Enter, Examine, Inspect and Enforce: To enter, survey, examine and inspect premises and vehicles, inspect animals, take samples, determine whether any powers should be exercised or statutory notices served, monitor the progress of works, ascertain whether the requirements of a notice served or an undertaking accepted have been complied with, and exercise any other power which is necessary to enforce the legislation contained in the following relevant statutory enactments (or amendments made thereto) (or Regulations or Orders made there under or under any European Community legislation enforced by the Authority as a consequence of the following and any other public health legislation):

Animal Boarding Establishments Act 1963
Animal Health & Welfare Act 1984
Animal Welfare Act 2006
Animal Welfare (Primate Licences) (England) Regulations 2024
Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
Anti-Social Behaviour Act 2003
Anti-Social Behaviour Crime and Policing Act 2014
Breeding and Sale of Dogs (Welfare) Act 1999
Building Act, 1984
Caravan Sites and Control of Development Act 1960
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Control of Pollution Act 1974
Control of Pollution (Amendment) Act 1989
Criminal Justice & Police Act 2001
Criminal Justice and Public Order Act 1994
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Deregulation Act 2015
Dogs Act 1906
Energy Conservation Act 1981
Environment Act 1995
Environmental Protection Act 1990
Food and Environment Protection Act 1985
Food Safety Act 1990
Gaming Act 1968
Guard Dogs Act 1975
Health Act 2006
Health Protection (Notification) Regulations 2010
Health Protection (Local Authority Powers) Regulations 2010
Health Protection (Part 2A Orders) Regulations 2010
Health and Safety at Work etc. Act 1974
Housing Acts and Housing Grants, Construction and Regeneration Act 1996

Housing and Planning Act 2016
Hypnotism Act 1952
Law of Property Act 1925
Landlord and Tenant Act 1985
Licensing Act 2003
Local Government Act 1972
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Mobile Homes Act 2013
National Assistance Act 1948
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Offices, Shops and Railway Premises Act 1963
Pet Animals Act 1951
Pesticides Act 1998
Petroleum Acts 1928 and 1936
Pollution Prevention & Control Act 1999
Prevention of Damage by Pests Act 1949
Protection of Animals Act 1911 (amended)
Public Health Acts 1875, 1936 and 1961
Public Health (Amendment) Act 1890
Public Health (Aircraft) Regulations 1979
Public Health (Control of Disease) Act 1984
Riding Establishments Acts 1964 and 1970
Scrap Metal Dealers Act 2013
Slaughter of Poultry Act 1967
Sunbeds (Regulation) Act 2010
Sunday Entertainment Act 1972
Sunday Trading Act 1994
Water Industry Act 1991
Zoo Licensing Act 1981
Legislation relating to the control, licensing, registration or issue of permits for food hawkers, Sunday entertainment, takeaway food shops

3.34.3. Statutory Notices and licences: To determine licence and registration applications and to impose or vary conditions, serve statutory notices including “Minded To” notices, fixed penalty notices, to vary notices, require information, execute work in default and discharge all the powers and duties of inspectors and authorised officers under the:

Animal Boarding Establishments 1963
Animal Welfare Act 2006
Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018
Antisocial Behaviour Act 2003
Antisocial Behaviour Crime and Policing Act 2014
Breeding and Sale of Dogs (Welfare) Act 1999
Building Act 1984
Caravan Sites and Control of Development Act 1960
Clean Air Act 1993

Clean Neighbourhoods and Environment Act 2005
Control of Pollution Act 1974
Criminal Justice and Police Act 2001
Criminal Justice and Public Order Act 1994
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Environmental Protection Act 1990
Guard Dogs Act 1975
Health Act 2006 Health Protection (Notification) Regulations 2010
Health Protection (Local Authority Powers) Regulations 2010
Health Protection (Part 2A Orders) Regulations 2010
Housing Act 2004
Housing and Planning Act 2016
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Mobile Homes Act 2013
National Assistance Act 1948
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Pet Animals Act 1951
Pollution Prevention & Control Act 1999
Prevention of Damage by Pests Act 1949
Public Health Acts including 1936 & 1961
Public Health (Control of Disease) Act 1984
Refuse Disposal (Amenity) Act 1978
Riding Establishments Acts 1964 and 1970
Scrap Metal Dealers Act 2013
Water Industry Act 1991
Zoo Licensing Act 1981

And all Regulations and Orders made under the above Acts

3.34.4. Note: applications for licences for dangerous wild animals shall be in consultation with the Chief Executive to decide the terms of the insurance policy.

3.34.5. Authority to order emergency works or vary contracts where there is a necessity to do so at short notice.

3.34.6. Purchase of stores and equipment and acceptance of tenders up to limit imposed by Standing Orders.

3.34.7. To act in respect of controlling alcohol from unlicensed premises by closure under Sections 19 to 23 of Criminal Justice and Police Act 2001.

3.34.8. **Authorisations**: To authorise, in writing, veterinary surgeons, dog wardens and pest control operatives and other officers to act on behalf of the Authority in respect of animal welfare or pest control legislation.

3.34.9. To authorise the Consultant in Public Health Medicine (or any person with the authority to deputise) to sign any notices and take necessary action on behalf of the Council for the purposes of Section 47 of the National Assistance Act 1948 as amended.

3.34.10. To appoint the 'Proper Officer' and authorise other appropriately qualified and appointed persons for the purposes of legislation relating to the control of communicable diseases.

3.34.11. To appoint such medical practitioners including suitably qualified persons designated by Public Health England and who appear on the current Public Health out of hours duty rota to act as "authorised officers" under the Public Health (Aircraft) Regulations 1979.

3.34.12. To designate and issue authorisations in writing to officers of the Authority and to others, as the legislation may provide, to enter inspect and/or act under those powers thereby delegated to them by all or some of the legislation set out in paragraph 3.34.2 (General Authority to Enter, Examine, Inspect and Enforce) and 3.34.3 (Statutory Notices and licences) of this section and any statutory amendment or replacement thereof or under any other public health legislation having regard to the qualifications and experience of the Officer.

3.34.13. In addition to paragraph 3.34.12 above the ability to appoint as 'Inspectors' persons having suitable qualifications as are appropriate for the exercise of any or all of the powers specified in the Health and Safety at Work Act 1974 to be carried out by Inspectors and to specify which of the powers may be exercisable by the duly appointed Inspector.

3.34.14. **Registrations and Approvals**: To determine applications relating to registration or approval of food premises, persons carrying on the business of acupuncture, tattooing, ear piercing and electrolysis together with premises used for that purpose, and premises where rag flock is stored, used or manufactured.

3.34.15. The licensing of persons for the sale of milk using special designations.

3.34.16. To determine applications under Part 2 of the Clean Air Act 1993 (furnaces and heights of chimneys).

3.34.17. Authority on receipt of satisfactory report from a veterinary surgeon to issue a licence under Section 1 of the Dangerous Wild Animals Act 1976 and to decide the terms of the insurance policy in conjunction with the Senior Executive.

3.34.18. To determine applications made for “Authorisation” under Part I of the Environmental Protection Act 1990.

3.34.19. Authority to grant the following :

a) Use of foreshore in accordance with approved scale of charges;

b) Licences or occasional lettings of any property controlled by the Council (in consultation with the Assistant Director Place, Assets and Commercialisation as to terms) and to determine conditions (if any) to be imposed;

c) Applications for Boat and Boatmen's Licences;

d) To determine applications for non-recurring cemetery grants.

3.34.20. To seek an injunction restraining offenders from violating the Council's Parking Places Orders where unlicensed or scrap vehicles or vehicles undergoing repair continue to be placed on the Council's car parks despite efforts to stop this.

3.34.21. To determine applications and to impose or vary conditions relating to licences for scrap metal dealers under the Scrap Metal Dealers Registration Act 2013.

3.34.22. **Restoration or Continuation of Services**: To exercise, after consultation with the Director of Finance, the powers contained in Section 33 of the Local Government (Miscellaneous Provisions) Act 1976.

3.34.23. **Drains and Sewers**: To deal with notices of intention to repair, alter or reconstruct underground drains or sewers. To require work for the proper provision of soil pipes and ventilation pipes, to require disconnection of disused drains.

3.34.24. To administer those parts of the Local Government (Miscellaneous Provisions) Act 1976 concerning the provision of sanitary accommodation at places of entertainment (sections 20 and 21) and the removal of obstructions from private sewers (Section 35).

3.34.25. To serve Notices on the owners or occupiers of land of the Council's intention on behalf of the South West Water Authority to lay a sewer in accordance with S.153 of the Water Act, 1989.

3.34.26. Authority to require that sewers be constructed so as to form part of a general system.

3.34.27. Authority to repair private drains.

3.34.28. Authority to connect private drains with public sewers.

3.34.29. Authority to require drains to be disconnected from the public sewer.

3.34.30. Authority to alter the drainage system of premises.

3.34.31. Authority to cleanse cesspools.

3.34.32. Authority to grant or withhold consent for the erection of buildings over public sewers or combined drains.

3.34.33. Authority to serve Notices under Section 24 of the Public Health Act 1936 in respect of the power to recover on behalf of the Water Company the cost of maintaining certain lengths of public sewer.

3.34.34. Authority to require the cleansing of culverts, streams, ditches and ponds including the service of Notices under the Land Drainage Acts.

3.34.35. **Noise Control and Environmental Protection**: To determine applications for prior consent for work on construction sites.

3.34.36. The exercise of any power or duty necessary to enforce Part II A of the Environmental Protection Act 1990 (Contaminated Land Provisions) as amended by the Environment Act 1995.

3.34.37. The exercise of any power or duty necessary to administer Part IV of the Environment Act 1995 in so far that it deals with air quality reviews and those powers of entry under section 108 in so far as they relate to the authority's enforcement functions under Part I and Part II A of the Environmental Protection Act 1990 (integrated pollution control and contaminated land).

3.34.38. Consents for noise levels under s.61, 65 and 67 of the Control of Pollution Act 1974.

3.34.39. Inspection of premises to ensure that standard conditions of public entertainment licences are complied with.

3.34.40. To all designated Officers authority :

a) to take emergency enforcement action for noise nuisances under the Environmental Protection Act 1990 (as amended by the Noise and Statutory Nuisance Act 1993);

b) Where a statutory notice under Section 81(3) of the Environmental Protection Act 1990 in respect of a noise nuisance has been served and the nuisance might be abated by the seizure of equipment, authority to seize and remove such equipment;

c) To serve notices under Section 80 of the Environmental Protection Act 1990;

d) To inspect, seize and/or destroy animals under the Dangerous Wild Animals Act 1976.

e) To serve Community Protection Notices under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014

3.34.41. Under the Noise Act 1996 authority to all designated Officers :

a) To enter property and seize equipment under Section 10 of the Noise Act 1996;

b) To serve notices under Section 3, 8 and 9 of the Noise Act 1996 and when necessary apply to a Magistrate for a warrant to carry out the terms of the notice.

3.34.42. Under the Clean Neighbourhoods and Environment Act sections 77 to 79 authority to all designated Officers to enter premises and take others with them to deal with sounding intruder alarms.

3.34.43. Within the policy approved by the Council to arrange for the destruction of rats, mice and other pests.

3.34.44. To provide a pest control service.

3.34.45. To carry out the Council's functions under the Scrap Metal Dealers Act 2013.

3.34.46. **Food Safety**: To act in matters arising under the Food Safety Act 1990 and European Communities Act 1972 and any regulations or orders insofar as those responsibilities are allocated to the Authority.

3.34.47. To exercise powers of entry, survey, examination, inspection and seizure and to serve statutory notices including "Minded To" notices and notices relating to the detention and seizure of suspected food (Section 9(3)), the service and removal of improvement June 2020 101 notices (Section 10), the service and removal of prohibition orders (Section 11) and the service and removal of emergency prohibition orders (Section 12). (Food Safety Act 1990).

3.34.48. To nominate Officers for security clearance at Lympstone Commando Training Centre in connection with the Food Safety Act 1990.

3.34.49. To appoint Public Analysts for the purposes of the Food Safety Act 1990.

3.34.50. To administer that part of the Local Government (Misc. Provisions) Act 1982 concerning control of refreshment premises but to submit reports to the relevant Committee regarding proposals to make a Closing Order to vary or revoke such an Order.

3.34.51. **Health and Safety:** To act in matters arising under the Health and Safety at Work etc., Act 1974.

3.34.52. To exercise powers of entry, survey, examination, inspection and seizure and to serve statutory notices including "Minded To" notices.

3.34.53. To exercise the powers of an inspector specified in Sections 20, 21, 22, 25 and 38 of the 1974 Act and the relevant statutory provisions of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the third column of that Schedule.

3.34.54. To exercise the powers of any health and safety regulations, orders or other instruments of a legislative character made or having effect under any provision so specified as enforced from time to time.

3.34.55. To authorise other people to accompany the Inspectors appointed by East Devon District Council for its enforcement functions under the provisions of the Health and Safety at Work etc. Act, 1974.

3.34.56. To act in matters arising under the Food and Environment Protection Act 1985 – Part III in relation to Pesticides legislation, as amended by the Pesticides Act 1998.

3.34.57. To agree procedures and arrangements for formulating a plan for communicable disease control in East Devon.

3.34.58. To act in matters arising under the Food and Environment Protection Act 1985 – Part III in relation to Pesticides legislation, as amended by the Pesticides Act 1998.

3.34.59. To lead and advise on matters of Health and Safety affecting the Council resulting from the Council being a workplace/employer.

3.34.60. To secure the necessary care and attention for residents who are suffering from grave chronic disease or are aged, infirm or physically incapacitated and living in unsanitary conditions under Section 47 of the National Assistance Act 1948 as amended.

3.34.61. **Health and Safety Enforcement Authority Responsibility:** To exercise powers under the Health and Safety (Enforcing Authority) Regulations including the power to transfer and assign enforcement responsibility.

3.34.62. **Sunday Trading:** To exercise the Council's powers under the Sunday Trading Act 1994.

3.34.63. **Street Trading:** Authority to issue consents under Part III of the Local Government (Miscellaneous Provisions) Act 1982 (street trading consents) to the Assistant Director Environmental Health and Licensing.

3.34.64. **Pavement licence applications:** Authority to determine pavement licence applications under the Business and Planning Act 2020 together with imposing such additional conditions as may be deemed necessary as well as to take enforcement action including revocation of licences where considered appropriate to do so; and

3.34.65. Authority, in consultation with the Portfolio Holder for Coast, Country and Environment, to make any necessary amendments to the process and local conditions which arise from pavement licence applications.

3.34.66. **Water Industry Act 1991**: To act in matters arising under the Water Industry Act 1991 and exercise the powers of the Council with regard to wholesomeness or sufficiency of public and private water supplies.

3.34.67. **Control of Dogs**: To act for the purpose of Section 149 of the Environmental Protection Act 1990, and to submit to tender the duties and functions of the appointed officer and other responsibilities including those in the Dangerous Dogs Act 1991 and any services that may be provided by contractors under the Clean Neighbourhoods and Environment Act 2005.

3.34.68. **Waste functions**: To consider and approve on their merit individual recycling credit applications from commercial organisations.

3.34.69. Authority to submit tenders, appoint staff and acquire plant and equipment to undertake contracts awarded.

3.34.70. To operate refuse and recycling collection in accordance with contract requirements and to vary refuse and recycling collection schedules for bank holidays and other operational reasons.

3.34.71. To progress the Devon Integrated Waste Strategy.

3.34.72. To make decisions in relation to the Council's waste management in consultation with the elected Member representatives of the Recycling and Waste Partnership Board :

a) The contractual agreement/arrangement with the preferred supplier;

b) The selection of any options for securing further efficiency savings in the new contract;

c) Establishing detailed arrangements for achieving the full delivery of the Waste Strategy over the life of the contact;

d) Any Partnership arrangements with the preferred contractor.

3.34.73. **Streetscene functions**: To carry out street cleansing in accordance with adopted standards (currently the Code of Practice for Litter and Refuse).

3.34.74. To manage and maintain the Streetscene including public conveniences, cemeteries, street furniture and fixtures.

3.34.75. To undertake grounds maintenance and the management of the Councils parks and gardens, beaches and open spaces.

3.34.76. To commission and appoint consultants and contractors to undertake works on Council assets / land.

3.34.77. To undertake engineering projects on public assets.

3.34.78. To undertake flood prevention and coastal defence works.

3.34.79. To implement emergency responses and recovery operations in accordance with the Emergency Plan.

3.34.80. Authority to serve Notices for the removal of abandoned vehicles or boats, to remove derelict vehicles or boats abandoned in the open air and to dispose of derelict vehicles or boats.

3.34.81. Power:

a) to remove any boats or winches habitually obstructing the three metre wide boat access corridor across the beach at Port Royal, Sidmouth, and

b) to recover the associated costs (including those of transport and storage) from the owner.

3.34.82. Authority to exercise powers relating to the removal of things so deposited on highways as to be a nuisance.

3.34.83. **Coastal protection**: The granting of consent, levying of charges and taking of enforcement action under the Coastal Protection Act 1949.

3.34.84. **Powers Delegated to the Director of Housing, Health and Environment relating to Private Sector Housing**:

3.34.85. With the agreement of the Director of Governance authority to institute legal proceedings in all cases where landlords of houses in multiple occupation or private rented housing fail to comply with the statutory notices within the time specified in the notice.

3.34.86. To undertake enforcement of housing standards and exercise the powers of a Housing authority.

3.34.87. To serve improvement notices (and suspended improvement notices), prohibition orders (and suspended and emergency prohibition orders), hazard awareness notices and to take emergency remedial action under Housing Act 2004.

3.34.88. To make demolition orders (s.265 Housing Act 1985) and clearance areas (s.289 Housing Act 1985).

3.34.89. In consultation with the Director of Governance authority to institute legal proceedings in cases where owners or occupiers fail to comply with statutory notices within the time specified in the notice.

3.34.90. In consultation with the Director of Governance the authority to exercise the powers in relation to banning orders under the Housing and Planning Act 2016 including applying for a banning order, instituting legal proceedings in cases where there has been a breach of a banning order and updating any database of rogue landlords and property agents.

3.34.91. In consultation with the Director of Governance authority to impose and enforce financial penalties as an alternative to prosecution under Housing Act 2004 and Housing and Planning Act 2016.

3.34.92. The authority to exercise the powers in relation to rent repayment orders under the Housing and Planning Act 2016 70. To institute the undertaking of works in default in appropriate circumstances.

3.34.93. To grant, refuse, vary, revoke licences for Houses in Multiple Occupation (HMO) subject to mandatory licensing as appropriate; to add licence conditions (in line with statutory guidance) and to serve Temporary Exemption Notices. To serve/revoke HMO declarations.

3.34.94. To determine applications for disabled facilities and other home improvement grants and administer or cause to be administered any loan or other scheme set out within the policy agreed by the Council and to authorise interim and final payments of approved grants.

3.34.95. To make applications to the Residential Property Tribunal for rent repayment orders.

3.34.96. To make/vary/revoke interim (special interim) and final management orders.

3.34.97. To serve/vary/revoke overcrowding notice if having regard to the rooms available, an excessive number of persons as being/likely to be accommodated in a property.

3.34.98. To take action to bring empty homes back into use including make interim and final empty dwelling management orders.

3.34.99. Authority to service notice under Section 76 of the Building Act 1984 where any premises are in such a state as to be prejudicial to health or a nuisance and there would be unreasonable delay if the procedure prescribed by Sections 93-96 of the Public Health Act 1936 was followed.

3.34.100. Authority to determine Closing Orders or cancel Demolition Orders on completion of satisfactory remedial work.

3.34.101. Authority to commission Home Improvement services.

3.34.102. To organise and implement arrangements for the sampling and risk assessment of private water supplies, including charging and taking enforcement action where water quality presents a risk to health.

3.34.103. To enforce the redress schemes for lettings agency work and property management work.

**The following relate to Housing and are also exercisable by the Assistant Directors for Strategic Housing, Regulated Housing and Housing Department**

3.34.104. To assume responsibility for the Council's Housing Strategy and enabling role.

3.34.105. To prepare housing strategies and policies for adoption and oversee implementation.

3.34.106. To maintain an up-to-date Housing Revenue Account Business Plan and ensure that housing finances are adequate to operate the landlord activities.

3.34.107. To comply with the requirements of the Regulator of Social Housing.

3.34.108. To negotiate and advise on affordable housing provision in respect of planning applications.

3.34.109. To initiate and work up development schemes for Council homes for approval.

3.34.110. To organise and discharge the Council's housing advice and housing options activities.

3.34.111. To discharge the Council's homeless duties under Part VII of the Housing Act 1996.

3.34.112. To determine homeless applications and homeless reviews under Part VII of the Housing Act 1996.

3.34.113. To allocate housing in accordance with the Council's policies and procedures under Part VI of the Housing Act 1996.

3.34.114. Hearing appeals by individuals against initial bandings/priorities allocated under the Choice Based Lettings Scheme.

3.34.115. To determine the medical and social priority for housing applications.

3.34.116. Approval of an applicant's need for a move to a particular locality under the Choice Based Lettings Scheme.

3.34.117. Any exceptional or unforeseen housing issues requiring a decision which fall outside the Council's adopted allocation criteria.

3.34.118. Agreeing changes to Devon Home Choice and monitoring of the Choice Based Lettings Scheme.

3.34.119. To carry out statutory reviews of decisions to refuse an application to be put on the Housing Register.

3.34.120. To determine additional preference groups and allocation priorities under the Housing Act 1996.

3.34.121. To approve transfers within Council housing (mutual exchanges) and nominations to Registered Social Landlords.

3.34.122. To discharge the Council's functions in connection with the Right to Buy under the provisions of Part V of the Housing Act 1985 with the exception of section 157 consents.

3.34.123. Authority to deny the Right to Buy in respect of those elderly persons dwellings meeting the requirements of the Housing Act 1985.

3.34.124. To discharge the Council's housing management functions under Part II of the Housing Act 1985. 44. To approve applications for the Cash Incentive, Tenant Improvement, Community Initiatives, Rent Deposit and Shared Ownership Schemes.

3.34.125. To issue introductory, secure, flexible and non-secure tenancy agreements and take action where tenants fail to adhere to the tenancy conditions, including demoting tenancies.

3.34.126. Planning and implementing major, annual, cyclical and responsive maintenance programmes of work to Council homes within the approved budgets.

3.34.127. Authority to enter into contracts including the appointment, liaison and monitoring of contractors and consultants working on Council homes.

3.34.128. Authority to assist people unable to arrange maintenance of gardens on non-sheltered estates where the dwellings are occupied by disabled elderly and any special cases.

3.34.129. Authority to obtain land and property surrendered by tenants.

3.34.130. Authority to negotiate Housing Revenue Account property disposals (including shared ownership properties where the lease provides for the leaseholder to purchase the freehold of the property during the lease term).

3.34.131. Authority to approve a licence/lease/easement/wayleave of Housing Land subject to terms and conditions to be agreed.

3.34.132. Authority to consent to use of a Community Centre, subject to terms to be agreed.

3.34.133. Authority to initiate action for breach of tenancy conditions, including rent arrears and estate management issues.

3.34.134. In connection with the Access to Personal Files Act 1987, to supply such information and take such action as necessary to comply with the relevant Housing Regulations.

3.34.135. To ensure that tenants are appropriately involved in decisions which impact on the management and maintenance of their homes.

3.34.136. To let bungalows to persons of below pensionable age when difficulties arise in finding a suitable tenant[s].

3.34.137. The signing of tenancy Agreements on behalf of the Council including the letting of garages, gardens and hard standings.

3.34.138. The assessment of Rent following modernisation and conversion or in respect of newly acquired or constructed dwellings within the policy approved by the Council.

3.34.139. Implementation of rent increases for homes, gardens and garages.

3.34.140. Approval of alterations to buildings, erection of sheds, greenhouses, installation of telephones, satellite antennae, aerials and hard standings.

3.34.141. To determine applications in connection with the installation of Home Safeguard equipment and setting of charges for equipment hire, purchase and monitoring.

3.34.142. To determine transfer applications by tenants on management grounds.

3.34.143. To set charges for community centres, garden maintenance and other housing related services where permitted by law and where not already covered by a specific service charge.

3.34.144. To set statutory service charges under the Housing Acts.

3.34.145. In consultation with the Director of Governance the authority to make offers to purchase land and property within approved budgets (such offers to be subject to contract).

3.34.146. In consultation with the Portfolio Holder for Sustainable Homes and Communities and the Chair of the Housing Overview & Scrutiny Committee the authority to purchase land and property for the Housing Revenue Account (including use of Right to Buy receipts) subject to the funds being from within approved budgets.

3.34.147. Authority to negotiate and agree a premium for the; a. variation or release of a restrictive covenant(s) benefitting (former) Council owned (housing) property, or b. variation or release of a restrictive covenant(s) burdening Council owned (housing) property, and where in either case any premium payable is £10,000 or less and in the case of (b) it is within the Policy Framework and Budget.

3.34.148. Authority (after consultation with the relevant Portfolio Holder) to negotiate and agree a premium for the; c. variation or extinguishment of a restrictive covenant(s) benefitting (former) Council owned (housing) property, or d. release of a restrictive covenant(s) burdening Council owned (housing) property, and where in either case any premium payable exceeds £10,000 but is £30,000 or less and in the case of (b) it is within the Policy Framework and Budget.

3.34.149. Subject to agreement with the Director of Finance (S151 officer) and the Director of Governance (Monitoring Officer), to authorise the disposal of individual non contiguous Housing Revenue Account assets up to a maximum value of £500,000, in accordance with the adopted 'Acquisitions and Disposals Policy' and in consultation with the Portfolio Holder for Sustainable Homes and Communities

3.34.150. To lead on health and wellbeing and public health issues / strategies for the Council.

3.34.151. To act as lead officer for safeguarding children and vulnerable adults.

3.35. **Powers delegated to the Director of Governance**

3.35.1. To give consent to the sale of land in mortgage to the Council and to determine whether the consideration there from shall be applied to the mortgage debt.

3.35.2. To give consent in cases where such consent may not be withheld, to applications for resale (pursuant to S.104C of the Housing Act 1957 or S.19 of the Housing Act 1980) of former Council dwellings.

3.35.3. To determine those cases where the prospective occupiers of any housing association accommodation applying to acquire the freehold, comply with the requirement of Section 157 of the Housing Act 1985 and to submit applications for Portfolio holder consent in appropriate cases where the applicant does not comply.

3.35.4. To agree terms for covenants to be entered into on the sale of Council Housing flats, or in respect of former Council Housing flats, for the enforcement of covenants given by other flat owners in the same building.

3.35.5. To determine applications, in accordance with the Council's policy to postpone – where postponement is discretionary – the Council's charge in respect of discount on sale price of Council houses.

3.35.6. In consultation with the Director of Finance, authority to institute legal proceedings where fraudulent applications for benefit are suspected.

3.35.7. Authority to serve notices to commence possession proceedings in cases of serious infringement of tenancy conditions and where necessary to take legal proceedings to seek possession.

3.35.8. In consultation with the Director of Housing and Health authority to institute legal proceedings in all cases where landlords of houses in multiple occupation fail to comply with the statutory notices within the time specified in the notice.

3.35.9. To take immediate necessary action, including legal proceedings, against gypsies and travellers or other itinerants as and when they take, or where the relevant officer has sufficient reason to believe they are about to take, unauthorised possession of Council Land.

3.35.10. In consultation with the Director of Finance and Finance Portfolio Holder, to take all appropriate action to settle or otherwise deal with all claims and litigation involving the Council where such action is in pursuance of legal advice and it is inappropriate (through unacceptable delay) to report the matter to the Cabinet.

3.35.11. Unless set out elsewhere within this Section to take or defend any or all legal action in the name of the Council including enforcing access to premises for the purpose of carrying out any statutory duty or power.

3.35.12. The power to serve statutory notices on behalf of the Council and to take proceedings in the name of the Council.

3.35.13. Authority in consultation with the Director of Housing and Health and Assistant Director Planning and Development to enter into deeds of variation to existing planning agreements where revisions are sought to affordable housing obligations where the revisions are necessary to enable prospective purchasers to satisfy lenders requirements to secure borrowing provided that such amendments do not alter the number of affordable houses to be provided nor the tenure split of the affordable housing.

3.35.14. Determination of reviews for listing or compensation under the Community Right to Bid (asset register) provisions of the Localism Act 2011.

3.35.15. To act as client officer for the contract with Strata and monitor performance.

3.35.16. Engage in strategic partnerships and promote and communicate the Council's services and corporate priorities in respect of the Climate and Ecological Emergency.

3.35.17. To issue proceedings arising from failure to provide returns and declarations as to expenses and/or report the matter to the police in connection with elections.

3.35.18. To lead on arts development and culture.

3.35.19. To agree operational matters in respect of theatres and galleries (including bookings and programmes) provided within budget or where income to the Council is increased.

3.36. **Proper Officers**.

3.36.1. The following to act as Proper Officers for the following purposes:

## Local Government Act 1972

| Section No | Item | Proper Officer |
|---|---|---|
| 13 | Parish Trustee | Chief Executive |
| 39 | Registration of Electors | Director of Governance |
| 41 | Returning Officer | Director of Governance |
| 83 | Declaration of Acceptance of Office - Officer before whom made and to whom delivered | Chief Executive, Monitoring Officer or Deputy Monitoring Officer |
| 84 | Receipt of Notice of Resignation of Councillor | Chief Executive |
| 88(2) | Convening of meeting for Election of Chairman following casual vacancy in that office. | Chief Executive |
| 96(1) and (2) | Receipt of general notice and recording of disclosures of financial interest | Chief Executive |
| Section 100B (2) | Exclusion from public inspection of the whole of any report or any part which the meeting is not likely to consider in public. | Senior Officer initiating the report |
| Section 100B (7) (c) | To decide whether any newspaper should be supplied with other documents supplied to Councillors. | Senior Officer having custody of the document |
| Section 100C(2) | Making a written summary of the proceedings or part thereof, to provide a reasonable, fair and coherent record without disclosing exempt information. | Chief Executive |
| Section 100D (1)(a) | Compilation of lists of background papers to reports | Initiating Senior Officer |
| Section 100D (5) (a) | Identification of background papers | Initiating Senior Officer |
| Section 100F (2) | Papers to be withheld from Councillors on account of the exempt information they contain | Chief Executive |
| 115 | Accountability of Officers | Director of Finance |
| 146 | Transfer of Securities | Director of Finance |
| 191 | Ordnance Survey Act | Chief Executive |
| 210(6) | Charities | Chief Executive |

| Section No | Item | Proper Officer |
|---|---|---|
| 212 | Registrar of Local Land Charges | Chief Executive |
| 214 | Grant of Exclusive Rights of Burial | Chief Executive |
| 223 | Appearance of Local Authorities in Legal Proceedings | Chief Executive/ Director of Governance |
| 225 | Deposit of documents | Chief Executive |
| 229 | Photographic copies of documents (certification) | Chief Executive |
| Schedule 6 Para(1) | Deputy to registration officer | Assistant Director Legal and Governance |
| 236(9) and (10) and 238 | Bye-laws | Chief Executive |
| 248 | Roll of Freemen of Existing Boroughs | Chief Executive |
| Schedule 12 Para 4(1) Part 1 | Summons to attend Principal Council Meetings | Chief Executive |
| Schedule 14 Para's 13 and 15 | Action under the Public Health Acts | Consultant in Public Health Medicine |
| Schedule 14 Para 25(7) | Certificate of Resolutions | Chief Executive |
| Schedule 16 Para 26 | Receipt of Deposit of Lists of protected buildings | Chief Executive |
| Schedule 22 Para 17 | Notices etc. under the Housing Act, 1985 | Director of Housing, Health and Environment |

## Other Acts

| Section No | Item | Proper Officer |
|---|---|---|
| (Misc. Provisions) Act 1976 S. 41 Local Government (Misc. Provisions) Act 1976 | Signing of Certificates | Chief Executive (or a person authorised in that behalf by him) |
| S.20 Local Government (Misc. Provisions) Act 1976 | Signing and service of Notices | Director of Housing, Health and Environment |
| S.47 National Assistance Act 1948 | Persons in need of care and attention | Consultant in Public Health and Medicine (or an alternative medical Officer authorised by them) |
| S19 Local Government (Misc. Provisions) Act 1982 | Signing documents for registration of food hawkers | Director of Housing, Health and Environment |
| S.93 Public Health Act 1936 | Sign Notices | Director of Housing, Health and Environment |
| S.1 Public Health (Recurring Nuisances) Act 1969 | Sign Notices | Director of Housing, Health and Environment |
| SS.58, 60, 66 & 80 Control of Pollution Act 1974 | Sign Notices | Director of Housing, Health and Environment |
| S.19(2) Health and Safety at Work Act 1974 | Signing appointments and authorisation of 'Inspectors' and other persons | Director of Housing, Health and Environment |
| | Functions for which no other Officer has been designated as the proper officer. | Chief Executive |

## Representation of the People Act 1983

| Section No | Item | Proper Officer |
|---|---|---|
| Section 82(4) | Declaration as to election expenses | Director of Governance |

## Local Government and Housing Act 1989

| Section No | Item | Proper Officer |
|---|---|---|
| Section 2(2) and (3) | Officer with whom lists and revised lists of politically sensitive posts are to be deposited. | Chief Executive |

| | | |
|---|---|---|
| Sections 15-17 | All purposes under Part III of the Local Government (Committees and Political Groups) Regulations, 1990. | Chief Executive |

| **Local Authorities (Standing Orders) (England) Regulations 2001** | **Proper Officer** |
|---|---|
| Appointment and Dismissal of Chief Officers | Chief Executive (or if it relates to the Chief Executive then the Monitoring Officer) |

## Localism Act 2011

| **Section No** | **Item** | **Proper Officer** |
|---|---|---|
| Part | Receiving complaints of breach of the Member Code of Conduct | Monitoring Officer |

# Part 4: Rules of Procedure

## 4.1 Procedural Standing Orders

### Introduction

These Standing Orders regulate the proceedings of the Council Meetings and a range of Committee meetings. All the Standing Orders apply to meetings of the Council. Rules 4 to 26 (except where clearly inappropriate – for example Standing Order 18.1) shall apply to meetings of Committees. The word "Committee" includes the Cabinet, the Overview and Scrutiny Committees and all the bodies referred to in Article 8 of this Constitution. In addition, where a Panel or a Forum that includes Councillors in its membership has been established then Rules 4 to 27 shall be deemed to apply.

If a Member requires any advice on the operation of these Standing Orders; any advice on the statutory provisions that affect Council and Committee meetings; or any advice on the declaration of interests at meetings, then they should contact the Chief Executive, the Monitoring Officer / Director of Governance or the Democratic Services Manager before the meeting and they will be pleased to assist.

### 1. Annual meeting of the Council

**1.1. Timing and business**

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in May. The annual meeting will:

a) elect a person to preside if the Chair of Council or the Vice Chair of Council is not present;
b) elect the Chair of Council;
c) elect the Vice Chair of Council;
d) approve the minutes of the last meeting;
e) receive any announcements from the Chair;
f) elect the Leader of the Council (at the first Annual Meeting following elections);
g) note the appointment of the Deputy Leader and the Cabinet by the Leader;
h) confirm the largest opposition party as the formal opposition (or in the event of equal numbers determine which group should fulfil the role);
i) appoint the three Overview and Scrutiny Committees, a Standards Committee and such other committees (except the Cabinet) as the Council considers appropriate to deal with matters that are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution) (Note: as from May 2011 the Leader appoints the Cabinet);
j) agree the scheme of delegation as set out in Part 3 of this Constitution;

k) approve a programme of ordinary meetings of the Council for the year; and
l) consider any business set out in the notice convening the meeting.

1.2. **Selection of Councillors on Committees and Outside Bodies**.

1.2.1. At the annual meeting, the Council meeting will:

a. decide which committees to establish for the municipal year;
b. decide the size and terms of reference for those committees;
c. decide the allocation of seats to political groups in accordance with the political balance rules (although this shall not apply to the Cabinet);
d. receive nominations of Councillors to serve on each committee and outside body; and
e. appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## 2. Ordinary meetings

2.1. Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary meetings will:

a) elect a person to preside if the Chair and Vice Chair are not present;
b) deal with any business required by statute to be done before any other business;
c) approve the minutes of the last meeting;
d) deal with business expressly required by statute to be done;
e) receive any communications or announcements from the Chair, the Leader; or a Portfolio Holder;
f) the Leader or a Portfolio Holder shall answer any questions asked by Members of the Council by virtue of Rule 9;
g) deal with any business from the last Council meeting;
h) receive reports from the Cabinet and the Council's committees and receive questions and answers on any of those reports;
i) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
j) consider motions; and
k) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate.

2.2. The Council may vary the order of business so as to give precedence to any business which, in the opinion of the Chair, is of a special urgency, but such a variation shall not displace business falling under items (a) and (b) in this rule.

## 3. Extraordinary meetings

**3.1. Calling extraordinary meetings**

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

a. the Council by resolution;
b. the Chair of the Council;
c. the Monitoring Officer having first notified the Chair of the Council; and
d. any five Councillors if they have signed a requisition containing the motion to be considered presented to the Chair of the Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

**3.2. Business**

At an extraordinary meeting the business to be conducted shall be limited to a single item of business or motion full details of which shall be set out on the summons calling the meeting.

## 4. Time and place of meetings

4.1. The time and place of meetings will be determined by the Chief Executive and notified in the summons.

## 5. Notice of and summons to meetings

5.1. The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. Normally at least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## 6. Chairing of meeting

6.1. The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to committee and sub-committee meetings, references to the Chair also include the Chair of committees and sub-committees.

6.2. Specifically in respect of the Planning Committee where the Committee is considering a matter in the Chair's ward, then for that matter only the Vice Chair shall take on the role of Chair of the meeting. Once the matter has been considered then the Chair and Vice Chair shall continue in their normal roles.

## 7. Quorum

7.1. The quorum of a meeting will be one quarter of the whole number of Councillors or such other number as may be specified in the Terms of Reference relevant to that committee (as set out in Section 2 of Part 3). During any meeting if the Chair counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

## 8. Questions and statements by the public

8.1. Subject to 8.2, there shall be a fifteen minute period at the commencement of Council and Committee meetings for members of the public to ask questions or make statements, with the exception of the Licensing and Enforcement Sub Committee, the Standards Hearings Sub Committee, Interviewing (Chief Officer) Sub Committee, Employment Appeals Sub Committee, Investigating and Disciplinary Sub Committee, Grievance Sub Committee and the Planning Committee. Each individual questioner exercising a right during the public question time to be restricted to speaking for a total 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 speaking arrangements for Planning Committee are as approved by Council in July 2014. Public speaking arrangements for the Strategic Planning Committee will generally be as stated above however alternative arrangements appropriate to the content of the meeting will put in place at the discretion of the Chair in consultation with Democratic Services, Legal Services and the Assistant Director Strategic Planning & Development Management.

8.2. Where a question does not relate to an agenda item, and a response is required from a member or an officer, the question must be submitted to Democratic Services two working days before the meeting to give time for a response to be prepared. Where such advance notice is given, the questioner may ask a supplementary question at the meeting, if it is relevant to the original question.

8.3. At all meetings of the Cabinet, the Overview and Scrutiny Committees and Audit and Governance Committees, members of the public have the general right to make statements and/or ask questions in respect of all agenda items that are not to be considered in Part B [the part of the meeting to which the public is not admitted]. The normal procedure to be that after a report has been introduced by the relevant Portfolio holder and/or officer the Chair will enquire of any member of the public whether they wish to speak in respect of the matter and/or ask questions. In each case, contributions from members of the public will be limited to 3 minutes.

8.4. The Chair of any meeting has the right and discretion to control question time to avoid disruption, repetition and wasting of meeting time.

## 9. Questions by Councillors

9.1. **On reports of the Cabinet or the Overview and Scrutiny Committees**

A Member of the Council may ask the Leader, a Portfolio Holder or the Chair of the Overview and Scrutiny Committees any question without notice upon an item of the report of the Cabinet or relevant Committee when that item is being received or under consideration by the Council.

Where the 15 minute public question period at Rule 8 is not exhausted by the public, councillors may ask questions without notice of the Leader and/or Portfolio holders.

**9.2. Questions on notice at full Council**

Subject to Rule 9.3, a Member of the Council may ask: the Chair; the Leader or a Portfolio Holder Member of the Cabinet; or the Chair of any Committee or Sub-Committee a question on any matter in relation to which the Council has powers or duties or which affects the district.

**9.3. Notice of questions**

A Member may only ask a question under Rule 9.2 if either: (a) they have given at least 3 working days' notice in writing of the question to the Chief Executive; or (b) the question relates to urgent matters, they have the consent of the Chair to whom the question is to be put and the content of the question is given to the Chief Executive by noon on the day of the meeting.

**9.4. Response**

An answer may take the form of: (a) a direct oral answer; (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

**9.5. Supplementary question**

A Member asking a question under Rule 9.2 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

## 10. Motions on notice

**10.1. Notice**

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least 5 Councillors, must be delivered to the Chief Executive not later than 10 clear days before the date of the meeting. These will be entered in a book open to public inspection.

Notwithstanding the above, where a notice of motion would have the effect of removing the Leader from office this must be signed by at least 15 Councillors.

**10.2. Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

**10.3. Clarification of motion on notice**

Where a motion on notice has been submitted in accordance with this standing order, and prior to the despatch of the agenda, the Chief Executive may seek to clarify the purpose and/or wording of such a motion (such action may include recommending its rewording) so as to ensure that any such motion, if approved, is compliant with the Council's legal and administrative powers.

**10.4. Referral of motion to relevant committee**

Where the wording of the motion is not immediately relevant to the business of the Council, the presumption is that it will be referred to the relevant committee or the relevant committee of the three Overview and Scrutiny Committees in the first instance to enable research to be properly carried out into the issue to facilitate a relevant and informed debate.

**10.5. Portfolio holder response to motion**

The Leader, at his discretion, may invite a Portfolio Holder to respond to a motion or a question (under Procedural Rule 9.2).

**10.6. Scope**

Motions must be about matters for which the Council has a responsibility or which affect the district.

## 11. Motions without notice

**11.1.** The following motions may be moved without notice:

a) to appoint a Chair of the meeting at which the motion is moved;
b) in relation to the accuracy of the minutes;
c) to change the order of business in the agenda;
d) to refer something to an appropriate body or individual;
e) to appoint a committee or Member arising from an item on the summons for the meeting;
f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
g) to withdraw a motion;
h) to amend a motion;
i) to proceed to the next business;

j) that the question be now put;
k) to adjourn a debate;
l) to adjourn a meeting;
m) to suspend a particular Council procedure rule;
n) to exclude the public and press in accordance with the Access to Information Rules;
o) to not hear further a Member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; and
p) to give the consent of the Council where its consent is required by this Constitution.

## 12. Rules of debate

**12.1. No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

**12.2. Right to require motion in writing**

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed.

**12.3. Seconder's speech**

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

**12.4. Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chair.

**12.5. When a Councillor may speak again**

A Councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:
a) to speak once on an amendment moved by another Member;
b) to move a further amendment if the motion has been amended since they last spoke;
c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
d) in exercise of a right of reply;
e) on a point of order; and
f) by way of personal explanation.

**12.6. Amendments to Motions**

(a) An amendment to a motion must be relevant to the motion and will either be: (i) to refer the matter to an appropriate body or individual for consideration or reconsideration; (ii) to leave out words; (iii) to leave out words and insert or add

others; or (iv) to insert or add words; as long as the effect of (ii) to (iv) is not to negate the motion.

(b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

(c) If an amendment is not carried, other amendments to the original motion may be moved.

(d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

(e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

12.7. **Alteration of motion**

a) A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

b) A Member may alter a motion that they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

c) Only alterations that could be made as an amendment may be made.

**12.8. Withdrawal of motion**

A Member may withdraw a motion that they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

**12.9. Right of reply**

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

b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. The proposer of the amendment shall also be entitled to reply.

c) A Member exercising a right of reply shall not introduce new matter.

**12.10. Motions that may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

a) to withdraw a motion;

b) to amend a motion;

c) to proceed to the next business;

d) that the question be now put;

e) to adjourn a debate;

f) to adjourn a meeting;

g) to exclude the public and press in accordance with the Access to Information Rules; and

h) to not hear further a Member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4.

**12.11. Closure motions**

a) A Member may move, without comment, the following motions at the end of a speech of another Member:

(i) to proceed to the next business;

(ii) that the question be now put;

(iii) to adjourn a debate;

or (iv) to adjourn a meeting.

b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed their will give the mover of the original motion a right of reply before putting their motion to the vote.

d) If a motion to adjourn the debate or to adjourn the meeting is seconded, and the Chair thinks the item has not been sufficiently discussed or cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

**12.12. Point of order**

A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the matter will be final.

**12.13. Personal explanation**

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member that may appear

to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

## 13. Previous decisions and motions

**13.1. Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 15 Councillors.

**13.2. Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 Councillors. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## 14. Voting

**(Note: Under S.106 of the Local Government Finance Act 1992, any Member who is two months or more in arrears with Council Tax payments must declare the fact and not vote at any meeting at which budget or Council Tax matters are being discussed).**

**14.1. Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Councillors voting and present in the room at the time the question was put.

**14.2. Chair's casting vote**

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

**14.3. Show of hands**

Unless a ballot or recorded vote is demanded under Rules 14.4 and 14.5, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

**14.4. Ballots**

The vote will take place by ballot if 15 Councillors present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

**14.5. Recorded vote**

If the meeting so decides (prior to a vote being taken) the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a

ballot.

**14.6. Budget decisions – mandatory recorded vote**

Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. 'Budget decision' is defined in Regulation 12 of the Local Authorities (Standing Orders) England) Regulations 2001.

**14.7. Right to require individual vote to be recorded**

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting. (This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations).

**14.8. Voting on appointments**

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

**14.9. Removal of Leader**

If Council passes a resolution to remove the Leader from office, an election shall be held for a new Leader either at that meeting or at a subsequent Council meeting.

## 15. Minutes

**15.1. Signing the minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

**15.2. No requirement to sign minutes of previous meeting at extraordinary meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes. This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations.

## 16. Record of attendance

All Councillors present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

## 17. Exclusion of public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 19 (Disturbance by Public).

## 18. Councillors' conduct

**18.1. Standing to speak**

When a Member speaks at full Council they must stand and address the meeting through the Chair. If more than one Member stands, the Chair will ask one to speak and the others must sit. Other Councillors must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

**18.2. Chair standing**

When the Chair stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

**18.3. Member not to be heard further**

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

**18.4. Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

**18.5. Disclosable pecuniary interest**

Unless a dispensation has been granted, a Member shall not participate in any discussion of, or vote on, any matter in which they have a disclosable pecuniary interest and having first declared to the meeting the existence and nature of that interest shall withdraw from the room where the meeting is being held at the commencement of the consideration of that business, or (if later) the time at which the interest becomes apparent. Where the disclosable pecuniary interest is sensitive (as defined on the Member Code of Conduct) the Member need not disclose the nature of that interest but must still state there is a disclosable pecuniary interest and otherwise follow the requirements of the previous paragraph.

**18.6. General disturbance**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

## 19. Disturbance by public

**19.1. Removal of member of the public**

If a member of the public interrupts proceedings or is found to be recording the proceedings of the meeting in contravention of the appropriate Regulations, the Chair will warn the person concerned. If they continue to interrupt or record the meeting in contravention of the appropriate Regulations, the Chair will order their removal from the meeting room and the forfeiture of the unauthorised recording.

**19.2. Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

## 20. Suspension and amendment of Council Procedure Rules

**20.1. Suspension**

All of these Council Rules of Procedure except Rule 14.6 and 15.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Councillors are present. Suspension can only be for the duration of the meeting.

**20.2. Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## 21. Motions affecting persons employed by the Council

If any question arises at a meeting of the Council to which the Local Government Act 1972 applies by virtue of Section 100(A)(4) concerning the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council has decided whether or not the power of exclusion of the public under Section 100(A)(4) of the Local Government Act 1972 shall be exercised.

## 22. Sealing of documents

The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council, or of a Committee, or authority of a Portfolio Holder or officer to which the Council [or, where appropriate, the Leader] have delegated their powers in this behalf. A resolution of the Council, a Committee or the decision of a Portfolio Holder or of an officer acting pursuant to the powers delegated to him shall be a sufficient authority for sealing any document necessary to give effect to the resolution or decision. The seal shall be attested by the Chief Executive or Director of Governance or the Principal Solicitor. An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the

purpose and shall be signed by the person or by persons who shall have attested the seal. Where any document will be a necessary step in legal proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises or the Council shall have given the necessary authority to some other person for the purpose of such proceedings, be signed by the Chief Executive or the Director of Governance.

## 23. Inspection of documents

A Member of the Council may for the purposes of his duty as a Member but not otherwise inspect any document that contains material relating to any business to be transacted, or which has been considered, at a meeting of the Council. If copies are available they shall be supplied on request. A Member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he is professionally interested; or has a personal and prejudicial interest within the meaning of the Code of Conduct for Councillors as set out in this Constitution. This standing order shall not preclude the Chief Executive or Director of Governance from declining to allow inspection of any document which is or in the event of legal proceedings would be protected by privilege arising from the relationship of solicitor and client or where it appears to the Chief Executive that a document discloses exempt information of a description set out in Section 100F(2) of the Local Government Act 1972. All minutes of the Council or of any Committee shall be open for the inspection of any Member of the Council during office hours.

## 24. Inspection of land, premises etc.

A Member of the Council unless authorised to do so by the Council or a Committee, shall not have the right to inspect any lands or premises which the Council have the right or duty to inspect, or enter upon or issue any order respecting any works which are being carried out by or on behalf of the Council.

## 25. Proceedings at meetings

No person shall disclose "confidential information" or “exempt information” in any circumstances without the prior permission of the Council. This Standing Order shall not however forbid disclosure of the resolution or any recommendation which has been made or other contents of the relevant minute. In the event of any Member of the Council disclosing such information, he shall be liable to investigation by the Monitoring Officer and report to the Standards Committee.

## 26. Reports of Committees

All Standing Committees shall submit a report to the Council on matters dealt with by that Committee. Such report shall be sent to each Member of the Council prior to the meeting at which the report will be considered. The minutes of the proceedings of a Committee shall not be the subject of discussion or debate at any Council meeting unless either a notice of Motion has been given in accordance with Standing Order

No.10, or a Member has submitted to the Chief Executive before the meeting a "called minute" slip or the Chair, at his discretion so allows.

## 27. Attendance when not a Committee Member

**27.1.** A Member of the Council who has proposed a motion which has been referred to any Committee shall have notice of the meeting of the Committee at which it is proposed to consider the motion, and if he attends, shall have an opportunity of explaining it.

**27.2.** A Member of the Council may attend all proceedings of any Committee of the Council.

**27.3.** A Member of the Council who wishes to raise any matter appropriate to a Committee of which he is not a Member, may do so by giving notice in writing to the Chief Executive at least two clear days before the next ordinary meeting of the appropriate Committee. The Member may also attend a special meeting if the matter in which he is interested is to be discussed by that special meeting. Such notice shall contain particulars of the matter that he wishes to raise. He shall then have the right to explain and discuss the matter.

**27.4.** Any Member of the Council attending a meeting of which he is not a Member shall not be able to propose or second any motion nor to vote at that meeting. Except as otherwise provided in this Standing Order he shall not be entitled to speak at that meeting (except with the consent of the meeting).

## 4.2 Access to Information Procedure Rules

### 1. Scope

These rules apply to all public meeting of the Council, the Cabinet, and all Committees and Sub Committees.

### 2. Additional rights to information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. These rules do not limit or diminish or limit the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 2018.

### 3. Rights to attend meetings

Members of the public may attend all meetings subject only to the exceptions in these rules.

### 4. Notices of meeting

The Council will normally give at least five clear days' notice of any meeting by posting details of the meeting at the Council Offices, Blackdown House, Heathpark Industrial Estate, Border Road, Honiton, Devon, EX14 1EJ (the designated office), such other place where the meeting may be held, and on its web site (www.eastdevon.gov.uk)

### 5. Access to agenda and reports before the meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on its web site at least five clear days before the meeting or when notice of the meeting is given. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

### 6. Supply of copies

The Council will supply copies of: (a) any agenda and reports which are open to public inspection; (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and (c) if the Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

### 7. Access to minutes etc. after the meeting

The Council will make available copies of the following for six years after a meeting: (a) the minutes of the meeting or records of decisions taken, together with reasons, for all

meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information; (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record; (c) the agenda for the meeting; and (d) reports relating to items when the meeting was open to the public.

## 8. Background papers

### 8.1. List of background papers

The officer submitting a report will set out in the report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion: (a) disclose any facts or matters on which the report or an important part of the report is based; and (b) which have been relied on to a material extent in preparing the report but do not include published works or those which disclose exempt or confidential information (as defined in Rule 2.10).

### 8.2. Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers. Background papers relating to executive decisions will normally also be available on the Council's website.

## 9. Summary of public's rights

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at the Council's main offices and on the Council's web site.

## 10. Exclusion of access by the public to meetings

### 10.1. Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### 10.2. Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6. (Article 6 refers to "the interests of morals, public order or national security in a

democratic society, where the interest of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary… in special circumstances where publicity would prejudice the interests of justice").

**10.3. Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

**10.4. Meaning of exempt information**

Exempt information means information falling within the following categories, if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information:

| Category | Relevant Definitions |
|---|---|
| 1 Information relating to any individual | |
| 2 Information which is likely to reveal the identity of an individual | |
| 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information) | "financial or business affairs" includes contemplated, as well as past or current, activities |
| 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations mater arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority | "labour relations matter" means<br>a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act) or;<br>b) any dispute about a matter falling within paragraph a) about<br>"employee" means a person employed under a contract of service<br>"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority |
| 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings | |
| 6 Information which reveals that the authority proposes:<br>a) to give under any enactment a notice under or by virtue of which requirements are imposed in person; or<br>b) to make an order or direction under any enactment | |
| 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime | |

Information falling within any of paragraphs 1-7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
(a) the Companies Act 1985;
(b) the Friendly Societies Act 1974;
(c) the Friendly Societies Act 1992;
(d) the Industrial and Provident Societies Acts 1965 to 1978;
(e) the Building Societies Act 1986; or
(f) the Charities Act 1993

## 11. Exclusion of access by the public to reports

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## 12. Application of rules to the Cabinet

Rules 13-24 apply to the Cabinet and its committees (if any). If the Cabinet meets to take a key decision it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 12 of this Constitution. Rules 1-11 do not apply to meetings of the Cabinet whose sole purpose is for officers to brief the Cabinet and at which no key decision shall actually be taken.

## 13. Procedure before taking key decisions

**13.1. Notice of Key Decision**

Subject to Rules 15 (general exception) and 16 (urgency) below, no key decision may be taken unless:

13.1.1. a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;

13.1.2. at least 28 clear days have elapsed since the publication of the "Notice of Key Decision"; and

13.1.3. where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

**13.2. Contents of Notice of Key Decision**

The Notice of Key Decision will state that a key decision is to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, area committees

or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars:

13.2.1. the matter in respect of which the decision is to be made;

13.2.2. where the decision maker is an individual, their name and title, if any and where the decision maker is a body, its name and a list of its membership;

13.2.3. the date on which, or the period within which, the decision is to be made;

13.2.4. a list of the documents submitted to the decision maker for consideration in relation to the matter;

13.2.5. the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;

13.2.6. that other documents relevant to those matters may be submitted to the decision maker; and

13.2.7. the procedure for requesting details of those documents (if any) as they become available.

**13.3. Publication of the Notice of Key Decision**

The Notice of Key Decision must be made available for inspection by the public at Blackdown House, Heathpark Industrial Estate, Border Road, Honiton, Devon, EX14 1EJ and on the council website. Exempt information need not be included in a Forward Plan and confidential information cannot be included.

## 14. The Forward Plan

The Council is not required by law to publish a Forward Plan. However, the Notice of Key Decision and a Notice of Private Meeting of Cabinet published by the Council set out not just details of specific key decisions, but also details of key decisions over a four month period. In this Constitution, such notices are together referred to as the "Forward Plan". The Forward Plan does not have to include exempt information and should not include confidential information.

## 15. General Exception

**15.1.** If a Notice of Key Decision has not been published, then subject to Rule 16 (special urgency), the decision may still be taken if:

15.1.1. the decision must be taken by such a date that it is impracticable to publish a Notice of Key Decision;

15.1.2. Chief Executive has informed the Chair of the Overview Committee, or in their absence the Vice-Chair, in writing, or if there is no such person, each Member of that committee in writing, by notice, of the matter about which the decision is to be made;

15.1.3. the Chief Executive has made copies of that notice available to the public at the offices of the Council and at www.eastdevon.gov.uk; and

15.1.4. at least 5 clear days have elapsed since the Chief Executive complied with 15.1.2 and 15.1.3.

**15.2.** As soon as reasonably practicable after the Chief Executive has complied with Rule 15.1, they must make available at Blackdown House, Heathpark Industrial Estate, Border

Road, Honiton, Devon, EX14 1EJ and publish on the council website (if any) the reasons why compliance with Rule 13 is impractical.

## 16. Special Urgency

**16.1.** If by virtue of the date by which a key decision must be taken Rule 15 (general exception) cannot be followed, then the key decision can only be taken if the decision maker obtains the agreement of the Chair of the Overview Committee and the Monitoring Officer that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview Committee, or if the Chair of the Overview Committee is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice Chair will suffice.

**16.2.** As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.1 he must make available at Blackdown House, Heathpark Industrial Estate, Border Road, Honiton, Devon, EX14 1EJ and publish on the council website (if any) a notice setting out the reasons why the meeting is urgent and taking the decision cannot reasonably be deferred.

## 17. Report to Council

**17.1.** When the Overview Committee or the Scrutiny Committee thinks that a key decision has been taken which was not:

17.1.1. the subject of a Notice of Key Decision; or

17.1.2. the subject of the general exception procedure; or

17.1.3. the subject of an agreement with the Chair of the Overview Committee, or the Chair or Vice Chair and the Monitoring Officer under Rule 16;

it may require the Cabinet to submit a report to the Council within such reasonable time as the Overview Committee or the Scrutiny Committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and the reasons, if any, for the Cabinet believing that the decision was a key decision. The power to require a report shall be raised by resolution passed at a meeting of the Committee following receipt and consideration of any relevant explanation by a Member of the Cabinet.

**17.2. Cabinet's report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual Member or body making the decision, and if the Leader of the Council is of the opinion that it was not a key decision the reasons for that opinion.

**17.3.** **Annual reports on special urgency decisions**

In any event the Leader of the Council will submit annual reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding twelve months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## 18. Record of Decisions

After any meeting of the Cabinet or any of its Committees, whether held in public or in private, the Chief Executive or, where no Officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable. The record will include:

**18.1.** a record of the decision including the date it was made;

**18.2.** a record of the reason for the decision;

**18.3.** details of any alternative options considered and rejected by the decision making body at the meeting at which the decision was made;

**18.4.** a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and

**18.5.** in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

All decisions shall be treated as made but not implemented (unless they are the subject of Rule 16 and their implementation cannot wait) for the purposes of the "call-in" procedure in Rule 15 of the Overview and Scrutiny Procedure Rules.

## 19. Meetings of the Cabinet to be held in public

**19.1.** Meetings of the Cabinet and its committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

## 20. Notice of Private Meetings of the Executive

**20.1.** Members of the Cabinet or its committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

**20.2.** At least 28 clear days before a private meeting, the decision-making body must:

20.2.1. make available at the offices of the Council a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); and

20.2.2. publish that notice on the Council's website.

20.3. At least five clear days before a private meeting, the decision-making body must:

20.3.1. make available at the offices of the Council a further notice of its intention to hold the meeting in private; and

20.3.2. publish that notice on the Council's website.

20.4. Notice under paragraph 20.3 must include:

20.4.1. a statement of the reasons for the meeting to be held in private;

20.4.2. details of any representations received by the decision-making body about why the meeting should be open to the public; and

20.4.3. a statement of its response to any such representations.

20.5. Where the date by which a meeting must be held makes compliance with this Rule impractical, the meeting may only be held in private where the decision-making body has obtained agreement from:

20.5.1. the Chair of the Overview Committee; or

20.5.2. if there is no such person, or if the Chair of the Overview Committee is unable to act, the Chair of the Council; or

20.5.3. where there is no chair of either the Overview Committee or of the Council, the Vice Chair of the Council, that the meeting is urgent and cannot reasonably be deferred.

20.6. As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 20.5 to hold a private meeting, it must:

20.6.1. make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and

20.6.2. publish that notice on the Council's website.

## 21. Key Decisions by Portfolio Holder Members of the Cabinet

**21.1. Reports intended to be taken into account**

Where a Portfolio Holder Member of the Cabinet receives a report which he intends to take into account in making any key decision, then he will not make the decision until at least 5 clear working days after receipt of that report.

**21.2. Provision of copies of reports to the Overview Committee and Scrutiny Committee**

On giving of such a report to an individual decision maker, the person who prepared the report will give notice by means of an email to Members, and a copy of it shall be given (where appropriate) to the local Ward Members.

**21.3. Record of individual decision**

As soon as reasonably practicable after a Cabinet decision has been taken by a Portfolio Holder Member of the Cabinet or a key decision has been taken by an officer, he will prepare, or instruct the Chief Executive to prepare, a report containing:

21.3.1. a record of the decision including the date it was made;

21.3.2. record of the reasons for the decision;

21.3.3. details of any alternative options considered and rejected by the Member when making the decision;

21.3.4. a record of any conflict of interest declared by any executive Member who is consulted by the Member which relates to the decision; and

21.3.5. in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by Portfolio Holder Members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political or mayor's assistant. The decision shall be treated as made but not implemented for the purposes of the "call- in" procedure in Rule 15 of the Overview and Scrutiny Procedure Rules.

**21.4. Inspection of documents following executive decisions**

21.4.1. Subject to Rule 21.4.2, after a meeting of a decision-making body at which an executive decision has been made, or after a Portfolio Holder Member or an officer has made an executive decision the Chief Executive must ensure that a copy of
(a) any records prepared in accordance with Rules 18 or 21; and
(b) any report considered at the meeting or, as the case may be, considered by the Portfolio Holder Member or officer and relevant to a decision recorded in accordance with Rules 18 or 21 or, where only part of the report is relevant to such a decision, that part, must be available for inspection by members of the public, as soon as is reasonably practicable, at the offices of the Council, and on the Council's website.

21.4.2. Nothing in these rules is taken to authorise or require the disclosure of confidential or exempt information.

21.4.3. Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under Rule 21.4.1, those documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

## 22. Joint Committees

These Rules apply to the Council's Joint Committees as follows:

**22.1.** If all the members of a joint committee are members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Executive.

**22.2.** If the joint committee contains councillors who are not on the Cabinet of any participating authorities then the access to information rules in Part VA of the Local Government Act 1972, as applicable to meetings of the full Council and its committees will apply.

## 23. The Overview and Scrutiny Committees and Sub-Committees - Access to Documents

**23.1. Rights to copies**

Subject to 23.2 below, any of the three Overview and Scrutiny Committees and their Sub-Committees will be entitled to copies of any document which is in the possession or control of the Cabinet or any of its Committees and which contains material relating to:
(a) any business transacted at a meeting of the Cabinet or its Committees;
(b) any decision taken by a Portfolio Holder Member of the Cabinet; or
(c) any decision taken by an Officer of the Council in accordance with executive arrangements.

The Cabinet must provide the document no later than 10 clear days after receipt of the request.

**23.2. Limit on rights**

None of the Overview and Scrutiny Committees nor their Sub-Committees will be entitled to:
(a) any document that is in draft form;
(b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision the Committee are reviewing or scrutinising or intend to scrutinise;
(c) the advice of a political or mayoral assistant.

## 24. Additional rights of access for Councillors

**24.1. Material relating to key decisions**

All Councillors will be entitled to inspect any document 5 clear days before the meeting (except those available only in draft form) which are in the possession or under the control of the Cabinet and which contain material relating to any business to be transacted at a public meeting. Any document that is in the possession of the Cabinet and contains material relating to business transacted at a private meeting, or contains material relating to an executive decision made by an officer must be made available when the meeting concludes or immediately after the officer has taken the decision. A document is not required to be made available for inspection if it appears to the proper officer that it discloses exempt information other than paragraphs 3 and 6. All Councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet that relates to any key or other decision or any business to be transacted at a public meeting.

**24.2.** A Member shall not knowingly inspect or request a copy of any document relating to a matter in which he:
(a) is professionally interested; or

(b) has a disclosable pecuniary interest within the meaning of the Code of Conduct for Councillors as set out in this Constitution.

**24.3.** This shall not preclude the Director of Governance from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act or the Data Protection Act.

**24.4. Nature of rights**

These rights of a Member are additional to any other right they may have including the rights referred to in Standing Order 24 and applicable pursuant to the common law rights based on a "need to know".

NOTE: These rules reflect The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

## 4.3 Budget and Policy Framework Procedure Rules

### 1. The framework for executive decisions

The Council will be responsible for the adoption of the budget and policy framework as set out in Article 4. Once a budget or an element of the policy framework is in place, it will be the responsibility of the Cabinet to implement it.

### 2. Process for developing the framework

The process by which the budget and policy framework shall be developed is:

**2.1.** After consulting stakeholders in a manner appropriate to the matter under consideration, the Cabinet will draw up initial proposals in relation to any plan, strategy or budget that forms part of the Council's budget and policy framework. Once drawn up the Chief Executive will serve copies of them on the chairs of the Overview and Scrutiny Committees together with dates when the Cabinet will consider them further.

**2.2.** The Overview and Scrutiny Committees will be convened to consider the draft proposals and whether any further consultation is appropriate. If so the Overview and Scrutiny Committees will carry out any necessary consultation and will reflect any representations made to it in its response to the Cabinet within the time scale set for decision by the Cabinet.

**2.3.** The Cabinet will finalise its proposals for the Council to consider having taken into account the comments from the Overview and Scrutiny Committees. The report to Council will show the Cabinet's response to those comments.

**2.4.** The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.

**2.5.** The Council's decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposal without amendment) or (if the Cabinet's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader formally objects in that period.

**2.6.** If the Leader objects to the decision of the Council, they shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.

**2.7.** The Council meeting must take place within 10 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

**2.8.** The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in and shall be implemented immediately.

**2.9.** In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework that may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

NOTE: Rule 2 is a summary of Part II to Schedule 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 to which detailed reference should be made if required.

## 3. Decisions outside the budget or policy framework

**3.1.** Subject to the provisions of paragraph 5 (virement) the Cabinet, individual Portfolio Holder Members of the Cabinet and any officers discharging executive functions may only take decisions that are in line with the budget and policy framework. If it is proposed to make a decision that is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.

**3.2.** Where there is doubt as to the vires of a proposed decision advice shall be sought from the from the Monitoring Officer and the Chief Financial Officer as to whether the decision would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 shall apply.

## 4. Urgent decisions outside the budget or policy framework

**4.1.** The Cabinet, a Portfolio Holder Member of the Cabinet or an officer may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency and: i) it is not practical to convene a quorate meeting of the full Council; and ii) the Chair of the Overview Committee agrees that the decision is a matter of urgency. The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the Overview Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the

Overview Committee the consent of the Chair of the Council, and in the absence of both the Vice-Chair, will be sufficient.

**4.2.** Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency

## 5. Virement

Virement can be authorised by the Cabinet or a Chief Officer within the limits set by Council. Details are set out in the Financial Regulations in Part 4.6 of this Constitution, which supplement Rule 2.9 of these Rules.

## 6. In-year changes to policy framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a Portfolio Holder Member of the Cabinet or an officer must be in line with it. No changes to any policy and strategy that make up the policy framework may be made by those bodies or individuals except those changes: (a) that will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint; (b) necessary to ensure compliance with the law, ministerial direction or government guidance; (c) in relation to the policy framework in respect of a policy that would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## 7. Call-in of decisions outside the budget or policy framework

**7.1.** Where Scrutiny Committee is of the opinion that a decision of the Cabinet is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and Chief Financial Officer.

**7.2.** In respect of functions that are the responsibility of the Cabinet, the Monitoring Officer's report or the Chief Financial Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

**7.3.** If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:

7.3.1. endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

7.3.2. amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

7.3.3. where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Financial Officer.

# 4.4 Executive Procedure Rules

## 1. Operation of the Cabinet

**1.1. Who may make executive decisions?**

Executive decisions may be made by: (i) the Cabinet as a whole; (ii) an individual Portfolio Holder Member of the Cabinet; (iii) an officer.

**1.2. The Council's scheme of delegation and executive functions**

The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council except for the scheme of delegations for executive functions which is determined by the Leader. The scheme of delegations is set out in Part 3 of this Constitution.

**1.3. Conflicts of Interest**

1.3.1. Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Councillors in Part 5 of this Constitution.

1.3.2. If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Councillors in Part 5 of this Constitution.

1.3.3. If the exercise of an executive function has been delegated to an individual Portfolio Holder Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the Cabinet or otherwise as set out in the Council's Codes of Conduct in Part 5 of this Constitution.

**1.4. Cabinet meetings**

The Cabinet will meet at least 11 times per year at times to be agreed by the Council. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Cabinet.

**1.5. Public meetings of the Cabinet**

All meetings of the Cabinet will be held in public. Items will be considered in private session only if they qualify under the grounds to exclude the public set out in the Access to Information Procedure Rules.

**1.6. Quorum**

The quorum for a meeting of the Cabinet shall be three.

**1.7. Executive Decisions**

Executive decisions to be taken by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

## 2. Conduct of Executive Meetings

**2.1. Who presides?**

If the Leader is present they will preside. In their absence, then the Deputy Leader shall preside. If both are absent the Cabinet will elect a Chair for the meeting.

**2.2. Who may attend?**

Councillors who are not members of the Cabinet may attend and observe the proceedings of the Cabinet. They may speak at the meetings if the Leader (or other person presiding) consents to it. The Senior Officers are entitled to attend and to participate in all meetings of the Cabinet. The public and press can observe any proceedings of the Cabinet held in public session.

**2.3. What business will be conducted at the Cabinet's meetings?**

At each meeting of the Cabinet the following business will be conducted:

2.3.1. consideration of the minutes of the last meeting;

2.3.2. matters referred to the Cabinet (whether by the Overview and Scrutiny Committees or by the Council) for reconsideration in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

2.3.3. consideration of reports from the Overview and Scrutiny Committees; and

2.3.4. matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

**2.4. Consultation**

All reports to the Cabinet from any Member of the Cabinet or an officer on proposals relating to the budget and policy framework shall contain details of the nature and extent of consultation with stakeholders and the relevant Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

**2.5. Who can put items on the Cabinet's agenda?**

The following may require an item to be considered at the next available meeting of the Cabinet: The Leader or any other Member of the Cabinet; The Council, or any Committee of the Council; any Senior Officer. In addition any Member of the Council (not on the Cabinet) may request the Leader that an item be considered by the Cabinet and it will be considered only at the discretion of the Leader.

**2.6. Requirement for Written Report when making a decision**

All reports to the Cabinet, or to an individual Portfolio Holder Member of the Cabinet, recommending the making of a key decision or any other decision in respect of an

executive function shall be in writing. The report shall contain a summary of the purpose of the report together with other required information. In addition the report shall contain an assessment of the legal and financial implications (if any) arising from the report.

# 4.5 Overview and Scrutiny Procedure Rules

## 1. Arrangements for Overview and Scrutiny Committees

The Council shall have an Overview Committee, a Scrutiny Committee and a Housing Overview & Scrutiny Committee as set out in Article 7 ('the Overview and Scrutiny Committees').

## 2. Who may sit on an Overview and Scrutiny Committee?

All Councillors except members of the Cabinet may be members of the Overview and Scrutiny Committees. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

## 3. Co-optees

The Overview Committee and the Scrutiny Committee shall be entitled to recommend to Council the appointment of up to 2 people as non-voting co-optees. The Housing Overview & Scrutiny Committee may recommend to Council up to 7 co-optees (five tenant and leaseholder representatives and two independent community representatives who may vote).

## 4. Meetings of the Overview and Scrutiny Committees

There shall be at least 4 ordinary meetings of the Overview Committee, 6 ordinary meetings of the Scrutiny Committee and 4 of the Housing Overview & Scrutiny Committee in each civic term. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview Committee, Scrutiny Committee and Housing Overview & Scrutiny Committee meeting may be called by the Chair of the relevant Committee, by any 5 Councillors of the Committee or by the Chief Executive if they consider it necessary or appropriate.

## 5. Quorum

The quorum for each Committee shall be as follows: Overview Committee 5 Councillors; Scrutiny Committee 5 Councillors; Housing Overview & Scrutiny Committee 5 Members.

## 6. Who Chairs the Overview and Scrutiny Committees meetings?

The Chair for each meeting shall be the Chair of the relevant Committee appointed by Council at the Council's Annual Meeting; or in the absence of the Chair, the Vice Chair of the relevant Committee appointed by Council at the Council's Annual Meeting; or failing that, a Member elected by the meeting in the absence of both the Chair and Vice Chair. The Chair and Vice Chair shall work together to ensure the proper conduct of the Overview and Scrutiny Committees.

## 7. Work Programme

The Overview and Scrutiny Committees/sub-committees will be responsible for setting their own work programme and in doing so they shall take into account the wishes of Members on that Committee who are not members of the largest political group on the Council.

## 8. Agenda items

**8.1.** Without prejudice to paragraph 15 below, any Councillor (whether a member of the Overview and Scrutiny Committees or not) may request an item be considered by one of the committees by completing a proposal form. The relevant committee shall then decide whether to progress matter to scoping and inclusion on the Forward Plan.

**8.2.** The Chair of the relevant Overview and Scrutiny Committee shall retain the discretion to permit inclusion of an item on the agenda for the next available meeting of the Committee following a request by a Councillor of that Committee.

## 9. Policy review and development

**9.1.** The role of the Overview and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.

**9.2.** In addition, the Overview and Scrutiny Committees may make proposals to the Cabinet for the development of other matters in so far as they relate to matters within their terms of reference.

**9.3.** The Overview and Scrutiny Committees may hold inquiries and investigate the available options for future direction in policy development and may, subject to budgetary provision, appoint advisers and assessors to assist them in this process. Overview and Scrutiny Committees will invite the relevant Members of the Cabinet to any such inquiries and investigations.

## 10. Reports from Overview and Scrutiny Committees

The views of an Overview and Scrutiny Committee may be reported to the Cabinet and/or the Council, and the Chair of the respective Committee shall be entitled to address the meeting on that Committee's views.

## 11. Making sure that Overview and Scrutiny Committees' reports are considered by the Cabinet

**11.1.** The agenda for the Cabinet meetings shall include an item for the consideration of reports from the Overview and Scrutiny Committees.

11.1.1. Where an individual Member of the Cabinet has been delegated a decision making power;

11.1.1.1. the Overview and Scrutiny Committees may submit a report of their views on the matter to be decided to the Cabinet and to the individual Member; and

11.1.1.2. the individual Member shall not make the decision if he/she disagrees with the views of the Committee until the matter has been considered by the Cabinet.

**11.2.** Overview and Scrutiny Committees will in any event have access to the Forward Plan. Where an item is not the subject of detailed proposals from the Overview and Scrutiny Committees following a consideration of possible policy/service developments, the Committee will normally be able to respond to the Cabinet's consultation process in relation to any key decision.

## 12. Rights of the Overview and Scrutiny Committees' members to documents

**12.1.** In addition to their rights as Councillors, members of the Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

**12.2.** Nothing in this paragraph prevents more detailed liaison between the Cabinet and any of the Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

## 13. Members and officers giving account

**13.1.** Each of the Overview and Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions relevant to the terms of reference of that Committee. As well as reviewing documentation it may require any Member of the Cabinet, the Chief Executive, any Chief Officer, Director and/or any Manager to attend before it to explain in relation to matters within their remit:

13.1.1. any particular decision or series of decisions;

13.1.2. the extent to which the actions taken implement Council policy; and/or

13.1.3. their performance.

And, subject to there being no reasonable reason to the contrary, it is the duty of those persons to attend if so required.

**13.2.** Where any Member or officer is required to attend any of the Overview and Scrutiny Committees under this provision, the Chair of that Committee will inform the Chief Executive. The Chief Executive will inform the Member or officer in writing giving at least 5 working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.

**13.3.** Where the Councillor or officer is unable to attend on the required date, then that Committee shall in consultation with the Councillor or officer arrange an alternative date for attendance.

**13.4.** Notwithstanding the generality of the paragraphs above, all the Portfolio Holders shall, at least once in each civic year, provide a written report to Scrutiny on the activities

they have undertaken within the remit of their Portfolio and shall, if requested by the Scrutiny Committee, attend a meeting of the Scrutiny Committee to answer questions on the content of the report.

## 14. Attendance by others

Any of the Overview and Scrutiny Committees may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend. Attendance is of course entirely optional.

## 15. Call-in

**15.1.** Call-in may be exercised by the Scrutiny Committee. A "call-in" is where the Scrutiny Committee reviews a decision made by the Cabinet or one of its Members before the decision is implemented Call-in should only be used in exceptional circumstances and in the interests of good administration. A decision cannot be called in more than once.

**15.2.** **Procedure for Call-In**:

15.2.1. A decision is made by the Cabinet or a Portfolio Holder but the decision does not come into effect until a Call-In period has elapsed.

15.2.2. Within two working days of the decision being made, the Chief Executive will notify all Councillors of the decision. The notice will include the date of the notification, and the date the decision will come into effect if there is no Call- In on it. The "effective date" of the decision which will be 09.00 am on the day after the expiry of three clear working days from the notification to Councillors. (Saturdays, Sundays and Bank Holidays are excluded). (For example, in respect of a decision made by the Cabinet on a Wednesday, notification will be given to all Councillors by Friday of the same week, and the effective date of the decision will be 09.00 am on the following Thursday).

15.2.3. A request for a Call-In of the decision must be received by the Chief Executive between the date of notification to Councillors and the effective date of the decision.

15.2.4. For the call-in to be valid, the request must satisfy all of the following provisions:

15.2.4.1. Be in writing (on paper or e-mail);

15.2.4.2. Specify the relevant decision that is to be the subject of the call-in and state the reasons for the call-in;

15.2.4.3. Be supported by at least five Councillors, one of whom shall be the Chair or Vice Chair of the Scrutiny Committee.

15.2.5. Once the Chief Executive is satisfied that the request is a valid request, he shall arrange for a Scrutiny Committee to meet as soon as possible on a date which is acceptable to

the Chair of the Committee and a Chief Officer.

15.2.6. If having considered the decision, the Scrutiny Committee is still concerned about it, the Committee may refer it back to the decision-maker for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council.

15.2.7. If referred to the decision-maker, they shall consider the concerns, amending the decision or not, before adopting a final decision.

15.2.8. If within one calendar month from the date of the request for the call-in, a Scrutiny Committee does not meet, or does meet but does not refer the matter back to the decision-maker, or to full Council, the decision shall take effect on the date of the Scrutiny Committee meeting, or on the expiry of the one-month period, whichever is the earlier.

15.2.9. If the matter was referred to full Council, and the Council does not object to the decision, the decision will be effective immediately thereafter.

15.2.10. However, if the Council does object to the decision, it may:

15.2.10.1. overrule the decision if it is contrary to the Policy Framework or the Budget, or

15.2.10.2. refer it back to the decision-maker with the views of the Council in this case the decision-maker shall, within 14 working days, consider the Council's views and make a final decision, and the decision shall then be implemented.

**15.3. Exceptions to Call-in:**

In order to ensure that call-in is not abused, nor causes unreasonable delay certain limitations are placed on its use. These are:

15.3.1. only decisions involving expenditure or reductions in service over a value of £10,000 may be called in;

15.3.2. If in the opinion of the Chief Executive the power of call-in is being abused with the apparent intention of unreasonably disrupting the Council's decision making process he may refuse to accept any or all requests.

## 16. Urgent Decisions

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent whether under Rule 16 of the Access to Information Procedure Rules or otherwise.

## 17. The Party Whip

When considering any matter in respect of which a Member of any of the Overview and Scrutiny Committees is subject to a party whip the Member must declare the existence of the whip, and the nature of it before the commencement of the committee's

deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## 18. Procedure at Overview and Scrutiny Committee Meetings

**18.1.** The Overview and Scrutiny Committees shall consider the following business:

18.1.1. minutes of the last meeting;

18.1.2. consideration of any matter referred to the Committee for a decision in relation to call in of a decision;

18.1.3. responses of the Cabinet to reports of the Overview and Scrutiny Committees; and

18.1.4. the business otherwise set out on the agenda for the meeting.

18.2. Where any of the Overview and Scrutiny Committees conducts investigations (for example, with a view to policy development), that Committee may also ask people to attend to give evidence at committee meetings that are to be conducted in accordance with the following principles:

18.2.1. that the investigation be conducted fairly and all Councillors of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

18.2.2. that those assisting the Committee by giving evidence be treated with respect and courtesy; and

18.2.3. that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

**18.3.** Following any investigation or review, that Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

**18.4.** NOTE: References in this Part to 'Members of the Cabinet' does not include the Assistant Portfolio Holders.

## 4.6 Financial Regulations

Within these Regulations Director of Finance means the officer with the statutory responsibility for the proper administration of the Council's financial affairs in accordance with S151 of the Local Government Act 1972, i.e. Chief Finance Officer.

## 1. Status of financial regulations

### 1.1. Purpose

1.1.1. These Financial Regulations (Regulations) provide the governance framework for managing the Council's financial affairs.

### 1.2. Status

1.2.1. The Local Government Act 1972 (Section 151) makes the Chief Finance Officer (Director of Finance) responsible for the proper administration of the Council's financial affairs. These Regulations are issued pursuant to these responsibilities.

### 1.3. Scope

1.3.1. The regulations set out the Council's requirements in respect of:

- financial management roles and responsibilities
- financial planning and budgeting
- financial monitoring and control
- internal control and audit
- financial systems and procedures
- external arrangements

1.3.2. The regulations apply to the control of both the General Fund finances and the Housing Revenue Account.

1.3.3. Appendix 1 to the Regulations comprises the 'Schedule of Financial Authority to Officers' which sets out the approved financial limits within which officers may conduct the Council's business.

### 1.4. Compliance

1.4.1. These Regulations apply to every member and officer of the Council and to anyone acting on its behalf. Failure to comply may constitute misconduct and lead to formal disciplinary action.

1.4.2. All Councillors and officers have a general responsibility for taking reasonable action to provide for the security of assets under their control and for ensuring that the use of these resources is legal, properly authorised, and achieves value for money. In doing so, proper consideration must be given at all times to matters of probity and propriety in managing the assets, income and expenditure of the Council.

### 1.5. Maintaining the regulations

1.5.1. The Director of Finance is responsible for:

1.5.1.1. Maintaining and updating these Regulations and the Schedule of Financial Authority to Officers.

1.5.1.2. Ensuring that any revisions affecting the powers of councillors are approved by the Council.

1.5.1.3. Reviewing and reissuing Financial procedures/instructions as necessary to support the effective operation of these Regulations.

## 2. Financial management roles and responsibilities

### 2.1. Principles

2.1.1. A transparent framework of financial management responsibilities and decision making is essential to the effective management of the Council's financial affairs.

2.1.2. All councillors and officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public monies.

### 2.2. Councillors

2.2.1. Councillors responsibilities' for the overall management of the Council's financial affairs are exercised through:

2.2.1.1. Full Council, which is responsible for approving the Council's overall policy framework and the budget within which the Cabinet operates, setting Prudential Indicators for capital finance and treasury management, setting limits for virements and approving the Council's treasury management and investment strategies;

2.2.1.2. The Cabinet, which is responsible for proposing the policy framework and budget to the Council and for discharging executive functions in accordance with December 2020 157 it. Executive decisions can be delegated to a committee of the Cabinet, or by the Leader to an individual Cabinet member or an officer;

2.2.1.3. Audit and Governance Committee, which is responsible approving the Annual Statement of Accounts for publication, oversight of the Council's governance arrangements and audit and anti-fraud activity;

2.2.1.4. Overview and Scrutiny Committees, which oversee the budget process including its implementation.

### 2.3. The Director of Finance

2.3.1. The Director of Finance has statutory and delegated duties in relation to the financial administration and stewardship of the Council. The statutory responsibilities cannot be overridden and arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 2015
- The Local Authorities Goods and Services Acts 1970
- The Local Government Acts 2000 and 2003
- The Localism Act 2011

2.3.2. Responsibilities of the Director of Finance include:

2.3.2.1. The proper administration of the Council's financial affairs including all arrangements concerning financial planning, financial control, accounting, taxation, income, debt management, insurance, investments, banking, loans, leasing, borrowing and the payment of creditors, salaries and wages.

2.3.2.2. Preparing the Revenue Budget and reporting to the Council on the robustness of the estimates and the adequacy of reserves.

2.3.2.3. Preparing the Capital Programme, ensuring effective forward planning and sound financial management in its compilation.

2.3.2.4. Ensuring that accurate and timely financial information is available to enable effective budget monitoring and reporting and taking action if overspends or shortfalls in income emerge.

2.3.2.5. Reporting to full Council if it is likely that any proposed action or decision will lead to unbudgeted or unlawful expenditure or activity.

2.3.2.6. Advising on the systems of internal control necessary for sound financial management and decision making and to ensure that public funds are properly safeguarded and used economically, efficiently, and effectively.

2.3.2.7. Maintaining an adequate and effective internal audit function and an effective Anti-Fraud and Corruption strategy.

2.3.2.8. Preparing the Council's Risk Management Strategy and advising on the management of strategic, financial and operational risks.

2.3.2.9. Determining the accounting procedures and records for the Council and ensuring that they are applied consistently.

2.3.2.10. Preparing the Council's Annual Statement of Accounts and Governance Statement in accordance with all applicable codes of practice on local authority accounting.

2.3.2.11. Preparing and implementing an effective Treasury Management Strategy and effecting all investments and borrowings within the limits imposed by the Council.

2.3.2.12. Advising on, monitoring and reporting on performance in relation to Prudential Indicators set by the Council for capital expenditure, external debt and treasury management.

2.3.2.13. Ensuring that effective asset management arrangements are in place.

2.3.2.14. Advising on the risks and financial implications associated with joint working, external funding and trading opportunities.

2.3.3. The Director of Finance may allocate their day-to-day responsibilities to an appropriate representative in accordance with the Scheme of Delegated Authority to Officers and the Schedule of Financial Authority to Officers.

**2.4. Budget Managers**

2.4.1. Whilst the Director of Finance has overall responsibility for the finances of the Council, budget managers are responsible for the day-to-day management of their respective budget areas. Their responsibilities in relation to financial management include:

2.4.1.1. Promoting and ensuring compliance with these Regulations and associated financial instructions/procedures and taking corrective action in the event of any non-compliance.

2.4.1.2. Preparing annual Revenue Budget estimates and Capital Programme estimates in accordance with the guidance issued by Cabinet and the Director of Finance.

2.4.1.3. Ensuring that the financial implications of all proposals are properly reflected within all decision making reports and that these have been agreed with the Director of Finance or their nominated representative.

2.4.1.4. Managing service delivery and containing expenditure within the agreed revenue and capital budgets.

2.4.1.5. Maintaining sound systems of internal control and implementing agreed internal and external audit recommendations.

2.4.1.6. Complying with the Council's Anti-Fraud and Corruption Strategy and reporting suspected fraud and financial irregularities to the Director of Finance for possible investigation.

2.4.1.7. Complying with the Council's Risk Management Strategy and notifying the Director of Finance immediately of significant risks to the Council's financial position.

2.4.1.8. Ensuring that all financial transactions are recorded through the main accounting system.

2.4.1.9. Assisting cash flow through timely billing of income due, monitoring income received and taking appropriate action in the event of non-payment.

2.4.1.10. Assisting cash flow through minimising advance payments wherever possible.

2.4.1.11. Ensuring that all expenditure incurred complies with the requirements of Contract Standing Orders and procurement rules and has the necessary budgetary approval.

2.4.1.12. Controlling resources and containing staff numbers within approved establishment and budget levels and ensuring that all employee appointments and payments are properly authorised in compliance with the Council's policies.

2.4.1.13. Ensuring the proper security and safe custody of all assets under their control.

2.4.1.14. Ensuring that the risks and financial implications associated with joint working, external funding and trading opportunities are properly evaluated and that no such arrangements are entered into without the necessary approvals.

2.4.1.15. Ensuring that financial authorities are operated in accordance with the limits contained within the Schedule of Financial Authority to Officers and that a written record of authorised officers is maintained.

**2.5. All Officers**

2.5.1. In addition to the specific responsibilities set out above the Council expects all officers to:

2.5.1.1. Act in good faith, impartially and in accordance with their positions of trust.

2.5.1.2. Exercise due care in relation to all resources, assets, income and expenditure within their care or control.

2.5.1.3. Ensure that proper records and documentation are maintained of the Council's assets and financial transactions

2.5.1.4. Comply with these Regulations, the associated Financial Instructions/Procedures and any additional guidance issued to ensure the effective control of the Council's resources.

2.5.1.5. Co-operate in audits of the Council's financial systems.

2.5.1.6. Report any suspected financial irregularities for investigation.

## 3. Financial planning and budgeting

### 3.1. Principles

3.1.1. The purpose of financial planning is to set out and communicate the Council's objectives, resource allocations and related performance targets and to provide an agreed basis for subsequent management control, accountability and reporting.

3.1.2. Budgets are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is unlawful for the Council to budget for a deficit.

3.1.3. The Council's budget sets agreed parameters around the annual activities and functions of service areas and is constructed within the context of the Financial Plan (which includes the Medium Term Financial Plan). It reflects the priorities of the Council.

3.1.4. The Capital Programme sets out the resource allocations to be made to capital schemes that have the approval of Council. Capital expenditure involves acquiring or enhancing fixed assets with a long term value to the organisation, such as land, buildings, major items of plant, equipment and vehicles.

3.1.5. To enable councillors to make informed decisions, all Cabinet and Committee reports must incorporate a separate section on 'financial implications', which will be prepared by the Finance Team. Reports must show the costs or savings of proposals together with any approved budget provision, future commitments, potential risks, tax implications and any other financial consequences which may arise from the options and recommendations.

### 3.2. Revenue Budget

3.2.1. The Director of Finance is responsible for:

3.2.1.1. Ensuring that an annual Revenue Budget and Council Tax Report is prepared in the context of a Medium Term Financial Plan for consideration by Cabinet and approval by Council.

3.2.1.2. Maintaining a financial planning and resource allocation process that properly reflects the Council's policy framework and strategic objectives.

3.2.1.3. Advising the Cabinet on the format of the budget and its responsibility for issuing guidance on budget preparation taking due account of:

- legal requirements
- medium-term planning prospects
- the Council Plan and priorities
- available resources
- spending pressures
- government initiatives and public policy requirements

- internal policy directives

3.2.1.4. Advising the Council on the budget proposals in accordance with their responsibilities under S151 of the Local Government Act 1972.

3.2.1.5. Advising the Cabinet and Council on a prudent level of reserves for budget purposes and ensuring any appropriate contingency provisions are maintained.

3.2.1.6. Considering and approving or rejecting requests for the creation of earmarked reserves.

3.2.1.7. Approving or rejecting transfers to or from reserves, or the re-designation of existing reserves.

3.2.1.8. Undertaking the statutory consultation with Non-Domestic Rates (NDR) payers.

3.2.1.9. Issuing detailed procedures on the preparation of Revenue Budget estimates.

3.2.2. Budget managers are responsible for:

3.2.2.1. Preparing annual Revenue Budget estimates in accordance with the guidance issued by Cabinet and the detailed procedures issued by the Director of Finance, ensuring that these reflect agreed priorities and advising Cabinet Members on service implications.

3.2.2.2. Establishing detailed budgets for each service area in advance of the financial year and requiring such budgets to be managed by responsible named budget managers.

3.2.2.3. Integrating financial and budget plans with service planning.

3.2.2.4. Ensuring that any approved withdrawals from reserves are applied for their intended purposes.

**3.3. Capital Programme**

3.3.1. No expenditure may be incurred on a capital project unless it has been approved by Council. The formulation and monitoring of capital projects for recommendation to Cabinet is through the Budget Setting and Capital Allocation Panel which is chaired by the Portfolio Holder for Finance. This Group meets quarterly and is responsible for:

3.3.1.1. The strategic development of the Council's capital programme and capital strategy in accordance with the Council Plan.

3.3.1.2. To consider any proposal for the use of capital against Council's priorities.

3.3.1.3. To review potential risk and Value for Money issues on any proposal for the use of capital.

3.3.1.4. To recommend a programme of capital spend within the confines of financing available.

3.3.1.5. To provide a forum for establishing and providing robust challenge and debate around the capital programme.

3.3.1.6. To monitor the performance of projects in accordance with the Council's Project Management Guidelines and programmes within the Council's capital programme.

3.3.1.7. To ensure that investments in projects are backed up with a business case in accordance with the Project Management Guidelines.

3.3.2. The Director of Finance is responsible for:

3.3.2.1. Ensuring that a five year rolling Capital Programme is prepared on an annual basis for consideration by the Budget Setting and Capital Allocation Panel and approved by Cabinet and Council.

3.3.2.2. Issuing strategic guidance on budget preparation and issuing detailed guidelines which take account of legal, regulatory and code of practice requirements, medium-term planning prospects, affordability and whole life costing.

3.3.2.3. Ensuring that the revenue implications of the programme are contained within the Revenue Budget and Medium Term Financial Plan.

3.3.2.4. Ensuring that all schemes relying on the use of prudential borrowing powers are properly appraised and provide value for money.

3.3.2.5. Reporting to Cabinet on the overall position and the availability of resources to support the Capital Programme.

3.3.2.6. Issuing procedures on the preparation of capital budget estimates.

3.3.2.7. Ensuring that sources of funding (general fund, HRA, capital grants, self-financing etc.) are identified for the entire programme.

3.3.2.8. Ensuring that any schemes requiring in year approval (outside of the annual capital programme) are reviewed by the Budget Setting and Capital Allocation Panel and approved by Cabinet and Council

3.3.2.9. Maintaining a record of the current capital budget and expenditure on the Council's financial systems and ensuring compliance with financial reporting standards.

3.3.2.10. Reporting to Cabinet and the Capital Strategy and Allocation Group on the performance against the capital programme and budget.

3.3.3. Budget managers are responsible for:

3.3.3.1. Complying with the guidance issued by the Director of Finance regarding preparation of the capital programme.

3.3.3.2. Ensuring all General Fund capital schemes and schemes included in the Housing Revenue Account are properly appraised with rigorous business cases documented in line with the Council's Project Management Guidelines.

3.3.3.3. Undertaking robust financial management of schemes on a day to day basis and ensuring the scheme remains value for money.

3.3.3.4. Undertaking an annual review of their schemes within the Capital Programme and consequential revenue expenditure, for inclusion in the Medium Term Financial Plan.

3.3.3.5. Monitoring and reporting on a monthly basis on capital expenditure and receipts against approved capital budgets, on project slippage and variations, on additions/deletions and on any changes in projected expenditure in line with the monitoring process set down by the Director of Finance.

3.3.3.6. Ensuring that adequate records and audit trails are maintained in respect of all capital contracts.

3.3.3.7. Complying with the requirements of the Project Management Guidelines for business case sign off, progress updates and providing specific information in relation to a scheme when requested.

**3.4. Financial Implications of Decisions**

3.4.1. The Director of Finance is responsible for:

3.4.1.1. Issuing guidance in relation to the presentation of financial implications within the Council's decision making processes.

3.4.1.2. Ensuring the adequacy of the financial implications information presented within individual decision making reports and appropriate sign-off.

3.4.2. Managers are responsible for:

3.4.2.1. Ensuring that all decision making reports properly set out the financial implications of the proposed actions, through the provision of adequate information to finance to allow this section to be prepared.

3.4.2.2. Ensuring they act in accordance with guidance issued by the Director of Finance.

3.4.2.3. Arranging for all financial implications to be validated and formally signed-off by the Director of Finance, or their nominated representative, prior to their progression through the approval process.

# 4. Financial monitoring and control

## 4.1. Principles

4.1.1. To ensure the Council does not exceed its overall budget, each service area is required to manage its own income and expenditure within the cash limited budgets allocated to them to be spent on agreed service activities and functions. The Council's approval of the revenue estimates constitutes authority to incur expenditure, subject to compliance with the approved policies and regulations of the Council and any other limitation that may be imposed.

4.1.2. Any forecasted revenue overspends or income shortfalls should be mitigated through a compensating underspend or overachievement of income elsewhere. Any underspend cannot be carried forward from one year to the next without the approval of the Director of Finance and should generally be restricted to specific items of a 'one off' nature where monies will be spent for an identified purpose in the following financial year.

4.1.3. The term virement refers to transfers of budgets between or within cost centres. Virements may only be used in the very specific circumstances set out in the Regulations and the Schedule of Financial Authority to Officers.

## 4.2. Control of revenue budgets

4.2.1. The Director of Finance is responsible for:

4.2.1.1. Maintaining a robust framework of budget management and control that ensures that:

- Budget management is exercised within annual cash limits and the Medium Term Financial Plan
- Revenue expenditure is recorded on the Council's financial systems in accordance with legal, regulatory and code of practice requirements
- Accurate and timely information is available to managers and budget holders that enables budgets to be monitored and controlled effectively
- All officers responsible for committing expenditure comply with these Regulations
- Each cost centre is allocated to a named budget manager determined by the relevant service manager

- Significant variances from budget are investigated and reported by budget managers on a regular basis.

4.2.1.2. Monitoring and controlling income and expenditure against budget allocations at a Council-wide level.

4.2.1.3. Reporting regularly to the Cabinet on performance against budget, delivery of savings programmes and available reserves.

4.2.2. Budget managers are responsible for:

4.2.2.1. Ensuring that effective budgetary control arrangements exist and are observed within their respective services in compliance with these Regulations.

4.2.2.2. Ensuring spending remains within the relevant cash limits by controlling income and expenditure, monitoring performance and taking corrective action where variations from budget are forecast.

4.2.2.3. Ensuring that expenditure is coded correctly and committed only against approved budget lines.

4.2.2.4. Forecasting accurately on a monthly basis throughout the financial year; regularly reporting performance, variances and forecasts to the Director of Finance, Cabinet and as required to the Scrutiny Committee and Audit and Governance Committee.

4.2.2.5. Ensuring any risks or issues relating to over- or under-spends within their areas are escalated to finance on a timely basis.

**4.3. Virements**

4.3.1. The Director of Finance is responsible for:

4.3.1.1. Controlling and administering the virement mechanism in accordance with guidance and limits set by Council. As a general rule revenue virement is only permissible in the following circumstances:

- to correct any errors made in the initial loading of the budget onto the main accounting system to reflect a structural reorganisation
- to distribute centrally held budgets, e.g. savings targets and inflation provisions to reflect major changes in policy, subject to appropriate approval
- to reflect receipt of additional grant or other funding
- to reflect technical adjustments at the discretion of the Director of Finance
- to reflect any changes in corporate priorities

4.3.1.2. Recording approved virements in the Council's financial systems and reflecting the impact of these in regular monitoring reports to Cabinet.

4.3.2. Budget Managers are responsible for:

4.3.2.1. Ensuring all proposed virements comply with the limits and approval requirements set out in the Schedule of Financial Authority to Officers.

4.3.2.2. Notifying all proposed virements in writing to the Director of Finance or their representative.

# 5. Internal control and audit

## 5.1. Principles

5.1.1. Sound systems of internal control are essential to the proper economic, efficient and effective use of resources, the achievement of objectives and the safeguarding of public funds.

5.1.2. Legislation requires that the Council provides for both internal and external audit. External Audit provides an independent assessment of the Council's financial statements and the adequacy of its arrangements for securing value for money. Internal audit evaluates and reports on the adequacy of the Council's control systems in securing the proper, economic, efficient and effective use of resources. Internal Audit is provided through South West Audit Partnership (SWAP).

5.1.3. There is a basic expectation that councillors and all officers will act with integrity and with due regard to matters of probity and propriety and comply with all relevant rules, regulations, procedures and codes of conduct, including those in relation to receipt of gifts and hospitality and declaration of conflicts of interest.

5.1.4. The Council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by councillors, officers, customers of its services, third party organisations contracting with it, or other agencies or individuals with which it has any business dealings.

5.1.5. Risk management is an integral part of effective management and planning. It is concerned with identifying and managing key obstacles to the achievement of objectives.

## 5.2. Internal Control

5.2.1. The Director of Finance is responsible for:

5.2.1.1. Advising on effective systems of internal control to ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with statutory and other authorities that govern their use.

5.2.1.2. Conducting an annual review of the effectiveness of the system of internal control and publishing the results of this within the Council's Annual Governance Statement.

5.2.2. Budget Managers are responsible for:

5.2.2.1. Complying with the controls set down in these Regulations and Financial Instructions/Procedures issued.

5.2.2.2. Taking corrective action in respect of any non-compliance by staff with relevant rules, regulations, procedures and codes of conduct.

5.2.2.3. Implementing effective systems of internal control including adequate separation of duties, clear authorisation levels and appropriate arrangements for supervision and performance monitoring.

5.2.2.4. Planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their objectives, standards and targets.

**5.3. Internal and External Audit**

5.3.1. The Director of Finance is responsible for:

5.3.1.1. Maintaining an adequate and effective Internal Audit service in accordance with the Accounts and Audit Regulations.

5.3.1.2. Ensuring that the statutory requirements for External Audit are complied with and that the External Auditor is able to effectively scrutinise the Council's records.

5.3.1.3. Ensuring that audit plans and results are reported to the Audit and Governance Committee.

5.3.2. All Officers are responsible for:

5.3.2.1. Ensuring that the appointed auditors have access to all documents and records for the purposes of the audit and are afforded all facilities, co-operation and explanation deemed necessary.

5.3.2.2. Cooperating in the production of annual audit plans by highlighting any areas of risk that may benefit from audit review.

5.3.2.3. Implementing audit recommendations within agreed timescales.

**5.4. Preventing Fraud and Corruption**

5.4.1. The Director of Finance is responsible for:

5.4.1.1. Developing and maintaining an anti-fraud and corruption strategy that stipulates the arrangements to be followed for preventing, detecting, reporting and investigating suspected fraud and irregularity.

5.4.1.2. Advising on the controls required for fraud prevention and detection.

5.4.1.3. Appointing a Money Laundering Reporting Officer to ensure that systems are in place to counter opportunities for money laundering and that appropriate reports are made.

5.4.2. All Officers are responsible for:

5.4.2.1. Complying with the Council's Anti-Fraud and Corruption Strategy.

5.4.2.2. Ensuring that there are sound systems of internal control within their service areas for fraud prevention and detection.

5.4.2.3. Reporting cases of suspected fraud or irregularity to internal audit for investigation and complying with the Council's whistleblowing policy.

5.4.2.4. Implementing audit recommendations within agreed timescales.

5.4.2.5. Reporting any vulnerabilities or suspicions of money laundering in accordance with guidance issued by the Money Laundering Reporting Officer.

**5.5. Risk Management**

5.5.1. The Director of Finance is responsible for preparing the Council's risk management strategy and advising on the management of strategic, financial and operational risks.

5.5.2. Managers are responsible for:

5.5.2.1. Implementing the Council's risk management strategy.

5.5.2.2. Integrating risk management within business planning and performance management arrangements.

5.5.2.3. Mitigating, monitoring and reporting on risks.

5.5.2.4. Maintaining and testing business continuity plans.

# 6. Financial systems and procedures

## 6.1. Principles

6.1.1. Good systems and procedures are essential to the effective management and administration of the Council's financial affairs. This includes:

6.1.1.1. Accounting: The main accounting system provides the prime source of financial data for management accounts, statutory accounts and government returns. It is essential that this system complies with legislation and proper accounting practice and that all information is recorded accurately, completely and in a timely manner and that any errors detected promptly and rectified.

6.1.1.2. Income: Effective systems are necessary to ensure that all income due is collected, receipted, recorded and banked properly. Where possible income should be collected in advance to improve cash flow and avoid costs of debt collection. Debts should only be written off once all reasonable avenues have been exhausted or where it would prove uneconomical to pursue.

6.1.1.3. Expenditure: Expenditure may only be incurred where budgetary provision is available and must comply with the Council's Contract Standing Orders, procurement guidance and approved payment processes. Purchase orders must be raised to ensure that the expenditure is recorded as a commitment in the Council's main accounting system.

6.1.1.4. Banking: All transactions through the Council's bank accounts must be properly processed, recorded and reconciled.

6.1.1.5. Treasury management: Effective strategies must be maintained for the investment of cash balances and for borrowing to fund the Capital Programme.

6.1.1.6. Taxation: Effective systems must be in place to ensure that all tax liabilities and obligations are properly reported and accounted for and that losses, fines and penalties avoided.

6.1.1.7. Asset management: The Council's assets must be properly recorded, safeguarded from loss/harm and utilised effectively, and any disposals undertaken in a controlled manner.

6.1.1.8. Insurance: Appropriate insurance cover is necessary to protect the Council from financial claims arising from unforeseen events such as damage to property or injury to employees or to the public.

6.1.1.9. Recharges and internal trading accounts: The Council is required to allocate all of its back-office costs to service areas in compliance with accounting codes of practice.

## 6.2. Responsibilities

6.2.1. The Director of Finance is responsible for:

6.2.1.1. Determining the Council's main accounting system for the preparation of the Council's accounts and for monitoring all income and expenditure.

6.2.1.2. Determining any financial systems which may sit outside of the main accounting system and ensuring that these are sound and properly integrated and interfaced.

6.2.1.3. Issuing guidance on the use and maintenance of the main accounting system and related financial systems and ensuring that supporting records and documents are retained.

6.2.1.4. Ensuring that regular balance sheet and holding account reconciliations are undertaken.

6.2.1.5. Preparing the Council's consolidated accounts, balance sheet and governance statement for audit and publication and issuing guidance (including a detailed timetable and plan) to ensure achievement of statutory deadline.

6.2.2. Budget Managers are responsible for:

6.2.2.1. Ensuring that the main accounting system is used to accurately record financial transactions in accordance with guidance issued by the Director of Finance.

6.2.2.2. Ensuring an adequate audit trail of financial information and compliance with the Council's policies in respect of the retention of documents.

6.2.2.3. Ensuring that the implementation of any service financial system has the express approval of the Director of Finance and is adequately documented, tested and interfaced with the main accounting system.

6.2.2.4. Complying with the timetables required by the Director of Finance to enable the production of consolidated accounts, budgets and statutory information.

**6.3. Income**

6.3.1. The Director of Finance is responsible for:

6.3.1.1. Administering all invoicing, credit notes, income collection and debt recovery or, where local arrangements for such have been agreed, approving all procedures, systems and documentation used.

6.3.1.2. Ensuring that claims for Government grants and other monies are made properly and promptly.

6.3.1.3. Ensuring that all monies received are properly receipted and recorded and banked promptly.

6.3.1.4. Administering the process for writing off irrecoverable debts, and monitoring and reporting on write off levels.

6.3.1.5. Recommending and implementing the Council's debt management policy

6.3.2. Budget Managers are responsible for:

6.3.2.1. Ensuring that fees and charges for services are reviewed at least annually, consulting with the Director of Finance and Cabinet Members on the financial effect of the review, and obtaining Cabinet Member approval to any proposal to introduce new charges.

6.3.2.2. Collecting payment at point of sale wherever possible to improve cash flow.

6.3.2.3. Timely initiation of 'sales orders/sundry debts' in respect of all fees and charges due.

6.3.2.4. Administering any local systems for invoicing, income collection and debt recovery as directed by the Director of Finance.

6.3.2.5. Providing operational data and information to ensure that claims for Government grants and other monies are made properly and promptly.

6.3.2.6. Authorising the write off of irrecoverable debts on the recommendation of the Director of Finance and subject to the requirements set out in the Schedule of Financial Authority to Officers.

**6.4. Expenditure – Procurement**

6.4.1. The Director of Finance is responsible for:

6.4.1.1. Issuing guidance on the ordering, certification and payment for all works, goods and services, subject to the provisions of the procurement code.

6.4.1.2. Processing all payments due on receipt of a valid invoice or contract certificate which satisfies VAT regulations, and confirmation that works, goods and services have been received.

6.4.1.3. Agreeing any exceptions to the requirement to raise purchase orders for all works, goods and services.

6.4.1.4. Administering procurement cards and credit cards and processing payments.

6.4.1.5. Agreeing the use of any pre-loaded payment cards.

6.4.1.6. Ensuring that effective procurement guidance is in place.

6.4.2. Budget Managers are responsible for:

6.4.2.1. Ensuring that all purchase orders are raised using the Council's financial system, for all works, goods and services other than: a) purchases appropriately made through petty cash, procurement card or credit card; b) continuous charges for utilities supplies, or periodic payments such as rents or rates and treasury management payments; c) expenditure incurred on exceptions agreed with the Director of Finance.

6.4.2.2. Ensuring that no purchase orders are placed without the proper approvals and financial authorities set out in the Schedule of Financial Authority to Officers, Contract Standing Orders and issued procurement guidance.

6.4.2.3. Receipting all works, goods and services on the financial system.

6.4.2.4. Where still relevant, ensuring the proper completion and authorisation of payment certification vouchers, including confirming that the invoice has not previously been paid.

6.4.2.5. Ensuring that payments are made only where works, goods and services have been received to the correct price, quantity and quality standards.

6.4.2.6. Complying with the requirements of the Council's procurement guidance.

6.4.2.7. Ensuring that all procurement cards are appropriately controlled and that all expenses and other transactions are reviewed and authorised by the relevant line manager, are for proper business purposes, are supported by VAT receipts and are compliant with any other restrictions in force.

6.4.2.8. Complying with approval limits set out in the Schedule of Financial Authority to Officers and Contract standing Orders and any further limitations set out within the procurement guidance.

6.4.3. Other responsibilities:

6.4.3.1. Senior Management Team (SMT) Officers are empowered to expend from within their allocated service budget expenditure up to the amount set out in the Schedule of Financial Authority to Officers in any single case where the SMT Officer is of the view

that a finding of maladministration with injustice is likely to be found by the Local Government Ombudsman.

6.4.3.2. In circumstances were compensation above the amount set out in the Schedule of Financial Authority to Officers the authority of Cabinet is required.

**6.5. Expenditure – Payroll**

6.5.1. The Director of Finance is responsible for making emergency payments to staff in extremis and where practicable, such as in the case of payroll failure.

6.5.2. The Director of Finance is responsible for:

6.5.2.1. Operating sound arrangements for the payment of salaries and expenses to officers and councillors in accordance with the Councillors Allowances Scheme administered by Director of Governance.

6.5.2.2. Providing a corporate payroll system for recording all payroll data and generating payments to employees and councillors, including payment of expenses.

6.5.2.3. The proper calculation of all pay and allowances, National Insurance and pension contributions, income tax and other deductions.

6.5.2.4. Completing all HMRC returns regarding PAYE and providing advice and guidance on employment related taxation.

6.5.2.5. Maintaining an accurate and up to date record of the Council's establishment.

6.5.3. Budget Managers are responsible for:

6.5.3.1. Controlling resources and containing staff numbers within approved establishment and budget levels.

6.5.3.2. Ensuring that all employee appointments, including temporary staff, are made in compliance with the Council's policies and procedures.

6.5.3.3. Ensuring that the Organisational Development Team are notified promptly of starters and leavers, and all information relating to employees' pay and expenses.

6.5.3.4. Ensuring that all payments made to employees are properly authorised in compliance with the requirements set out by Organisation Development policies and procedures.

6.5.3.5. Ensuring that all expenses claims (electronic or manual) are reviewed and authorised by the relevant line manager prior to payment.

6.5.3.6. Ensuring that all persons employed by the Council are paid through the Council's payroll, other than where the Head of Paid Service has agreed that the individual is bona fide self-employed or employed by a recognised agency.

**6.6. Expenditure – Banking**

6.6.1. The Director of Finance is responsible for:

6.6.1.1. Managing and operating all the Council's bank accounts and ensuring that all payment methods, whether physical (e.g. cheques) or electronic have the appropriate authorisations, approvals and signatures.

6.6.1.2. Ensuring that adequate controls are in place for the control of payment methods (including cheques) covering access, ordering, custody, preparation, signing and despatch as appropriate.

6.6.1.3. Ensuring regular reconciliations are carried out between all bank accounts and the financial records of the Council

6.6.1.4. Approving the operation of any local cash or bank imprest accounts.

6.6.2. Budget Managers are responsible for:

6.6.2.1. Ensuring that no bank accounts are opened in the name of the Council other than with the express written authority of the Director of Finance.

6.6.2.2. Reporting to the Director of Finance on the nature and state of any bank accounts for which they are responsible.

6.6.2.3. The proper administration of any local cash or bank imprest accounts including record keeping, document retention, paying in income, reconciliation and control of cheques including ordering, custody, preparation, signing and despatch.

**6.7. Treasury Management**

6.7.1. The Director of Finance is responsible for:

6.7.1.1. Preparing and presenting an annual Treasury Management Strategy to Cabinet prior to submission to the Council for approval.

6.7.1.2. Implementing, reviewing and reporting on the progress and performance of the strategy and recommending any changes.

6.7.1.3. Preparing and maintaining a Treasury Management Policy statement, stating the policies, objectives and approach to risk management of its treasury management activities.

6.7.1.4. Preparing and maintaining suitable Treasury Management Practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities. The content of the policy statement and TMPs will follow the recommendations contained in the CIPFA Treasury Management in the Public Services Code of Practice (the Code), amended where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.

6.7.1.5. Ensuring that the organisation (i.e. Full Council) receives reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.

6.7.1.6. Effecting all investments and arranging borrowings within the limits imposed by the Council and reporting on the funding methods used.

6.7.1.7. Approving the use of any finance leases.

6.7.1.8. Ensuring that the use of any financial derivatives is intra vires and properly risk assessed and monitored.

6.7.1.9. Ensuring compliance with all applicable laws, regulations and codes of practice relating to treasury management and capital finance.

6.7.1.10. Ensuring that cash flow forecasting and monitoring systems are in place.

6.7.2. Budget Managers are responsible for:

6.7.2.1. Assisting cash flow through timely billing of income due, due consideration of contracts payment terms and minimising advance payments wherever possible.

6.7.2.2. Supporting cash flow forecasting and notifying the treasury team in advance of any high value receipts or payments that may impact on investments and borrowings.

6.7.2.3. Ensuring that no finance leases or borrowings are entered into without the approval of the Director of Finance.

6.7.3. Other responsibilities:

6.7.3.1. This organisation delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to Cabinet, and for the execution and administration of treasury management decisions to the Director of Finance, who will act in accordance with the organisation's policy statement and TMPs and, if they are a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

**6.8. Taxation**

6.8.1. The Director of Finance is responsible for:

6.8.1.1. Ensuring that transactions comply with relevant statutory requirements and authorities.

6.8.1.2. Completing a monthly return of VAT inputs and outputs to HMRC, ensuring prompt recovery of sums due, and reconciliation of tax records to the main accounting system.

6.8.1.3. Making monthly Construction Industry Scheme returns to HMRC.

6.8.1.4. Managing the Council's partial exemption position.

6.8.1.5. Preparing and submitting Voluntary Disclosure Notices to HMRC and recovery of any revenues due.

6.8.1.6. Providing advice and guidance on taxation issues.

6.8.2. Budget Managers are responsible for:

6.8.2.1. Ensuring that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.

6.8.2.2. Seeking advice on the potential tax implication of any new initiatives for the delivery of Council activity and services.

6.8.2.3. Ensuring that the taxation implications of proposed land and building acquisitions and sales are properly identified and considered at the planning stage.

6.8.2.4. Where construction and maintenance works are undertaken, ensuring that the contractor fulfils the necessary construction industry scheme deduction requirements.

**6.9. Asset Management**

6.9.1. The Director of Finance is responsible for:

6.9.1.1. Ensuring that asset registers are maintained in the appropriate format for accounting purposes for all fixed assets valued in excess of the limit set out in the Schedule of Financial Authority to Officers and that valuations are made in accordance with the local authority accounting code of practice.

6.9.1.2. Ensuring that all asset acquisitions and disposals are properly recorded and comply with the disposal policy and investment strategy.

6.9.1.3. Prescribing the records to be maintained for any stocks and stores and for inventories of moveable assets.

6.9.1.4. Approving the write off of deficiencies in any stocks, stores and inventory items subject to the limits set out in the Schedule of Financial Authority to Officers.

6.9.2. The Assistant Director Place, Assets & Commercialisation is responsible for:

6.9.2.1. Maintaining up to date records of all land and buildings, including values, for inclusion in the corporate fixed asset register in the format prescribed by the Director of Finance.

6.9.2.2. Arranging for the regular valuation of assets for accounting purposes to meet the requirements specified by the Director of Finance.

6.9.2.3. Establishing an asset management plan that details short, medium and long term use of assets, and monitoring and reporting on performance.

6.9.2.4. Arranging the disposal of surplus assets in compliance with the disposal policy and subject to the necessary approvals.

6.9.2.5. The acquisition of land and buildings on behalf of the Council in accordance with the asset management plan, Capital Programme and Medium Term Financial Plan and subject to the necessary approvals.

6.9.2.6. Notifying the Director of Finance of acquisitions and disposals so that the accounting records can be updated.

6.9.3. The Director of Housing, Health and Environment is responsible for:

6.9.3.1. Maintaining up to date records of all HRA land and buildings, including values, for inclusion in the corporate fixed asset register in the format prescribed by the Director of Finance.

6.9.3.2. Arranging for the regular valuation of assets for accounting purposes to meet the requirements specified by the Director of Finance.

6.9.3.3. Establishing an HRA asset management plan that details short, medium and long term use of assets, and monitoring and reporting on performance.

6.9.3.4. Arranging the disposal of HRA surplus assets in compliance with the disposal policy and subject to the necessary approvals.

6.9.3.5. The acquisition of HRA land and buildings on behalf of the Council in accordance with the HRA Business Plan, Housing Company Development Plan, Capital Programme and Medium Term Financial Plan and subject to the necessary approvals.

6.9.3.6. Notifying the Director of Finance of HRA and Housing Company acquisitions and disposals so that the accounting records can be updated.

6.9.4. Budget Managers are responsible for:

6.9.4.1. Providing the Assistant Director Place, Assets & Commercialisation and Director of Housing and Environment with all relevant information and documentation for the purposes of maintaining an up to date and complete fixed asset register.

6.9.4.2. Maintaining local inventories of moveable assets as directed by the Director of Finance.

6.9.4.3. Ensuring that any stocks and stores are properly recorded and that unnecessarily high levels do not accumulate.

6.9.4.4. Ensuring that any cash holdings are kept to a minimum, within insurance limits and held securely.

6.9.4.5. Ensuring the proper security and safe custody of assets and reporting any assets that are lost, stolen or destroyed to the insurance team, facilities management and the Director of Finance as appropriate.

6.9.4.6. Complying with guidance issued by the Director of Finance on disposal of assets.

6.9.4.7. Seeking approval to write off deficiencies in any stocks, stores, or inventory items, subject to the limits set out in the Schedule of Financial Authority to Officers.

6.9.4.8. Ensuring that assets are used only in the course of the Council's business unless specific permission has been given otherwise.

### 6.10. Insurance

6.10.1. The Director of Finance is responsible for:

6.10.1.1. Determining the nature and level of insurance cover to be effected.

6.10.1.2. Effecting insurance cover and processing and settlement of all claims.

6.10.2. Budget Managers are responsible for:

6.10.2.1. All new risks, properties or vehicles for which insurance is required.

6.10.2.2. Alterations affecting insurance arrangements.

6.10.2.3. Any loss, damage or claim.

### 6.11. Recharges

6.11.1. The Director of Finance is responsible for:

6.11.1.1. Maintaining an appropriate system of internal recharges which ensures that the full cost of each service is identified.

6.11.1.2. Processing all charges and recharges on a regular and timely basis.

6.11.1.3. Advising on the operation of internal trading accounts.

6.11.2. Budget Managers are responsible for:

6.11.2.1. Agreeing the basis of internal charges/recharges in advance of the financial year as part of the budget setting process.

6.11.2.2. Maintaining appropriate systems to calculate recharges or justify their apportionment.

6.11.2.3. Providing data to enable recharges to be processed on a regular and timely basis and responding in the event of any disputed charges.

6.11.2.4. Complying with guidance issued by the Director of Finance in relation to the operation of trading accounts.

## 7. External arrangements

### 7.1. Principles

7.1.1. All partnerships and joint working arrangements with outside bodies must be properly evaluated for risk before they are entered into and be supported by clear governance, accounting and audit arrangements. Cabinet approval is required in order to set-up a new entity, such as a joint venture.

7.1.2. External funding can prove an important source of income but funding conditions must be carefully examined before any agreement is entered into to ensure they are compatible with the aims and objectives of Council.

7.1.3. Legislation enables the Council to trade and provide services to third parties. All such work must be intra vires and the respective risks and financial benefits associated with such work must be properly considered and a business case approved before any trading activities take place.

**7.2. Partnerships and Joint Working**

7.2.1. The Director of Finance is responsible for advising on the financing, accounting and control of partnership arrangements including:

7.2.1.1. Financial viability in current and future years.

7.2.1.2. Risk appraisal and risk management arrangements.

7.2.1.3. Resourcing and taxation.

7.2.1.4. Audit, security and control requirements.

7.2.2. Budget Managers are responsible for:

7.2.2.1. Ensuring that any arrangements do not impact adversely upon Council services, that risk assessments have been carried, and that appropriate approvals have been obtained before entering into any agreements.

7.2.2.2. Ensuring that agreements and arrangements are properly documented.

7.2.2.3. Ensuring the Partnership register is up to date with partnerships entered into.

7.2.2.4. Providing appropriate information to the Director of Finance to enable relevant entries to be made in the Council's accounts.

7.2.2.5. Ensuring that appropriate mechanisms are in place to monitor and report on performance.

**7.3. External Funding**

7.3.1. The Director of Finance is responsible for:

7.3.1.1. Ensuring that any match funding requirements are considered prior to entering into any agreement, that future revenue budgets reflect these requirements and that any longer term sustainability costs have been properly assessed.

7.3.1.2. Ensuring that all external funding is received and properly recorded in the Council's accounts and in the name of the Council.

7.3.1.3. Ensuring that all audit requirements are met.

7.3.2. Budget Managers are responsible for:

7.3.2.1. The sustainability of funding is assessed for risk, any agreements entered into are consistent with and support the Council's service priorities and necessary approvals have been obtained.

7.3.2.2. All claims for funds are made by the due date.

7.3.2.3. Work is progressed in accordance with the project plan and all expenditure is properly incurred and recorded.

7.3.2.4. Ensure Finance is notified of all External Funding arrangements.

## 8. Appendix 1 – Schedule of Financial Authority to Officers

**8.1.** The Scheme of Delegated Authority to Officers sets out the powers and duties delegated to members of the Senior Management Team (SMT). SMT members may appoint appropriate "authorised officers" to act on their behalf.

**8.2.** This Schedule sets out the approved financial limits within which SMT members and authorised officers, may conduct the Council's business. Changes to the limits/values contained within this Schedule may only be made with the recommendation of the Director of Finance and approved by Council.

**8.3.** For those items marked the relevant SMT member has discretion to appoint appropriate authorised officers to act on their behalf. In all cases the member remains accountable for the effective operation of the financial authorities and must:

8.3.1. Maintain a written record of authorised officers.

8.3.2. Ensure that an appropriate segregation of duties is in operation, e.g. between ordering and paying for goods, between claiming and approving expenses.

8.3.3. Ensure compliance with the financial limits in this Schedule and any additional financial restrictions and limitations imposed by Contract standing Orders and issued Procurement Guidance and HR policies.

| REF | Description | Limit/Value | Approver |
|---|---|---|---|
| **Virements** | | | |
| | Individual Revenue & Capital Virements: | | |
| | Re-allocation of approved budgets; system errors, technical corrections, coding changes within overall spending limits | Unlimited | Director of Finance |
| | Virement with budget and policy change | Up to £50k | SMT member with agreement of Director of Finance |
| | | £50k to £100k | Relevant Portfolio Holder in consultation with Finance Portfolio Holder |

| REF | Description | Limit/Value | Approver |
|---|---|---|---|
| **Income** | | | |
| | Individual Sundry Debtor write offs | Up to £10k | ELT member or Assistant Director |
| | | £10k to £50k | ELT member or Assistant Director with agreement of Director of Finance |
| | | Over £50k | Director of Finance in consultation with Portfolio Holder Finance |
| | Individual Council Tax, NNDR, housing benefits overpayments and housing rent arrears write offs | Up to £10k (Service may have delegated authorities within these limits) | ELT member or Assistant Director |
| | | 10k to £50k | ELT member with agreement of Director of Finance |
| | | Over £50k | Director of Finance in consultation with Portfolio Holder Finance |
| | Irrecoverable Debts – defined and evidenced of bankruptcy, liquidation, company insolvent, Court remittance, time bar etc. | Unlimited | ELT member or Assistant Director |
| | Fees and Charges – Existing Policy | Increase/Decrease | ELT member or Assistant Director in consultation with Director of Finance in relation to budget implications |
| | Fees and Charges – New Policy/New Charges | New Charge | Cabinet & Council |
| **Expenditure** | | | |
| | Where budget approval is in place | As defined by Contract Standing Orders | As defined by Contract Standing Orders |
| | Unforeseeable emergencies expenditure with no budget | As defined by Scheme of Officer Delegation in the Constitution | As defined by Scheme of Officer Delegation in the Constitution |
| **Treasury Management** | | | |
| | Expenditure relating to treasury management and investments | As defined in Treasury Management Strategy | As defined in Treasury Management Strategy |

| REF | Description | Limit/Value | Approver |
|---|---|---|---|
| **Asset Management** | | | |
| | Writing off deficiencies in stocks, stores and inventories | Up to £50K | ELT member or Assistant Director |
| | | £10k to £50k | ELT member with agreement of Director of Finance |
| | | Above £50k | Director of Finance in consultation with Portfolio Holder Finance |
| | Disposal of freehold and leasehold land and property. Purchase, surrender, renewal, variation and re-gearing of property leases | As defined by Scheme of Officer Delegation in the Constitution | As defined by Scheme of Officer Delegation in the Constitution |
| | Value for including items in fixed assets register | £20k and over | |
| **Insurance** | | | |
| | Agreeing settlement of insurance claims | Up to £30k | ELT member or Assistant Director |
| | | Over £30k | ELT member or Assistant Director in consultation with Director of Finance or Director of Governance |

## 4.7 Contract standing orders

# 1. A brief guide to Contract Standing Orders

**1.1.** These Contract Standing Orders, or Rules, are intended to promote good procurement practice, public accountability, commercial enterprise and deter corruption. Following the Rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

**1.2.** They are issued in accordance with section 135 of the 1972 Local Government Act; s123 of the Local Government Act 1972; the Public Procurement Regulations 2015 and in the case of commercial enterprise the Localism Act 2011.

**1.3.** Officers responsible for purchasing or disposal must comply with these procedures. These procedures lay down **minimum requirements** for the purchase and disposal of goods and services.

**1.4.** Officers must;
Follow these Rules whenever they purchase goods, services, or building works.
Take Legal, Financial and professional advice from the respective departments.
Declare any personal financial interest in a contract.
Be minded that Bribery has a very wide interpretation and is a criminal offence.
Conduct a Most Economic Advantageous Tender ("MEAT") review and appraise the purchasing/disposal need in accordance with the legislative provisions and obtain Value for Money for the public finance.
Consider whether there is an existing corporate contract or framework agreement that would satisfy MEAT requirements which you can make use of, before undergoing a competitive process.
Identify a contract manager with responsibility for ensuring the contract delivers as intended.
Ensure there is authority to enter into a contract and ensure you complete a written contract or Council order before supply or works begin.
Keep records of dealings with suppliers.
Assess and monitor each contract after completion to understand how well it met the purchasing need and quality of delivery requirements, including Value for Money

1.5. Failure to comply with these Contract Standing Orders may lead to disciplinary action.

1.6. The Section 151 Officer may propose amendments from time to time to these Contract Standing Orders after consultation with Legal Services. Proposed amendments will then be submitted to the Audit and Governance Committee, with a recommendation from that Committee to Council for approval, if appropriate.

1.7. Contract Standing Orders should be read in full, however to aid quick reference key aspects have been drawn out by way of summary below.

1.8. **Summary of Requirements for the Competitive Process and Contract Completion**
Where the Total Value for a contract is within the values in the first column below, the competition and awarding requirements are then as specified. The Cabinet has the power to authorise exemptions from the requirement to seek quotations or invite tenders for specific projects where they are below Public Procurement Threshold. All ICT system developments and purchases of computer equipment or software must be approved and purchased through Strata Services Solutions Ltd.

| **Total Value (excluding VAT)** | **Competition Requirements (see Rule 4.1.1)** | **Short listing (see Rule 4.1.1)** | **Method of completion (see Rule 5.1.2)** | **Completion Authorised by (see Rule 5.1.2)** |
|---|---|---|---|---|
| Up to £5,000 | Quotation to be obtained in writing from a minimum of one supplier | Authorised Officer | | Authorised Officer / Budget Manager |
| £5001 - £50,000 | Quotations to be obtained in writing from a minimum of three suppliers 1 who have responded to a written tender specification by a defined deadline. Quotations to be formally evaluated. **Electronic procurement portal to be used for all quotations above £10,000.** | Authorised Officer and Budget Manager | Electronic order or by signature | Budget Manager |
| £50,001 - £100,000 | | | Electronic order, by signature or under seal (as advised by Legal Services) | |
| £100,001 – Public Procurement Threshold | Formal tenders to be obtained from a minimum of four suppliers, [1] who have responded to a written tender specification by a defined deadline. Tenders to be formally evaluated. **Electronic procurement portal to be used for all tendering at this level** | Budget Manager and Director / Assistant Director in consultation with Procurement Support | By signature or under seal (as advised by Legal Services) | Budget Manager (in consultation with Director / Assistant Director) |
| Above Public Procurement Threshold | The Public Procurement (EU) tender procedures to be used, **electronic portal to be used for all Public Procurement (EU) tendering.** | Budget Manager in consultation with Procurement Support and Legal Services | Legal Services to advise on form of contract and whether by signature or under seal | Director / Assistant Director |

| Total Value (excluding VAT) | Competition Requirements (see Rule 4.1.1) | Short listing (see Rule 4.1.1) | Method of completion (see Rule 5.1.2) | Completion Authorised by (see Rule 5.1.2) |
|---|---|---|---|---|
| Use of collaborative contracting arrangements[2] | Purchases using such arrangements are deemed to comply with these Standing Orders [3] | Budget Manager / Director / Assistant Director in consultation with Procurement Support and Legal Services | Legal Services to advise on form of contract and whether by signature or under seal | Director / Assistant Director |

[1] Officers to use reasonable endeavours to ensure minimum responses achieved

[2] e.g. Crown Commercial Services, Devon and Cornwall Procurement Partnership

[3] Officers must ensure any arrangements to be used for purchases above Public Procurement threshold, have been properly established and follow the Public Contract Regulations 2015.

## 2. Scope of Contract Standing Orders

### 2.1. Basic principles

2.1.1. All purchasing procedures must:

2.1.1.1. Look to find the Most Economic Advantageous Tender for public money spent in order to achieve Value for Money;

2.1.1.2. Be consistent with the highest standards of integrity of Councillors and Officers, having regard to the Council's Anti Fraud, Theft and Corruption Policy, the Anti Bribery Policy, and the Office of Fair Trading guidance on Anti-Competitive Behaviour;

2.1.1.3. Ensure Open, Transparent and Fair procedures are followed in allocating public contracts;

2.1.1.4. Comply with all legal and financial requirements;

2.1.1.5. Ensure that only commercial considerations influence any contracting decision in matters pursuant to the Localism Act 2011;

2.1.1.6. Support and comply with the Council's Plan, Priorities, and Policies.

### 2.2. Responsibilities

2.2.1. **Officers**

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

2.2.1.2. Officers must:

- Have regard to the Council's purchasing and contract guidance – details held on the intranet (Procurement pages);
- Ensure that the appropriate approved budgetary provision is in place;
- Ensure appropriate authority is in place prior to purchase being completed;

- 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 Procurement Support if unclear;
- Keep the records required by Rule 3.3;
- Take all necessary procurement, legal, financial and other professional advice as appropriate.

2.2.1.3. 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) Regulations 2006 are considered and obtain advice from HR and Legal Services before proceeding with inviting tenders or quotations.

2.2.2. **Councillors**

2.2.2.1. Councillors considering purchasing or disposal must comply with these Contract Standing Orders, Financial Regulations, the Member Code of Conduct and with all legal binding requirements. Councillors must promote and maintain high standards of conduct as a representative of the local constituency.

2.2.2.2. Councillors must;

- pursue to the best of their ability the seven Nolan principles of; Selflessness, Integrity, Objectivity, Accountability, openness, honesty and leadership.
- Register their pecuniary interests and disclose the same when appropriate.
- disclose any personal interests when appropriate.
- act in accordance with the Councillors Code of Conduct.

2.2.2.3. If it comes to the knowledge of an elected Councillor or an employee of the authority that a contract in which they have a pecuniary interest (whether directly or indirectly) has been or is proposed to be entered into by the Council, they shall immediately give written notice to the Monitoring Officer.

## 2.3. Exemptions from seeking quotations or tenders

2.3.1. The Council and its Cabinet have the power to authorise exemptions from the requirement to seek quotations or invite tenders for specific projects if the Public Procurement Threshold has not been reached.

2.3.2. 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 procuring Officer, with the approval of their Assistant Director or Director, the S151 officer and the Director of Governance, may jointly approve the exemption and record as such on the Contract Standing Orders Exemption Form. Where the Contract sum is £20,001 or above then the use of the exemption must be reported by the Officer, to the next meeting of the Cabinet for them to note their support for the action taken.

*NOTE: If prior approval is being sought from Cabinet then a Contract Exemption Form is not required*.

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 or for acting in a certain way?

2.3.3. **No exemption can be used if the Public Procurement Threshold is exceeded**.

2.3.4. No exemption is necessary for any purchase below the Public Procurement Threshold where;

- a local authority purchasing consortium is used e.g. Devon Procurement Services or Eastern Shires Purchasing Organisation (ESPO), or
- 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.

2.3.5. The Contract Standing Orders Exemption form is available on the Council's intranet. All exemptions, and the reasons for them, must be recorded. Exemptions shall be completed as above and a register maintained by S151 Officer.

## 2.4. Relevant contracts

2.4.1. These Contract Standing Orders apply to 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 (a 'Relevant Contract'). 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.

2.4.2. 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 and other legal duties shall apply); or
- Section 151 Officer dealing in the money market or obtaining finance for the Council.
- Urgent legal advice or support.

# 3. Requirements for all contracts

## 3.1. Steps prior to purchase

3.1.1. Prior to expenditure the Officer must confirm that there is an approved budget and authority for the purchase.

3.1.2. The Officer must appraise the purchase, or seek suitable advice in a manner commensurate with its complexity, value and associated risk profile, taking into account any purchasing guidance, by:

- 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, including use of a procurement risk register for all contracts over £100,000.
- A business case must be prepared for all procurements with a potential value over the Public Procurement Threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, 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.
- Consider (and where appropriate draft) the terms and conditions that are to apply to the proposed contract.
- For Service contracts above the Public Procurement Threshold, the Officer must consider the requirements of the Social Value Act 2012. Here, the Officer must consider:
  a) how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and
  **b)** how, in conducting the process of procurement, the Officer may act with a view to securing that improvement. (www.legislation.gov.uk/ukpga/2012/3/enacted).

## 3.2. Advertising and framework agreements

3.2.1. **Identifying and Assessing Potential Suppliers**:

3.2.1.1. For all contracts above the Public Procurement Threshold, a Find a Tender Service advertisement must be published via the electronic procurement portal and the Public Procurement Procedure followed.

3.2.1.2. For contracts below the Public Procurement Threshold, Officers shall consider the most appropriate advertising strategy. Officers should consider whether proposed contracts might be of interest to potential suppliers located in other GPA member states, and take this into account in the advertising strategy for the contract. Examples of where advertisements for procurements may be placed include:

- The Council's e-tendering website: 'Supplying the South West Procurement Portal'
- Domestic websites, newspapers or journals
- Government Contracts Finder (automatically populated via the SW Procurement Portal for contracts above £100,000)
- Find a Tender Service

3.2.1.3. 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 the requisite:

- Technical ability to deliver the contract
- Capacity to deliver the contract
- Economic and financial standing
- And meet all relevant qualifying criteria

in order to fulfil the requirements of the authority.

3.2.1.4. It is acceptable to use purchasing consortiums / collaborative arrangements or a Framework Agreement in lieu of conducting an above the public procurement threshold exercise where the Authority has been named and the Public Contracts Regulations 2015 were followed in establishing the consortium or framework. Similarly such arrangements can be used in lieu of the requirements of these Rules for below public procurement threshold contracts provided competitive arrangements were used in establishing them. It is the Officers responsibility to check whether this requirement is satisfied.

3.2.2. **Approved Lists**

3.2.2.1. Approved Lists will not be maintained by EDDC due to the administration involved and the need to ensure that competition is maximised.

3.2.2.2. Suppliers interested in doing business with the Council must register online as a prospective EDDC supplier via the Supplying the South West Procurement Portal.

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

3.2.3. **Framework Agreements**

3.2.3.1. The duration of a Framework Agreement must not exceed four years, as per the Public Contracts Regulations 2015.

3.2.3.2. Contracts may be awarded under Framework Agreements by either:
(i) Applying the terms laid down in the Framework Agreement without reopening competition (where such terms are sufficiently precise to cover the particular call-off), or:
(ii) 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 (via mini competition)
- Fixing a time limit of a sufficient period to enable Tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject matter 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 underlying Framework Agreement.

## 3.3. Record keeping

3.3.1. Where the Total Value is less than £100,000 the following records must be kept:

- Invitations to quote and quotations received (where e-tendering is used, the Archive record of the e-tendering system will suffice).
- Written records of communications with the successful contractor or an electronic record if a written record of the transaction would not normally be produced.
- Any exemption obtained under Rule 2.3 and the reasons for it.
- If the lowest price is not accepted, the reasons why
- The contract documentation.

3.3.2. Where the Total Value exceeds £100,000 the following records must be kept:

- The method for obtaining bids (see Rule 4.1.1).
- Any exemption obtained under Rule 2.3 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.
- Any Contracting Decision and the reasons for it.
- The contract documentation
- Post-contract evaluation and monitoring.
- Communications with suppliers and with the successful contractor throughout the period of the contract.
- Where relevant, all documentation relating to above public procurement threshold not covered above (e.g. the FTS notice)

3.3.3. Records must be kept for six years (12 years if completed under Seal) 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.

3.3.4. Legal Services must be provided with the original of all contracts completed by signature or under seal for secure storage if they do not already hold them.

# 4. Conducting purchase and disposal

## 4.1. Competition requirements for purchase, disposal, partnership arrangements

The Officer must calculate the Total Value (excluding VAT) for the period of the contract. This should include the total lifetime value where possible.
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 Procurement Support or Legal Services.

4.1.1. **Requirements for the Competitive Process**

4.1.1.1. Where the Total Value for a contract is within the values in the first column below, the competition requirements in the second column must be followed. Short listing shall be done as per the roles specified in the third column.

| Total Value (excluding VAT) | Competition Requirements | Short listing |
|---|---|---|
| **Up to £5,000** | Quotation to be obtained in writing from a minimum of one supplier | Authorised Officer |
| **£5,001 - £100,000** | Quotations to be obtained in writing from a minimum of three suppliers [4] who have responded to a written tender specification by a defined deadline. Quotations to be formally evaluated. **Electronic procurement portal to be used for all contracts above £10,000.** | Authorised Officer and Budget Manager |
| **£100,001 – Public Procurement Threshold** | Formal tenders to be obtained from a minimum of four suppliers 4, who have responded to a written tender specification by a defined deadline. Tenders to be formally evaluated. **Electronic procurement portal to be used for all tendering at this level.** | Budget Manager and Director / Assistant Director in consultation with Procurement Support |
| **Above Public Procurement Threshold** | Public Procurement (EU) Procedures to be used, electronic portal to be used for all tendering. | Director / Assistant Director in consultation with Procurement Support and Legal Services |

| Total Value (excluding VAT) | Competition Requirements | Short listing |
|---|---|---|
| **Use of collaborative contracting arrangements See Rule 3.2.1.4** | Purchases made via collaborative contracting arrangements (e.g. Crown Commercial Services, Devon and Cornwall Procurement Partnership) are deemed to comply with these Standing Orders. Officers must ensure any arrangements to be used for purchases above Public Procurement (EU) threshold, have been properly established. Procurement Support *should be consulted prior to commencing any procurement process using collaborative contracts*. The terms and conditions of contract applicable to any collaborative contract, including the requirement to undertake competition between providers, must be fully complied with. | Director / Assistant Director in consultation with Procurement Support and Legal Services |

[4] Officers to use reasonable endeavours to ensure minimum responses achieved

All ICT system developments and purchases of computer equipment or software must be approved and purchased through Strata Services Solutions Ltd for legislation pertinent to contracts see link to Public Contract Regulations 2015:
http://www.legislation.gov.uk/uksi/2015/102/pdfs/uksi_20150102_en.pdf

4.1.1.2. Where it can be demonstrated that there are insufficient suitably qualified suppliers to meet the competition requirement, all suitably qualified suppliers must be invited.

4.1.1.3. There must be no attempt to artificially disaggregate any contract requirement to avoid the EU requirements or these Contract Standing Orders. However within the procurement process, officers should consider assigning the component parts of a properly advertised contract into smaller Lots, to support accessibility for SME's.

4.1.1.4. Where an above Public Procurement Threshold procedure is required, the Officer shall also consult Procurement Support as appropriate, to agree the method of conducting the purchase.

4.1.2. **Assets for Disposal**

4.1.2.1. Assets for disposal must be sent to public auction except where better overall Value for Money (including staff administrative costs) 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.

4.1.3. **Contracts to Provide Services to External Purchasers**

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

4.1.4. **Collaborative and Partnership Arrangements**

4.1.4.1. Collaborative and partnership arrangements are subject to UK procurement legislation and must follow these Contract Standing Orders (although see Rule 3.2.1.4). If in doubt, officers must seek the advice of Legal Services and / or Procurement Support. However, arrangements to share staff with other public bodies may not require a formal procurement process and Legal Services should be consulted.

4.1.5. **The Appointment of Consultants to Provide Services**

4.1.5.1. The appointment of Consultants (such as architects, engineers, surveyors and other professionals) who are directly providing services to East Devon District Council as the client shall be selected and commissions awarded in accordance with the procedures detailed within these contract standing orders and as outlined at Rule 4.1..1.1 and 5.1.

4.1.5.2. 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 Legal Services.

4.1.5.3. Records of Consultants appointments shall be maintained in accordance with Rule 3.3, and be readily accessible by Procurement and Audit.

4.1.5.4. Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policy for the duration of the respective agreement unless the Director of Finance is prepared to accept the uninsured risk as being “Low” but in any event indemnity must be held for the duration of the respective agreement and for a minimum term of 3 years thereafter where the Councils Legal Services team deem the risk to be “Medium” or higher.

## 4.2. Pre-tender market research and consultation

4.2.1. The Officer responsible for the purchase may, prior to the issue of the Invitation to Tender or Quote, 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 Quote 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 Legal Services.

## 4.3. Standards and award criteria

4.3.1. The Officer must ascertain what are the relevant European, British 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, and invite open to equal or equivalents. This includes sustainability standards. Legal Services and Procurement Support must be consulted if it is proposed to use standards other than European standards.

4.3.2. The Officer must define and document award criteria that are appropriate for the purchase and relevant to the matter at hand. Award criteria should be designed to secure an outcome giving 'Value for Money' for the authority, before quotations and tenders are sought. The basic criteria shall be:

- 'Most economically advantageous', where considerations of overall value apply, or :
- 'Lowest price to specification' where payment is to be made by the authority when the award criteria is price alone and the specifications are clear, or:
- 'Highest price' if payment is to be received

If the first 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, product quality, running costs, technical merit, delivery, cost effectiveness, relevant environmental considerations, implementation planning, decommissioning considerations, aesthetic and functional characteristics (including security and control features), safety (which is likely to be a pass / fail criteria), after-sales services, technical assistance and any other relevant project specific considerations.

4.3.3. 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

## 4.4. Invitations to Tender/quotations

4.4.1. 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 (Rule 5.1).

4.4.2. The Invitation to Tender or Quote must state;

4.4.2.1. that the Council is not bound to accept any Quotation or Tender, either as a whole or in part,

4.4.2.2. that Tenders / Quotes are submitted to the Council on the basis that they are compiled at the tenderer or quoter's expense.

4.4.2.3. that no Tender or Quote will be considered unless it is received by the date, time and manner stipulated in the Invitation to Tender or Quote. No Tender or Quote delivered in contravention of this clause shall be considered.

4.4.3. In addition all Invitations to Tender shall include the following:
(a) A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive and comparable 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 noncollusion.
(d) A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and ideally in descending order of importance.
(e) All contracts above £10,000 must be undertaken using the Council's e-tendering system. If by exception, hard copy Tenders are used, there must be 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.
(f) 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.

4.4.4. 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, and any pre-tender questions and answers must be shared (anonymously) with all tenderers.

## 4.5. Shortlisting

4.5.1. Any Shortlisting must be in line with the financial and technical standards relevant to the contract and the shortlisting criteria. Special rules apply in respect of the above public procurement threshold procedure Legal / or Procurement Services should be consulted.

4.5.2. 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.

4.5.3. The officers responsible for shortlisting are specified in Rule 4.1.1.1.

## 4.6. Submission, receipt and opening of tenders/quotations

4.6.1. 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 Public Contracts Regulations lays down specific time periods, please consult Procurement Support.

4.6.2. All Tenders and Quotations above £10,000 must be submitted electronically, through the Council's approved and secure electronic tendering system, with controlled opening and independent registration. Staff will have the relevant training to use Procurement Portal.

4.6.3. Where Electronic Tenders are not used:

4.6.3.1. The Officer must not disclose the names of potential Suppliers to any staff involved in the receipt, custody or opening of Tenders. Democratic Services shall be responsible for the safekeeping custody of Quotations / Tenders until the appointed time of opening. Each Tender must be:

- 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 opening the Tender Register.

4.6.3.2. 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 Director or Assistant Director in question must be present.

4.6.3.3. 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 Invitation to Tender documents such as tender sum) must be recorded in the Tender Register. The summary must be signed by all present.

## 4.7. Clarification Procedures

4.7.1. Clarification of an Invitation to Quote / Tender with potential or actual Suppliers or seeking clarification of a Tender should be in writing, email or if using the Supplying the South West Procurement Portal via the question function. In doing so, Officers must be mindful to maintain equal treatment of all tenderers in the clarification process. 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) is not permitted.

## 4.8. Evaluation, award of contract, and debriefing of suppliers

4.8.1. Subject to the disclosures required under law, and 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. Formal debriefing must be provided to the extent required in law, particularly in relation to contracts above the relevant public procurement threshold. A standstill procedure must be observed prior to award of contract as stated in the Public Contracts Regulations 2015, and is discretionary for below public procurement threshold contracts.

4.8.2. Contracts must be evaluated and awarded in accordance with the published 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 satisfactorily resolved.

4.8.3. The arithmetic in compliant Tenders must be checked. If arithmetical errors are found those may need to be clarified and advice should be sought from Procurement Support in respect of how this should be done.

4.8.4. 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 Director of Finance.

4.8.5. Where the Total Value is over £100,000, 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 days in which to review / or challenge the decision if they wish to 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. The Officer shall debrief in writing all those Suppliers which 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 name of the successful tenderer(s)
- The scores of the successful tenderer(s), and the reasons for those scores.
- The scores of the unsuccessful tenderer being debriefed, and the reasons for those scores
- The relative advantages of the successful Tender, above the unsuccessful tenderer being debriefed

The debriefing process should only be carried out in writing.

# 5. Contract and other formalities

## 5.1. Contract Documents

5.1.1. **Relevant Contracts**

5.1.1.1. The formal advice of Legal Services must be sought for all Relevant Contracts where any of the following apply:

- Appointment of Consultants (see Rule 4.1.5); or
- Where the total contract value exceeds £50,000; or
- Those involving leasing arrangements; or
- Where it is proposed to use a supplier's own terms; or
- Contracts to carry out work for other organisations; or
- Those that are complex, High Profile or High Risk in any other way.

5.1.1.2. The Council's order form or standard terms and conditions must be used wherever possible. Notwithstanding, all Relevant Contracts above £50,000 shall be in writing in a form approved by Legal Services. If any doubt exists, refer to the advice of Legal Services.

5.1.1.3. 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.
- Anti bribery / corruption clauses
- Data protection requirements (where relevant)

5.1.1.4. In addition, every Relevant Contract above £50,000 should consider inclusion of the following (as advised by Legal Services):

- That the contractor may not assign or sub-contract without prior written consent.
- Any insurance requirements.
- Health and safety requirements.
- Ombudsman requirements.
- That charter standards are to be met if relevant.
- The Council's requirements concerning Equality, detailed in EDDC's Equality Policy
- Freedom of Information Act requirements.
- 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.

5.1.2. **Contract Formalities**

5.1.2.1. Agreements shall be completed as follows:

| Contract Value | Method of Completion | Completion by |
|---|---|---|
| Up to £5,000 | Electronic order or by signature | Authorised Officer / Budget Manager |
| Between £5,001 to £50,000 | Electronic order or by signature | Budget Manager |
| Between £50,001 to £100,000 | Electronic order, by signature or under seal (as advised by Legal Services) | Budget Manager |
| Above £100,001 or if any of para 5.1.1.1 applies | By signature or under seal (as advised by Legal Services) | Director / Assistant Director if by signature and by Authorised Signatory if under seal |

5.1.2.2. 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.

5.1.3. **Sealing**

5.1.3.1. 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 Signatory – Legal Services can advise on this process.

5.1.3.2. 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.

5.1.3.3. 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.

5.1.4. **Records**

5.1.4.1. All contracts that are completed by way of signature, irrespective of the contract sum, the Officer responsible for securing a signature must provide Legal Services with the original copy for secure storage. An electronic copy must be held on file.

5.1.4.2. All contracts completed under seal must be kept by Legal Services for secure storage. An electronic copy must be held on file.

## 5.2. Bonds and Parent Company Guarantees

5.2.1. The Officer must consult the Director of Finance about whether a Parent Company Guarantee is necessary when a supplier is a subsidiary of a parent company and:

- The total value exceeds £100,000, or
- Award is based on evaluation of the parent company, if there is some concern about the stability of the supplier.

5.2.2. The Officer must consult the Director of Finance whether a Bond is needed

- Where the total value exceeds £1,000,000, or
- Where a Parent Company Guarantee is not available if there is no parent company
- Where it is proposed to make stage or other payments in advance of receiving the whole of the contract and there is concern about the stability of the Supplier i.e. following a formal risk assessment

## 5.3. Prevention of Corruption and Anti-Competitive Behaviour

5.3.1. **Prevention of corruption**

5.3.1.1. 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. Officers should also be aware of the Council's Anti-Fraud, Theft and Corruption Policy and the Anti Bribery Policy.

5.3.1.2. The Officer must comply with these above requirements and the Employee 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 Bribery Act 2010.

5.3.1.3. Anti-Bribery Clauses must be written into every written Council contract except where doing so would conflict with the contract rules associated with a national or local framework.

5.3.2. **Anti-Competitive Behaviour**

5.3.2.1. 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.

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

# 6. Contract management

## 6.1. Managing contracts

6.1.1. Directors or Assistant Directors are to name contract managers ('the Contract Manager') for all new contracts and all contracts must have a named Council Contract Manager for the entirety of the contract.

6.1.2. Contract Managers must follow the procedures set out in the Council's Contract Standing Orders.

6.1.3. All variations to contracts are to be in writing in the form of an appropriately authorised variation order.

6.1.4. Payments to contractors will only be made on certification by the designated contract manager or nominated alternative officer(s), or, where engaged by the Council, the appropriate Consultant.

6.1.5. Liquidated and ascertained damages may need to be deducted for 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 Council's Monitoring Officer and the Section 151 Officer.

6.1.6. The Officer/Contract Manager will consult with the Council's Monitoring Officer and the Section151 Officer promptly on becoming aware of any significant dispute, claim for additional payment in connection with a contract.

## 6.2. Contingency Planning

6.2.1. In entering into contract agreements or reviewing existing contracts, Officers 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 and complete a contract risk register for all contracts with a value over £100,000.

## 6.3. Contract Monitoring, Evaluation and Review

6.3.1. All contracts which have a value higher than the public procurement 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.

6.3.2. 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.

6.3.3. During the life of the contract, the Contract Manager must monitor and take any necessary corrective action in respect of:

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

6.3.4 Further support and advice on Contract Management including online training available can be found on the procurement page on the Council's intranet.

## 6.4. Definitions Appendix

| Term | Definition |
|---|---|
| Authorised Officer | An officer with authority and responsibility for dealing with contracts within the course of their employment. |
| Authorised Signatory | An officer authorised by Rule 22 of Part 4 of the Constitution to attest the use of the Council's seal |
| 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. |
| Budget Manager | An officer in charge of or responsibility for overseeing the budget relating to the contract. Finance will allocate a budget manager to all budget areas and these are approved by the Director or Assistant Director. |
| 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 (including architects, engineers, surveyors, lawyers and other professionals). |
| Contracting Decision | Any of the following decisions: 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. |
| Contract Manager | An officer with the responsibility of overseeing and monitoring delivery of a contract who may also be an Authorised Officer |
| European Economic Area | The members of the European Union, and Norway, Iceland and Liechtenstein. |
| Financial Regulations | The Financial Regulations outlining Officer responsibilities contained in the Constitution |

| Term | Definition |
|---|---|
| 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 |
| Invitation to Quote | Invitation to quite in the form required by these contract standing orders. |
| 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 them as self-employed persons of their services only. (c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy. (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'). (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. (f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees. (g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support. (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 |

| Term | Definition |
|---|---|
| Officer | The officer designated by the 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. |
| Procurement support | Refers to the Council's arrangements for specialist procurement assistance |
| Public Contracts Regulations 2015 Procedure | The procedure required by the UK law where the Total Value exceeds the Public Procurement Threshold. |
| Public Procurement Threshold | The contract value at which the Public Contract Regulations and procurement directives apply for Goods, Services and Works. Available at UK Procurement Legislation. |
| 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 2.4). |
| Section 151 Officer | The Director for Financial Services or such other officer as may be designated Section 151 Officer by the Council, including the appointed Deputy S.151 Officer. |
| 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 Register | The log kept by Democratic Services to record details of Tenders (see Rule 4.6.3). |
| Total Value | The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows: (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 (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 (c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48 (d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result (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. |
| 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. |

# 4.8 Officer Employment Procedure Rules

## 1. Recruitment and Employment

**1.1. Declarations**

1.1.1. The Council will draw up a statement requiring any candidate for appointment as an employee to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or employee of the Council; or of the partner of such persons.

1.1.2. No candidate so related to a councillor or an employee will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

**1.2. Seeking support for appointment**

1.2.1. Any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council will be disqualified. The content of this paragraph will be included in any recruitment information.

1.2.2. Subject to paragraph 1.2.3, no Councillor will seek support for any person for any appointment with the Council.

1.2.3. Nothing in paragraphs 1.2.1 and 1.2.2 above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

## 2. Recruitment of Head of Paid Service and Chief Officers

**2.1.** Where the Council proposes to appoint the Head of Paid Service or a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

2.1.1. draw up a statement specifying:

2.1.2. the duties of the officer concerned; and

2.1.3. any qualifications or qualities to be sought in the person to be appointed;

2.1.4. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

2.1.5. make arrangements for a copy of the statement mentioned in paragraph 8.2.1.1 to be sent to any person on request.

## 3. Appointment of Head of Paid Service and Chief Officers

**3.1.** The full Council will approve the appointment of the Head of Paid Service, or a Chief Officer following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one Member of the Cabinet.

**3.2.** The full Council may only make or approve the appointment of the Head of Paid Service, or a Chief Officer where no well-founded objection has been made by any Member of the Cabinet. Council shall have the final decision on whether or not an objection is well

founded.

## 4. Other appointments

**4.1.** The appointment of officers below Chief Officer is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.

## 5. Disciplinary action

**5.1.** Disciplinary action against Chief Officers will be in accordance with the Council's Disciplinary Procedure for Statutory and Chief Officers, which reflect the model procedures and associated guidance of the Joint Negotiating Committee for Local Authority Chief Executives and Chief Officers..

**5.2.** Councillors will not be involved in the disciplinary action against any officer other than a Chief Officer.

## 6. Dismissal

**6.1.** Other than as specified in the Scheme of Delegations to officers Councillors will not be involved in the dismissal of any officer other than a Chief Officer.

## 7. Redundancy of Chief Officers

**7.1.** In the event that the situation arises where any of the Chief Officers are recommended to be made redundant then only Full Council may approve the redundancy.

# Part 5 Codes and Protocols

## 5.1 Councillors' Code of Conduct

### 1 Purpose of the Code of Conduct

1.1 The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, Council officers and the reputation of local government.

1.2 It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The Local Government Association encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

1.3 This Code of Conduct is based on the Model Code of Conduct produced by Local Government Association. The Local Government Association has also produced guidance on their Model Code of Conduct and regard should be had to that advice when considering the obligations and expectations of this Code. The guidance can be found here, although it should be noted that the Model Code of Conduct has not been adopted in its entirety and there is some local variation.

### 2. Definitions

2.1 For the purposes of this Code of Conduct;

2.2 a "**councillor**" means a member or co-opted member of East Devon District Council.

2.3 "Member" includes a co-opted Member.

2.4 a "**co-opted member**" means a person who is not a member of East Devon District Council but who;

a) sits on any committee or sub-committee of the Council, or;
b) represents the Council on, any joint committee or joint sub- committee of the Council;

whether or not they are entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

2.5 a "**meeting**" means any meeting of:

- the Council;
- the Cabinet of the Council;
- any of the Council's or the Cabinet's, Committees, Sub-Committees, joint Committees, or Joint Sub-committees;

- one or more councillors, formal or informal and with or without officers, relating to the discharge of the Council's functions where a formal record is made by a Council officer.

2.6 a **"partner"** means a spouse or civil partner, or a person with whom you are living as if you are a married couple, or a person with whom you are living as if you are civil partners.

2.7 a "**sensitive interest**" is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation

## 3. General Principles of councillor conduct

3.1 Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the **Seven Principles of Public Life**, also known as the Nolan Principles (See Appendix A). Building on these principles, the following general principles have been developed specifically for the role of councillor.

3.2 In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

3.3 In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my Council's requirements and in the public interest.

## 4. Application of the Code of Conduct

4.1 This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor or co-opted member.

4.2 This code of conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor, or
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

4.3 The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

4.4 You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

4.5 Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

## 5. Standards of councillor conduct - specific obligations

**5.1 Courtesy and Respect - as a councillor:**

5.1.1 I treat other councillors and members of the public with courtesy and respect.

5.1.2 I treat Council employees, employees and representatives of partner organisations and those volunteering for the Council with courtesy and respect and respect for the role they play.

5.1.2.1 Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack. In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

5.1.2.2 In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the Council, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and Council employees, where concerns should be raised in line with the Council's Councillors / Officer Protocol.

**5.2 Bullying, harassment and discrimination - as a councillor:**

5.2.1 I do not bully any person.

5.2.2 I do not harass any person.

5.2.3 I promote equalities and do not discriminate unlawfully against any person.

5.2.4 I do not do anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 33 of the Equality Act 2010).

5.2.4.1 The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

5.2.4.2 The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

5.2.4.3 Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

5.2.4.4 The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

5.3 **Impartiality of officers of the Council – as a councillor:**

5.3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Council.

5.3.1.1 Officers work for the Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

5.4 **Confidentiality and access to information – as a councillor:**

5.4.1 I do not disclose information:

**(a)** given to me in confidence by anyone

(b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless

i. I have received the consent of a person authorised to give it;

ii. I am required by law to do so;

iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

iv. the disclosure is:

1. reasonable and in the public interest; and

2. made in good faith and in compliance with the reasonable requirements of the Council; and
3. I have consulted the Monitoring Officer prior to its release.

5.4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

5.4.3 I do not prevent anyone from getting information that they are entitled to by law.

5.4.3.1 Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the Council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5.5 **Disrepute – as a councillor**:

5.5.1 I do not bring my role or Council into disrepute.

5.5.1.1 As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your Council and may lower the public's confidence in your or your Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your Council into disrepute.

5.5.1.2 You are able to hold the Council and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

5.6 **Use of position – as a councillor:**

5.6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

5.6.2 I will not act as agent for people pursuing planning matters within the Council's administrative area.

5.6.2.1 Your position as a councillor provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

5.7 **Use of the Council's resources and facilities – as a councillor:**

5.7.1 I do not misuse Council resources.

5.7.2 I will have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the Council;

5.7.3 I will, when using the resources of the Council or authorising their use by others:

5.7.4 act in accordance with the Council's requirements; and

5.7.5 ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which I have been elected or appointed.

5.7.5.1 You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a councillor.
Examples include:
- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of Council buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Council's own policies regarding their use.

5.8 **Complying with the Code of Conduct and the Council's codes and protocols – as a councillor:**

5.8.1 I undertake the mandatory training identified as part of the adopted Councillor Development Plan provided by my Council.

5.8.2 I cooperate with any Code of Conduct investigation and/or decision.

5.8.3 I do not intimidate or attempt to intimidate any person who is likely to be a complainant, a witness or involved with the administration of any investigation or proceedings that any councillor has failed to comply with the Council's Code of Conduct.

5.8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

5.8.5 I will comply with the Codes and Protocols forming part of the Council's Constitution.

5.8.5.1 It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the Council or its governance. If you do not understand or are concerned about the Council's processes in handling a complaint you should raise this with your Monitoring Officer.

5.8.5.2 The Council resolved at its 20th October 2021 meeting that the Council should pay for training imposed by way of sanction in relation to district councillors.

## 6. Protecting your reputation and the reputation of the Council

6.1 **Interests – as a councillor**:

6.1.1 I register and disclose my interests in accordance with Appendix B.

6.1.1.1 Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Councillors.

6.1.1.2 You need to register your interests so that the public, Council employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

6.1.1.3 You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

6.1.1.4 **Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

6.1.1.5 The Council has agreed that a co-opted member who has no voting rights is not expected to complete a register of interest.

6.2 **Gifts and hospitality – as a councillor:**

6.2.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.

6.2.2 I register with the Monitoring Officer any individual gift or hospitality with an estimated value of at least £50 or number of gifts or hospitality from the same donor which individually are below the estimated value threshold but which cumulative result in an estimated value of at least £50 in any calendar year within 28 days of its receipt.

6.2.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

6.2.4 I disclose the existence of any gift or hospitality where I am present at a meeting where the gift or hospitality received is relevant to the matter of business being discussed irrespective of whether it has been entered into the register in accordance with paragraph 6.2.2 above.

6.2.4.1 In order to protect your position and the reputation of the Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from

your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## Appendix A - The Seven Principles of Public Life ('the Nolan Principles')

The principles are:

**Selflessness**

Holders of public office should act solely in terms of the public interest.

**Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

**Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**Honesty**

Holders of public office should be truthful.

**Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B - Registering and disclosing interests

**General**

1. Within 28 days of becoming a councillor or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1** (**Disclosable Pecuniary Interests**) which are as described in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. You should also register details of your other personal interests which fall within the categories set out in **Table 2** (**Other Registerable Interests**). A co-opted member who has no voting rights is not expected to complete a register of interest.

2. When completing the register of interests, councillors shall provide sufficient information to properly describe the land **and** also provide HMLR title numbers or field numbers to enable land to be identified.

3. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

4. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees you can withhold the interest from the public register.

**Non participation in case of Disclosable Pecuniary Interest**

5. Where a matter arises at a meeting which ***directly relates*** to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. A dispensation may be granted in limited circumstances, to enable you to participate
and vote on a matter in which you have a disclosable pecuniary interest.

**Disclosure of Other Registerable Interests**

6. Where a matter arises at a meeting which ***directly relates*** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

**Disclosure of Non-Registerable Interests 'directly relating' to financial interest or well-being**

7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in **Table 1**) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

**Disclosure of Non-Registerable Interests 'affecting' financial interests or well-being**

8. Where a matter arises at a meeting which ***affects*** –
   a) your own financial interest or well-being;
   b) a financial interest or well-being of a relative or close associate; or
   c) a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

   you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above) affects the financial interest or well-being:
   a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
   b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

   You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

   If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

**Cabinet councillors**

10. Where you have a Disclosable Pecuniary Interest (paragraph 5), Other Registerable Interest (paragraph 6) or any Non-Registerable Interest (paragraphs 7 - 9) on a matter to be considered or which is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

| Subject | Description |
|---|---|
| **Employment, office, trade, profession or vocation** | Any employment, office, trade, profession or vocation carried on for profit or gain by the councillor or his / her **partner**. |
| **Sponsorship** | Any payment or provision of any other financial benefit (other than from the Council) made to the councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a councillor, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. |
| **Contracts** | Any contract made between the councillor or their **partner** (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of[#]) and the Council —<br>(a) under which goods or services are to be provided, or works are to be executed; and<br>(b) which has not been fully discharged. |
| **Land and Property** | Any beneficial interest in land which is within the area of the Council.<br>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or their **partner** (alone or jointly with another) a right to occupy or to receive income. |
| **Licenses** | Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer. |
| **Corporate tenancies** | Any tenancy where (to the councillor's knowledge)—<br>(a) the landlord is the Council; and<br>(b) the tenant is a body that the councillor or their **partner** is a partner of or a director* of or has a beneficial interest in the securities[#] of. |
| **Securities** | Any beneficial interest in securities[#] of a body where—<br>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the Council; and<br>(b) either—<br>(i) ) the total nominal value of the securities[#] exceeds £25,000 or one hundredth of the total issued share capital of that body; or<br>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor or their **partner** have a beneficial interest exceeds one hundredth of the total issued share capital of that class. |

* 'director' includes a member of the committee of management of an industrial and provident society.

# 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

***Table 2: Other Registerable Interests***

| |
|---|
| You must register as an Other Registerable Interest:<br>a) any unpaid directorships.<br><br>b ) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by the Council.<br><br>c) any body<br>(i) exercising functions of a public nature,<br>(ii) directed to charitable purposes, or<br>(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)<br>of which you are a member or in a position of general control or management.<br>d) membership of any body which, in your view, might create a conflict in carrying out your duties as a councillor (such as membership of the Freemasons or any similar body). |

**THIS SECTION DOES NOT FORM PART OF THE CODE OF CONDUCT AND IS FOR GUIDANCE ONLY**

**LGA guidance on the Model Code of Conduct in relation to interests states:**

**'Directly relates to'** means it must be directly about the interest rather than simply affecting it – e.g. discussing an application about a property in which there is a financial interest as opposed to a neighbouring property where there is no financial interest *or* considering an application for funding from an organisation of which you are a member as opposed to discussing an annual report from the organisation where no decision is required.

**'Affects'** means it is not directly about the interest but nevertheless the matter has clear implications for the interest – e.g. discussing a neighbour's planning application – and which can be positive (gain) or negative (loss) in impact.

**'Well-being'** can be described as a condition of contentedness and happiness and isn't just about finances but can include anything that could affect quality of life either positively or negatively whether temporarily or on a permanent basis.

**'Relative or close associate'** is likely to be someone who the councillor is in regular or irregular contact over a period of time who is more than an acquaintance – it may be a friend, a colleague, a business associate, someone known through general social contacts or someone who the councillor is known to show animosity to - and who a reasonable member of the public might think the councillor would be prepared to favour or disadvantage when discussing a matter affecting them.

**Guidance on Bias and Predetermination and predisposition**

Councillors are permitted to have a pre-disposition towards a particular outcome. This means councillors can hold and express a view or inclination towards a future decision but requires a councillor to be open to having their views changed when it comes to the final decision.

Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you may participate in a decision on the issue in your political role as a member*. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When making a decision, consider the matter with an open mind and on the facts made available to the meeting at which the decision is to be taken. To take part in a discussion and decision on a matter with a closed mind (whether through bias or pre-determination) will put the Council at risk of a finding of maladministration and / or of legal proceedings. If a Councillor feels that they are biased or predetermined then this should be recorded in the minutes and then they should not be involved in the discussion and vote.

*It should be noted that there more stringent rules on this in respect of planning decisions which are contained in the 'Code of Good Practice for Councillors and Officers dealing with planning matters'.

# Part 5 Codes and Protocols

# 5.2 Employees Code of Conduct

## 1 Standards

1.1 As a local government employee you are expected to give the highest possible standard of service to the public, and where it is part of your duties, to provide appropriate advice to Councillors and fellow employees with impartiality. You should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal judgment, Respect for others, Duty to uphold the law, Stewardship and Leadership.

1.2 You must report to the appropriate manager any wrong doing or legal, or ethical, breaches of procedure. Alternatively, you can use the procedure outlined in the Whistleblowing Policy.

## 2. Disclosure of information

2.1 You must get permission from your Director / Assistant Director before you:

- Give any information to the media
- Take part in any broadcast (radio or TV/filmed)
- Publish any article
- Use any Council provided equipment for outside purposes
- Using official experience/knowledge for outside purposes

2.2 You must not be influenced by improper motives (for example, secret profit or gain for yourself or anyone close to you).

2.3 You must get prior written permission of the Chief Executive or your Director or Assistant Director before you give any confidential information you have as a result of your official duties or position to anyone else.

2.4 You must not disclose any information regarding an officer's or Councillor's private affairs to anyone outside the Council, unless the person concerned has already given you their consent.

2.5 When requested, you must give the Director of Finance or his authorised representative, access to all records, documents and correspondence relating to any financial and other transactions of the Council.

## 3. Political neutrality

3.1 You must serve all Councillors equally regardless of their political beliefs.

3.2 If you are asked to advise one of the political groups, you must do so in an impartial way and only with the prior approval of the Chief Executive.

3.3 You must follow every Council Policy and not let your own personal or political opinions interfere with your work.

## 4. Relationships

4.1 **Councillors:** Mutual respect between employees and Councillors is essential to the Council. You must avoid having close personal friendships with individual Councillors. These can damage official relationships and prove embarrassing to other employees and Councillors.

4.2 **The local community and service users:** You should always remember your responsibilities to the local community and provide a polite, efficient and impartial service to everyone.

4.3 **Contractors**: You must tell your manager of any business or private relationships you have now, or have had, with any external contractor. Orders and contracts must be awarded on merit, by fair competition against other tenders. You must not grant any special favours to businesses run by, for example, friends, partners or relatives. You should not discriminate against anyone.

4.4 You must give your Director or Assistant Director notice in writing of any direct or indirect financial interest you have in a contract the Council has entered into, or is proposing to enter into. Your Director or Assistant Director will pass the information to the relevant line manager/and Monitoring Officer. An indirect interest is one where your spouse or partner with whom you live, or another immediate family member, stands to gain if they are awarded the contract.

## 5. Appointment and other employment matters

5.1 If you are involved in appointments you must ensure that these are made on the basis of merit. It is illegal for you to make an appointment which is based on anything other than the ability of the candidate to do the job. In order to avoid any possible accusation of bias, unless the employment is of a temporary or ad-hoc nature, you should not be involved in an appointment where you are related to an applicant, or have a close personal relationship outside work with him or her.

5.2 In principle, the Council will not allow individuals to be directly or indirectly in authority over a relative or someone with whom you have close personal ties, unless the employment is of a temporary or ad-hoc nature, nor will we allow employment of someone which may give rise to a conflict with someone already employed within the council due to them being a relative or because of close personal ties or they are related to a Councillor. A relative can include, for example, father or mother, husband or wife, son or daughter, brother or sister, or common-law partner. This factor may be taken into account in any recruitment and selection process. If this situation arises during employment, the individuals involved must report this to their Line Manager. The Council would work with the individuals to take action to resolve this situation. This may include redeployment or, in some cases, dismissal. Dismissal will only be considered once every other avenue has been exhausted.

## 6. Outside commitments

6.1 As an employee you should be clear about your contractual obligations and you should not take any outside employment, which conflicts with the Council's interests. You are advised to discuss the matter with your Manager if you have any doubts at all. You should not act as agent for people pursuing planning matters within the Council's area.

6.2 It is also a requirement that employees graded above (SCP 30) must speak to their Director if they wish to engage in any other business or to take up any other additional appointment Directors have the right to consent to, or refuse, any such request.

## 7. Personal interests

7.1 You must declare in writing to your Director any financial or non-financial interests, including friendships with Council contractors, you or your family have which could conflict, in your Director's opinion, with those of the Council. If you, your family or personal friends have jobs, own a house or other property or have an interest in a business or community group who might benefit from Council activity, then you are expected to declare this for your own protection. There are forms for these declarations which are available from HR. A central register is maintained by Democratic Services.

7.2 You must also declare in writing to your Director, membership of any private organisation which does not have a formal membership but has a commitment of allegiance and secrecy about its rules, membership or conduct, including freemasonry. A form for this declaration is available from Democratic Services. Democratic Services also maintain the central register.

7.3 An annual reminder will be sent out to ensure that all declarations are regularly reviewed. Those on SCP31 or above must either confirm that there are no changes or provide an updated form.

## 8. Intellectual property

8.1 When you produce work as part of your job, the copyright of it or any invention will belong to the Council as your employer, unless you have a written agreement that says the opposite.

8.2 You must follow Council guidance to make sure that you do not break copyright regulations, as financial penalties could follow for the Council.

## 9. Equality issues

9.1 You must make sure that you abide by the Council's policies and the law on equality issues. You must treat everyone fairly and with equal respect.

## 10. Separation of roles during tendering

10.1 You must treat all customers, suppliers, other contractors and subcontractors, whether internal or external, fairly and impartially.

10.2 You must not disclose any confidential information on tenders or costs for either internal or external contractors to any unauthorised party or organisation.

10.3 If you are intending to carry out a management buy-out you must inform your manager and withdraw from the contract awarding process.

10.4 You must make sure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## 11. Bribery and corruption

11.1 You must not do anything to benefit or show favouritism towards or against anyone. The Bribery Act 2010 makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. Individuals guilty of offences are liable to be punished by the court with heavy fines and/or imprisonment.

11.2 There is also a corporate offence under Section 7 of failure by a commercial organisation [this can include the Council] to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. The Council, if convicted under sections 1, 2 or 6 will also face the same level of fines and, if guilty of an offence under section 7, is liable to an unlimited fine.

11.3 11.3 It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this Code
- engage in activity in breach of this Code or Council policy.

11.4 Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

11.5 Bribery is a serious offence against the Council and employees will face disciplinary action if there is evidence that they have been involved in this activity, which could result in summary dismissal for gross misconduct. Disciplinary action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case.

11.6 Any suspected fraud should be reported initially to your Director or Assistant Director. If this is not appropriate, for example, if they may be involved, then you should contact either the Section 151 Officer or Monitoring Officer instead.

11.7 **Whistleblowing:** The Council is aware of the difficulties and conflicts that may arise for staff who suspect a colleague of fraud, theft or corruption. It is nevertheless essential that all instances be reported without delay. Staff should report any suspicions related to the workplace. Our Whistleblowing Policy outlines the details and procedures for employees. Whistleblowing is protected by law provided it is in the public interest.

## 12. Use of financial resources

12.1 You must make sure that you use any public funds you are responsible for in a lawful and responsible manner. You must aim to get value for money and to avoid legal challenge against the Council.

12.2 You must only use Council facilities and resources in connection with Council work and not for personal use, unless you are allowed to do so in accordance with written guidance issued on behalf of the Council.

## 13. Acceptance of gifts and hospitality

13.1 Democratic Services keep a central register of all offers of gifts, hospitality or sponsorship accepted by employees and authorised by their line manager. Any gifts, hospitality or sponsorship which is accepted must be entered into the register by the employee. If you are ever faced with difficulty over whether or not to accept gifts and hospitality the guidelines 13.2 to 13.10 should help you make a decision.

13.2 The general approach of the Prime Minister's Committee on the Local Government Rules of Conduct to the problems of gifts and hospitality is expressed as: "Another particular source of conflict between the private and public interest is the offer of gifts, hospitality or other benefits in kind to councillors in connection with their official duties. A nice exercise of judgement may sometimes be necessary to decide how the public interest, and the authority's good name, may be best served. A reasonable amount of entertainment is a normal part of the courtesies of public life and extreme strictness can give unnecessary offence to people and organisations with whom the authority's relationships should be cordial. But an appearance of improper influence is easily created and with it encouragement of cynicism about the motives of those who serve in local government." In applying this judgement you are strongly advised to err on the side of caution and to consult with your manager if you are in any doubt.

13.3 You may run the risk of your actions being misinterpreted simply because you have a close working relationship with a donor. You must report to your manager any offer of any gifts or hospitality and write a letter of thanks to the donor. If possible you should try to pool (share out) any gifts which you accept, or donate them to the Chair's nominated charity.

13.4 **Gifts:** The acceptance of gifts is a dangerous practice and the general rule should be to refuse tactfully, all such offers from organisation or persons who do, or might, provide work, goods or services to the Council, or who need some decision from the Council (for example, a planning application).

13.5 Exceptions from the general rule would include modest gifts of no more than £10 in value, which may be of promotional character (for example, calendars, diaries, articles for office use, or a small gift during a courtesy visit to a firm). Such exceptions relate only to modest gifts, an expensive gift would raise questions, even if it would otherwise fall within the categories in section 13.6. It is impossible to be more precise in saying what are and are not acceptable gifts, this is down to your judgement and that of your Director.

13.6 **Hospitality**: When to accept hospitality is also a matter for your own judgement. You are not expected to refuse all invitations for social involvement with individuals or organisations which have, or want to have, business links with the Council. What is important is to avoid any situation if it could be suggested that the donor has gained

improper influence or that you are acting in a personal rather than professional capacity.

13.7 The extent of the hospitality will be a factor as to its acceptability. It may be more reasonable to join in hospitality offered to a group, than to accept something unique to yourself.

13.8 When deciding whether or not to accept hospitality you should think about what other people might think if you did accept. You should be particularly cautious if the donor is currently negotiating with the Council.

13.9 The following checklist of questions should help in deciding whether to accept a gift or an offer of hospitality or tactfully reject it:

- Is the donor, or event, significant in the community or District?
- Are you expected to attend because of your position in the community?
- Will the event be attended by others of a similar standing in the community or in other communities?
- What is the motivation behind the invitation?
- Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future issue involving the Council?
- Could you justify the decision to the Council, press and public?
- Is the extent of the hospitality or the nature of the gift reasonable and appropriate?
- How will you respond to the hospitality?
- Are you comfortable with the decision?

13.10 **Sponsorship – giving and receiving:** When an outside organisation wishes to sponsor, or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. You must take particular care when dealing with contractors or potential contractors.

13.11 If you, your partner, spouse or any relative would benefit from any proposed Council sponsored event or service, you must tell your Manager in full of your interest.

13.12 Similarly, where the Council, through sponsorship, grant aid, financial or other means, gives support in the community, you should ensure that impartial advice is given and that you have no conflict of interest.

# Part 5 Codes and Protocols

## 5.3 Code of good practice for councillors and officers dealing with planning matters

### 1. General role and conduct of councillors and officers

1.1 **The aim of this code of good practice**: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way. One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority** is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

1.2 The Council first adopted a Local Code of Conduct with regard to Planning Matters on the 13 December 2000, and revised in 2002, 2006, 2011, 2013 and 2014. This Code of Good Practice continues the Council's commitment to the highest possible standards of behaviour in its operation of the planning system.

1.3 **The key purpose of Planning**: to control development in the public interest.

1.4 **Your role as a Member of the Planning Authority**: to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

1.5 **When the Code of Good Practice applies**: this code applies to Councillors at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings or when an application which would be required to be determined by the Planning Committee due to your interest is submitted). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

1.6 If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or his deputy, and preferably well before any meeting takes place.

1.7 Whilst this Code of Good Practice deals primarily with planning applications the principles it endorses apply with equal vigour to consideration of the Local Plan,

Development Briefs, enforcement cases and all other planning matters.

1.8 Officers involved in the processing and determination of planning matters must also act impartially and in accordance with the Council's Code of Conduct for Council Employees. In addition those that are members of the Royal Town Planning Institute are required to comply with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct.

## 2 Relationship to the Councillors' Code of Conduct

2.1 **Do** apply the rules in the Councillors' Code of Conduct first, which must always be complied with. This is both the rules on interests, Disclosable Pecuniary Interests (DPIs) and any other interests identified by your Authority, and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

2.2 **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Councillors' Code of Conduct for the purposes of planning management. If you do not abide by this Code of Good Practice, you may put:

- the Council at risk of proceedings on the legality or maladministration of the related decision; and;
- yourself at risk of either being named in a report made to Council or, if the failure is also likely to be a breach of the interest provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

## 3 Development Proposals and Personal Interests under the Councillors' Code

3.1 **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Councillors. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

3.2 **Do take into account when approaching a decision** that the Principle of Integrity is defined in terms that "Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**".

**It is therefore advisable that you:**

3.3 **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal

with officers or Councillors when other members of the public would not have the same opportunity to do so.

3.4 **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a councillor may place additional limitations on you in representing the proposal in which you have a personal interest.

3.5 **Do not act as agent for people pursuing planning matters within the Council area, even if you are not involved in decision making on it**.

3.6 **Do** then act accordingly.

**In addition, where you have a disclosable pecuniary interest [DPI]**

3.7 **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.

3.8 **Don't** try to represent Ward views, or comment on the planning proposal as Ward Councillor, but get another Ward Member to do so instead.

3.9 **Don't** get involved in the processing of the application.

3.10 **Don't** make written representations to members of the committee considering the application.

3.11 **Do** notify the Monitoring Officer and Assistant Director Strategic Planning & Development Management in writing of your own planning, listed building or conservation area consent application (and that of any close relative or friend of which you are aware) or of any such application affecting land you own and note that:

- notification to the Monitoring Officer and Assistant Director Strategic Planning & Development Management should be made no later than submission of the application;
- the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
- it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee;
- you should take no part in the application's consideration or processing;
- you do have a right to make written representations to officers about the proposal but may not address the planning meeting unless you have obtained a dispensation from the Monitoring Officer or Standards Committee.

3.12 **Officers' planning applications**: the same rules apply as for councillors except that you may address the Planning Committee. You should not act as agent for people pursuing

planning matters within the Council's area.

## 4 Fettering discretion in the planning process (Natural justice, predisposition and predetermination)

4.1 **Don't** fetter your discretion by approaching the decision with a closed mind.

4.2 **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.

4.3 **Do** keep at the front of your mind that, when you come to make the decision, you;

- are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
- must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
- are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
- are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
- are to come to a decision after giving what you feel is the right weight to those material considerations.

4.4 Having a closed mind and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

4.5 **Do** be aware that you can be biased where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

4.6 **Do** not use any political group meetings prior to the planning meeting to determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but decisions can only be taken after full consideration of the Planning Officer's report and

information and consideration at the planning meeting. The use of political whips to influence the outcome of a planning application is likely to be regarded as maladministration.

4.7 Do consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a Member of the Parish Council, for example, or both a district and county councillor), provided:

- the proposal does not affect the well being or financial standing of the body and is not the consultee's own planning application and
- you make it clear to the body carrying out the consultation that:
- your views are expressed on the limited information before you only;
- you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, Ward or Parish, as and when it comes before the Committee and you hear all of the relevant information; and
- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
- you disclose the personal interest regarding your membership or role when the Committee comes to consider the proposal.

4.8 Do explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

4.9 Do take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, provided you do not have a disclosable pecuniary or other personal conflict of interest. Where you do exercise these speaking rights:

- advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
- remove yourself from the Member seating area for the duration of that item; and
- ensure that your actions are recorded.

4.10 Do take advantage of the Council's Ward Councillor consultation processes. The local knowledge of councillors means they have an important contribution to make to the planning process. The scheme of delegations [elsewhere in the Constitution] sets out the processes for Ward Councillor involvement in the planning process.

## 5 Membership of Parish Councils and Outside Bodies

5.1 **Do** be aware that when deciding on a planning application at district council level, in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case and where:

- you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of:
  (a) another local or public authority of which you are a member; or
  (b) a body to which you have been appointed or nominated by the Council as its representative; or
  (c) you are a trustee or company director of the body submitting the proposal and were appointed by the Council.
- you should always disclose a personal interest and may speak on the issue. You may also vote on the application provided you have not predetermined the application.

## 6 Contact with Applicants, Developers and Objectors

6.1 **Do** refer those who approach you for planning, procedural or technical advice to officers.

6.2 **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Development Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

6.3 **Do** otherwise:

6.4 follow the rules on lobbying;

- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Development Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file;
- ask relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other Councillors might vote.

**In addition in respect of presentations by applicants/developers:**

6.5 **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers.

6.6 **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.

6.7 **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate

Committee of the planning authority.

6.8 **Do** be aware that a presentation is a form of lobbying and whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other councillors would intend to vote at a committee.

## 7 Lobbying of Councillors

7.1 **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may prejudice your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.

7.2 **Do** remember that your overriding duty is to the whole community not just to the people in your Ward and, taking account of the need to make decisions impartially, should not improperly favour, or appear to improperly favour, any person, company, group or locality.

7.3 **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is over £25 (in accordance with the authority's rules on gifts and hospitality).

7.4 **Do** copy or pass on any lobbying correspondence you receive to the Development Manager at the earliest opportunity.

7.5 **Do** promptly refer to the Development Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

7.6 **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.

7.7 **Do** note that, unless you have disclosable pecuniary interest or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:

- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Councillors or appropriate officers, making clear that you must keep an open mind when it comes to making the decision ;
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and

make it clear that, having expressed the opinion or Ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

7.8 **Do** note that a failure to register a disclosable pecuniary interest within 28 days of election or co-option or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a councillor or co-opted Member has a disclosable pecuniary interest, are criminal offences

## 8 Lobbying by Councillors

8.1 **Don't become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make its decision**.

8.2 Planning committee or local plan steering group members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors

8.3 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, but you should normally seek to disclose that interest on the grounds of transparency where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.

8.4 **Do** register your membership of any lobby group. If you speak on behalf of a lobby group at a committee you should withdraw from the meeting once the public speaking on the item has been completed to avoid any suggestion of improper influence on the committee.

8.5 **Do** declare the existence and nature of your interest in any lobby group at planning meetings so that members of the public are informed about interests that may relate to your decisions. Often this will be a personal interest and you can continue to participate but note that it can sometimes lead to allegations of bias or predetermination and in those circumstances you must withdraw from the meeting.

8.6 **Do** weigh up the following factors where your lobby group has expressed a public view on a matter and consider whether a reasonable member of the public, knowing the relevant facts, would think that you appear biased. The factors are:

- the nature of the matter to be discussed
- the nature of your involvement with the lobby group
- the publicly expressed views of the lobby group

- what you have said or done in relation to the particular issue

8.7 **Do** not become a member of an organisation whose primary purpose is to promote or oppose specific planning proposals or those within a limited geographical area, as you may be perceived as having fettered your discretion.

8.8 **Do** remember that if the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as its Chairperson or a member of the planning meeting, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may appear biased and therefore you should consider whether it is appropriate for you to take part in the decision making process.

8.9 **Do** not publicly support a particular outcome on a proposal within your Ward or actively campaign for it if you wish to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. You must not have a closed mind. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining the application in accordance with the law.

8.10 **Don't** excessively lobby fellow councillors about your concerns or views and don't attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

8.11 **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Councillors should vote on a planning issue.

## 9 Site Visits

9.1 **Do** try to attend site visits organised by the Council where possible.

9.2 **Do** explain to the Planning Committee why you are requesting a site visit. The reasons for a site visit will be recorded at Committee and a site visit should normally only take place where:

- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- details of the proposed development cannot be ascertained from plans and any supporting information to Councillors satisfaction at the planning meeting; or

- where design considerations are of the highest importance particularly in relation to the surrounding locality.

9.3 **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Councillors have the same information.

9.4 **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.

9.5 **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

9.6 **Don't** hear representations from any other party, with the exception of the Ward Member(s) or statutory consultees who must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.

9.7 **Don't** express opinions or views to anyone.

9.8 **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:

9.9 you feel it is essential for you to visit the site other than through attending the official site visit;

9.10 you have first spoken to the Development Manager about your intention to do so and why (which will be recorded on the file) and

9.11 you can ensure you will comply with these good practice rules on site visits.

## 10 Public speaking at meetings

10.1 **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.

10.2 **Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 11 Officers

11.1 Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Their relationship is based upon mutual trust and understanding and this must never be abused or compromised. Instructions to officers concerning individual planning decisions can only be given through a decision of the Council or the Planning Committee and not by individual Councillors acting outside those powers. There is also a scheme of officer delegations which includes planning decisions where

the matter is not referred to committee.

11.2 **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Manager, which may be incorporated into any committee report).

11.3 **Do not do anything which compromises, or is likely to compromise the officers' impartiality or professional integrity**.

11.4 **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with the Assistant Director Strategic Planning & Development Management or Development Manager or those officers who are authorised by them to deal with the proposal at a Member level.

11.5 **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Councillors.

11.6 Do be aware of the Protocol for Relationships between Councillors and officers.

## 12 Decision Making

12.1 **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.

12.2 **Do** come to meetings with an open mind and demonstrate that you are open-minded.

12.3 **Do** comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

12.4 **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.

12.5 **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter, and

attended any site visit.

12.6 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the **planning reasons** leading to this conclusion/ decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

12.7 **Do** delegate to the Assistant Director Strategic Planning & Development Management the detailed drafting of specific conditions that the Planning meeting may wish to add or amend when considering an application, ensuring that an explanation of why the change or addition is required is given to the planning meeting.

12.8 **Do** have recorded the reasons for Committee's decision to defer any proposal.

12.9 **Do**, where necessary, consider the drafting of conditions for sensitive applications that the planning meeting wish to approve against Officer recommendation at the next meeting of the planning meeting to allow Officers to formulate appropriate conditions and provide the planning meeting with any relevant further information.

## 13 Training

13.1 **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.

13.2 **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the mandatory training which should help you in carrying out your role properly and effectively.

13.3 **Do** participate in the annual review of a sample of planning decisions to ensure that Councillors` judgements have been based on proper planning considerations.

## 13.4 Involvement in Section 106 Agreements

13.5 The guidance in respect of planning obligations is similar to that of planning conditions in that they must be relevant to planning and directly related to the proposed development if they are to be taken into account in making a decision on a planning application. Local Planning Authorities should not grant planning permission for unacceptable development because of unrelated benefits offered by the applicant and should not be unduly influenced by any benefits offered.

13.6 **Do** remember that requirements to be included within Section 106 Agreements should be considered and discussed at pre-application stage. The Officers will provide advice on general requirements, but if you are aware of any additional potential requirements please refer these to the Development Manager as soon as you become aware of them.

13.7 **Do** remember that the purpose of Section 106 Agreements is to help make acceptable, development which would otherwise be unacceptable in planning terms, by prescribing the nature of the development, or compensating for loss or damage created by the development, or to mitigate a development's impact. They must therefore be relevant to planning and relate fairly and reasonably to the development.

13.8 **Do** include the potential content of Section 106 Agreements in the debate that takes place at planning meetings, whether you are a member of the planning meeting or a visiting Member who wishes to speak on the application.

13.9 **Don't** hold formal or informal meetings with Applicants, Developers and Objectors over the contents of potential Section 106 agreements. If you feel that a meeting would be useful to clarify the issues, you should ask the Assistant Director Strategic Planning & Development Management to arrange such a meeting. In this way the relevant Officers can be at the meeting, and those present can be made aware that the discussions will not bind the authority, and that the meeting can be properly recorded on the application file and the record of the meeting disclosed when the application is considered.

13.10 **Do** remember that it is imperative that a Ward Councillor's role continues after the completion of the Section 106 Agreement, by assisting Officers in ensuring that Section 106 Agreements are complied with. This includes noting when development is being undertaken and assisting Officers in ensuring triggers within Section 106 Agreements are complied with. Ward Councillors should contact Officers for any information on completed Section 106 Agreements.

## 13.11 Breaches of the planning protocol

13.12 Maintaining high ethical standards enhances the general reputation of the Council, its Councillors and its officers. Open and transparent decision making enhances local democracy and should lead to better informed citizens. This Planning Protocol, along with the Councillors' Code of Conduct are intended to promote these standards.

13.13 **Do** be aware of your responsibilities under this Code and the Councillors Code of Conduct.

13.14 **Do** report any apparent breaches of either the Code of Conduct or the Planning Protocol to the Monitoring Officer. θ Do seek advice if you are in doubt.

13.15 Failure to comply with the Councillors Code of Conduct may lead to a complaint to the Monitoring Officer and its being referred to the Council's Standards Committee, which has the power to impose sanctions for breach. Failure to comply with this Planning Protocol may lead to a finding of Maladministration by the Ombudsman or could lead to a decision being challenged in the courts.

13.16 Allegations on any breach of this Planning Protocol by Councillors may be referred to the Monitoring Officer, the relevant Leader and/or Chief Whip of the political group.

## 13.17 Member Advisory Panels

13.18 The Council operates a Members Advisory Panel (MAP) for major applications. The panel is convened as required and is an opportunity for developers to present proposals to Councillors at an early stage and gain initial feedback to gauge Councillors initial views on proposals to inform their development. A panel meeting is charged as 1 meeting under the relevant pre-application fee.

13.19 **Purpose**: To enable Councillors to input into emerging proposals at an early stage to inform the developers thinking and the development of their proposals without prejudicing the views that they may later choose to express in response to any future planning application for the development.

13.20 **Membership of the Panel:** A panel will be convened when a developer submits a proposal for pre-application discussion with officers on a major development and those discussions have progressed to a stage where the developer and officers agree that engaging Councillors in the discussion would help to progress the matter. Any meeting of the panel will be chaired by the Chair of Planning Committee and will also comprise of:

- Portfolio Holder Place, Infrastructure & Strategic Planning
- Portfolio Holder Environment – Climate & Nature
- Portfolio Holder for Sustainable Homes and Communities
- Vice Chair Strategic Planning Committee
- Vice Chair Planning Committee
- Ward Councillors as appropriate to the site (inc. adjacent ward councillors as appropriate)
- Other relevant portfolio holders and assistant portfolio holders (as appropriate) as determined by the Chair of the Panel
- Relevant officers from key consultees such as Devon County Council etc.
- Relevant officers from other teams and services of EDDC.

13.21 **The Panel Meeting:** Prior to the meeting Councillors should acquaint themselves with the site and its surroundings. The panel, officers and developers to convene either in person at the Council's offices or virtually through zoom or similar as appropriate.

13.22 The meeting to then follow the format of:

13.22.1 Meeting to open with introductions and Councillors to declare any interests.

13.22.2 Developer makes a presentation to the Member's Advisory Panel and Officers of no more than 30 minutes.

13.22.3 Councillors to ask questions of the Developers, seek clarification, test arguments but not to give any form of view in support or against the proposals.

13.22.4 Developers are asked to leave the meeting.

13.22.5 Officers advise Councillors of the key issues and policy considerations as they see it.

13.22.6 Councillors discuss the merits of the proposal.

13.22.7 Councillors advise officers of the comments that they wish to feedback to the developer.

13.22.8 Meeting is closed.

13.22.9 Officers draft a response to be sent on behalf of the panel to the developer and circulate with the minutes for panel member's comment.

13.22.10 Final minutes and letter is agreed by the Chair.

13.22.11 Officers send panel response to the developer.

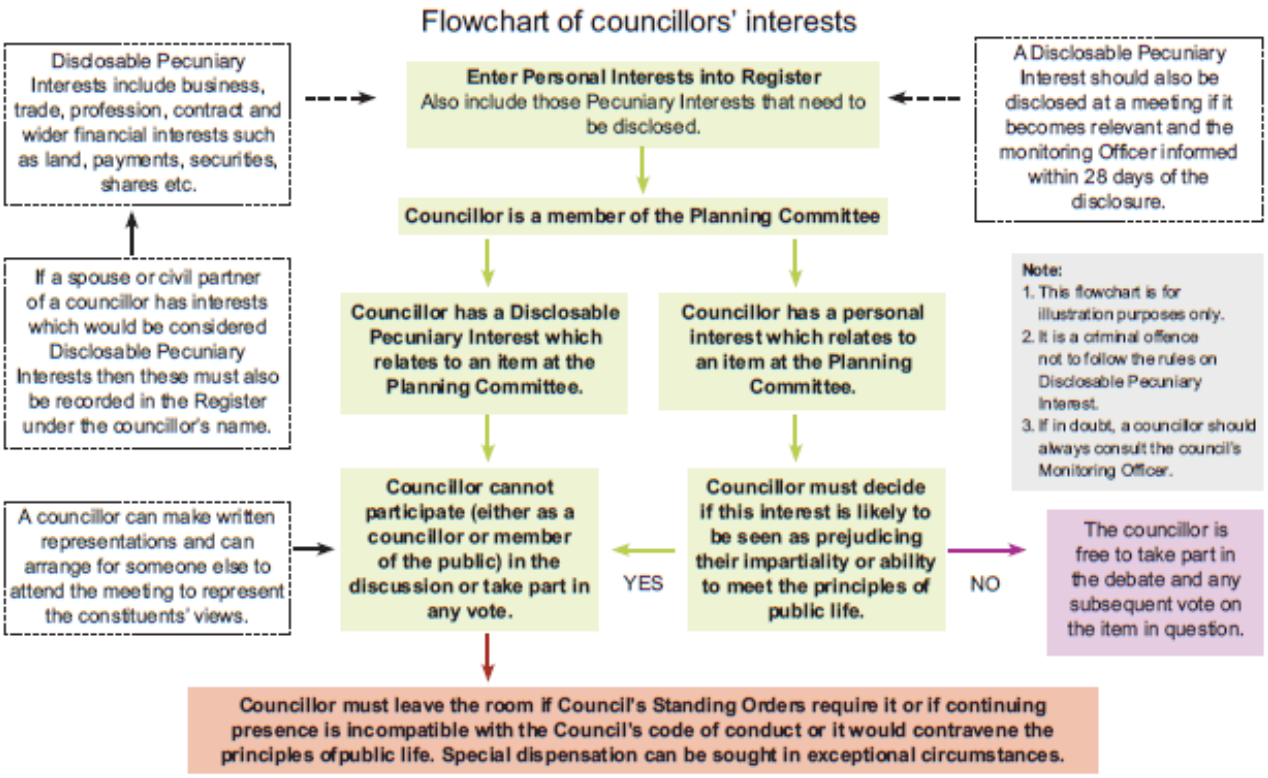
13.22.12 In the event an application is made for the same or similar proposal on the site from the developer then all pre-application details including the panel minutes and letter are published.

13.23 **Administration** All meetings to be arranged and administered by the Planning Service. All meetings to be minuted in the same format as committee meetings. All virtual meetings to be recorded and saved.

14 **Further guidance on probity in planning and the Code of Conduct**

14.1 The Monitoring Officer and Deputy Monitoring Officer will be pleased to assist with councillors' individual queries on the application of the Code of Conduct or this Planning Code of Good Practice.

Probity in Planning, December 2019, issued by the Local Government Association and the Planning Advisory Service Openness and Transparency on Personal Interests: Guidance for Councillors, Department for Communities and Local Government, September 2013. [Note this is general guidance and does not reflect any additional requirements East Devon has chosen to include in its Member Code of Conduct]. https://www.gov.uk/government/publications/openness-and-transparency-on-personalinterests-guidance-for-councillors



# Part 5 Codes and Protocols

## 5.4 Protocol for relationships between Councillors and Officers

### 1. Introduction

1.1. The purpose of this Protocol is to guide Councillors and Officers of the Council in their relations with one another. The Protocol's intention is to build and maintain good working relationships between Councillors and Officers as they work together.

1.2. A strong, constructive, and trusting relationship between Councillors and Officers is essential to the effective and efficient working of the Council.

1.3. This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Councillors and Officers. The shared object of these Codes is to enhance and maintain the integrity of Local Government and they therefore demand very high standards of personal conduct.

1.4. The following extract from the Local Government Association ("LGA") guidance on the 2020 Local Government Association Model Councillor Code of Conduct states that:

1.4.1. "Both Councillors and officers are servants of the public and are indispensable to one another. Together, they bring the critical skills, experience and knowledge required to manage an effective local authority.

1.4.2. At the heart of this relationship, is the importance of mutual respect. Councillor-officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of their respective roles and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

1.4.3. Councillors provide a democratic mandate to the local authority and are responsible to the electorate whom they represent. They set their local authority's policy framework, ensure that services and policies are delivered and scrutinise local authority services.

1.4.4. Councillors of the Cabinet, chairs and vice chairs of committees have additional responsibilities. These responsibilities will result in increased expectations and relationships with officers that are more complex. Such Councillors must still respect the impartiality of officers and must not ask them to undertake work of a party-political nature or compromise their position with other Councillors or other officers.

1.4.5. Officers provide the professional advice and managerial expertise and information needed for decision making by Councillors and to deliver the policy framework agreed by Councillors. They are responsible for implementing decisions of Councillors and the day-to-day administration of the local authority. The roles are very different but need to work in a complementary way.

1.4.6. It is important for both sides to respect these differences and ensure that they work inharmony. Getting that relationship right is an important skill. That is why the code requires Councillors to respect an officer's impartiality and professional expertise. In turn officers should respect a Councillor's democratic mandate as the people accountable to the public for the work of the local authority."

1.5. The provisions of this Protocol are designed to complement the LGA Guidance and LGA Model Code of Conduct and will be interpreted having regard to the requirements of the Councillors' Code of Conduct, the Officers' Code of Conduct, the Council's Whistleblowing Policy and the Council's policies, procedures and processes.

1.6. This Protocol sets out how the relationship works and what both Councillors and Officers can expect in terms of mutual respect and good working relationships. It also covers who they should go to if they have concerns and who is responsible for making decisions.

1.7. Definitions in this document:

1.7.1. Councillors: refers to elected or co-opted Councillors

1.7.2. Chief Executive: refers to the Council's Chief Executive

1.7.3. Director: refers to officer(s) reporting directly to the Chief Executive

1.7.4. Senior Officer: refers to members of the Council's Senior Leadership team consisting of the Chief Executive, Directors, Assistant Directors and Service Leads

1.7.5. Officers: refers to officers employed by the Council

1.7.6. Administration: refers to the ruling political group on the Council.

1.7.7. Opposition Group: refers to the largest political group in opposition on the Council.

1.7.8. Party Group: refers to a political group or grouping of Councillors.

1.8. This Protocol is intended to assist Councillors and Officers, in approaching some of the sensitive circumstances which arise in a challenging working environment. The reputation and integrity of the council is significantly influenced by the effectiveness of Councillors and Officers working together to support each other's roles and to deliver a one Council approach. The aim is effective and professional working relationships characterised by mutual trust, respect and courtesy.

1.9. Mutual respect between Councillors and Officers is essential to good Local Government. Overly close personal familiarity between individual Councillors and Officers can damage this relationship and can be perceived as inappropriate or favouritism by the public or other Councillors and Officers. It is important none the less for Councillors and Officers to establish good working relationships.

1.10. It is also important that any dealings between Councillors and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

## 2. Councillors

2.1. In line with the Councillors' Code of Conduct, a Councillor must treat everyone with respect, must not bully or harass people and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

2.2. Officers can expect Councillors:

2.2.1. to give leadership and direction and to seek to further their agreed policies and objectives;

2.2.2. to take an appropriate decision based on advice;

2.2.3. to act within the policies, practices, processes and procedures established by the Council;

2.2.4. to work constructively in partnership with Officers acknowledging their separate and distinctroles and responsibilities;

2.2.5. to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines;

2.2.6. to treat them fairly and with respect, dignity and courtesy;

2.2.7. to act with integrity, to give support and to respect appropriate confidentiality;

2.2.8. to recognise that Officers work to the instructions of their Senior Officers and not to individual Councillors or Political Groups;

2.2.9. not to subject them to intimidation, harassment, or put them under undue pressure. Councillors will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Councillor and Officer, and the potential vulnerability of Officers, particularly at junior levels;

2.2.10. not to request Officers to exercise their discretion in a way that involves acting outside the Council's policies and procedures;

2.2.11. not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Councillor without proper and lawful authority and in compliance with the Scheme of Delegation;

2.2.12. not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly;

2.2.13. to comply at all times with the Councillors' Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and procedures agreed by the Council.

2.3. It is important that Councillors:

2.3.1. respect the impartiality of Officers and do not undermine their role in carrying out their duties;

2.3.2. do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party-political manner;

2.3.3. do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Senior Officers.

2.4. The Head of Paid Service, the Monitoring Officer and the Chief Finance (section 151) Officer have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging their responsibilities under any statutory office Councillors shall not:

2.4.1. improperly interfere with or obstruct the Officer in exercising those responsibilities

2.4.2. victimise any Officer who is discharging or has discharged their responsibilities of Statutory Office

2.4.3. compromise or attempt to compromise their impartiality and must allow them to carry out their duties in a neutral, non-biased and non-partisan way.

## 3. Officers

3.1. In line with the Officers' Code of Conduct, an Officer must treat everyone with respect and must not bully or harass anyone.

3.2. The primary role of Officers is to advise, inform and support all Councillors and to implement the lawfully agreed policies of the Council.

3.3. Officers are responsible for day-to-day managerial and operational decisions within the Council. Councillors should avoid inappropriate involvement in such matters.

3.4. In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will respect a Councillor's view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to their professional judgement or views.

3.5. Officers must:

3.5.1. implement decisions of the Council and its Committees which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's Constitution and are duly recorded.

3.5.2. work in partnership with Councillors in an impartial, constructive and professional manner.

3.5.3. treat Councillors fairly and with respect, dignity and courtesy.

3.5.4. assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

3.5.5. respond to enquiries and complaints in accordance with the Council's procedures.

3.5.6. be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Councillors, the media or other sections of the public.

3.5.7. if a safeguarding issue arises, ensure it is dealt with in accordance with the Councils' Safeguarding Policy.

3.5.8. act with honesty, respect, dignity and courtesy at all times.

3.5.9. provide support and learning and development opportunities for Councillors to help them in performing their various roles.

3.5.10. not seek to use their relationship with Councillors to advance their personal interests or to influence decisions improperly.

3.5.11. comply, at all times, with the Officer Code of Conduct, and such other Policies or procedures approved by the Authority.

3.5.12. Officers have the right not to support Councillors in any role other than that of Councillor, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

## 4. The Relationship: General

4.1. Councillors and Officers are indispensable to one another. However, their responsibilities are distinct. Councillors are accountable to the public, whereas Officers are accountable to the Council as a whole.

4.2. At the heart of the Codes, and this Protocol, is the importance of mutual confidence and trust and also of civility. Councillor/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. It is also important that such dealings take place only when Councillors and Officers are acting in their official capacity. It is important that both parties respect the other's free time.

4.3. Councillors should not raise matters relating to the conduct or capability of an Officer, or of Officers collectively, in a manner that is incompatible with this Protocol at meetings held in public, on social media or in the press. Officers do not necessarily have the same right of reply to such comments as Councillors do and Councillors should take care not to abuse or exploit this imbalance.

4.4. A Councillor who is unhappy about the actions taken by, or conduct of, an officer should:

4.4.1. avoid personal attacks on, or abuse of, the officer at all times.

4.4.2. ensure that any criticism is well founded and constructive.

4.4.3. ensure that any criticism is made in private.

4.4.4. take up the concern with the appropriate Senior Officer.

4.4.5. If the matter is of a particularly serious nature inform the Chief Executive.

4.5. Neither should an Officer raise with a Councillor matters relating to the conduct or capability of another Officer or to the internal management of the service in a manner that is incompatible with the objectives of this Protocol.

4.6. Potential breaches of this Protocol are considered at paragraph 15 below.

## 5. Family and other Personal relationships

5.1. Any family relationships between Councillors and Officers (e.g., parent/child, spouse/partner) must be disclosed as soon as reasonably practicable to the Monitoring Officer who will then decide how far this needs to be disclosed to others.

5.2. A Councillor should not take up a decision-making role where it would give them decision-making responsibility for any Officer to whom they are related so as to avoid any perceptions or accusations of preferential treatment or a lack of objectivity.

5.3. Personal familiarity can also affect the relationship between Councillors and Officers, as might a business connection. They should therefore inform the Monitoring Officer of any other relationship which might be seen as unduly influencing their work or their respective roles.

5.4. If a Councillor or Officer is in any doubt about what is appropriate or not in relation to 5.1, 5.2 or 5.3 above, then they should seek the advice of the Monitoring Officer.

## 6. Officer Advice to Party Groups

6.1. There is statutory recognition for party groups and it is common practice for such Party Groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such considerations.

6.2. The support provided by Officers can take many forms, ranging from a briefing meeting with a member of the Cabinet or Chair prior to a Committee meeting, to a presentation to a full Party Group meeting. Whilst in practice such Officer support is likely to be in most demand from the Administration, such support is available to all Party Groups.

6.3. If an individual Councillor is not in a Party Group, advice is still available.

6.4. Any requests for advice or attendance are to be directed through the Group Leaders, Cabinet Members or Chairs for the relevant Committee. The request shall be made to the relevant Senior Officer or, in their absence, to their deputy or the next appropriate lower tier Officer. An Officer accepting an invitation to one Political Group or individual will not decline an invitation to advise another Political Group or individual on the same subject. However, the Officer is not obliged to offer to advise another Political Group on the same subject.

6.5. Certain points must however be clearly understood by all those participating in this type of process, Councillors and Officers alike. In particular:

6.5.1. Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business should not be present at meetings, or parts of meetings, when matters of party business are to be discussed;

6.5.2. Party Group Meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such, particularly having regard to the risk of challenge on the grounds of pre-determination;

6.5.3. The presence of an Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;

6.5.4. Similarly, where Officers provide information and advice to a Party Group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council meeting, Committee or Sub-Committee when the matter in question is considered.

6.6. In relation to budget proposals:

6.6.1. The Administration shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of the Executive /Council meetings, whichever is the earlier;

6.6.2. The opposition groups shall be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Cabinet/Council meetings, whichever is the earlier.

6.7. Where Officers attend a Party Group meeting, only Councillors of the Council should be present.

6.8. Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group, unless agreed otherwise.

6.9. Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

## 7. Provision of Support Services to Councillors and Party Groups

7.1. Officers provide support services and resources to Councillors as agreed by the Council to enable them to undertake their various roles. This includes the provision of direct Personal Assistant support to the Leader and Chair of Council which is provided on a part-time basis.

7.2. The only basis on which the Council can lawfully provide support services (e.g., stationery, typing, printing, photocopying, transport, etc.) to Councillors is to assist them in discharging their role as Councillors of the Council. Such support services and

associated resources must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private (including business) purposes.

## 8. Councillors' Access to Information and to Council Documents

8.1. Councillors are free to approach any service area of the Council to provide them with such information, explanation and advice (about the service area's functions) as they may reasonably need in order to assist them in discharging their role as Councillors. This can range from a request for general information about some aspect of a service areas activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Senior Officer for the service area concerned.

8.2. As regards the legal rights of Councillors to inspect Council documents, these are covered partly by statute and partly by the common law.

8.3. Councillors have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the Councillor sits on the Committee or SubCommittee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear in Part II (exempt) of the Agenda for meetings. Further details are contained in the Access to Information Procedure Rules in the Council's Constitution. Examples are documents that contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

8.4. The common law right of Councillors is much broader and is based on the principle that any Councillor has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the Councillor properly to perform their duties as a Councillor of the Council. This principle is commonly referred to as the "need to know" principle.

8.5. The exercise of this common law right depends therefore upon the Councillor's ability to demonstrate that they have the necessary "need to know". In this respect a Councillor has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must be determined by the particular Director who holds the document in question (with advice from the Monitoring Officer).

8.6. In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the functions of that Committee) a Councillor's "need to know" will normally

be presumed. In other circumstances (e.g. a Councillor wishing to inspect documents which contain personal information about third parties) a Councillor will normally be expected to justify the request in specific terms.

8.7. Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Councillor of one party group will not have a "need to know", and therefore a right to inspect, a document which forms part of the internal workings of another party group.

8.8. Councillors are expected to give reasonable notice of requests for information and to have regard to the cost of producing detailed information.

8.9. Further and more detailed advice regarding Councillors' rights to inspect Council documents may be obtained from the Monitoring Officer.

8.10. Finally, any Council information provided to a Councillor must only be used by the Councillor for the purpose for which it was provided i.e. in connection with the proper performance of the Councillor's duties as a Councillor of the Council, and appropriate confidentiality maintained.

8.11. For completeness, Councillors do, of course, have the same right as any other Councillor of the public to make requests for information under the Freedom of Information Act 2000.

## 9. Officer – Cabinet Member/Chair Relationships

9.1. It is clearly important that there should be a close working relationship between the relevant Cabinet Member or Chair of a Committee and the Senior Officers who support that Portfolio or Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Councillors and other party groups.

9.2. Under the Constitution, individual Councillors of the Cabinet may, in some situations, take decisions. The Council has put in place mechanisms to ensure that the individual Cabinet Member seeks advice from relevant Councillors and Officers before making a decision within their delegated authority. This includes taking legal advice, financial advice and professional officer advice.

9.3. The Council's delegation scheme and resolutions passed at Cabinet or Committee meetings may authorise a named Officer to take action, sometimes in consultation with one or more Councillors such as the Cabinet Member or Chair and Vice-Chair of a Committee. In these circumstances it is the Officer, rather than the Councillor, who takes the decision or action and it is the Officer who is accountable for it.

9.4. Finally, it must be remembered that Officers within a service are accountable to their Senior Officer and that, whilst Officers should always seek to assist a Cabinet Member or Chair (or indeed any Councillor) they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Senior Officer.

## 10. Specific Councillor Roles / Officer Relationships

### 10.1. Leader & Chief Executive / Senior Officers

10.1.1. The Leader represents the Council and provides direction and leadership. The role encompasses:

10.1.1.1. Setting standards of conduct and expectations for their Party Group and resolving any instances of misconduct by a Councillor of that group.

10.1.1.2. Appointing their Cabinet and Assistant Portfolio Holders and allocating responsibilities to Cabinet Members and Officers under the Cabinet Scheme of Delegation.

10.1.1.3. Encouraging all Councillors to play a full part in the running of the Council and being effective representatives.

10.1.1.4. giving political direction and leadership to their group of Councillors, setting standards of conduct and expectations and resolving any instances of misconduct by a Councillor of that group referred to him/her by the Standards Committee / Hearing Sub-Committee;

10.1.1.5. liaising with the leaders of other Political Groups on the Council. vi. Working closely with the Chief Executive to ensure proper coordination of the Council's leadership and management. The Leader and Chief Executive have ultimate responsibility for the corporate working of the Council. They also have responsibility for ensuring that overall partnership working is effective.

10.1.2. The Chief Executive is responsible for the day to day running and management of the organisation working through the Leader, Deputy Leader and Chair of Council.

10.1.3. The Council will provide sufficient support and resources to enable the Leader to perform their role effectively.

### 10.2. Cabinet Members and Officers

10.2.1. Cabinet Members will develop the expertise, knowledge of and responsibility for the service(s) allocated to them by the Leader. This includes taking decisions delegated to them by the Leader within the Cabinet Scheme of Delegation. The nature of this role means that Cabinet Members will work closely with their relevant Senior Officer(s) particularly on policy development, decision-making, service delivery and performance issues.

10.2.2. For their area of responsibility, the Cabinet Member provides political focus and leadership for their Political Group and is the lead spokesperson and 'first' political contact for opposition group spokespersons, other Councillors of Council, the public, press and Officers.

10.2.3. The Council will provide sufficient support and resources to enable the Cabinet Member to perform their role effectively.

**10.3. Leader of the Opposition and Officers**

10.3.1. The Leader of the Party Group in main opposition on the Council has several key roles including:

10.3.1.1. Setting standards of conduct and expectations for their Party Group and resolving any instances of misconduct by a Councillor of that group;

10.3.1.2. supporting the democratic process by ensuring that the activities of the Administration are appropriately examined, contributed to and, where considered necessary, challenged through mechanisms provided for in law and within the Constitution;

10.3.1.3. bringing forward alternatives to policies or operational decisions proposed by the Administration, as appropriate;

10.3.1.4. giving political direction and leadership to their group of Councillors, setting standards of conduct and expectations and resolving any instances of misconduct by a Councillor of that group referred to him/her by the Standards Committee / Hearing Sub-Committee;

10.3.1.5. liaising with the leaders of other Political Groups on the Council.

10.3.2. The office-holder should establish effective working relationships with particularly the Chief Executive and Senior Leadership Team and other Officers, as appropriate.

10.3.3. The Chair of Council will provide appropriate support, resources and advice to enable the office-holder to perform their role effectively.

10.3.4. In addition, other minority Group Leaders will play a similar role as set out above in respect of the Councillors of their own groups.

**10.4. Scrutiny Members and Officers**

10.4.1. Councillors of the three Scrutiny Committees, Overview, Scrutiny and Housing Overview & Scrutiny Committee, shall:

10.4.1.1. obtain the advice of the Monitoring Officer where they consider there is doubt about the vires for a decision or they consider a decision of the Leader, Cabinet, Cabinet Member or an Officer might be outside the policy and / or budget framework.

10.4.1.2. when considering calling Officers to give evidence, consult the relevant Senior Officer to identify as to the most appropriate Officer to attend.

10.4.1.3. when asking Officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but Officers must not be asked questions relating to political views.

10.4.1.4. where they consider it appropriate, ask Officers to explain and justify advice given to Councillors prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.

10.4.1.5. not question Officers in such a way as to be in breach of the Councillors' Code of Conduct nor deal with matters which are of a personal or disciplinary nature.

10.4.2. It is not the role of scrutiny to act as a disciplinary tribunal in relation to the actions of Councillors or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a Scrutiny Committee's behalf. This means:

10.4.2.1. Questioning about the conduct of individuals should be in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, not to imply criticism or blame.

10.4.2.2. In these circumstances, it is for the Chief Executive to institute a formal enquiry, and Scrutiny Committees may ask (but not require) them to do so.

10.4.3. Scrutiny should not act as a "Court of Appeal" against decisions or to pursue complaints by individuals, as other procedures exist for this. These are internal, for example, the Council's corporate complaints procedure, and external/statutory, for example the Ombudsman or appeal to the Courts. However:

10.4.3.1. Scrutiny Committees may investigate the manner in which decisions are made but should not pass judgement on the merits or otherwise of a decision in individual cases.

10.4.3.2. They can comment on the merits of a particular policy affecting individuals.

10.4.4. Scrutiny Committees should provide written questions or details of indicative topics to someone invited to appear before the Committee to ensure they have adequate time to prepare for the meeting. In addition, invitees ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Committee has previously indicated.

10.4.5. Officers shall:

10.4.5.1. maintain political impartiality at all times when commenting on the Cabinet's / Council's policies and actions.

10.4.5.2. be prepared to explain and justify advice given to Members of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.

10.4.5.3. ensure that appropriate Officers appear before the relevant Council body.

## 11. Conduct at meetings of the Council

11.1. Officers and Councillors will address each other respectfully at meetings of the Council.

11.2. Officers should respect Councillors in the way they respond to Councillors' questions. Councillors should not question Officers in a way which could be interpreted as intimidating or disrespectful.

11.3. Proceedings must not be used to question the capability or competence of Officers, or to criticise them in public. Chairs and Councillors need to make a distinction between reviewing the policies and performance of the Council and its services and appraising the personal performance of Officers (particularly at scrutiny meetings.) The latter is not an appropriate role for Councillors.

11.4. Senior Officers have the right to present reports and give advice to Committees and sub-committees of the Council. All reports to Council meetings include the name of a contact officer and Councillors are encouraged to approach that Officer for any query or issue they wish to raise prior to the meeting.

11.5. Councillors on a Committee or sub-committee shall take decisions within the remit of that body and will not instruct Officers to act otherwise.

11.6. At meetings of the Council, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chair, other Councillor(s) of that body or other Officers. In these circumstances it is the Officer, not the Chair, who takes the action and is responsible for it. Neither the Chair nor any other Councillor, or group of Councillors, (other than Cabinet Councillors) has any legal power to take decisions on behalf of the Council; neither should they apply inappropriate pressure on the officer.

## 12. Press and Social Media

12.1. Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and customers. Local Authorities use publicity to keep the public informed and to encourage public participation. The Council needs to tell the public about the services it provides. Good effective publicity should aim to improve public awareness of the Council's activities. Publicity is a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant.

12.2. The Council must comply with the provisions of the Local Government Act 1986 ("the Act") regarding publicity. All media relations work will comply with the national Code of Practice for Local Government Publicity. The Code is statutory guidance and the Council must have regard to it and follow its provisions when making any decision on publicity.

12.3. The Leader, Deputy-Leader, Executive Members and Chairs act as spokespersons for the Council in responding to the press and media and making public statements on behalf of the Council. The Leader, DeputyLeader, Executive Members and Chairs should liaise with the Communications Team on all forms of contact with the press and media.

12.4. All Council press releases should be in accordance with the Council's agreed guidelines and must be issued through the Council's Communications Team.

12.5. Any press release that may be necessary to clarify the Council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be approved by the appropriate Director and/or the Monitoring Officer.

12.6. Councillors or Political Groups have the right to issue political press releases but these shall not be prepared or issued using the Councils resources of any kind. If a Councillor is contacted by, or contacts, the media on an issue, they should:

12.6.1. indicate in what capacity they are speaking (e.g., as a local District Councillor, in a personal capacity, as a Cabinet Member, on behalf of the Council, or on behalf of a party group);

12.6.2. if necessary, and always when they would like a press release to be issued on a non-party political nature seek assistance from the Council's Communications Team;

12.6.3. consider the likely consequences for the Council of their statement (e.g. commitment to a particular course of action, image, allegations of predetermination);

12.6.4. never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;

12.6.5. consider whether to consult other relevant Councillors;

12.6.6. take particular care in what they say in the run-up to local or national elections to avoid giving the impression of electioneering, unless they have been contacted as an election candidate or political party activist.

12.7. It is important for Councillors to comply with their general obligations in the Code of Conduct when dealing with the press and media and recognise that as a representative of the Council their actions impact on how the Council as a whole is viewed by the public.

12.8. Lead Councillors with special responsibilities will receive training in handling the media and shall receive additional support as required and as appropriate for their roles from the Communications Team.

12.9. Any press release that may be necessary to clarify the Council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be approved by the appropriate Senior Officer and/or the Monitoring Officer.

12.10. Councillors should have regard to their obligations under 4.3 above when making any statements to the press or media.

12.11. Councillors and Officers should carefully consider the appropriateness of forming friendships on social media or generally and whether this will infer a friendship between the Officer and Councillor that could create a perception of lack of objectivity.

## 13. Correspondence

13.1. The paper containing the Council's corporate identity image must be used for all correspondence written on behalf of the Council. When Councillors are writing in their capacity as a Councillor they must make it clear whether they are writing on behalf of the Council or as the ward Councillor. Councillors must never use paper or electronic communications containing the Council's corporate identity image for personal, party political or business matters.

13.2. Correspondence from an individual Councillor to an Officer will not normally be copied by the Officer to any other Councillor unless it is the intention of the Councillor that it should be so (e.g. representations made in relation to a planning application). Where, exceptionally, and having sought the advice of a Senior Officer, it is considered appropriate to copy the correspondence to another Councillor, then the original Councillor should be given prior notification and be told to whom it is proposed to be copied and the reasons for this proposed course of action. The decision of whether another Councillor should be sent the correspondence is ultimately for the Chief Executive to take.

13.3. Particular care needs to be taken with email correspondence where the Council's use of email policy should be followed. For example, when dealing with constituency email correspondence be careful when copying emails when using 'cc' or 'bcc' or 'reply to all'. Only copy your email to those people that really need to see it, don't inadvertently forward confidential information and don't forward a constituent's email to others even within the Council without having first obtained their consent.

13.4. The Leader, Deputy-Leader, Executive Members and Chairs act as spokespersons for the Council in responding to the press and media and making public statements on behalf of the Council. The Leader, DeputyLeader, Executive Members and Chairs should liaise with the Communications Team on all forms of contact with the press and media.

13.5. Correspondence to individual Councillors from Officers concerning regulatory matters such as planning, enforcement, licensing and environmental health matters should not be sent or copied to complainants or other third parties if they are marked "private", "personal" or "confidential". In doing so, the relevant Officer should seek to make clear what is to be treated as being shared with the Councillor in confidence only and why that is so.

## 14. Involvement of Local Ward Councillors

14.1. To enable them to carry out their Ward role effectively, Councillors need to be informed about matters affecting their Ward. Senior Officers must ensure that all relevant staff are aware of the requirement to keep local Councillors appropriately informed, thus allowing Councillors to contribute to the decision-making process and develop their representative role.

14.2. Issues may affect a single Ward. Where they have a wider impact, a number of local ward councillors will need to be kept informed.

14.3. Whenever a public meeting (not a formal Council/Committee meeting) is organised by the Council to consider a local issue, all the Councillors representing the ward affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the relevant local

ward Councillors should be notified at the outset of the exercise, and consulted over the proposed consultation date.

14.4. In seeking to deal with constituents' queries or concerns, Councillors should not seek priority but should respect and follow the Council's procedures.

## 15. Breaches of the Protocol

15.1. This paragraph of the Protocol should be read in conjunction with the Council's Whistleblowing Policy.

15.2. Where the relationship between Councillors and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate Senior Officer or Councillors.

15.3. A Councillor who is unhappy about the actions taken by, or conduct of, an officer should:

15.3.1. avoid personal attacks on, or abuse of, the officer at all times;

15.3.2. ensure that any criticism is well founded and constructive;

15.3.3. never make a criticism in public.

15.4. Where a Councillor is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the relevant Senior Officer. Where the Officer concerned is a Director, the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer.

15.5. The Senior Officer will acknowledge the complaint and advise on next steps. The timescale for dealing with such a complaint will be in accordance with the Council's normal complaints procedure.

15.6. Councillors have a right to know if action has been taken to address a matter, but they must not, either:

15.6.1. influence, or seek to influence, the level of disciplinary action to be taken against an Officer, nor

15.6.2. insist (nor be seen to insist) that an Officer is disciplined.

15.7. Councillors have a right to be told the outcome of any disciplinary case but have no entitlement to detailed information about the hearing or its conduct aside from those Members of the Employment Appeals Sub Committee where specific cases are considered by the Sub Committee.

15.8. Where an Officer feels that they have not been properly treated with respect and courtesy and wishes to make a complaint under the Councillors' Code of Conduct this

should be made to the Monitoring Officer. In the event of the concerns being raised informally, the Monitoring Officer may refer the matter to the leader of the relevant party group or to the Councillor concerned. In the event of a formal complaint, the Monitoring Officer will consider whether the complaint should be referred for investigation, other action or whether no further action should be taken and the Council's procedures for dealing with Councillors' Code of Conduct complaints will be followed as set out in the Constitution.

15.9. Breaches of this Protocol by a Councillor may constitute a breach of the Councillors' Code of Conduct.

15.10. Breaches of this Protocol by an Officer may be referred for disciplinary action.

## 16. Monitoring, Review and further Advice

16.1. The application and implementation of this Protocol will be monitored and reviewed by the Council's Standards Committee in consultation with the Council's Monitoring Officer. The Protocol itself will be reviewed by the Committee every three years.

16.2. Further advice on the interpretation of this Protocol is available from the Monitoring Officer.

# Part 5 Codes and Protocols

## 5.5 Council's petition scheme

### 1 Introduction

1.1 This Council believes it acts in the best interests of the people who live in the area and is responsive to their concerns. However sometimes there are issues that you believe the Council should address and there are a number of ways by which you can be heard. You can raise matters at any of our meetings, you can contact your elected district councillor and ask that they raise a matter on your behalf or you can contact any relevant officer direct. You can also raise matters by way of a petition. This Council welcomes petitions as it recognises that they are another way in which people can let us know their concerns.

1.2 There are several types of petitions (see 3 below for a description of each type) depending on the number of signatures. This scheme sets out how the Council will respond to petitions.

### 2. What can petitions cover?

2.1 You can submit a petition on the following issues:

- Issues which relate to the Council and/or the services it provides to local people
- Matters which affect local people or local communities in East Devon.

### 3. What are the different types of petitions?

3.1 **'Ordinary' petitions:** Petitions containing at least 25 signatures. The petition organiser can present their petition to a meeting of the Council (that is a meeting to which the Chair and all Councillors are invited) who will, without discussion, refer the petition to the relevant decision-maker (this could be an officer of the Council or one of the Council's committees) OR the petition organiser (with two other people who signed the petition) can meet with the relevant decision-maker direct to present their petition.

3.2 **Petitions for Council debate**: Petitions containing at least 1500 signatures will be debated (or discussed) at a subsequent meeting of the Council.

3.3 **Petitions calling for Council employees to give evidence at any meeting of the Overview and Scrutiny Committees**: Petitions containing at least 750 signatures can call for a Senior Officer to give evidence at a public meeting of any of the Overview and Scrutiny Committees.

### 4. Who can organise and sign a petition?

4.1 Anyone who lives, works or studies in East Devon, including under 18's, can sign or organise a petition.

### 5. What must a petition include?

5.1 Petitions **must** include all of the following:

5.1.1 at least 25 signatories;

5.1.2 a clear and concise statement covering the subject of the petition and which petition type it is (*refer* to section 3 above). It should state what action the petitioners wish the Council to take;

5.1.3 where it is a physical petition the subject matter of the petition on each page;

5.1.4 Sufficient information to be able identify that the organiser and / or any signatories live, work or study in East Devon;

5.1.5 Physical or verified virtual signature of any person supporting the petition; and

5.1.6 contact details, including a phone number and address, for the petition organiser – this will be the person who we will contact to explain how we will respond to the petition.

E-Petitions

5.2 The Council will accept electronic petitions provided the above requirements are met. The Council has an online electronic petition which can be completed
We welcome e-petitions, which collect signatures online. An e-petition can be created and submitted through our website to electronic petitions.

5.3 E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide the council with their name, postal address and email address. The petition organiser will also need to decide how long the petition will be open for signatures. This may range from a few weeks to a maximum of 12 months.

5.4 After creation of an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

5.5 If we feel we cannot publish the petition for some reason, we will contact the petition organiser within this time to explain. The petition organiser will be able to change and resubmit the petition if they wish. If this is not done within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

5.6 When an e-petition has closed for signature, it will automatically be submitted to the Democratic Services Manager. In the same way as a paper petition and an acknowledgement will be received within 14 days. If the petition organiser would like to present the e-petition to a meeting of the Council they should contact us within five days of the petition closing.

5.7 A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The response will also be published on our website.

5.8 The Council may also ask for such additional information as it may require in order to confirm that the petition complies with the requirements of this scheme.

5.9 The Council's Monitoring Officer may decline to accept;

5.9.1 any petition where in their opinion the petition does not satisfy any of the above,

5.9.2 any signatory where insufficient information has been provided to demonstrate that the person lives, works or studies in East Devon. This process may determine that the petition is determined to be a different type of petition than the basis upon which it was submitted.

5.10 A template to help you organise a written petition is provided at the end of this document.

## 6. Are there petitions which the Council will not accept?

6.1 The vast majority of petitions will be accepted provided they meet with the requirements of 5.1 above. However, there are certain circumstances when petitions will not be accepted by the Council's Monitoring Officer, including:

6.1.1 Petitions considered to be vexatious, abusive or otherwise inappropriate (such as for political campaigning). We will explain the reasons in our acknowledgement of receipt of the petition.

6.1.2 Petitions which are identical or very similar to a petition that has already been presented to the Council in the past 12 months.

6.1.3 The period immediately before an election or referendum we may need to deal with the petition differently – if this is the case we will explain the reasons and give the petition organiser revised timescales which will apply.

6.1.4 Petitions which relate to planning or licensing application, or is a statutory petition (such as requesting a referendum on whether the Council should continue to have an elected mayor), or is a matter where there is already an existing right of appeal such as council tax banding and non-domestic rates. We will advise the petition organiser what will happen to petitions under this category.

6.1.5 Petitions which relate to a subject where consultation by the Council is currently being undertaken or is due to be undertaken in the next six months. We will ensure the petition is included as part of the consultation and contact the petition organiser to give them details of the consultation.

6.1.6 Where the identities of a sufficient number of the signatories to the petition cannot be verified.

6.1.7 Petitions which relate to a subject or service that is provided by another authority or organisation i.e. Devon County Council.

## 7. How to submit a petition

7.1 Petitions can be sent or emailed to: Democratic Services Manager East Devon District Council Blackdown House Heathpark Industrial Estate Border Road Honiton Devon EX14 1EJ democraticservices@eastdevon.gov.uk

7.2 Alternatively, you can give your petition to your local councillor who will deliver it on your behalf.

7.3 Alternatively a petition can be presented by you at a Council meeting. If you wish for your petition to be presented to a meeting of the Council you have the option of speaking at that meeting. You can speak in support of your petition for up to five minutes. To register to speak you must inform the Democratic Services (by telephone 01395 517541 or e-mailing democraticservices@eastdevon.gov.uk ) by 4.00 p.m. the day before the Council meeting.

7.4 At the meeting the Chair will invite you to speak. When you make your speech you can only refer to matters relevant to the petition and must:
(a) not use discriminatory or offensive language;
(b) not make any party-political statements;
(c) not use personal abuse; and
(d) treat others with courtesy and with respect.
If the Chair considers that you have broken any of these requirements, appropriate action may be taken, (including preventing you from speaking further).

## 8. What will the Council do when it receives my petition?

8.1 All petitions sent or presented to the Council will receive an acknowledgement within 10 working days of receipt. The acknowledgement will be sent to the petition organiser and will explain what we plan to do with the petition and when you can expect to hear from us again. Details of your petition will be provided to the Chair of the Council, the political party group leaders, the Monitoring Officer and the Chief Executive so they are informed of the details of the petition.

8.2 If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council meeting debate, or a Senior Officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

8.3 If you submit an ‘ordinary’ petition (see 3.1 above) the Democratic Services Manager will contact the petition organiser and inform them which body/decision-maker will respond to the petition and invite them to choose whether they wish to make a

presentation at a Council meeting or for the petition to be referred direct to the body/decision-maker concerned. However, if the subject of the petition is due to be considered by the decision- maker before the next meeting of the Council it will be referred to the decision-maker direct and you will not, therefore, have the opportunity to present your petition at a Council meeting. If you choose to submit your petition directly to the decision-maker you will be informed who makes the decision and who will be contacting you to make arrangements for you to meet with the decision-maker.

## 9. How will the Council respond to petitions?

9.1 Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- Taking the action requested in the petition.
- Considering the petition at a Council meeting (where the subject of the petition does not fall within the remit of an appropriate body or person).
- Holding an inquiry into the matter.
- Undertaking research into the matter.
- Holding a public meeting.
- Holding a consultation.
- Holding a meeting with the petitioners.
- Referring the petition for consideration by one of the Council's Overview and Scrutiny Committees*.
- Calling a referendum
- Writing to the petition organiser setting out our views about the request in the petition.

*The Overview and Scrutiny Committees are responsible for scrutinising the work of the Council – in other words, the Councillors on these Committees have the power to hold the Council's decision-makers to account.

9.2 In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The following table gives some examples:

| Petition subject | Appropriate steps |
|---|---|
| Alcohol related crime and disorder | If your petition is about crime or disorder linked to alcohol consumption, the Council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of the extra policing in that area. The Council's response to your petition will set out the steps we intend to take and the reasons for taking this approach. |
| Anti-social behaviour (ASB) | The Council plays a significant role in tackling anti-social behaviour (ASB) as the elected representatives of your local area as a social landlord and as licensing authority. When responding to petitions on ASB, we will consider, in consultation with our local partners, all the options available to us including the wide range of powers and mechanisms we have to intervene. For example, we will work with the neighbourhood policing team in the affected area to identify what action might be taken including what role CCTV might play, consider identifying a dedicated contact within the Council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, we will alert the crime and disorder reduction partnership and the relevant Overview and Scrutiny Committee to the issues highlighted in the petition. |

9.3 If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible at www.eastdevon.gov.uk .

9.4 If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might consist of

simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

## 10. Petitions for debate at a Council meeting

10.1 If a petition contains more than 1500 signatures it will be discussed by a meeting of the Council unless it is a petition asking for a senior Council employee to give evidence at a public meeting (see 11 below). The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting (see 7 above) and the petition will then be discussed by the Chair and councillors for a maximum period of 15 minutes (unless the Council decides to extend this period at the meeting).

10.2 The Council will decide how to respond to the petition at this meeting, it may decide to:

- take the action the petition requests
- not to take the action requested for reasons put forward in the debate
- make recommendations to the Leader or Chief Executive if the issue is one for either if them to make the decision
- commission further investigation into the matter, for example by a relevant committee.

10.3 The petition organiser will receive written confirmation of this decision and this will also be published on our website.

## 11. Petitions asking for officers to give evidence

11.1 If your petition contains more than 750 signatures your petition may ask for a Senior Officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. A list of the officers that can be called to give evidence is as follows:
Chief Executive
Monitoring Officer
Section 151 Officer (Chief Finance Officer)
Directors

11.2 Your petition may ask the officer to explain progress on a particular issue or to explain the advice given to the Leader and/or councillors to enable them to make a particular decision. The petition must relate to the officer's job and cannot relate to their personal circumstances or character.

11.3 The evidence will be given at a public meeting of the Council's relevant Overview and Scrutiny Committee and not at a meeting of the Council. The officer giving evidence at the meeting may be accompanied by another officer, technical expert or a

representative from a partner agency. You will be given details of the meeting so that you can attend. The Committee meetings are normally held in public, but the Committee has the option to exclude the press and public from any part of the meeting that discusses confidential information. If the Committee does exclude the press and public you will also have to leave the meeting. If possible you will be given the opportunity to present your petition first. If it is likely that the press and public will be excluded from the whole or any part of the meeting you will be notified of this and given the reason(s) for this when we give you the details of the meeting. You should be aware that the relevant Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee may also decide to call the Leader or relevant councillor to attend the meeting. Only the Committee will ask questions at this meeting, but you will be able to suggest questions you would like them to ask by contacting democraticservices@eastdevon.gov.uk- by 4.00 pm three working days before the meeting.

## 12. What can I do if I feel my petition has not been dealt with properly?

12.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to appeal and request the Council's relevant Overview and Scrutiny Committee to review the steps that the Council has taken in response to your petition. It is helpful to everyone and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why they feel the Council's response is not considered to be adequate.

12.2 The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These include:

- instigating an investigation
- making recommendations to the Leader
- arrange for your request to be considered by a meeting of the Council if it considers the Council has seriously neglected its responsibility to listen to local people

12.3 Once the appeal has been considered the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website.

## 13. What else can I do to have my say?

13.1 There are a number of other ways you have your say and get involved in local decisions, including:

- Attending meetings
- Public question time

- Speaking on planning or licensing applications
- Overview and Scrutiny Committees
- Community partnerships
- Become a councillor
- Take part in consultations
- Writing to us about issues that are of concern to you

## 14. Special requirements and assistance

14.1 If you need any special help with accessing any Council buildings or if you have any special requirements or if you are unsure what to do or need help with the wording of your petition then please contact Democratic Services **democraticservices@eastdevon.gov.uk** as soon as possible.

14.2 To ask for a copy of this guide in another format or language, or for more information on petitions or Council meetings, please contact: Democratic Services democraticservices@eastdevon.gov.uk

## Petition form

**Subject of petition:**

**Action required:**

**Organiser or main contact for petition:**

**Address:**

**Telephone number:**

**Email:**

**Petition type** (please tick relevant box)

---

☐ **Ordinary** (contains 25 signatures or more)

Please indicate where you wish to submit your petition:

☐ **Council** or ☐ **Direct to Decision Maker**

If you have chosen to submit your petition straight to Council, would you like to speak at the Council meeting? (Please tick below)

☐ **Yes; Name of speaker is:**

☐ **No**

☐ **Petition for Council debate** (contains 1500 signatures or more)

Would you like to speak at the Council meeting? (Please tick below)

☐ **Yes; Name of speaker is:**

☐ **No**

---

☐ **Petition calling for an officer to give evidence** (contains 750 signatures or more)

Would you like to speak at the committee meeting? (Please tick below)

☐ **Yes; Name of speaker is:**

☐ **No**

**ORGANISERS SHOULD ENSURE THAT THE FOLLOWING INFORMATION IS REQUESTED OF SIGNATORIES;**

- **Name**
- **Address including postcode (of where signatory lives, works or studies in East Devon)**
- **Signature**

# Part 5 Codes and Protocols

## 5.6 Councillor Champion Protocol

### 1 Introduction

1.1 Councillor Champions exist to provide a voice for traditionally underrepresented groups, or issues which need to be kept at the forefront of council business although they may not be the responsibility of any individual or committee and / or which may cross a number of different areas.

1.2 Councillor Champions are elected councillors (but not a Cabinet Member / Assistant Portfolio Holder) who will seek to make sure that their area of interest is taken into account when Council policy is being developed and decisions taken.

1.3 Council, on the advice of Cabinet, will decide on what areas of interest to have Councillor Champions for and who the appointees shall be. Appointments will be made at Annual Council and while changes can be made each year the expectation is that appointees will be appointed for a minimum of 2 years to ensure continuity in the role.

### 2. Responsibilities

2.1 Within the context of the powers of the Council and having regard to the Council's overall corporate priorities, the Councillor Champion will:

2.1.1 Make sure that their area of interest is taken into account when the Council is developing policy or making decisions and exert influence in that regard.

2.1.2 Act as a catalyst for change and improvement including working with national and local initiatives relevant to their area.

2.1.3 Ask questions about performance and resourcing for their area.

2.1.4 Raise the profile of their area within, and outside, the Council.

2.1.5 Promote good practice within the Council and make the authority aware of good practice from elsewhere.

2.1.6 Engage with, and exert influence on, external partners and bodies who work in the area including sharing good practice where appropriate.

2.1.7 Engage with other councillors, officers and community groups who have an interest / stake in the area.

2.1.8 Keep up to date with all relevant matters connected with the area and pursue relevant personal development and training opportunities.

### 3. Mutual Expectations

3.1 The Council is empowering a Councillor Champion and therefore will put in place such arrangements as it considers appropriate to support the Councillor Champion – this includes access to information held by the Council relating to their area and access to a reasonable amount of Officer (provided work priority of Officers is not prejudiced).

3.2 The Council expects Councillor Champions to act reasonably when carrying out their role and recognise, and work effectively within, the political management and corporate working arrangements of the Council.

3.3 A Councillor Champion cannot take decisions that bind the Council or commit the Council in a way that is contrary to established policy or practice. Otherwise, the Councillor Champion may take all reasonable actions judged by the Member as being necessary to perform their role including engaging with the media to confirm a Council position as stated in published policy or expressing a personal view in their capacity as the Councillor Champion.

## 4. Reporting

4.1 Councillor Champions shall provide a written report to Annual Council on work achieved during the year and identifying priorities for the future.

## 5. Current Councillor Champions

5.1 Armed Forces Covenant
5.2 Arts & Culture
5.3 Mental Health
5.4 Safeguarding
5.5 Sports & Leisure
5.6 Equality, Inclusion & Diversity

# Part 5 Codes and Protocols

## 5.7 Councillor DBS Checks and Safeguarding Protocol

### 1. Introduction

1.1. A Councillor's behaviour is covered by the Council's Code of Conduct (as required under the Localism Act 2011) which provides recourse to any member of the public wishing to make a complaint against a Councillors behaviour. That Code, however, does not make specific mention or reference to DBS checks and allegations about safeguarding.

1.2. The Code of Conduct, in the main, only applies to the conduct of a Councillor when acting or giving the impression that they are acting in their official capacity. It does not, therefore, always cover them in their 'private' life. Moreover, while the Council's Monitoring Officer has a duty to advise and consult an Independent Person appointed under s28(7)of the Localism Act 2011 on any action to be taken arising from a complaint regarding the conduct of councillors under the East Devon District Council Code of Conduct, it would be inappropriate to do so in any case where safeguarding issues had been raised without first referring to the Council's safeguarding procedures.

1.3. The Council has adopted a Safeguarding Policy which requires Councillors to undergo a basic DBS check. This Protocol therefore outlines the process for undertaking DBS checks and the risk assessment process that will be followed should the DBS check identify convictions.

1.4. This Protocol will form part of the Council's constitution. Failure to comply with it, will amount to a potential breach of the Code of Conduct pursuant to paragraph 5.8.5 of the Code of Conduct which states: "I will comply with the Codes and Protocols forming part of the Council's Constitution".

### 2. DBS Checks and Risk Assessment

2.1 Following each District Council election the Council will, (or mid-term if a Councillor is elected mid-term) conduct a Basic DBS check for all Councillors which will be in place for a period of four years (a Council term), unless they notify the Council of a change, or the Council requires a new check following safeguarding concerns.

2.2 Councillor's will co-operate in providing all necessary information to enable the DBS check to be carried out. Once a Basic DBS check has been undertaken for that individual Councillor, a record of that will be retained on the Council's website.

2.3 Only where the DBS check identifies a criminal conviction will the Monitoring Officer be notified. In these circumstances, the following course of action must be undertaken in line with the approved Risk Assessment, attached at Appendix A. The Monitoring Officer will not retain a copy of the DBS Certificate but will record the Certificate Number, date of Certificate, date of offence(s) disclosed, the type of offences and when they will be spent.

2.4 It is the responsibility of the Monitoring Officer to ensure all appropriate actions, guidance and notifications are taken in such cases.

2.5 The Monitoring Officer will first undertake an assessment of the risk to both vulnerable adults and/or children and/or the reputation of the Council, the risk of the Councillor (the subject Councillor ) continuing to exercise any existing or proposed role - either on a conditional basis or with additional safeguards in place or whether it would be incompatible with the circumstances of the case for the subject Councillor to continue in a particular role at all.

2.6 The Monitoring Officer will also review the circumstances of the case with reference to the Code of Conduct to determine whether there are any political and/or standards issues involved and any potential case to answer.

2.7 Thereafter and following consultation with the Head of Paid Service and Corporate Safeguarding Lead (where appropriate) a discussion will be had with the Councillor in consultation with the relevant Group Leader.

2.8 Any such risk assessment must necessarily require an objective common-sense approach, having regard not only to the Council's responsibilities for safeguarding but the need for Councillors to maintain the highest standards of conduct in their professional lives and from a safeguarding perspective, their personal lives. Also important is the need for any person in public life and holding a position of special responsibility to be extra vigilant.

2.9 The Monitoring Officer can also consider the withdrawal of facilities/access and, exceptionally, any action required to ensure the continued protection of others as a result of the disclosure or of any action the Council may decide to take as a result of that risk assessment, including confidential notification to a third party to ensure that continued protection of others, consulting with the Chair of the Standards Committee as appropriate.

2.10 If a Basic check reveals that a Councillor has been sentenced to imprisonment for 3 months or more (including suspended sentences) during the last five years or has been convicted of a corrupt or illegal practice by an election court, then their seat will be lost.

## 3 Safeguarding

3.1 Councillors should operate within a safe working environment for children and adults at all times. If Councillors adhere to common sense principles of safe working this will not only benefit the work and reputation of the Council but help protect them (Councillors) as well.

3.2 Councillors should therefore ensure that they do not have or are not put in the position of having unsupervised contact with children and young people or vulnerable adults. Avoiding any such circumstances/unsupervised contact with vulnerable persons will help prevent the risk of any allegation of inappropriate behaviour being made.

3.3 Any safeguarding concerns as defined in the Safeguarding Policy should in the first instance be reported to the Corporate Safeguarding Lead, who, in liaison with the Monitoring Officer, shall take all necessary steps as indicated below including all appropriate notifications.

3.4 If the allegation is in relation to potential safeguarding concerns relating to the individual in their capacity, either as a councillor, or in any other working or

volunteering role with children, the Council's Monitoring Officer will liaise directly with Council's Corporate Safeguarding Lead.

3.5 If the allegation relates to safeguarding concerns regarding the individual's behaviour with children in their personal life (e.g. as a parent or relative or friend), and the local authority is made aware of it, the Monitoring Officer will ensure a referral is made to the Devon Multi-Agency Safeguarding Hub (MASH). In these circumstances, Children's Services would undertake any assessment as appropriate and, if following this, concerns remain which could impact on the individual's role as a Councillor, also make a referral for LADO consideration.

3.6 It is recognised that not all Councillors will have direct contact with children and young people or vulnerable adults as part of their role, although some may.

**Appendix A**

PART A

| **DBS RISK ASESSMENT CHECKLIST IN THE EVENT OF A POSITIVE DISCLOSURE** | |
|---|---|
| Disclosure Certificate No: | |
| Date of Certificate: | |
| Full Name: | |
| Position check undertaken for: | |
| Councillor Level of Check | Basic/Standard/Enhanced |
| Convictions disclosed? If so, details | |
| Date(s) and place of conviction? | |
| **RISK ASSESSMENT**<br>Questions to be considered by the Monitoring Officer as part of the Risk Assessment | |
| Question | Comments |
| Does the Councillor confirm that the information disclosed in the DBS Disclosure is accurate? | |
| What is the individual's attitude to the offence now? | |
| Will the Councillor be working unsupervised? | |
| Is the conviction now spent?<br>Were/Are there any orders/requirements/conditions as a part of the conviction and are they relevant to rehabilitation or control of reoffending? | |
| Does the conviction disqualify the Councillor from being a councillor? | |
| Have circumstances changed since committing the offence(s)? What has the individual done to reduce the risk of re-offending i.e. rehabilitation, improved education, moved location, changed associates etc | |
| At the time of the offence were there any mitigating circumstances? (i.e. financial / domestic / alcohol / drugs | |
| Was this a 'one-off' offence? Or repeat offending? | |

| | |
|---|---|
| What level of contact is there with children or vulnerable adults i.e. unsupervised. | |
| What level of personal contact is there with the public. | |
| Is there potential for reputational damage? | |
| Describe what preventative measure(s) could be put in place to reduce risk? | |
| Signature of Monitoring Officer and Date of Risk Assessment | |

**PART B – FURTHER ACTION REQUIRED**

Please state any additional action required. Examples below.

**Proposed action:**

| |
|---|
| 1. |
| 2. |
| 3. |
| 4. |
| 5. |

Examples:

- Speak to Leader of the Council and / or Group Leader
- Consideration of Committee / Sub Committees / outside bodies appointments
- Exclude or restrict the Councillor's access to some or all District Council Premises or business;
- Any training required
- Withdraw facilities (e.g. computer access)
- Or other actions as defined in the Safeguarding Policy

**Action Taken**

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# Part 5 Codes and Protocols

## 5.8 Councillor's Gifts and Hospitality Protocol

### 1. Introduction

1.1. This protocol outlines the principles and procedures for the acceptance and registration of gifts and hospitality by councillors of East Devon District Council. It aims to ensure transparency, maintain public trust, and prevent any conflicts of interest.

1.2. The public are entitled to demand of councillors, conduct of a high standard. Public confidence in their integrity would be shaken were there the least suspicion that they could in any way be influenced by improper motives. It is a serious criminal offence for councillors to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in an official capacity. If an allegation is made in such circumstances, it will be for the councillor to show that they have not in any way been influenced by improper motives. For this reason, it is important for the council to set clear guidance for all councillors.

1.3. This protocol is intended to assist councillors in making a decision as to whether a gift or hospitality can be accepted. Councillors are reminded that a breach of this guidance may result in a complaint against them to the Monitoring Officer.

### 2. Scope

2.1 This protocol applies to all councillors of East Devon District Council including co-opted members. It should be read in conjunction with the Councillors' Code of Conduct.

2.2 It only applies to your role as a councillor. You do not need to register gifts and hospitality which are not related to your role, such as Christmas gifts from your friends and family. However, you should apply common sense when you consider how receipt of a gift might be interpreted. For example, if you are the chair of the planning committee and a birthday present arrives from a family friend who is also an applicant just before a planning application is due to be considered, then you need to think about how this would be interpreted by a reasonable member of the public.

2.3 Hospitality does not need to be registered where it is provided or reimbursed by the authority or where it is clearly ancillary to the business being conducted, such as an overnight stay for an external training event. Therefore, hospitality at a civic reception arranged by the council would not need to be registered. However, the hospitality should be registered if it is provided by a person or body other than the authority and is over and above what could reasonably be viewed as ancillary to the business conducted. You might meet dignitaries or business contacts in Council offices. **However, if such meetings take place in other venues, such as at cultural or sporting events, this should be registered as hospitality**.

2.4 Gifts that are clearly made to the Council, for example, a commemorative goblet which is kept on display in the Council's offices, do not need to be registered in the register of gifts and hospitality. However, such gifts should be recorded by the Council for audit purposes.

## 3 General Principles

3.1 Integrity and Honesty: Councillors must act with integrity and honesty, avoiding any actions that could be perceived as improper.

3.2 Transparency: All offers of gifts and hospitality, whether accepted or refused, with an estimated value of at least £50 or a number of gifts or hospitality from the same donor which individually are below the estimated threshold but which cumulatively result in an estimated value of at least £50 in any financial year, must be declared appropriately and recorded to maintain transparency.

3.3 Accountability: Councillors are accountable for their actions and decisions regarding the acceptance of gifts and hospitality.

## 4 Definitions

4.1 Gift: Any item or service received without payment or at a discount not available to the general public.

4.2 Hospitality: Any form of entertainment, meals, or accommodation provided free of charge or at a reduced rate.

## 5 Acceptable Gifts and Hospitality

5.1 Gifts and hospitality up to an estimated value of £50 may be accepted without declaration. However, you should always consider whether it is appropriate to accept it and the presumption should always be not to accept significant gifts or hospitality.

5.2 All other offers of gifts or hospitality of an estimated value of £50 or over must be declared and recorded.

## 6 Prohibited Gifts and Hospitality

6.1 Gifts or hospitality that could be perceived as an attempt to influence decision-making or secure preferential treatment must not be accepted.

6.2 Frequent or lavish gifts and hospitality from the same source must be avoided.

6.3 Gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission (e.g. planning permission), licence or other significant advantage.

## 7 General Considerations: Gifts

7.1 In general, gifts should be refused.

7.2 A gift must not be accepted if it is offered by a person or organisation which has, or is seeking business with, the Council or one who has an interest in a Council decision. Simply accepting gifts or hospitality and then registering it does not mean that it becomes reasonable in such circumstances.

7.3 In normal circumstances, only minor gifts of token value, should be accepted e.g. diaries, pens etc.

## 8 General Considerations: Hospitality

8.1 The same principles which apply to gifts apply to the offer and acceptance of hospitality. Generally, offers of hospitality should be declined.

8.2 It must not be accepted when the offer of hospitality is made by any person or organisation seeking business or requiring a decision from the Council, or where purchasing decisions may be potentially compromised.

8.3 Exceptions to this general rule are few, but it may be in order to accept offers of hospitality if there is a genuine need to impart information or to represent the Council's wider interest in the community.

8.4 For example, if you have been invited as a ward councillor to a local festival along with other members of the community then it may be entirely appropriate to accept the hospitality. However, you should always exercise particular caution if the organisers are involved in ongoing negotiations with the Council on a particular matter.

8.5 It may also be necessary to participate in a working lunch in order to foster a good working relationship with other organisations. These are examples, therefore, where the acceptance of modest forms of hospitality is acceptable.

8.6 As with gifts, accepting an expensive meal from somebody who is negotiating for a contract with the Council, for example, is not 'made right' by being recorded on a public register.

8.7 The following should be considered when deciding whether or not to accept offers of hospitality:

8.7.1 whether the nature of the hospitality is appropriate.

8.7.2 whether the scale of the hospitality is appropriate to the circumstance.

8.7.3 whether the hospitality is modest and can be considered as part of a normal councillor role to foster good relations.

8.7.4 whether the hospitality is offered by a person or organisation who is tendering or about to tender for Council business or submitting an application to the Council e.g. an application for planning permission or a licence.

8.7.5 whether it is more appropriate to bear the expense oneself.

## 9 Declining Gifts and Hospitality

9.1 If offers of hospitality are declined, those persons or organisations making the offer may be courteously informed of the procedures and standards operating within the Council with, if appropriate, the following or similar statement: "Thank you for your kind offer of [insert details of gifts or hospitality]. Unfortunately, the Council has a clearly defined policy on receiving gifts and hospitality and I am therefore unable to accept."

## 10 Declaration and Registration

10.1 All offers of gifts and hospitality over the financial threshold in paragraph 5 must be declared within 28 calendar days of receipt.

10.2 Councillors must register offers (whether accepted or refused) with the Monitoring Officer (via Democratic Services) using the online form provided.

10.3 Councillors must also disclose the existence of any gift or hospitality at a Council meeting where the gift or hospitality received is relevant to the matter of business being discussed, irrespective of whether it has been registered with the Monitoring Officer.

## 11 Procedure for Declaring Offers of Gifts and Hospitality

11.1 Complete the Declaration Form: Councillors must complete the relevant online declaration form, providing details of the gift or hospitality offered, its estimated value, identifying the person or organisation offering it, the circumstances of the offer and whether it was accepted. If you do not know the value, please estimate how much you think it is worth.

11.2 Submit the Form: Submit the completed form to the Monitoring Officer via Democratic Services using the online form.

11.3 Record Keeping: The Monitoring Officer will maintain a register of all declared gifts and hospitality indicating whether they were accepted or refused.

## 12 What about gifts or hospitality that fall below the threshold in the code?

12.1 Councillors should consider whether a gift or hospitality offered below the estimated value of £50 threshold should also be declared, for example:

12.1.1 You should always notify the Monitoring Officer of any gift or hospitality offered to you if it could be perceived as something offered to you because of your position, especially where the gift or hospitality is from somebody who has put in an application to the Council (or is about to) even where that gift or hospitality falls below the limit set. While that would not be a matter for the public register, it allows the Council to be aware of any patterns.

12.1.2 Also, an accumulation of small gifts or hospitality offered or that you receive from the same source over a financial year that add up to a sum over the threshold should be registered in the interests of transparency and to ensure compliance with the Councillors' Code of Conduct.

## 13 Review and Monitoring

13.1 The register of gifts and hospitality will be reviewed every six months by the Standards Committee to ensure compliance with this protocol. The name of the councillor receiving the gift and details of the donor shall be disclosed.

13.2 Any breaches of this protocol may result in a complaint to the Monitoring Officer.

## 14 Training and Awareness

14.1 Regular training sessions will be provided to councillors to ensure understanding and compliance with this protocol.

14.2 This protocol will be included in the induction program for councillors.

## 15 Open Register

15.1 The Register of Gifts and Hospitality is a public register and details of offers declared will be published on the Council's website to ensure openness and transparency.

## 16 Review of Protocol

16.1 This protocol will be reviewed every five years to ensure it remains fit for purpose and compliant with any changes in legislation or best practice.

# 6 Councillors Allowance Scheme

**1. Introduction**

The Council's Scheme provides for payment of:

A Basic Allowance (BA), a flat rate payable to each Councillor;

- A Special Responsibility Allowance (SRA) for councillors undertaking special responsibilities as defined by the Council;
- A Carer's Allowance (CA) to reimburse expenditure incurred by councillors (a) in providing child care arrangements and (b) on professional care for elderly, sick or dependent relatives to enable them to undertake approved duties; and
- Travel Allowances and Subsistence Allowances for councillors undertaking approved duties.

**GENERAL POINTS**

The term councillor in these notes means an East Devon District Council Councillor.

Councillors have the option of not claiming all or part of an allowance. The Director of Finance must be notified in writing if a councillor wishes to pursue this option.

Where the councillor's term of office or appointment to a post qualifying for SRA begins or ends during the financial year, they are entitled to the appropriate proportion of the annual payment.

In the case of a Council election year, all positions/posts held by councillors on the Council (including posts qualifying for SRA) remain valid until the day of the Annual Meeting of the Council (the first meeting of the new Council following the election) and therefore councillors holding those posts will continue to receive allowances. This is until a replacement is appointed unless the post holder ceases to be a Councillor in which case any appointment is invalid from that point and any associated allowance payment will cease.

All enquiries relating to councillors allowances should be made to the Democratic Services Team by emailing democraticservices@eastdevon.gov.uk

2. The Local Authorities (Councillors' Allowances) (England) Regulations 2003 requires councils to establish and maintain an Independent Remuneration Panel which will broadly have the function of providing the authority with advice on its scheme of allowances and the amounts to be paid. Local authorities must have regard to this advice.

**3. Basic Allowance (BA)**

A BA of £5,564.03 per annum has been approved for 2025/2026 and will be paid to all councillors in monthly instalments.

Definition of BA: BA recompenses councillors for time devoted to their work as a councillor, and is intended to cover:

- Constituency and community duties, including the use of the councillors home;
- Dealing with correspondence – single councillor duties
- Attendance at single party/political meetings
- Attendance at formal meetings of the Council (including travelling time to and from meetings)
- Attendance at seminars, conferences and training sessions
- Attendance on outside bodies as a Council representative; and
- Other incidental costs, for which no other specific provision is made.

The annual sum was based on comparator data from comparable district councils from 2024/2025 and the BA should increase each year on the 1st May in line with the average of the agreed National Joint Council Pay Award for staff. This index should be reviewed every 4 years.

**4. Special Responsibility Allowances (SRA)**

SRA is:

- Paid to councillors who are elected or appointed to positions of special responsibility on the Council;
- Allocated on the basis of degree of responsibility and upon a perceived call on councillors time as agreed by the Council;
- Paid in addition to the BA which the councillor continues to receive; and
- Paid in monthly instalments for as long as the councillor has the responsibility.

5. SRA's are paid effective 1st of June following the annual May meeting, SRA should increase each year on 1st June in line with the average of the agreed National Joint Council Pay Award for staff. This index should be reviewed every 4 years.

6. Where a Councillor, with the agreement of the Leader of the Council, is acting in a capacity of a cabinet or portfolio holder for a significant period due to the incumbent being absent through sickness or extended leave of absence, that individual should, if not in receipt of a SRA, be paid the full agreed amount of the incumbent SRA. If they are already in receipt of an SRA and continue to receive it, they should receive 50% of the SRA for that new post/responsibility.

SRA payments cover:

- Individual and collective decision making and service responsibilities of Cabinet Councillors;
- Policy review and development activity;
- Meetings with officers;
- Attendance at Blackdown House and other Council premises to undertake official council business;

- Meetings with fellow Chairs or decision makers and other single party meetings;
- Dealing with correspondence;
- Visits directly connected to the performance of an SRA duty e.g. official openings, familiarisation/fact finding visits;
- Press meetings; and
- Any other official council business carried out by the councillor in the role.

A full list of the posts approved for SRA is attached at Appendix 1. This Appendix sets out the payments for 2025/2026.

The maximum number of Cabinet Councillors who can receive an SRA is 10 – in accordance with the legislation which prescribes a maximum of 10 Councillors for a local authority executive/cabinet.

7. The Chair of the Strategic Planning Committee does not attract a special responsibility allowance because the position is undertaken by the Portfolio Holder for Place, Infrastructure & Strategic Planning, which already is in receipt of a special responsibility allowance.

**8. Co-optees**

Co-opted Councillors to East Devon District Council committees are entitled to be paid an allowance and reasonable expenses see table above.

The co-optees allowance should increase each year on the 1st May in line with the average of the agreed National Joint Council Pay Award for staff. This index should be reviewed every 4 years.

All co-opted Councillors may claim travel and subsistence for approved duties at the same rate as elected councillors, as may non-elected representatives appointed to outside bodies by the Council.

A Financial Loss allowance (FLA) may be paid to co-opted Councillors (and to non-elected representatives appointed to outside bodies) for loss of earnings and expenses incurred by them in the performance of any approved duty. Such loss of earnings would normally be supported by a certificate supplied by the employer or such other evidence as to enable the loss of earnings to be determined.

9. Housing Overview & Scrutiny Committee - Two independent community representatives and five tenant representatives who are entitled to an allowance plus expenses.

10. Standards Committee – Two Independent Representatives, and one Independent Persons entitled to an allowance plus expenses. Three Town/Parish Representatives entitled to claim expenses only.

11. Independent Remuneration Panel - Five independent persons entitled to an allowance plus expenses.

12. Arts and Culture Forum - Councillors of joint body are entitled to claim expenses only.

13. Audit and Governance Committee – Two independent persons entitled to an allowance plus expenses.

**14. Travelling Allowances (TA):**

Can only be claimed for an approved duty, or for any duty covered by a special responsibility payment and for normal allowable journeys.

Is claimed monthly on the councillors claim form and receipts, including fuel VAT receipts, should be submitted to support expenditure.

Is payable at the rates shown in Appendix 2.

Definition of normal allowable journey

The normal allowable journey (for which mileage can be reimbursed) is from a councillor's home to council offices and then back again. Council offices will normally be Blackdown House but could relate to any building where a Councillor is undertaking an approved duty under the Scheme, including for example, attending a parish meeting.

The mileage that Councillors can claim for is the actual additional mileage as a result of council business that the councillor incurs on any journey. The maximum the councillor can claim for is the normal allowable journey mileage.

TA – further information:

Train fares are reimbursed at 2nd class rate.

NB – Councillors who regularly use the train for Council business may reclaim the costs of an age-related Rail Card, further details on the type of Rail Cards available can be found at www.railcard.co.uk

The car mileage rate may be claimed for any journey, providing the following criteria can both be met:

- Travel by car represented the best option in order to undertake the approved duty.
- Travel car could be justified on cost grounds.
- In all other cases, payment will be made at the public transport rate.

A cycle allowance is payable to councillors who use a bicycle to attend an approved duty.

It is essential that councillors minimise the need for travel wherever possible by combining trips, sharing transport, undertaking business by phone, Teams or by email.

A councillor who is claiming mileage should always bear in mind the need to be able to demonstrate that the journey was wholly and necessarily in relation to their role as a councillor.

Additional payments of 5p per person per mile are payable for passengers carried. This payment is only claimable for a passenger who would have been entitled to submit their own claim to the Council. It is not payable for passengers who are members of the public or could make claims from another organisation.

Reimbursement of taxi fares may be made in exceptional circumstances. A receipt must be provided.

Reimbursement may be claimed for expenditure on tolls, ferries, parking fees etc. A receipt should be provided if available.

**SUBSISTENCE ALLOWANCES (SA)**

SA is:

Paid at the same rates as those paid for Officers;

Claimable for any approved duty exceeding 4 hours which spans the agreed times periods (specified in Appendix 3);

Claimable for the actual cost of the meal or the overnight expenses up to the maximum allowed;

Claimed monthly via the councillors claim form, receipts should be submitted to support expenditure;

Only claimable for meals or overnight expenses for approved duties/SRA duties undertaken outside of East Devon;

Not claimable if a meal is provided by a host free of charge;

Only claimable for a councillors own meal. There is no provision in the scheme for reimbursing claims for hospitality for other people; and

Reimbursed at the rates shown in Appendix 2.

**NON-CLAIMABLE DUTIES**

For the avoidance of doubt, the following duties are not approved for the purpose of claiming Travel Allowances and Subsistence Allowances:

- Single councillor duties except where the Scheme provides otherwise.
- Attendance at single party meetings e.g. groups meetings, except where the Scheme provides otherwise.
- Constituency meetings and duties.

- Duties relating to outside organisations that are not committee, subcommittee or working group meetings e.g. book launches, openings etc.
- Attendance at party political conferences.
- Social functions including religious meetings/church services.
- Acting as governors of primary or secondary schools.
- Where an outside body to which the councillor has been appointed itself pays councillors expenses.
- Where the councillor attends an outside body but in circumstances where they have not been appointed as an official representative of the Council, i.e. appointed either by the Council or the Leader of Council.

15. Duties qualifying for the payment of travelling allowances for Councillors of the Council. The rules for Councillors claiming travelling expenses are summarised as being under three main headings. Below is a summary of the types of allowable claims under each heading:

**Attending meetings which are called by the Council**:

a) Attendance at Committees and Sub Committees – these are deemed to include Working Groups and Panels, Steering Groups, Consultative Committees, Task and Finish Groups etc.
b) Meetings between Councillor(s) and Officers – formally arranged by the appropriate Director or Assistant Director.
c) In connection with the purpose or discharge of the Council functions.

**Carrying out duties on behalf of the Council**:

a) Site visits and public meetings – attendance at site visits and formal meetings with the public or developers with other Councillors and Officers of the Council to which the Councillor has been invited by the appropriate Director or Assistant Director.
b) Opening ceremonies, presentation of certificates, awards, or other similar ceremonies for the purposes of carrying out the presentations etc, presentation of certificates and awards.
c) Attendance at Planning or Other Local Inquiry – where a Councillor has been specifically requested in writing by the Chief Executive or other Chief Officer to give evidence (or prepare) on behalf of the Council.
d) Official tours, civic days, etc. – attendance at official tours, civic or similar occasions subject to prior approval of appropriate Committee or appropriate Director or Assistant Director.
e) Chairs and Vice Chairs – attendance by the Chairs or Vice Chairs of the Council (and the local Ward Councillor) at civic ceremonies or functions, etc.

f) Opening of tenders – attendance at the opening of tenders when specifically requested to attend by the appropriate Councillor or the Senior Management Team.

**Attending meetings of other bodies at which Councillors are representing the Council**:

a) Joint meetings between the Council, other local authorities and other bodies subject to such meetings being approved in advance by Committee or the appropriate Director or Assistant Director.
b) Conferences, seminars, etc. – attendance at seminars, courses, "teach-ins", or similar occasions subject to the approval of the appropriate Committee or appropriate Director or Assistant Director in consultation with the Chair of the Committee.
c) Outside bodies – attendance at formal meetings of outside bodies as an elected representative of the Council, the subject of which has received Council Approval as being further to the interests on the functions of the Council or local government generally.
d) Other – in those circumstances where it is satisfied that had time permitted the Council would have authorised the attendance of a Councillor at a meeting or a function, the purpose of which is related to a function or duty of the Council, provided such approval is given in advance of duty being undertaken.

17. For all other meetings and duties, for example, meetings with constituents, attending Parish Council meetings as elected Councillors of wards, no travelling expenses may be claimed.

18. Councillors can claim for attending Parish Council meetings in their Ward if they are not Councillors of that Parish Council.

22. Where travel by air is the only effective means of travel or produces sufficient savings in time and/or other allowances, the rate shall not exceed the cheapest fare available.

23. **Maternity Pay and Leave**

Statutory Maternity Pay (SMP), Maternity Allowance, Paternity Pay (PP), Adoption Pay and Shared Parental Pay (SPP) and Leave Entitlements

Councillors are entitled to claim statutory payments for family absence if they meet the required statutory criteria. Time off will also apply. Councillor not entitled to SMP may be entitled to maternity allowance. This is a benefit and is claimed via MA1 Claim form that can be found on the .GOV website. Councillors wishing to claim statutory payments and leave for maternity, paternity or shared parental absence should advise Democratic Services who will ensue that the Payroll Team notify the councillor of their entitlements and the requirements of the allowance being claimed.

It should be noted it is a legal requirement that you do not go longer than 6 months without attending a meeting of the Council (or any of its committees or sub-committees) from the date of the last meeting you attended. Where for reasons connected with sickness,

maternity leave, adoption leave, paternity leave or shared parental leave a Councillor is unable to attend a meeting of the Council for a period of six months, a dispensation by the Chief Executive can be sought in accordance with Section 85 of the Local Government Act 1972. A failure to do so will mean that you cease to be a Councillor of the Council.

24. **Parental Leave and Carers Allowance**

Parental Leave refers to the period of absence taken by an elected Councillor following the birth or adoption of a child.

a) Councillors are entitled to up to 52 weeks Maternity/Adoption leave and must notify their intention and the date on which the leave will commence in the same way as paid employees.

b) The Council will ensure that Councillors on Parental Leave are aware of the requirements under section 85 of the Local Government Act 1972 to attend at least one meeting in any six month period, and are aware of which meetings are qualifying meetings and the process by which they may apply for dispensation, following which the Council may exercise its right to waive expulsion if non presence relates to Parental Leave being a reason approved by the authority before the expiry of the six month period.

c) Absences from Council meetings during any period of Parental Leave will be noted as such, rather than being attributed to general absence.

d) During Parental Leave councillors will continue to receive the Basic Allowance without deduction but any Special Responsibility Allowance will be reduced over time, as follows:
   i. For the first 6 weeks; 90% of the normal SRA will be paid.
   ii. For weeks 7 to 18, 50%.
   iii. For weeks 19 to 52, 0%

e) Where Councillors have made Shared Parental Leave arrangements, the Council will make every effort to replicate such arrangements in terms of leave from the Council.

f) The Council will facilitate any arrangements made by relevant councillors which allow for the case work of a councillor on Parental Leave to be completed by a ward colleague or another Councillor of the relevant council group.

g) The Council will ensure that councillors have access to adequate IT provision to allow them to work from home whilst on Parental Leave and upon returning to their role, and will explain, at the start of the Parental Leave, the staying in touch arrangements put in place for that councillor.

h) The Council will facilitate any arrangements made by relevant councillors which allow for the case work of a councillor on Parental Leave to be completed by a ward colleague or another Councillor of the relevant Council Group.

25. Where another Councillor takes on the Special Responsibilities of a councillor on Parental Leave, that councillor will receive the SRA in accordance with the Council's usual policies.

26. Councillors shall be entitled to take 2 weeks Paternity Leave if they are the biological father or nominated carer of their partner/spouse.

27. **Carers' Allowance**

The Scheme provides for the payment (by way of reimbursement) of expenditure incurred by councillors:

In arranging childcare; and

On professional care for elderly, sick or dependent relatives to enable them to undertake approved duties. (Please note that these payments are not covered by any special exemptions for taxation purposes. They are treated as emoluments (remuneration) of the office and are taxed accordingly).

Expenditure on childcare is reimbursed in accordance with the following requirements:

Payments are restricted to registered childminders (other than a close relative) and other statutory approved childcare providers who are not related to the councillor;

Payments are restricted to the care of children up to their 14th birthday who normally reside with the councillor; and

No payments are made in respect of the care of children of compulsory school age during school hours except where the child is absent from school due to illness.

**Care of dependents**

The reimbursement of expenditure on professional care for elderly, sick or disabled dependant, including children with complex needs (of any age), normally residing with the councillor, to undertake approved duties, is subject to payment being restricted to agencies or persons qualified to provide the care, other than close relations.

**General Conditions**

The following conditions apply to both childcare and care of dependents:

Payments are made on the basis of the reimbursement of actual expenditure incurred up to a maximum of three times the prevailing national wage hourly rate for someone aged 25 or over;

Councillors must support their claims with receipts showing they have incurred expenditure in accordance with the scheme;

Qualifying meetings be restricted to those defined as an approved duty as set out in the Scheme of Councillors' Allowances; and

That neither the councillor nor the person being cared for receives any allowance for car from any other source.

28. A childcare and dependant carer's allowance scheme was introduced on 1 April 2003. The childcare and dependant carer's allowance is set at the National Living Wage, with a maximum amount of 5 hours able to be claimed in any one day. It may only be claimed in the circumstances set out in the Local Authorities (Councillors Allowances) (England) Regulations 2003 which is essentially when a carer for a dependant has been engaged to enable a Councillor of the Council to carry out an approved duty. A carer will be any responsible person who does not normally live with the Councillor as part of that Councillor's family.

29. **Compassionate Leave**

The Council recognises that there will be times when you need leave on compassionate grounds following bereavement.

East Devon District Council is committed to equality in its policy and therefore the conditions for qualification under this policy will not disadvantage any employee on the grounds of age, race or ethnicity, disability, gender and marital status, gender identity or sexual orientation.

A dependant is someone who is an employee's parent, wife, husband, partner, child or someone who relies the employee in a particular emergency.

Compassionate leave is given in the case of the death of a partner, close relative or someone with whom you have had a close family relationship.

- There is no qualifying period of service for eligibility.
- A partner includes a civil partner.
- The initial request for compassionate leave should be made to your Group Leader.
- You are entitled to paid leave of up to 3 working days.
- For a death involving a child under the age of 18, Parental Bereavement Leave, which cannot be taken in addition to compassionate leave, may be more beneficial.

30. **Parental Bereavement Leave**

All parents and primary carers (i.e. natural and adoptive parents, a parent's partner in an enduring family relationship; and others with a caring relationship to the child, such as a

'parent in fact', who are defined as a person who for a continuous period of at least four weeks before the child's death has lived with the child in the person's home, and had day to day responsibility for the child's care (provided they are not paid for that role, foster payments excepted)) qualify for up to up to 2 weeks' statutory leave following the death of a child under the age of 18.

Leave must be taken in 2 blocks of one week or 1 block of 2 weeks and is available for a period of 56 weeks from the child's death.

There is no requirement to provide evidence of the need for parental bereavement leave.

Where leave is to start within 56 days of the child's death, notice must be given before the day the leave is to start, or where that is not possible as soon as is reasonably practicable. If the leave is to start after that 56-day period, at least one week's notice must be given.

When giving notice of leave, you are required to specify either verbally or in writing:

- the date of the child's death,
- the date on which you intend the leave to start, and
- whether the period of absence is for one week or two weeks

If you have 26 weeks continuous service at the end of the week preceding the week in which the child died and you meet the lower earnings threshold, you will also be entitled to be paid statutory parental bereavement pay for each of the two weeks leave.

However, in line with our paternity leave policy all qualifying councillors, regardless of length of service, will be entitled to full pay for the first week of parental bereavement leave (inclusive of any statutory pay entitlement), provided they meet the above notice requirements in writing within 28 days of the leave and provide a written declaration that they meet one of the qualifying conditions in terms of their relationship with the child.

31. **Payment of Allowances**

Basic Allowance and Special Responsibility Allowance are paid automatically after completion of initial details.

Carer's Allowance, Subsistence Allowance and Travel Allowance must be claimed on the Councillor Electronic Claim Form for allowances.

Claims must be submitted monthly to Payroll by 10th of the moth to meet payroll deadlines.

All claims and fixed entitlements are paid together on the 25th working day of that month.

Late claims will result in late payments unless notification is given in advance. Claims older than 2 months will be referred for approval to pay to the Finance Director, in consultation with the Leader and appropriate Cabinet Councillor, and payment may be delayed or

refused unless there is good cause for the lateness. Claims older than 3 months will not be reimbursed.

A master copy of the councillors electronic claim forms can be obtained from the Democratic Services Team by phoning or emailing democraticservices@eastdevon.gov.uk

Allowance must not be claimed where the Councillor is entitled to receive payments from another body.

To cater for changes in circumstances that occur during the year and to ensure that no individual cases of exceptional hardship are experienced, the Director, in consultation with the appropriate Cabinet Councillor, can temporarily agree SRA's for individual councillors as considered necessary. Any claim over 3 months old will be rejected.

**Payment of Claims**

Payments are made through the council's computerised salaries and wages system to assist with the deduction of income tax and national insurance.

An advice slip is provided giving details of allowances paid; an email address must be provided to enable this to be sent electronically.

Payment will be made direct to a bank or building society account.

**Tax and National Insurance**

BA's, SRA's and CA are taxable and are subject to national insurance.

Councillors should complete the Tax Details declaration on the Council's Personal Information form which will be completed to enable payroll records to be set up. Alternatively, a recent P45 if available can be supplied. Once the payroll record is set up, HMRC will provide the Council with tax code changes automatically.

Details of meals paid for are given to HMRC who may adjust individual personal tax codes as a result.

Mileage rates are in accordance with limits set within the HMRC's Fixed Profit Scheme.

The Council's Payroll team will automatically cease the deduction of employees NI, if a councillor is of State Pension Age.

Married women, who have remained in the same marriage, who opted into the reduced rate NI scheme prior to April 1977 may be entitled to pay reduced rate NI. The exemption card should be provided to the Council.

For further information please contact the Democratic Services Team email: democraticservices@eastdevon.gov.uk

**Councillors Allowances and Benefits**

Councillors who receive Universal Credits or any other benefits should note that the allowances received for their role as a Councillor are likely to be taken into account when calculating any benefits due. Councillors are advised to contact the relevant Benefits office.

32. **Statutory Sick Pay**

Councillors who are unwell and unable to attend scheduled meetings should advise Democratic Services of the first and last day of their sickness. This will be notified to Payroll. If the absence exceeds 3 days, and earnings have met the required National Insurance threshold, Statutory Sick Pay will be paid. Please note that councillors who receive a monthly allowance will not receive Statutory Sick Pay on top of this allowance, instead it will be offset against the normal payment.

33. Any Councillor who claims Councillors' allowances will be treated as employed by the Council for the sole purposes of this Act (but not otherwise) and can claim sick pay from the Council. There are several conditions that allow for the payment of statutory sick pay. You must have earnings that exceed the lower earnings limit and have been off sick for more than 4 continuous days on Council business.

34. To comply with this scheme, a Councillor must notify illness on the first day, but in any event not later than the fourth day and on the eighth day produce a doctor's note. Sick payments will be made by the Council for a period of 28 weeks, thereafter by the Department of Work and Pensions.

35. Further advice concerning the payment of statutory sick pay is available from Payroll Services.

36. **Backdating of Allowances**

Where there is an amendment made to the Scheme of Allowances, that amendment may be applied retrospectively by the Council to the beginning of the financial year.

Where a councillor takes on duties entitling them to a different level of allowances, the new entitlement may be applied retrospectively to the date the changes were effective from.

37. **Employee Assistance Programme (available to all councillors)**

This service will be available to all councillors and will be provided as part of our range of happy, healthy and here benefits through our Vivup portal who also provide our Lifestyle benefits.

You are able to have:

- Immediate, completely confidential, emotional support from qualified counsellors (24/7 365 days a year)
- Self-referral for 6 sessions of face-to-face, or structured virtual counselling
- support/advice on a range of issues including for example: Anxiety, Bereavement, Stress, Depression, Workplace Issues, Trauma, Relationships, Finances, Family difficulties
- In addition, you have access to "Your Care": An Online Health Portal supported by Vivup–A wide offering of resources is also available and includes downloadable self-help workbooks, debt advice and more. Visit vivup.co.uk and login to access these benefits

To access the Employee counselling support and helpline services please call the free 24 hour helpline number 03303 800658 (Calls charged at local rates) or 0800 0239324 free from any standard UK landline or mobile phone.

**Appendix 1**

**Special Responsibility Allowances are as follows:**

| **Councillor Role** | **Allowance £** |
|---|---|
| Leader of Council | 15,313.77 |
| Deputy Leader of Council | 5,212.84 |
| Portfolio Holder Economy and Assets | 7,309.39 |
| Portfolio Holder Sustainable Homes and Communities | 7,309.39 |
| Portfolio Holder Tourism, Leisure, Sport and Culture | 7,309.39 |
| Portfolio Holder Democracy, Transparency and Communications | 7,309.39 |
| Portfolio Holder Environment - Operations | 7,309.39 |
| Portfolio Holder Place, Infrastructure & Strategic Planning | 7,309.39 |
| Portfolio Holder Council, Corporate Co-ordination & External Engagement | 7,309.39 |
| Portfolio Holder Environment – Nature & Climate | 7,309.39 |
| Portfolio Holder Finance | 7,309.39 |
| Assistant Portfolio Holder Tourism, Sport, Leisure & Culture | 1,391.00 |
| Assistant Portfolio Holder Sustainable Homes and Communities | 1,391.00 |
| Assistant Portfolio Holder Environment – Operations | 1,391.00 |
| Assistant Portfolio Holder Environment – Nature & Climate | 1,391.00 |
| Leader of the Opposition | 5,212.84 |
| Deputy Leader of the Opposition | 2,007.70 |

| | |
|---|---|
| Chair of Council | 10,128.44 |
| Vice Chair of Council | 3,896.94 |
| Chair of Audit and Governance Committee | 2,605.35 |
| Chair of Licensing and Enforcement Committee | 3,620.83 |
| Vice Chair of Licensing and Enforcement Committee | 1,810.42 |
| Chair of Planning Committee | 8,016.00 |
| Vice Chair of Planning Committee | 4,016.47 |
| Vice Chair of Strategic Planning Committee | 3,620.83 |
| Chair of Housing Overview & Scrutiny Committee | 4,016.47 |
| Chair of Overview Committee | 4,016.47 |
| Chair of Scrutiny Committee | 4,016.47 |
| Councillor Champions | 834.61 |
| Housing Overview & Scrutiny Committee Independent Community Representative/Tenant Representative | 567.60 |
| Standards Committee Independent Representative and Independent Person | 412.80 |
| Independent Remuneration Panel Independent Representative | 412.80 |
| Audit & Governance Committee Independent Person | 412.80 |

**Appendix 2**

**LIST OF APPROVED DUTIES**

**Attendance**

At formal meetings of the Council including Committees, the Cabinet, Committees and Sub Committees, and any other authorised meeting of these bodies or organised by these bodies.

At ad-hoc formally constituted Working Groups/Panels (e.g. scrutiny task and finish groups) where named councillors of the body or formally invited to participate.

At Blackdown House or other Council premises for a meeting with either a councillor in receipt of an SRA or an Officer for the purpose of discussing matters relating to Council business in which it is reasonable to expect the councillor to have an interest

As the Council's named representatives on bodies to which the Council makes appointments except where the body itself pays allowances to the Council's representatives. The approval relates to meetings of the body itself, its standing committees/sub committees but not to other activities of the body.

At a meeting of any body that the Council is required to, or has agreed to, provide Council attendance at, acting as the Council's nominee or representative.

At local briefing meetings at the invitation of an officer of the council provided that the Councillors of at least two political groups have been invited.

At a formal meeting of a Town or Parish Council where not a Councillor of that Council, where formally invited to attend or where the councillor has a specific interest in any/all of the business on the agenda.

At conferences where the Council has agreed to meet the conference fees or where the councillor agrees to meet the conference fees.

At councillor induction, learning and development events/sessions organised by the Council.

At up to 12 single party officer briefing/training events per year.

Attendance at any civic or ceremonial event at the specific invitation of the Chair of Council.

**Appendix 3**

**SUMMARY OF RATES OF ALLOWANCES FOR COUNCILLORS**

**Travelling Allowance**

| | |
|---|---|
| **Mileage rate up to 10,000 miles** | **0.45p** |
| **Mileage rate over 10,000 miles** | **0.25p** |
| **Passenger supplement (5p per person per mile)** | |
| **Motorcycle** | **0.24p** |
| **Bicycle Allowance** | **0.20p** |

**Subsistence Allowances**

**Breakfast allowance (more than 4 hours away from the normal place of residence before 11am) – up to a maximum of** £6.75 for breakfast (£8.29 in London)

**Lunch allowance (more than 4 hours away from the normal place of residence including the lunchtime period between 12 noon and 2pm)** £9.43 for lunch (£11.82 in London)

**Evening meal allowance (more than 4 hours away from the normal place of residence, ending after 7pm** £11.56 for an evening meal (£15.36 in London); provided that, for meetings such as Council or Committee meetings, meals or refreshments may be provided by the Council, including on occasions where the absence from the residence may not exceed 4 hours.

**These payments only apply to duties undertaken outside of East Devon. Subsistence cannot be claimed for duties undertaken in East Devon.**

**Overnight absence** In the case of an absence overnight from the usual place of residence, £95.00, or, for such an absence overnight in London or an annual conference of the Local Government Association or such other association of bodies as the Secretary of State may designate, £125.00. The cost for overnight accommodation above these limits will not be reimbursed but the Councillor is entitled to pay the difference.

All claims should be backed up with receipts.

## Part 7 Management Structure

| | | |
|---|---|---|
| Chief Executive, Tracy Hendren | Director of Place, Andrew Wood | Ed Freeman, Assistant Director , Strategic Planning & Development Management |
| | | Tim Child, Assistant Director, Place, Assets and Leisure |
| | | Andrew Hancock, Assistant Director - Streetscene |
| | | Charlie Plowden - Assistant Director - Countryside, Environment and Ecology |
| | Director of Governance and Monitoring Officer, Melanie Wellman | Gemma Roberts, Corporate Lead People and Information Governance |
| | | Chloe Woodman, Assistant Director Communications, Culture and Marketing |
| | | Barry James, Interim Assistant Director Programmes and Strategies |
| | | James Docherty, Assistant Director Legal & Governance (Deputy Monitoring Officer) |
| | Director of Finance, Simon Davey | Libby Jarrett, Assistant Director , Revenues, Benefits, Customer Services, Fraud & Compliance |
| | | John Symes, Corporate Lead, Finance Manager (Deputy S151 Officer) |
| | Director of Housing, Health and Environment, Catrin Stark | Emma Congerton, Assistant Director Statutory Housing Services |
| | | Matthew Blythe, Assistant Director Environmental Health |
| | | Andy King, Assistant Director Regulated Housing Services |
| | | Liam Reading, Assistant Director, Programme, Development and Investment |

# Part 8 STRATA Terms of Reference and Rules of Procedure

**Terms of reference and rules of procedure for the Joint Executive Committee and Joint Scrutiny Committee**

## 1 Introduction

1.1 The Delegation of Functions and Rules of Procedure set out in this document regulate the proceedings of the Joint Executive Committee (JEC) and Joint Scrutiny Committee (JSC), both of which were created by East Devon District Council, Exeter City Council and Teignbridge District Council to govern and scrutinise the operation and performance of Strata.

1.2 In this document the following words have the following meanings:
"Board" means the Strata board of directors;
"Chief Executive" means the Chief Executive of a Council and together the "Chief Executives";
"Committee" means both the JEC and JSC (where the Rules differ between the two Committees, this will be explained);
"Council" means East Devon District Council, Exeter City Council or Teignbridge Council and together the "Councils";
"Executive" means the Executive or Cabinet of the Councils;
"Leader" means a Leader of a Council and together the "Leaders";
"Proper Officer" means Democratic Services Manager, Corporate Manager, Democratic and Civic Support
"Relevant Council" means the Council at which the next Committee meeting will be held;
"Solicitor" means the Solicitor to the Council, the Corporate Manager - Legal Head of Legal Services or for the Councils; and
"Strata" means Strata Service Solutions Ltd.

## Section A – Delegation of Functions

1. **Joint Executive Committee** (JEC)
The Councils have appointed the JEC which will be responsible for the strategic governance of Strata. The JEC will make operational decisions for Strata in accordance with the business plan and service plans, which it will agree. The JEC will provide strategic direction to the Board and be accountable to the Councils as shareholders. The JEC's responsibility for governance and performance includes budget monitoring, all of which will be supported by the JSC.

The Councils have each delegated to the JEC all those powers necessary to enable the proper operation of Strata, with the exception of the following decisions which are

reserved to the Executive of each of the Councils acting as shareholders of Strata (except for decisions over a capital or revenue expenditure outside the approved budget and business plan which shall specifically be reserved for Full Council to decide):

- Permitting the registration of any additional shareholders into Strata;
- Passing any resolution for its winding up or presenting any petition for its administration;
- Changing the company's name;
- Issuing shares;
- Amalgamating or merging with any other company or business undertaking;
- Forming any subsidiary or acquiring shares in any other company or participating in any joint venture;
- Decisions to extend the scope and nature of services to be provided by Strata, for example to provide HR, Accountancy or Legal services;
- Decisions to provide ICT services (or any other services) commercially for external clients or decisions that have an impact on the ability to use the Teckal procurement exemption;
- Declaring or making dividends or distributions of budgetary savings or assets of any kind; and
- Ceasing involvement in Strata as a participating shareholder.

2. **The Joint Scrutiny Committee** (JSC)

The Councils have appointed the JSC to scrutinise the operation and performance of Strata and its governance arrangements. More specifically the JSC's role is to:

- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the JEC's functions;
- make reports and/or recommendations to the Full Council of each Council and/or the JEC in connection with the discharge of any functions;
- exercise the right to call-in, for reconsideration decisions made but not yet implemented by the JEC;
- consider the decisions of the JEC that have been called-in and make recommendations to the JEC;
- appoint sub-committees, working parties and review group for particular matters; and
- report annually to each Full Council on its workings and make recommendations for amended working methods if appropriate.

## Section B – Rules of Procedure

**1. General**

1.1 These rules These Rules of Procedure (Rules) have been written to provide one set of bespoke procedural rules to govern the meetings of the Joint Committees established to govern and scrutinise Strata. They are designed to augment the existing constitutions

of the Councils.

1.2 The Chair of the Committee's view on the interpretation of these Rules is binding at the particular Committee.

1.3 These Rules may be reviewed at any time and any amendments must be made unanimously by the Councils following their respective decision making processes.

**2. Ordinary Meetings**

2.1 Ordinary meetings of the Committees will:
(i) elect a person to chair the meeting which shall be on a rotational basis between the Councils with Chair to be appointed for 12 months unless agreed otherwise by the Committees;
(ii) deal with any business required by statute to be done before any other business;
(iii) approve the minutes of the last meeting;
(iv) deal with business expressly required by statute to be done;
(v) receive any communications or announcements from the Chair or the Leaders;
(vi) deal with any business from the last meeting;
(vii) consider motions;
(viii) consider any other business specified in the summons to the meeting;

In addition to (i) – (viii) above the JEC shall:
(ix) receive reports from the Board;
(x) consider referrals made to it by the JSC;
(xi) receive questions on the operation of Strata from members of the Councils and members of the public and provide answers to those questions;

In addition to (i) – (viii) above the JSC shall:
(xii) receive reports on performance from the JEC and auditors; and
(xiii) report to each Full Council of the Councils annually on the performance of the JEC and Strata.

2.2 The Committees may vary the order of business so as to give precedence to any business. However such a variation shall not displace business falling under items (i) and (ii) in this rule.

**3. Extraordinary meetings**

3.1 Calling extraordinary meetings: Those listed below may request a meeting of the Committee in addition to ordinary meetings:

- Any of the Councils by resolution;
- the Chair of any of the Councils;
- the Monitoring Officer of any of the Councils having first notified the Chair of the Councils; and

- the Board;
- any five Members of any of the Councils if they have signed a requisition presented to the Chair of their respective Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 Business: At an extraordinary meeting of the Committees the business to be conducted shall be limited to a single item in the form of a motion full details of which shall be set out on the summons calling the meeting.

**4. Frequency, time and place of meetings**

4.1 In the first year of operation of Strata, there shall be at least six meetings of the Committees.

4.2 From the second year of operation of Strata, the JEC and JSC can determine the frequency of the meetings following consideration of the Committee's projected workload. Extraordinary meetings of the Committees can be called in accordance with Section 3.3 above.

4.3 Meetings shall take place at the offices of the Councils on a rotational basis; the first of each Committee shall meet at the offices of East Devon District Council. Thereafter, the locations shall be Exeter City Council and then Teignbridge District Council.

4.4 The time and place of meetings will be determined by the Chief Executive of the Relevant Council and notified in the summons.

**5. Notice of and summons to meetings**

5.1 The Chief Executive of the Relevant Council will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every member of the Committee or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

**6. Chairing of meetings**

6.1 The Chair of the Committee will be rotated and selected from the members of the Committee. The Chair will be appointed for a maximum period of 12 months unless otherwise agreed by the Committee.

6.2 The Chair does not have a casting vote

**7. Committee Composition**

7.1 JEC: The JEC shall comprise of three members being the Leaders of the Councils, each with an equal vote together with the Chief Executives or their nominee as non-voting co-opted members.
JSC: The JSC shall comprise three members of each of the Councils, to be appointed by the group leaders of the Councils. Each member of the JSC shall have an equal vote.

7.2 The Leaders and Chief Executives (or their nominee) may nominate a substitute to attend a meeting of the JEC provided that at least 24 hours' notice is given to the Proper Officer. Nominees of the Leaders must be members of the Council's Executive.

7.3 The members of the JSC may also nominate a substitute to attend a meeting of the JSC provided that at least 24 hours' notice has been given to the Proper Officer.

**8. Quorum**

8.1 For the JEC the quorum is the three Leaders or their nominees.

8.2 For the JSC the quorum is three with at least one member from each Council.

8.3 During any meeting, if the Chair declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

**9. Voting**

9.1 Voting will be taken by a show of hands.

9.2 Each member has an equal vote.

9.3 The Chair does not have a casting vote.

9.4 For a decision taken at the JEC, a decision must be unanimous. At the JSC, a decision may be made by the majority of members present.

9.5 There will be no opportunity for a ballot vote.

9.6 If the meeting so decides (prior to a vote being taken) the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

9.7 Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting. (This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations)

**10. Questions and statements by the public**

10.1 For both the JEC and JSC, subject to Paragraph 10.2, there shall be a fifteen minute period at the commencement of Committee meetings for members of the public to ask questions. Each individual questioner exercising a right during the public question time to be restricted to speaking for a total of three minutes.

10.2 Where a question does not relate to an agenda item, and a response is required from a member or an officer, the question must be submitted in writing to the Proper Officer of the Relevant Council not less than two working days before the meeting to give time for a response to be prepared. Where such advance notice is given, the questioner may ask a supplementary question at the meeting, if it is relevant to the original question.

10.3 The Chair of any meeting has the right and discretion to control question time to avoid disruption, repetition and wasting of meeting time.

**11. Questions by Members**

11.1 A member of the Councils may ask the Leader or Chair any question without notice upon an item of the report to the Committees when that item is being received or under consideration.

11.2 A member of any of the Councils may ask a question on notice relating to any function of Strata not to be considered at the Committee meeting provided that they have given at least two working days' notice in writing of the question to the Proper Officer or, where the question relates to urgent matters, they have the consent of the Chair to whom the question is to be put and the content of the question is given to the proper Officer of their Council by 9.15am on the day of the meeting.

11.3 An answer may take the form of:
(a) a direct oral answer;
(b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
(c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

11.4 A member asking a question under Rule 3.11.2 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

**12. Motions on notice**

12.1 Notice:

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least five members of a Council, must be delivered to that Council's Proper Officer not later than ten working days before the date of the meeting. These will be entered in a book open to public inspection.

12.2 Motion set out in agenda:
Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

12.3 Clarification of motion on notice:
Where a motion on notice has been submitted in accordance with this Rule, and prior to the despatch of the agenda, the Chief Executive of the relevant Council may seek to clarify the purpose and/or wording of such a motion (such action may include recommending its rewording) so as to ensure that any such motion, if approved, is compliant with the Committee's legal and administrative powers.

12.4 Referral of motion to relevant committee:
Where the wording of the motion is not immediately relevant to the business of the Committee, the presumption is that it will be referred to the relevant Committee in the first instance to enable research to be properly carried out into the issue to facilitate a relevant and informed debate.

12.5 Leader's response to motion:
The Chair, at his discretion, may invite the Leader or his nominee to respond to a motion or a question.

12.6 Scope:
Motions must be about matters for which the Committee has a responsibility.

**13. Motions without notice**

13.1 The following motions may be moved without notice:
(a) to appoint a Chair of the meeting at which the motion is moved;
(b) in relation to the accuracy of the minutes;
(c) to change the order of business in the agenda;
(d) to refer something to an appropriate body or individual;
(e) to appoint a committee or member arising from an item on the summons for the meeting;
(f) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
(g) to withdraw a motion;
(h) to amend a motion;
(i) to proceed to the next business;

(j) that the question be now put;
(k) to adjourn a debate;
(l) to adjourn a meeting;
(m) to suspend a particular procedure Rule;
(n) to exclude the public and press in accordance with the Access to Information Rules;
(o) to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; and
(p) to give the consent of the Council where its consent is required by these Rules.

**14. Rules of debate**

14.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

14.2 Right to require motion in writing

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed.

14.3 Seconder's speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

14.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Chair.

14.5 When a Councillor may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
(a) to speak once on an amendment moved by another Member;
(b) to move a further amendment if the motion has been amended since they last spoke;
(c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
(d) in exercise of a right of reply;
(e) on a point of order; and
(f) by way of personal explanation.

14.6 Amendments to Motions

(a) An amendment to a motion must be relevant to the motion and will either be:
(i) to refer the matter to an appropriate body or individual for consideration or reconsideration;

(ii) to leave out words;
(iii) to leave out words and insert or add others; or
(iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

(b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

(c) If an amendment is not carried, other amendments to the original motion may be moved.

(d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

(e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

14.7 Alteration of motion

(a) A member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

(b) A member may alter a motion that they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

(c) Only alterations that could be made as an amendment may be made.

14.8 Withdrawal of motion

A member may withdraw a motion that they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

14.9 Right of reply

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

(b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. The proposer of the amendment shall also be entitled to reply

(c) A member exercising a right of reply shall not introduce new matter.

14.10 Motions that may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

(a) to withdraw a motion;
(b) to amend a motion;
(c) to proceed to the next business;
(d) that the question be now put;
(e) to adjourn a debate;
(f) to adjourn a meeting;
(g) to exclude the public and press in accordance with the Access to Information Rules; and
(h) to not hear further a member named under Rule 3.19.2 or to exclude them from the meeting under Rule 3.19.3.

14.11 Closure motions

(a) A member may move, without comment, the following motions at the end of a speech of another member:

(i) to proceed to the next business;
(ii) that the question be now put;
(iii) to adjourn a debate; or
(iv) to adjourn a meeting.

(b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

(c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.

(d) If a motion to adjourn the debate or to adjourn the meeting is seconded, and the Chair thinks the item has not been sufficiently discussed or cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

14.12 Point of order

A member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Rules of Procedure or the law. The member must indicate the rule or law and the way in which they consider it

has been broken. The ruling of the Chair on the matter will be final.

14.13 Personal explanation
A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member that may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

**15. Previous decisions and motions**

15.1 Motion to rescind a previous decision.
A motion or amendment to rescind a decision made at a Committee meeting within the past six months cannot be moved unless the notice of motion is signed by at least 15 members, from a Council or the Councils.

15.2 Motion similar to one previously rejected
A motion or amendment in similar terms to one that has been rejected at a Committee meeting in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 members from a Council or the Councils. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

**16. Minutes**

16.1 Signing the minutes
The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

16.2 There is no requirement to sign minutes of previous meeting at an extraordinary meeting.

16.3 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under Paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of Paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes. This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations.

**17. Record of attendance**

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

**18. Exclusion of public**

18.1 Members of the public and press may only be excluded either in accordance with Rule 3.28 (Access to Information Rules) or Rule 20 (Disturbance by Public).

**19. Members' conduct**

19.1 Chair standing

When the Chair stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

19.2 Member not to be heard further

If a member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

19.3 Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the Chair may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

19.4 Disclosable Pecuniary Interest

Unless a dispensation has been granted, a member shall not participate in any discussion of, or vote on, any matter in which they have a Disclosable Pecuniary Interest and having first declared to the meeting the existence and nature of that interest shall withdraw from the room where the meeting is being held at the commencement of the consideration of that business, or (if later) the time at which the interest becomes apparent.

Where the Disclosable Pecuniary Interest is sensitive (as defined on the Member Code of Conduct of the respective Councils) the member need not disclose the nature of that interest but must still state there is a Disclosable Pecuniary Interest and otherwise follow the requirements of the previous paragraph.

19.5 General disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

**20. Disturbance by public**

20.1 Removal of member of the public

If a member of the public interrupts proceedings or is found to be recording the proceedings of the meeting (by video or otherwise) in a manner that is disruptive to business, the Chair will warn the person concerned. If they continue to interrupt or record the meeting contrary to the Chair’s instructions, the Chair will order their

removal from the meeting room and the forfeiture of the unauthorised recording.

20.2 Clearance of part of meeting room
If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

**21. Suspension and amendment of the Rules**

21.1 Suspension
All of these Rules except Rule 3.9.7 and 3.16.3 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Committee are present. Suspension can only be for the duration of the meeting.

21.2 Amendment
Any motion to add to, vary or revoke these Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of each of the Councils.

**22. Motions affecting Staff**

22.1 If any question arises at a meeting of the Committee to which the Local Government Act 1972 applies by virtue of Section 100(A)(4) concerning the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by Strata or the Councils, such question shall not be the subject of discussion until the Committee has decided whether or not the power of exclusion of the public under Section 100(A)(4) of the Local Government Act 1972 shall be exercised.

**23. Call-in**

23.1 A decision is made by the JEC but the decision does not come into effect until a Call-in period has elapsed.

23.2 Within two working days of the decision being made, the Proper Officer (which in this context means the Proper Officer of the Council whose members have exercised the power of call-in) will notify all members of the Councils of the decision. The notice will include the date of the notification and the date the decision will come into effect if there is no Call-in. The “effective date” of the decision which will be 09.00 am on the day after the expiry of three clear working days from the notification to members (Saturdays, Sundays and Bank Holidays are excluded). For example, in respect of a decision made by the JEC on a Wednesday, notification will be given to all members by Friday of the same week and the effective date of the decision will be 09.00 am on the following Thursday.

23.3 A request for a call-in of the decision must be received by the Proper Officer between the date of notification to members and the effective date of the decision.

23.4 For the call-in to be valid, the request must satisfy all of the following provisions:
(i) Be in writing (on paper or e-mail);
(ii) Specify the relevant decision that is to be the subject of the Call-in;
(iii) Be supported by at least five members;
(iv) Written confirmation that such members have each considered all of the following matters before requesting a call-in of the decision:
(a) whether the decision is likely to cause distress, harm or significant concern to a local community, or to prejudice individuals within it;
(b) whether the matter has been subject to consultation or debate with relevant interested parties;
(c) whether the delay in implementing the decision is likely to cause significant harm to the Councils or others;
(d) whether the decision is against an approved policy or budget provision of the Councils or Strata;
(e) whether the decision was made against the advice of professional staff; or
(f) whether the views of the members requesting the call-in were taken into account in arriving at the decision.
(v) Stating the reasons for the call-in of the decision.

23.5 Once the Proper Officer is satisfied that the request is a valid request, they shall arrange for the JSC to consider the call-in at the next scheduled meeting or if the Proper Officer and Chair of the JSC consider that the matter cannot wait until the next scheduled meeting, the Proper Officer shall convene a JSC as soon possible on a date which is acceptable to the Chair of the JSC.

23.6 If having considered the decision, the JSC is still concerned about it, the Committee may refer it back to the JEC for reconsideration, setting out in writing the nature of its concerns.

23.7 If referred to the JEC, the JEC shall consider the concerns, amending the decision or not, before adopting a final decision.

23.8 **Exceptions:** In order to ensure that call-in is not abused, nor causes unreasonable delay certain limitations are placed on its use. These are:
(i) only decisions involving expenditure or reductions in service over a value of £10,000 may be called in;
(ii) If in the opinion of the Proper Officer the power of call-in is being abused with the apparent intention of unreasonably disrupting the JEC's decision making process they may refuse to accept any or all requests.

23.9 **Urgent decisions** shall be excluded from the call-in process. What constitutes an urgent decision will be agreed between the Chief Executives and the Leaders and the Chair of

the JSC. The reason why the decision was urgent shall be recorded.

**Referral to Councils**

23.10 When considered by the JSC, the matter may be referred back to the JEC for further consideration or in exceptional circumstances, i.e. a matter of significance for the Councils affecting the strategic direction of Strata, referred to the Councils for further consideration and referral back to the JEC. Whether the matter is considered exceptional will be agreed between the Chief Executives and the Leaders and the Chair of the JSC or if not fewer than three quarters of the JSC members consider the matter is exceptional. When considered by the Councils or the JSC, the matter will need to go back to the JEC in the form of a report with recommendations in the name of the JSC or the Chairs of the Councils.

23.11 A matter which has been the subject of a call-in may not be the subject of a second call-in unless requested by at least one third of the total membership of a Council. In those circumstances, the matter will referred back to the Full Council of each of the Councils. It will be subject to decision by Full Council only if it is outside of the budget or policy framework for Strata. If it falls within the budget and policy framework it will be referred back to the JEC for a decision.

**24. Inspection of documents**

24.1 A member of the Council may for the purposes of his duty as a member but not otherwise inspect any document that contains material relating to any business to be transacted, or which has been considered, at a meeting of the Committee. If copies are available they shall be supplied on request.

24.2 A member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he is professionally interested; or has a Disclosable Pecuniary Interest within the meaning of the Code of Conduct for members.

24.3 This Rule shall not preclude a Chief Executive or Solicitor from declining to allow inspection of any document which is or in the event of legal proceedings would be protected by privilege arising from the relationship of solicitor and client or where it appears to the Chief Executive that a document discloses exempt information of a description set out in Section 100F(2) of the Local Government Act 1972.

24.4 All minutes of the Committees shall be open for the inspection of any member of the Councils during office hours.

**25. Inspection of land, premises etc**

A member of a Council unless authorised to do so by a Council or Committee, shall not have the right to inspect any lands or premises which the Councils have the right or

duty to inspect, or enter upon or issue any order respecting any works which are being carried out by or on behalf of the Councils.

**26. Proceedings at meetings**

26.1 No person shall disclose "confidential information" or “exempt information” in any circumstances. However this Rule shall not forbid disclosure of the resolution or any recommendation which has been made or other contents of the relevant minute.

26.2 In the event of any member disclosing such information, they shall be liable to investigation by their Council’s Monitoring Officer and report to the Standards Committee.

**27. Attendance when not a Committee Member**

27.1 A member who has proposed a motion which has been referred to a Committee shall have notice of the meeting of the Committee at which it is proposed to consider the motion, and if he attends, shall have an opportunity of explaining it.

27.2 A member of the Council may attend all proceedings of the Committees.

27.3 A member who wishes to raise any matter appropriate to a Committee of which he is not a member, may do so by giving notice in writing to the Proper Officer of their Council at least two clear days before the next ordinary meeting of the appropriate Committee. The member may also attend a special meeting if the matter in which he is interested is to be discussed by that special meeting. Such notice shall contain particulars of the matter that they wish to raise. They shall then have the right to explain and discuss the matter.

27.4 Any member attending a Committee meeting of which he is not a member shall not be able to propose or second any motion nor to vote at that meeting. Except as otherwise provided in this Rule they shall not be entitled to speak at that meeting (except with the consent of the Chair).

**28. Access to Information**

28.1 Additional Rights to Information
These Rules do not affect any more specific rights to information afforded by law.

28.2 Rights to Attend Meetings
Members of the public may attend all public meetings subject only to the exceptions in these Rules.

28.3 Notices of Meeting

At least five clear days' notice will be given of any meeting by posting details of the meeting at the Councils' offices and placed on the Councils' websites.

28.4 Access to Agenda and Reports before the Meeting

The Council hosting the Committee meeting will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting and on its website. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer for the Council shall make each such report available to the public as soon as the report is completed and sent to members) will be open to inspection for the time the item was added to the agenda.

28.5 Supply of Copies

The Council hosting the meeting will supply copies of:

(i) any agenda and reports which are open to public inspection;

(ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

(iii) if the Chief Executive or Monitoring Officer of the Council hosting the Committee meeting think fit, copies of any other documents supplied to members in connection with an item to any person on payment of a charge for postage and any other costs.

28.6 Access to minutes etc after the meeting

The Council which hosted the Committee meeting will make available copies of the following for six years after a meeting:

(i) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Committee, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

(ii) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;

(iii) the agenda for the meeting; and

(iv) reports relating to items when the meeting was open to the public.

28.7 Background Papers

List of background papers: The proper officer of the Council hosting the Committee meeting will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- disclose any facts or matters on which the report or an important part of the report is based; and
- which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information.

## 29. Key Decisions

29.1 A “Key Decision” means a decision of the JEC which is likely:
(a) to result in Strata or the Councils incurring expenditure which is, or the making of savings which are, significant having regard to Strata’s or the Councils’ budgets for the service or function to which the decision relates; or
(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Councils’ areas;

29.2 In accordance with Section 38 of the Local Government Act 2000, in determining the meaning of “significant” regard shall be had to any guidance for the time being issued by the Secretary of State.

29.3 A decision taker may only make a key decision in accordance with the requirements of these Rules.

29.4 Only the JEC may take Key Decisions.

29.5 The JEC shall publish a forward plan of anticipated Key Decisions.

29.6 Notice of Key Decision
Subject to the general exception and urgency provisions below, no Key Decision may be taken unless:
(i) a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;
(ii) at least 28 clear days have elapsed since the publication of the Notice of Key Decision; and
(iii) where the decision is to be taken at a meeting of the JEC notice of the meeting has been given in accordance with Rule 3.5 (notice of meetings).

29.7 Contents of Notice of Key Decision
The Notice of Key Decision will state that a key decision is to be taken by the JEC and it will describe the following particulars:
(i) the matter in respect of which the decision is to be made;
(ii) the date on which, or the period within which, the decision is to be made;
(iii) a list of the documents submitted to the decision maker for consideration in relation to the matter;
(iv) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
(v) that other documents relevant to those matters may be submitted to the decision maker; and
(vi) procedure for requesting details of those documents (if any) as they become available.

29.8 Publication of the Notice of Key Decision

The Notice of Key Decision must be made available for inspection by the public at the offices of the Relevant Council of the next JEC meeting at which the Key Decision is to be made.

29.9 Exempt information need not be included in a Forward Plan and confidential information cannot be included.

29.10 The Forward Plan

The Councils are not required by law to publish a forward plan. However, the Notice of Key Decision published by the relevant Council set out not just details of specific key decisions, but also details of key decisions over a four month period (including important decisions to be made by the JEC).

29.11 General Exception

If a Notice of Key Decision has not been published, then subject to Rule 29.13 (special urgency), the decision may still be taken if:

(i) the decision must be taken by such a date that it is impracticable to publish a Notice of Key Decision;

(ii) the Proper Officer of the relevant Council has informed the Chair of the next JSC Committee meeting the matter about which the decision is to be made;

(iii) the Proper Officer of the relevant Council has made copies of that notice available to the public at the offices of the relevant Council and on the Councils' websites; and

(iv) at least five clear days have elapsed since the Proper Officer complied with 29 (ii) and 29 (iii)

29.12 As soon as reasonably practicable after the Proper Officer of the relevant Council has complied with Rule 29.11, they must make available at the Councils' offices and publish on the Councils' websites the reasons why compliance with issuing a Notice of Key Decision was impractical.

29.13 Special Urgency

If by virtue of the date by which a Key Decision must be taken Rule 29.11 (general exception) cannot be followed, then the Key Decision can only be taken if the Chief Executive of the relevant Council obtains the agreement of the Chair of the next JSC Committee meeting.

29.14 As soon as reasonably practicable after the Chief Executive of the relevant Council has obtained agreement under Rule 3.29.13 they must make available at the Councils' offices and publish on the Councils' websites the reasons why the meeting is urgent and cannot reasonably be deferred.

# Part 9 South East Devon Habitat Regulations Executive Committee

**Terms of reference and rules of procedure**

## 1 Introduction

1.1 The Delegation of Functions and Rules of Procedures set out in this document regulate the proceedings of the Habitat Regulations Executive Committee (HREC) which was created by East Devon District Council, Exeter City Council and Teignbridge District Council as the South East Devon Habitat Regulations Joint Committee to govern delivery of mitigation measures as set out in the South East Devon European Site Mitigation Strategy and the emerging Pebblebed Heaths Visitor Management Plan.

1.2 The South East Devon European Site Mitigation Strategy and the emerging Pebblebed Heaths Visitor Management Plan are required to ensure timely and effective mitigation arising from new development with the potential to impact three sites of European wildlife importance, namely the;
Exe Estuary Special Protection Area and Ramsar Site, Dawlish Warren Special Area of Conservation, and East Devon Pebblebed Heaths Special Area of Conservation and Special Protection Area

1.3 The Councils have delegated all the necessary decision making powers to enable the Habitat Regulations Executive Committee to operate so as to deliver the identified mitigation measures.

1.4 In carrying out its role the Habitat Regulations Executive Committee shall, where necessary, act as a competent authority for the purposes of the Conservation of Habitats and Species Regulations 2010.

1.5 East Devon District Council will be responsible for holding and administering developer contributions and community infrastructure levy receipts and to provide advice and guidance on all financial matters. Legal advice and guidance will be agreed between the authorities.

1.6 In this document the following words have the following meanings:
“Chief Executive” means the Chief Executive of a Council and together the “Chief Executives”;
“Committee” means HREC;
“Council” means East Devon District Council, Exeter City Council or Teignbridge Council and together the “Councils”;
“Executive” means the Executive or Cabinet of the Councils;
“Proper Officer” means Democratic Services Manager, Corporate Manager, Democratic and Civic Support

"Relevant Council" means the Council at which the next Committee meeting will be held.

## Section A – Delegation of Functions

1. **Habitat Regulations Executive Committee** (HREC)

The Councils have appointed the HREC which will make the operational decisions on behalf of the Councils to implement and deliver measures to mitigate against the impact of development pressures. Those decisions will be taken in accordance with a 5 year Delivery Programme and the Business Plan, both of which the HREC shall agree at its first meeting. Thereafter the 5 year Delivery Programme shall be reviewed every 5 years and the Business Plan annually.

Other functions that are within the remit of the HREC include:

- Monitoring the implementation and effectiveness of the mitigation measures and agree changes where necessary.
- Ensure that there is a simple and transparent audit trail linking S106 and CIL financial allocations for European site mitigation, and the works and projects that deliver mitigation. Allocate budget accordingly, taking account of other arising mitigation opportunities.
- Secure the cooperation of all stakeholders.
- Monitor risks, progress and effectiveness of delivery.
- Identify, lobby for and secure complementary funds.
- Monitor and review the delivery of the South-East Devon European Site Mitigation Strategy (and when adopted the Pebblebed Heaths Visitor Management Plan) quarterly and publish a progress report annually.
- Formally advise on any emerging requirements for refreshing the evidence base used to determine the Strategy (and when adopted the Plan).
- To include reviews of developer contribution charges in line with inflation/index linking and funding mitigation expenditure in perpetuity.
- Establish and maintain a financial model that ensures delivery of mitigation in perpetuity.
- Liaise between partner organisations and share best practice.
- Ensuring that a record is kept of planning proposals which are agreed through the planning process to satisfy their own mitigation requirements (and as such do not form part of the mitigation Strategy).

## Section B – Rules of Procedure

**1. General**

1.1 These rules These Rules of Procedure (Rules) have been written to provide one set of bespoke procedural rules to govern the meetings of the Committee established to govern delivery of habitat mitigation as set out in the Introduction and Section A above.

1.2 The Chair of the Committee's view on the interpretation of these Rules is binding at the particular Committee.

1.3 These Rules may be reviewed at any time and any amendments must be made in accordance with the delegated authorities given by the Councils.

**2. Ordinary Meetings**

2.1 Ordinary meetings of the Committees will:
(i) deal with any business required by statute to be done before any other business;
(ii) approve the minutes of the last meeting;
(iii) deal with business expressly required by statute to be done;
(iv) receive any communications or announcements from the Chair or the Councils;
(v) deal with any business from the last meeting;
(vi) consider motions;
(vii) consider any other business specified in the summons to the meeting;

In addition to (i) – (vii) above the HREC shall:
(viii) receive reports from the Delivery Officer and/or the Officer Working Group;
(ix) consider referrals made to it by any of the Councils' relevant scrutiny Committees;
(x) receive questions on the operational matters of the HREC from members of the Councils and members of the public and provide answers to those questions;

In addition to (i) – (vii) above each authority's relevant Scrutiny Committee shall:
(xi) receive reports on performance from the HRED; and
(xii) report to each Executive Committee of the Councils annually on the performance of the HREC.

2.2 The Committee may vary the order of business so as to give precedence to any business. However such a variation shall not displace business falling under items (i) in this rule.

**3. Extraordinary meetings**

3.1 Calling extraordinary meetings: Those listed below may request a meeting of the Committee in addition to ordinary meetings:

- Any of the Executives of the Councils by resolution;
- the Chair of any of the Councils;

- the Monitoring Officer of any of the Councils having first notified the Chair of the Councils; and
- any five Members of any of the Councils if they have signed a requisition presented to the Chair of their respective Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 Business: At an extraordinary meeting of the HREC the business to be conducted shall be limited to a single item in the form of a motion full details of which shall be set out on the summons calling the meeting.

**4. Frequency, time and place of meetings**

4.1 In the first year of operation of the HREC, there shall be at least four meetings of the HREC.
From the second year, the HREC can determine the frequency of the meetings following consideration of the HREC's projected workload. Extraordinary meetings of the HREC can be called in accordance with Rule 3 above.

4.2 Meetings shall take place at the offices of the HREC's then Chair.

4.3 The time and place of meetings will be determined by the Chief Executive of the Relevant Council and notified in the summons.

**5. Notice of and summons to meetings**

5.1 The Chief Executive of the Relevant Council will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a summons signed by him or her by post to every member of the Committee or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

**6. Chairing of meetings**

6.1 The Chair of the HREC will be appointed for a maximum period of 12 months rotating thereafter between the Councils. For the first year the Chair will be from East Devon District Council, and then Exeter City Council, and then Teignbridge District Council.

6.2 The Chair does not have a casting vote

**7. Committee Composition**

7.1 The HREC shall comprise;

- three members one from each of the Councils, each with an equal vote and shall where possible be the Portfolio Holder responsible for any of sustainable development, strategic planning, environment or similar function

- one person from each of the bodies listed below all of which shall be non-voting positions;
- Natural England
- Green Infrastructure Board.

**8. Quorum**

8.1 For the HREC the quorum is the three Council members or their nominees.

8.2 During any meeting, if the Chair declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair or when the meeting becomes quorate again. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

**9. Voting**

9.1 Voting will be taken by a show of hands.

9.2 Each member has an equal vote.

9.3 The Chair does not have a casting vote.

9.4 For a decision taken at the HRED, a decision must be unanimous.

9.5 There will be no opportunity for a ballot vote.

9.6 If the meeting so decides (prior to a vote being taken) the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

9.7 Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting. (This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations)

**10. Questions and statements by the public**

10.1 For the HREC, subject to Paragraph 3.10.2, there shall be a fifteen minute period at the commencement of Committee meetings for members of the public to ask questions. Each individual questioner exercising a right during the public question time to be restricted to speaking for a total of three minutes.

10.2 Where a question does not relate to an agenda item, and a response is required from a member or an officer, the question must be submitted in writing to the Proper Officer of the Relevant Council not less than two working days before the meeting to give time for a response to be prepared. Where such advance notice is given, the questioner may

ask a supplementary question at the meeting, if it is relevant to the original question.

10.3 The Chair of any meeting has the right and discretion to control question time to avoid disruption, repetition and wasting of meeting time.

## 11. Questions by Members

11.1 A member of the Councils may ask the HREC any question without notice upon an item of the report to the HREC when that item is being received or under consideration.

11.2 A member of any of the Councils may ask a question on notice relating to any function of the HREC not to be considered at the Committee meeting provided that they have given at least two working days' notice in writing of the question to the Proper Officer or, where the question relates to urgent matters, they have the consent of the Chair to whom the question is to be put and the content of the question is given to the proper Officer of their Council by 9.15am on the day of the meeting.

11.3 An answer may take the form of:
(a) a direct oral answer;
(b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
(c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

11.4 A member asking a question under Rule 11.2 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

## 12. Motions on notice

12.1 Notice:
Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least five members of a Council, must be delivered to that Council's Proper Officer not later than ten working days before the date of the meeting. These will be entered in a book open to public inspection.

12.2 Motion set out in agenda:
Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

12.3 Clarification of motion on notice:
Where a motion on notice has been submitted in accordance with this Rule, and prior to the despatch of the agenda, the Chief Executive of the relevant Council may seek to clarify the purpose and/or wording of such a motion (such action may include

recommending its rewording) so as to ensure that any such motion, if approved, is compliant with the Committee's legal and administrative powers.

12.4 Referral of motion to relevant committee:
Where the wording of the motion is not immediately relevant to the business of the Committee, the presumption is that it will be referred to the relevant Committee in the first instance to enable research to be properly carried out into the issue to facilitate a relevant and informed debate.

12.5 Committee's response to motion:
The Chair, at their discretion, may invite any member (or their nominee) or officer to respond to a motion or a question.

12.6 Scope:
Motions must be about matters for which the Committee has a responsibility.

## 13. Motions without notice:

13.1 The following motions may be moved without notice:
(a) in relation to the accuracy of the minutes;
(b) to change the order of business in the agenda;
(c) to refer something to an appropriate body or individual;
(d) to appoint a committee or member arising from an item on the summons for the meeting;
(e) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
(f) to withdraw a motion;
(g) to amend a motion;
(h) to proceed to the next business;
(i) that the question be now put;
(j) to adjourn a debate;
(k) to adjourn a meeting;
(l) to suspend a particular procedure Rule;
(m) to exclude the public and press in accordance with the Access to Information Rules;
(n) to not hear further a member named under Rule 3.18.3 or to exclude them from the meeting under Rule 3.18.4; and
(o) to give the consent of the Council where its consent is required by these Rules.

## 14. Rules of debate

14.1 No speeches until motion seconded
No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

14.2 Right to require motion in writing

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed.

14.3 Seconder's speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

14.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Chair.

14.5 When a Councillor may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

(a) to speak once on an amendment moved by another Member;

(b) to move a further amendment if the motion has been amended since they last spoke;

(c) if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);

(d) in exercise of a right of reply;

(e) on a point of order; and

(f) by way of personal explanation.

14.6 Amendments to Motions

(a) An amendment to a motion must be relevant to the motion and will either be:

(i) to refer the matter to an appropriate body or individual for consideration or reconsideration;

(ii) to leave out words;

(iii) to leave out words and insert or add others; or

(iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

(b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

(c) If an amendment is not carried, other amendments to the original motion may be moved.

(d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are

moved.

(e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

14.7 Alteration of motion

(a) A member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

(b) A member may alter a motion that they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

(c) Only alterations that could be made as an amendment may be made.

14.8 Withdrawal of motion

A member may withdraw a motion that they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

14.9 Right of reply

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

(b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. The proposer of the amendment shall also be entitled to reply

(c) A member exercising a right of reply shall not introduce new matter.

14.10 Motions that may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

(a) to withdraw a motion;
(b) to amend a motion;
(c) to proceed to the next business;
(d) that the question be now put;
(e) to adjourn a debate;
(f) to adjourn a meeting;
(g) to exclude the public and press in accordance with the Access to Information Rules; and

(h) to not hear further a member named under Rule 3.19.2 or to exclude them from the meeting under Rule 3.19.3.

14.11 Closure motions

(a) A member may move, without comment, the following motions at the end of a speech of another member:

(i) to proceed to the next business;
(ii) that the question be now put;
(iii) to adjourn a debate; or
(iv) to adjourn a meeting.

(b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

(c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.

(d) If a motion to adjourn the debate or to adjourn the meeting is seconded, and the Chair thinks the item has not been sufficiently discussed or cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

14.12 Point of order

A member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Rules of Procedure or the law. The member must indicate the rule or law and the way in which they considers it has been broken. The ruling of the Chair on the matter will be final.

14.13 Personal explanation

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member that may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

## 15. Previous decisions and motions

15.1 Motion to rescind a previous decision.

A motion or amendment to rescind a decision made at a Committee meeting within the past six months cannot be moved unless the notice of motion is signed by at least 15 members, from a Council or the Councils.

15.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a Committee meeting in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 members from a Council or the Councils. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## 16. Minutes

16.1 Signing the minutes

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

16.2 There is no requirement to sign minutes of previous meeting at an extraordinary meeting.

16.3 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under Paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of Paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes. This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations.

## 17. Record of attendance

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

## 18. Exclusion of public

Members of the public and press may only be excluded either in accordance with Rule 3.28 (Access to Information Rules) or Rule 3.20 (Disturbance by Public).

## 19. Members' conduct

19.1 Chair standing

When the Chair stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

19.2 Member not to be heard further

If a member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the member be

not heard further. If seconded, the motion will be voted on without discussion.

19.3 Member to leave the meeting
If the member continues to behave improperly after such a motion is carried, the Chair may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

19.4 Disclosable Pecuniary Interest
Unless a dispensation has been granted, a member shall not participate in any discussion of, or vote on, any matter in which they have a Disclosable Pecuniary Interest and having first declared to the meeting the existence and nature of that interest shall withdraw from the room where the meeting is being held at the commencement of the consideration of that business, or (if later) the time at which the interest becomes apparent.

Where the Disclosable Pecuniary Interest is sensitive (as defined on the Member Code of Conduct of the respective Councils) the member need not disclose the nature of that interest but must still state there is a Disclosable Pecuniary Interest and otherwise follow the requirements of the previous paragraph.

19.5 General disturbance
If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

19.6 Code of Conduct
Appointment members to the Committee remain subject to the adopted Code of Conduct of their respective Councils.

## 20. Disturbance by public

20.1 Removal of member of the public
If a member of the public interrupts proceedings or is found to be recording the proceedings of the meeting (by video or otherwise) in a manner that is disruptive to business, the Chair will warn the person concerned. If they continue to interrupt or record the meeting contrary to the Chair's instructions, the Chair will order their removal from the meeting room and the forfeiture of the unauthorised recording.

20.2 Clearance of part of meeting room
If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

## 21. Suspension and amendment of the Rules

21.1 Suspension

All of these Rules except Rule 9.7 and 16.3 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Committee are present. Suspension can only be for the duration of the meeting.

21.2 Amendment

Any motion to add to, vary or revoke these Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of each of the Councils, or until each Council has approved the amendment in accordance with the relevant delegated authority given by that Council.

## 22. Motions affecting Staff

If any question arises at a meeting of the Committee to which the Local Government Act 1972 applies by virtue of Section 100(A)(4) concerning the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by Strata or the Councils, such question shall not be the subject of discussion until the Committee has decided whether or not the power of exclusion of the public under Section 100(A)(4) of the Local Government Act 1972 shall be exercised.

## 23. Call-in

23.1 A decision is made by the HREC but the decision does not come into effect until a Call-in period has elapsed.

23.2 Within two working days of the decision being made, the Proper Officer (which in this context means the Proper Officer of the Council where the last meeting was held) will notify all members of the Councils of the decision. The notice will include the date of the notification and the date the decision will come into effect if there is no Call-in. The "effective date" of the decision which will be 10.00 am on the day after the expiry of five clear working days from the notification to members (Saturdays, Sundays and Bank Holidays are excluded). For example, in respect of a decision made by the HREC on a Wednesday, notification will be given to all members by Friday of the same week and the effective date of the decision will be 10.00 am on the following Monday.

23.3 A request for a call-in of the decision must be received by the Proper Officer (which in this context means the Proper Officer of Council whose members have exercised the power of call-in) between the date of notification to members and the effective date of the decision.

23.4 For the call-in to be valid, the request must comply with the respective authorities call-in procedures.

23.5 If the matter is referred back to the HREC after consideration by an authorities relevant Scrutiny Committee, the HREC shall consider the concerns, amending the decision or not, before adopting a final decisions.

23.6 **Urgent decisions** shall be excluded from the call-in process. What constitutes an urgent decision will be agreed between the Chief Executives and the voting members of the HREC and the Chair of each authority's relevant Scrutiny Committee. The reason why the decision was urgent shall be recorded.

**Referral to Councils**

23.7 When considered by each authority's relevant Scrutiny Committee, the matter may be referred back to the HREC for further consideration or in exceptional circumstances, i.e. a matter of significance for the Councils affecting the strategic importance of habitat mitigation, referred to the Councils for further consideration and then referral back to the HREC. Whether the matter is considered exceptional will be agreed between the Chief Executives and the voting members of the HREC and the Chair of each authority's relevant Scrutiny Committee. When considered by the Councils, the matter will need to go back to the HREC in the form of a report with recommendations from the Chairs of each of the Council's relevant Scrutiny Committee.

**Limit on number of call-ins**

23.8 A matter which has been the subject of a call-in by one Council may not be the subject of a second call-in by the same Council.

23.9 Each of the Councils may call in a decision of the HREC.

## 24. Inspection of documents

24.1 A member of the Council may for the purposes of his duty as a member but not otherwise inspect any document that contains material relating to any business to be transacted, or which has been considered, at a meeting of the Committee. If copies are available they shall be supplied on request.

24.2 A member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he is professionally interested; or has a Disclosable Pecuniary Interest within the meaning of the Code of Conduct for members.

24.3 This Rule shall not preclude a Chief Executive or Solicitor from declining to allow inspection of any document which is or in the event of legal proceedings would be protected by privilege arising from the relationship of solicitor and client or where it appears to the Chief Executive that a document discloses exempt information of a description set out in Section 100F(2) of the Local Government Act 1972.

24.4 All minutes of the Committees shall be open for the inspection of any member of the Councils during office hours.

## 25. Inspection of land, premises etc

A member of a Council unless authorised to do so by a Council or Committee, shall not have the right to inspect any lands or premises which the Councils have the right or duty to inspect, or enter upon or issue any order respecting any works which are being carried out by or on behalf of the Councils.

## 26. Proceedings at meetings

26.1 No person shall disclose "confidential information" or “exempt information” in any circumstances. However this Rule shall not forbid disclosure of the resolution or any recommendation which has been made or other contents of the relevant minute.

26.2 In the event of any member disclosing such information, they shall be liable to investigation by their Council’s Monitoring Officer and report to the Standards Committee.

## 27. Attendance when not a Committee Member

27.1 A member who has proposed a motion which has been referred to a Committee shall have notice of the meeting of the Committee at which it is proposed to consider the motion, and if he attends, shall have an opportunity of explaining it.

27.2 A member of the Council may attend all proceedings of the Committees.

27.3 A member who wishes to raise any matter appropriate to a Committee of which he is not a member, may do so by giving notice in writing to the Proper Officer of their Council at least two clear days before the next ordinary meeting of the appropriate Committee. The member may also attend a special meeting if the matter in which he is interested is to be discussed by that special meeting. Such notice shall contain particulars of the matter that they wish to raise. They shall then have the right to explain and discuss the matter.

27.4 Any member attending a Committee meeting of which he is not a member shall not be able to propose or second any motion nor to vote at that meeting. Except as otherwise provided in this Rule they shall not be entitled to speak at that meeting (except with the consent of the Chair).

## 28. Access to Information

28.1 Additional Rights to Information
These Rules do not affect any more specific rights to information afforded by law.

28.2 Rights to Attend Meetings
Members of the public may attend all public meetings subject only to the exceptions in these Rules.

28.3 Notices of Meeting

At least five clear days' notice will be given of any meeting by posting details of the meeting at the Councils' offices and placed on the Councils' websites.

28.4 Access to Agenda and Reports before the Meeting

The Council hosting the Committee meeting will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting and on its website. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer for the Council shall make each such report available to the public as soon as the report is completed and sent to members) will be open to inspection for the time the item was added to the agenda.

28.5 Supply of Copies

The Council hosting the meeting will supply copies of:

(i) any agenda and reports which are open to public inspection;

(ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

(iii) if the Chief Executive or Monitoring Officer of the Council hosting the Committee meeting think fit, copies of any other documents supplied to members in connection with an item to any person on payment of a charge for postage and any other costs.

28.6 Access to minutes etc after the meeting

The Council which hosted the Committee meeting will make available copies of the following for six years after a meeting:

(i) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Committee, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

(ii) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;

(iii) the agenda for the meeting; and

(iv) reports relating to items when the meeting was open to the public.

28.7 Background Papers

List of background papers: The proper officer of the Council hosting the Committee meeting will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- disclose any facts or matters on which the report or an important part of the report is based; and
- which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information.

## 29. Key Decisions

29.1 A “Key Decision” means a decision of the HREC which is likely:
(a) to result in the Committee or any of the Councils incurring expenditure which is, or the making of savings which are, significant having regard to the Committee’s or the Councils’ budgets for the service or function to which the decision relates; or
(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in any of the Councils’ areas;

29.2 In accordance with Section 38 of the Local Government Act 2000, in determining the meaning of “significant” regard shall be had to any guidance for the time being issued by the Secretary of State.

29.3 A decision taker may only make a key decision in accordance with the requirements of these Rules.

29.4 The HREC shall publish a forward plan of anticipated Key Decisions.

29.5 Notice of Key Decision
Subject to the general exception and urgency provisions below, no Key Decision may be taken unless:
(i) a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;
(ii) at least 28 clear days have elapsed since the publication of the Notice of Key Decision; and
(iii) where the decision is to be taken at a meeting of the HREC notice of the meeting has been given in accordance with Rule 3.5 (notice of meetings).

29.6 Contents of Notice of Key Decision
The Notice of Key Decision will state that a key decision is to be taken by the HREC and it will describe the following particulars:
(i) the matter in respect of which the decision is to be made;
(ii) the date on which, or the period within which, the decision is to be made;
(iii) a list of the documents submitted to the decision maker for consideration in relation to the matter;
(iv) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
(v) that other documents relevant to those matters may be submitted to the decision maker; and
(vi) procedure for requesting details of those documents (if any) as they become available.

29.7 Publication of the Notice of Key Decision

The Notice of Key Decision must be made available for inspection by the public at the offices of the Relevant Council of the next HREC meeting at which the Key Decision is to be made.

29.8 Exempt information need not be included in a Forward Plan and confidential information cannot be included.

29.9 The Forward Plan

The Councils are not required by law to publish a forward plan. However, the Notice of Key Decision published by the relevant Council set out not just details of specific key decisions, but also details of key decisions over a four month period (including important decisions to be made by the HREC).

29.10 General Exception

If a Notice of Key Decision has not been published, then subject to Rule 29.13 (special urgency), the decision may still be taken if:

(i) the decision must be taken by such a date that it is impracticable to publish a Notice of Key Decision;

(ii) the Proper Officer of the relevant Council has informed the Chair of the relevant Scrutiny Committee meeting the matter about which the decision is to be made;

(iii) the Proper Officer of the relevant Council has made copies of that notice available to the public at the offices of the relevant Council and on the Councils' websites; and

(iv) at least five clear days have elapsed since the Proper Officer complied with 29 (ii) and 29 (iii)

29.11 As soon as reasonably practicable after the Proper Officer of the relevant Council has complied with Rule 29.11, they must make available at the Councils' offices and publish on the Councils' websites the reasons why compliance with issuing a Notice of Key Decision was impractical.

29.12 Special Urgency

If by virtue of the date by which a Key Decision must be taken Rule 29.11 (general exception) cannot be followed, then the Key Decision can only be taken if the Chief Executive of the relevant Council obtains the agreement of the Chair of the next Scrutiny Committee meeting of the relevant Council.

29.13 As soon as reasonably practicable after the Chief Executive of the relevant Council has obtained agreement under Rule 29.13 they must make available at the Councils' offices and publish on the Councils' websites the reasons why the meeting is urgent and cannot reasonably be deferred.