



South Hams  
District Council

# The Constitution of the Council

July 2022

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# CHAPTER 1 – INTRODUCTION

## Constitution of the Council

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

Hyperlinks between different parts of the Constitution have been included wherever possible to make it easy to navigate around the information. Hyperlinks to other documents/sites have also been included where this will be helpful. All hyperlinks are coloured [red like this](#).

## Chapter 1 – Summary and explanation

The Local Government Act 2000 requires a council to set out in a constitution how the council operates. The purpose of this Constitution is to provide an efficient and effective framework for:

- How the Council operates
- How its decisions are made and
- The procedures and rules which will be followed

## The Council

The Council is composed of 31 Councillors who are each elected to represent a particular Ward. There are 20 Wards in the Council's area. See details of the [Wards and the Councillors elected](#).

The election of all Councillors is normally held every four years on the first Thursday in May. The term of office for Councillors starts on the fourth day after being elected and finishes on the fourth day after the date of the next regular election.

## Councillors

Councillors are democratically accountable to residents of their ward. Their overriding duty is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to observe a [Code of Conduct](#) to ensure high standards in the way they undertake their duties. Councillors also have to register and declare certain interests which are available for public inspection in a [Register of Interests](#).

## How the Council operates

All Councillors meet together as the Council. Formal meetings of the Council are open to the public except for certain exempt or confidential matters. Here Councillors decide overarching policies of the Council and set the budget each year.

The Council approves the creation of Committees and makes appointments to them based on nominations by political groups. The Council also appoints one Councillor to be its Leader.

The following principles will guide the Council's decision-making:

- The rule of law;
- Reasonableness and proportionality;
- a presumption in favour of openness;
- the general principles of the Councillors' Code of Conduct;
- due consultation and the taking of professional advice from officers or appropriately qualified consultants;
- respect for human rights and equality, and considerations of biodiversity, sustainability, and the impact on crime and disorder;
- consideration of the Council's Corporate Strategy and Themes; and
- clarity of aims and desired outcomes.

## Strategic decisions

The Council operates an Executive and Leader governance model by which all executive powers vest in the Leader. The Leader then makes arrangements for others to also to exercise executive powers.

The Executive is made up of the Leader and between 2 to 9 (inclusive) other Councillors appointed by the Leader. Political balance requirements do not apply to the Executive. Normally, when it is anticipated that executive

Key Decisions are to be taken, the details will be published in the [Executive Forward Plan](#).

The Executive usually takes the lead in deciding strategic matters. However there some decisions which are of particular importance or are required by law, which must be made the Full Council. Such decisions will often be considered by the Executive in advance who will then make recommendations for Full Council to consider.

Formal meetings of the Executive are open for the public to attend except where exempt, confidential or private matters are being discussed.

## Overview and Scrutiny

The Council has one Overview and Scrutiny Committee that supports the Council. The Overview and Scrutiny Committee plays an important role in reviewing and scrutinising the Council's policies, budget and service delivery.

The Overview and Scrutiny Committee may also be consulted by Leader/Executive or the Council on upcoming decisions and the development of policy.

The Council operates a 'call-in' process in respect of executive decisions that means decisions that have been made, but not yet implemented can be called in for review by the Overview and Scrutiny Committee. The call in process enables the Overview and Scrutiny Committee to make

recommendations to the Leader/Executive about decisions that have been called-in.

To reinforce the key role that the Overview and Scrutiny Committee plays in policy development and scrutiny, it meets two weeks after the Executive. The Overview and Scrutiny Committee has the power to appoint task and finish groups which carry out a specific piece of work and at its conclusion, the task and finish group reports back to the Committee.

## Other arrangements

In addition to the Overview and Scrutiny Committee, the Council has a number of other Committees which make decisions and carry out other activities. These focus on quasi-judicial matters for which the Council has responsibility, such as planning and licensing.

The Council has also entered into arrangements with other Councils to create joint/shared opportunities for the delivery of some of its functions and activities. Details of these arrangements are set out in the [Scheme of Delegation](#).

The Council will look to remove barriers between it, town/parish councils and local communities so that issues are addressed holistically and for there to be appropriate levels of engagement in decisions.

## The Council's Staff

The Council has people working directly and indirectly for it (called 'Officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

The [Protocol on Councillor/Officer Relations](#) guides Councillors and Officers of the Council in their relations with one another to ensure the smooth running of the Council. Officers also have to comply with the [Code of Conduct for Officers](#).

Under the Council's [Senior Management Structure](#), the most senior Officer is the Chief Executive, who is also the Council's Head of Paid Service. Other senior managers lead different parts of the Council's services. Some Officers have specific duties to ensure that the Council operates within the law and uses resources wisely. These are the Monitoring Officer and the Section 151 Officer (Chief Finance Officer).

The functions and responsibilities which the Council has given to the **senior Officers** are listed in the [Scheme of Delegation](#).

## Rights of members of the public

Members of the public have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes.

Members of the public have the right to:

- vote at local elections if they are registered and eligible;
- [contact their local councillor](#) about any matters of concern to them;
- access a copy of the Constitution;
- [attend formal meetings](#) of the Council and its Committees, Panels and Sub-Committees except where exempt or, confidential matters are being discussed or the meeting is being held in private;
- find out from the Forward Plan what key decisions are to be discussed by the Executive or decided by the Leader, Executive or Officers, and when;
- [ask questions, make statements, attend as a deputation and submit petitions](#) at meetings of the Executive and the Full Council meetings;
- [see publically accessible reports and background papers](#), and any record of decisions made by the Council, the Executive, Committees and Sub-Committees;

- [complain to the Council about something the Council has done wrong](#), something that the Council should have done or if the Council has not treated an individual in a professional or civil manner;
- [complain to the Local Government and Social Care 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; and
- [inspect the Council's accounts](#) during the public inspection period and make their views known to the external auditor.

Where members of the public use specific Council services they may have additional rights. These are not covered in this Constitution.

## Review of the Constitution

The Constitution is to be kept under review by the Monitoring Officer. Unless any change to the Constitution is one that can be made by the Monitoring Officer under [the Scheme of Delegation](#) the **Audit and Governance Committee** will normally consider any proposed change before it is considered by Full Council.

# CHAPTER 2 – RESPONSIBILITY FOR FUNCTIONS AND SCHEME OF DELEGATION

## Introduction

The functions of the Council comprise all its legal duties (the things it must do) and powers (the things it may do). These functions are divided into 'non-executive functions', which are ultimately the responsibility of the full Council, and 'executive functions', which are the responsibility of the Council's Executive.

**Non-executive functions** are those functions that Parliament has said must be exercised by the Council or which as a matter of local choice, the Council has reserved to itself. Non-executive functions may be exercised by the Full Council, or be delegated to a Council Committee or Sub-Committee, to an Area Committee, to Joint Arrangements or to a Council officer. Matters delegated to a Committee or Sub-Committee are set out in its terms of reference.

**Executive functions** are all the other functions of the Council. Legally, the Leader of the Council can exercise all the Council's executive functions. The Leader of the Council may allocate executive functions between:

- the Executive as a whole;
- individual Executive members;
- Committees of the Executive (the membership of which can only include Executive members);
- Area Committees; and
- Officers of the Council ('Officers')

The Leader of the Council must, maintain a Scheme of Delegation recording the allocation of executive functions.

**Local Choice Functions**. Parliament has identified those functions that are executive functions and those that are non-executive functions. In some cases, however Parliament left it up to the Council to decide whether a function is executive or non-executive. These are known as "Local Choice Functions".

This Part of the Constitution sets out which bodies and individuals within the Council that are responsible for carrying out particular functions.



## 1. General

- 1.1. The details of the bodies and individuals who are responsible for the carrying out the Council's functions are set out in the following tables:

**Table 1: Decision-making bodies of the Council**

**Table 2: Local Choice Functions**

**Table 3A: Responsibility for Council Functions – decision-making bodies**

**Table 3B: Responsibility for Council Functions – governance boards and advisory panels**

**Table 4: The Leader of Council's Scheme of Delegation**

**Table 5: Functions Delegated to Officers**

**Table 6: Conditions on Delegated Powers**

## 2. The Leader of the Council's Scheme of Delegation

- 2.1. The tables include the Leader of the Council's scheme of delegation of executive functions. Nothing in the Scheme of Delegation limits the authority of the Leader of the Council to exercise any of the Council's executive functions, or affects the validity of any specific delegation of authority, which the Leader of the Council may confer by way of a specific Executive Leader decision.

## 3. Proper Officer functions

- 3.1. Many legislative provisions require the appointment of a "Proper Officer" to undertake formal responsibilities on behalf of the Council. The Head of Paid Service is the Proper Officer of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless:
- (a) Council has designated another officer; or
  - (b) the Head of Paid Service appoints another officer of the Council to be the Proper Officer for a specific service area or function.
- 3.2. The Monitoring Officer maintains the Proper Officer Register, which records all Proper Officer appointments, as set out in **Table 7**.

## Table 1: Decision-making bodies of the Council

The following table defines the membership of the various decision-making bodies used in Table 2 and Table 3.

Ref	Decision-making body	Membership
1.1	Council	31 Councillors.
1.2	The Executive	Up to 10 Councillors including the Leader of the Council.
1.3	The Overview and Scrutiny Committee	13 Councillors. No member of the Executive can be a member of the Committee.
1.4	Audit and Governance Committee	7 Councillors. The Chairman cannot be the chairman or vice-chairman of another committee or a member of the Executive.
1.4.1	Audit and Governance (Hearings) Sub-Committee	3 Councillors from the membership of the Audit and Governance Committee. No Councillor who has been consulted about the Monitoring Officer's assessment of a complaint as part of the Assessment Panel may be a member of the Sub-Committee hearing the outcome of the investigation into the same complaint.
1.5	Council Tax Setting Committee	4 Councillors.
1.6	Development Management Committee	12 Councillors. The Chairman and Vice-Chairman cannot be members of the Executive. Neither the Leader of the Council nor the member of the Executive with responsibility for planning can be members of the Committee. A new member appointed to Development Management Committee must not take part in or vote on any decision made by Development Management Committee until they have attended at least one training session on planning related topics

Ref	Decision-making body	Membership
1.7	Licensing Committee	12 Councillors. A new member appointed to the Licensing Committee must not take part in or vote on any decision made by Licensing Committee until they have attended at least one training session on Licensing related topics.
1.7.1	Licensing Sub-Committee	3 Councillors from the membership of the Licensing Committee
1.8	PATROL Joint Committee	1 Councillor from each member authority

The Council also has the following governance boards/panels:

Ref	Governance boards / Advisory Panels	Membership / Council representation
1.9	Devon Building Control Partnership	2 Councillors from each member authority.
1.10	Joint Local Plan Partnership Board	2 Councillors from each member authority.
1.11	Rate Relief Panel	Leader of Council. Deputy Leader of Council. Lead Executive Member for Communities.
1.12	Salcombe Harbour Board	4 Councillors and 6 co-opted members.
1.13	Slapton Line Steering Group	2 Councillors.
1.14	South Devon AONB Partnership	2 Councillors.
1.15	Tamar Valley AONB Partnership	1 Councillor.

**Table 2: Local Choice functions**

Ref	Function	Decision-making body	Delegation of functions
2.1	Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	The Executive	See Tables 4, 5 and 6
2.2	The conduct of Best Value Reviews in accordance with the provisions of any order for the time being having effect under Section 5 (best value reviews) of the Local Government Act 1999	The Executive	See Tables 4, 5 and 6
2.3	Any function relating to contaminated land: (i) approval of contaminated land strategy	The Executive	See Tables 4, 5 and 6
2.4	(ii) preparation of draft contaminated land strategy	The Executive	See Tables 4, 5 and 6
2.5	(iii) all other functions relating to contaminated land	The Executive	See Tables 4, 5 and 6
2.6	The discharge of any function relating to the control of pollution or the management of air quality	The Executive	See Tables 4, 5 and 6
2.7	The service of an abatement notice in respect of a statutory nuisance	The Executive	See Tables 4, 5 and 6
2.8	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area	The Executive	See Tables 4, 5 and 6
2.9	The inspection of the authority's area to detect any statutory nuisance	The Executive	See Tables 4, 5 and 6
2.10	The investigation of any complaint as to the existence of a statutory nuisance	The Executive	See Tables 4, 5 and 6

Ref	Function	Decision-making body	Delegation of functions
2.11	The obtaining of particulars of a person's interest in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976: (i) in so far as the information is required in connection with a function of the Development Management Committee	The Development Management Committee	See Tables 5 and 6
2.12	(ii) in so far as the information is required in connection with a function of the Licensing Committee	The Licensing Committee	See Tables 5 and 6
2.14	(iii) in so far as the information is required in connection with a function of the Executive	The Executive	See Tables 4, 5 and 6

**Table 3A: Responsibility for Council Functions – decision-making bodies**

Ref	Decision-making body	Function	Delegation of function
3.1	Full Council	Approving and adopting the following which together comprise the <b>Policy Framework</b> : <ul style="list-style-type: none"> <li>● Corporate Strategy;</li> <li>● Capital Strategy;</li> <li>● Asset Management Plan;</li> <li>● Regeneration and Investment Strategy; Risk Management Policy Statement and Strategy;</li> <li>● Treasury Management Strategy;</li> <li>● Housing and Homelessness Strategy</li> <li>● Climate Change and Biodiversity Strategy</li> <li>● Licensing and Gambling Policy Statements</li> <li>● Plans and strategies comprising the Development Plan</li> </ul>	See Tables 5 and 6

Ref	Decision-making body	Function	Delegation of function
3.2	Full Council	Approving the Budget including the allocation of financial resources to different services and projects; the Medium Term Financial Plan/ Strategy; proposed contingency funds; setting the Council Tax; and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits.	See Tables 5 and 6
3.3	Full Council	Elections and Electoral Registration The exercise of powers relating to elections as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ("the Functions Regulations")	See Tables 5 and 6
3.4	Full Council	Community Governance The exercise of powers relating to community governance as set out in Schedule 1 to the Functions Regulations	See Tables 5 and 6
3.5	Full Council	Byelaws The exercise of powers relating to byelaws as set out in Schedule 1 to the Functions Regulations	
3.6	Full Council	Health and Safety Functions relating to Health and Safety under any "relevant statutory provisions" within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.	See Tables 5 and 6
3.7	Audit and Governance Committee	Functions relating to audit, the regulatory financial framework and accounting policies	See Tables 5 and 6
3.8	Audit and Governance Committee	The promotion and maintenance of high standards and conduct within the Council and within the Town and Parish Councils in the Council's area. To advise the Council on the adoption or revision of its Code of Conduct for Members.	See Tables 5 and 6

Ref	Decision-making body	Function	Delegation of function
3.9	Audit and Governance (Hearings) Sub-Committee	To decide any complaints of a breach of The Councillors' Code of Conduct and or breaches of the relevant Town or Parish Council Code of Conduct.	See Tables 5 and 6
3.10	Council Tax Setting Committee	To set the Council Tax for the District, having taken into account the precepts provided to them by Devon County Council, Devon and Cornwall Police Authority, Devon and Somerset Fire and Rescue Service and the Local Town and Parish Councils.	
3.11	Development Management Committee	Planning and Conservation Functions relating to town and country planning, conservation and listed buildings and development control as specified in Schedule 1 to the Functions Regulations	See Tables 5 and 6
3.12	Development Management Committee	Trees and Hedgerows The exercise of powers relating to the preservation of trees and protection of important hedgerows as set out in Schedule 1 to the Functions Regulations	See Tables 5 and 6
3.13	Development Management Committee	Brownfield Register (and other Registers) To undertake the functions of the Council under Part 2 of the Planning and Compulsory Purchase Act 2004 (local development), Section 14A (Register of Land), including preparation of a Brownfield Land Register as required by The Town and Country Planning (Brownfield Land Register) Regulations 2017	See Tables 5 and 6
3.14	Development Management Committee	Rights of Way The exercise of powers relating to public rights of way as set out in Schedule 1 to the Functions Regulations	See Tables 5 and 6

Ref	Decision-making body	Function	Delegation of function
3.15	Licensing Committee	Licensing Act 2003 To discharge the functions of the Council as Licensing Authority under the Licensing Act 2003 with the exception of the Statement of Licensing Policy which is reserved to Council	See Tables 5 and 6
3.16	Licensing Committee	Taxi, gaming, entertainment, food and miscellaneous licensing. Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations.	See Tables 5 and 6
3.17	Licensing Sub-Committee	To: <ul style="list-style-type: none"> <li>● determine applications for licences where representations have been received and not withdrawn, and applications for the review of licences, covered by the Licensing Act 2003 and the Gambling Act 2005.</li> <li>● consider and determine matters relating to all licences, consents, registrations and certificates that fall within the terms of reference of the Licensing Committee and appeals against decisions delegated to officers in respect of such matters.</li> </ul>	See Tables 5 and 6
3.18	Overview and Scrutiny Committee	To carry out the overview and scrutiny functions under the Local Government Act 2000.	
3.19	Executive	Making Neighbourhood Plans and Neighbourhood Development Orders	See Tables 5 and 6
3.20	PATROL Joint Committee	To provide independent adjudication under the Traffic Management Act 2004 in respect of off-street parking	



**Table 3B: Responsibility for Council Functions – governance boards and advisory panels**

Ref	Governance board/ advisory panel	Function
3.20	Devon Building Control Partnership	To oversee the delivery of building control services, value for money and performance of the Partnership and the Host Council
3.21	Joint Local Plan Partnership Board	To make recommendations to the partnership authorities to ensure that they maintain a clear programme for preparation, monitoring and review of the Joint Local Plan and associated Supplementary Planning Guidance through annual updates of the Local Development Scheme and other matters as set out in <a href="#"><u>Plymouth and South West Devon Joint Local Plan – Delivery and Governance dated March 2019</u></a>
3.22	Rate Relief Panel	To be consulted by the Section 151 Officer on applications under the Locally Administered Business Rate Relief Policy.
3.23	Salcombe Harbour Board	To advise the Executive on matters relating to the discharge of the Council's functions as harbour authority for Salcombe Harbour and for improving, maintaining and managing the Salcombe-Kingsbridge Estuary
3.24	Slapton Line Steering Group	<ul style="list-style-type: none"> <li>● To oversee the delivery of the Adaptation Plan</li> <li>● To ensure the obligations of the DEFRA contract are met</li> <li>● To ensure that effective and up-to-date contingency plans are maintained for responding to erosion events;</li> <li>● To commission or acquire any necessary expertise, research and studies to inform decision making;</li> <li>● To ensure that community interests are engaged in the process.</li> </ul>
3.25	South Devon AONB Partnership	To prepare, implement, monitor and review the South Devon AONB Management Plan on behalf of the Local Authorities responsible for the AONB
3.26	Tamar Valley AONB Partnership	To prepare, implement, monitor and review the Tamar Valley AONB Management Plan on behalf of the Local Authorities responsible for the AONB
3.27	Waste Partnership Board	To consider the Contractor's annual Service Delivery Report and Plan and the Contractor's statement and/or decisions in respect of operating profits and costs pressures; commodity values as regards dry recyclables; pensions; and performance.

**Table 4: The Leader of the Council’s Scheme of Delegation**

Ref	Decision-making body	Function	Delegation
4.1	The Leader of the Council	The Leader will act as the chair of Executive meetings and may act on behalf of, or instead of, any other members of the Executive.	
4.2	The Leader of the Council	To appoint the Deputy Leader	
4.3	The Leader of the Council	The creation of portfolios of related functions and the delegation to members of the Executive to portfolios.	
4.4	The Executive	All functions of the Council that are not the responsibility of any other part of the Council as defined in this Constitution. Without prejudice to which, the Executive shall be responsible specifically for:	See Tables 5 and 6
4.4.1	The Executive	Key decisions Decisions that would: (a) result in the Council spending or saving or raising/reducing annual income by more than £500,000 or more than £1,000,000 if that is the total cost of a contract award); or (b) have a significant impact on communities living or working in two or more wards.	
4.4.2	The Executive	Policy decisions and strategy <ul style="list-style-type: none"> <li>● Making recommendations on the policy framework and budget to Council;</li> <li>● Appointing representatives to outside organisations whose work relates to executive functions including appointment to local authority companies;</li> <li>● Agreeing policies and strategies that will have a significant impact on two or more Wards.</li> </ul>	Policies within the policy framework are excluded.

Ref	Decision-making body	Function	Delegation
4.4.3	The Executive	<p>Finance and contract decisions</p> <p>Making recommendations to Council on:</p> <ul style="list-style-type: none"> <li>● the budget;</li> <li>● any changes to the net revenue budget;</li> <li>● the Treasury Management Strategy;</li> <li>● the Prudential and Treasury indicators;</li> <li>● the medium term financial strategy; transfers between revenue cost centres;</li> <li>● the Corporate Asset Management Plan; and</li> <li>● the Capital Programme.</li> </ul> <p>Setting the Council Tax base.</p>	
4.4.4	The Executive	<p>Property (including land) decisions</p> <p>Approving the acquisition/disposal of land and property according with any acquisition/disposal strategy of the Council.</p> <p>Making compulsory purchase orders.</p>	
4.4.5	The Executive	<p>Salcombe Harbour</p> <p>To exercise all functions of the Council as a harbour authority that relate to any matter concerning issues of administration, harbour operations and/or the management of Salcombe Harbour and associated harbour land.</p> <p>To be the Duty Holder for the purposes of the Port Marine Safety Code.</p> <p>NOTE: In exercising these functions the Executive will be advised by the Salcombe Harbour Board.</p>	

Ref	Decision-making body	Function	Delegation
4.4.6	The Executive	<p>Decisions about services</p> <p>Strategic decisions relating to the provision of services if this will have a significant impact on two or more wards;</p> <p>Designating conservation areas;</p> <p>Setting up external partnerships, shared service arrangements local authority companies and transfer services to third parties;</p>	
4.5	Portfolio Holders	Such functions as are related to the Portfolio but only those that the Leader to the Council agrees in writing	The Leader to the Council is not obliged to delegate functions to Portfolio Holders. Portfolio Holders will still be the lead councillor for the functions within their portfolio.

**Table 5: Functions delegated to Officers**

Ref	Functions	Conditions
<b>PART A – General delegations</b>		
<b>All Officers</b>		
5.1	To act as a witness: (a) on behalf of the Council in any proceedings in which the Council is directly involved; and/or (b) where so directed by a court, tribunal, hearing or other inquiry with power so to do; and/or (c) in any other circumstance with the prior written approval of the Monitoring Officer	See Table 6
5.2	To undertake all action relevant to that Officer that is required by or identified in Financial Procedure Rules and/ or Contract Procedural Rules as applicable to that Officer.	See Table 6
<b>The Head of Paid Service and all Directors (individually a Chief Officer” and collectively “Chief Officers” where the context requires)</b>		
5.3	To manage and promote the services for which they are responsible and to enter into arrangements, or do anything else which is considered necessary or expedient in the management of the services and functions for which they are responsible including the acquisition of goods, works and services within budgets and policies approved by the Council and in compliance with the provisions of this Constitution.	See Table 6
5.4	To appoint staff (including temporary and agency staff) and in consultation with the Head of Human Resources, to determine the terms and conditions of employment of staff subject to the same being within the Council's General Fund Budget and consistent with Council Policy but not any employment matter reserved to full Council.	See Table 6
5.5	To manage disciplinary matters.	See Table 6
5.6	In consultation with the Head of Human Resources to declare an employee redundant and to determine applications for ill-health retirement subject to Council Policy and the <a href="#">Officer Employment Procedure Rules</a>	See Table 6
5.7	To vire within revenue budget blocks and between capital schemes within approved limits.	See Table 6

Ref	Functions	Conditions
5.8	To sign statutory notices and advertisements; and to apply for planning permission and building regulations approval in respect of the Council's land and buildings.	See Table 6
5.9	To exercise on behalf of the Council any right to enter on land conferred by statute in relation to matters within his/her jurisdiction for the purposes of the exercise of the Council's functions with regard to such matters.	See Table 6
5.10	To authorise the write-offs of stocks and stores deficiencies in accordance with the Financial Rules and Scheme of Financial Delegation.	See Table 6
5.11	To deal with the media in accordance with Council Policy	See Table 6
5.12	To submit responses to consultation papers	See Table 6
5.13	To make ex gratia payments up to £10,000 to resolve justifiable complaints.	See Table 6
5.14	To incur reasonable expenses by way of hospitality.	See Table 6
5.15	To authorise the allocation of external funding awarded to the Council and entry in to the associated financial and legal agreements in consultation with the relevant portfolio holder and Leader of the Council	See Table 6
	<b>In relation to Enforcement</b>	
5.16	Notwithstanding any specific powers detailed elsewhere to authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme insofar as each is relevant to the exercise of their functional area	See Table 6
5.17	To authorise officers to exercise rights of entry to land and premises	See Table 6
5.18	Each Chief Officer shall have the responsibility for those powers from the delegations listed below which relate to their functional areas	

Ref	Functions	Conditions
	<b>Assets</b>	
5.19	To manage the Council's property and engineering assets. To undertake the Council's asset management functions.	See Table 6
	<b>Building Control</b>	
5.20	To exercise any power conferred on the Council under any of the acts or statutory instruments in Appendix A to the scheme of delegation in so far as each is relevant to the Council's Building Control function.	See Table 6
5.21	To act as the Council's Appointing Officer in respect of the Party Wall Act and to resolve disputes arising under that Act	See Table 6
5.22	To act as a building authority.	See Table 6
5.23	To fix, vary, recover and advertise charges	See Table 6
5.24	To authorise and serve building control enforcement notices irrespective of whether authorised work and work carried out in contravention of building regulations and other building control related legislation and to authorise officers to exercise rights of entry to land and premises.	See Table 6
	<b>Business Development</b>	
5.25	Generally to take action and operate all legislative and administrative procedures in pursuit of economic and industrial development of the district. Specifically, but not exclusively, (a) to enter into leases and licences and assignments thereof in respect of the Council's commercial land and premises. (b) to authorise expenditure on economic development initiatives in consultation with the portfolio holder	See Table 6
	<b>Car Parking</b>	
5.26	To operate and manage off street car parks including the authorisation of/or taking of enforcement action where appropriate	See Table 6

Ref	Functions	Conditions
	<b>Conservation of Historic Buildings</b>	
5.27	To administer and operate any Historic Building Grant Scheme	See Table 6
5.28	<p>To:</p> <ul style="list-style-type: none"> <li>(a) issue Urgent Works Notices in relation to Listed Buildings and properties in conservation areas</li> <li>(b) issue Repairs Notices in relation to Listed Buildings and properties in conservation areas</li> <li>(c) in cases of urgency in consultation with the Chairman of the Development Management Committee (unless such consultation would have a detrimental effect on this power) to: <ul style="list-style-type: none"> <li>(i) authorise an application for an injunction</li> <li>(ii) authorise the commencement of any legal proceedings,</li> </ul> </li> </ul> <p>such actions to be notified to the next scheduled meeting of the Development Management Committee,</p>	See Table 6
	<b>Food Safety Services, Health Services and Environmental Services</b>	
5.29	Generally to take action, to operate all legislative and administrative procedures including, but not limited to authorising any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instrument set out in Appendix A to this Scheme, (including the power to appoint or revoke the appointment of authorised officers) if and in so far as each is relevant to the Council's environment functions.	See Table 6
5.30	Generally to take action and operate all legislative and administrative procedures in relating to the licensing and regulation of premises and activities. To issue licences and certificates or effect registration under powers conferred by any of the Acts or Statutory Instruments listed in Appendix A to this scheme of delegation and to make representations in respect of applications.	See Table 6
5.31	To act as inspector and to appoint others to act as inspectors (including the termination of appointment of those inspectors) in accordance with any powers contained in any of the Acts of or Statutory Instruments listed in Appendix A to this scheme of delegation in relation to the Council's food safety, environmental and health functions.	See Table 6



Ref	Functions	Conditions
	<b>Housing Functions</b>	
5.32	To allocate tenancies, set rents, approve disturbance payments, adaptations and alterations and consent to transfers and mutual exchanges and to authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document and the determination of grants in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme insofar as each is relevant to the exercise of the Council's housing function.	See Table 6
5.33	To certify Housing Corporation and Registered Social Landlords.	See Table 6
5.34	To administer and manage the Council's homelessness functions and the Housing Register.	
	<b>Land Charges</b>	
5.35	To act as the Registrar of Local Land Charges	See Table 6
	<b>Land Drainage</b>	
5.36	To undertake and exercise the Council's land drainage functions, including the repair, maintenance and cleansing of Watercourses and culverts and the approval to culvert.	See Table 6
	<b>Land Ownership</b>	
5.37	To approve terms for any lease or letting of land or property where the rent payable is not less than the open market rent for that property.	See Table 6
5.38	To authorise the renewal and termination of commercial leases protected by Part 2 of the Landlord and Tenant Act 1954	See Table 6
5.39	To authorise the commencement and settlement of rent reviews in line with the provisions of existing leases to which the Council is a party	See Table 6
5.40	To authorise licences to assign for any lease, grant any wayleave or easement, or to agree any change (including revocation) of any freehold or leasehold covenant where it is in the Councils interest to do so.	See Table 6

Ref	Functions	Conditions
5.41	To authorise the freehold acquisition or disposal of any land	See Table 6
5.42	To authorise the appropriation of land to any purpose provided that any statutory consultation has been complied with and in the absence of any representations.	See Table 6
	<b>Markets and Fairs</b>	
5.43	To operate and manage the Council's markets including: (a) The granting of pitch licences; (b) The management and organisation of the markets and their activities; (c) Updating market regulations and codes of conduct in consultation with the relevant Portfolio Holder; and (d) The authorisation of or the taking of enforcement action where appropriate.	See Table 6
5.44	To operate and manage fairs including the authorisation of or taking of enforcement action where appropriate.	See Table 6
	<b>Harbour</b>	
5.45	The operation and administration of the Council's powers and duties as Harbour Authority including the authorisation and/or taking of enforcement action where appropriate.	See Table 6
5.46	To operate the Port Marine Safety Code.	See Table 6
	<b>Transport</b>	
5.47	To maintain the Council's fleet of vehicles, including lease cars, in accordance with the Construction and Use Regulations 1986;	See Table 6
5.48	To dispose of all used assets with regards to transport, plant and equipment owned by the Council	See Table 6
<b>All Heads of Service</b>		
5.49	<b>Operational decisions.</b> To take all steps necessary to deliver the services for which they are responsible.	See Table 6
5.50	<b>People Management.</b> To manage and deal with all people, welfare, inclusivity and training issues below Director level within their service area	See Table 6

Ref	Functions	Conditions
<b>PART B – Additional delegations to specific officers</b>		
<b>Chief Executive</b>		
5.51	To act as Head of Paid Service under and for the purposes of section 4 of the Local Government and Housing Act 1989.	
5.52	To determine the terms and conditions of service of the Deputy Chief Executive, and Chief Officers.	See Table 6
5.53	To undertake the functions of the Council in relation to elections.	
5.54	To be the Electoral Registration Officer and to appoint Deputy Electoral Registration Officers.	
5.55	To be the Returning Officer and to appoint Deputy Returning Officers for elections to the District Council and Parish Councils within the District.	
5.56	To have delegated authority to affect immediate changes to membership of committees at the request of political groups within the allocations set at Council, such changes to be reported to Council at its next meeting for ratification.	See Table 6
5.57	In cases of urgency and/or emergency to have a general power, after consultation with the Leader of the Council and/or the member holding the appropriate Executive portfolio or the Chairman of the relevant committee as the case may be, to deal with any matter not delegated to any other officer by statute or other legislation on which the Chief Executive considers to require a decision before the next meeting of the appropriate body within the Council.	
<b>Section 151 Officer</b>		
5.58	To act as Chief Financial Officer under section 114 of the Local Government Finance Act 1988 and section 151 of the Local Government Act 1972.	
5.59	To be responsible for, and do anything required for the proper administration of the financial affairs of the Council	

Ref	Functions	Conditions
5.60	To invest the funds of the Council in line with the approved Treasury Management Strategy.	See Table 6
5.61	To make arrangements for the internal audit of the Council.	See Table 6
5.62	To write down debts in cases of bankruptcy/liquidation and to write off debts that are irrecoverable or uneconomic to recover up to the figures contained in the Financial Procedure Rules in consultation with the Finance Portfolio Holder	See Table 6
5.63	To attend Valuation Tribunal hearings or to nominate an appropriate officer to present the Council's case.	See Table 6
5.64	To approve fees and charges unless part of the annual budget setting in consultation with the appropriate Director and Portfolio Holder	See Table 6
	<b>In relation to Non-Domestic Rates</b>	
5.65	To determine claims for relief	See Table 6
	<b>In relation to the billing, collection, recovery of the other income</b>	
5.66	To action changes of interest rates on housing advances.	See Table 6
5.67	To authorise Government returns and subsidy claims.	See Table 6
<b>Director of Customer Service and Delivery</b>		
5.68	As Deputy Chief Executive, in the absence of the Chief Executive, to exercise all of the powers of the Chief Executive including as Head of Paid Service.	See Table 6
5.69	To be the Council's Senior Information Risk Officer.	See Table 6
	<b>In relation to Council Tax, Non-Domestic Rates, Community Charge, Housing Advances, Benefit Overpayment, Sundry Debtors and Miscellaneous Income, Housing and Council Tax Benefit</b>	
5.70	To collect and recover Council Tax including determining the liability for the tax, benefits and discounts available. To enter into agreements regarding payment, to make any necessary adjustments to charges, to impose penalties, to request information and institute legal proceedings in the case of non-disclosure of information.	See Table 6

Ref	Functions	Conditions
5.71	To administer the Housing Benefit and Council Tax Benefit scheme on behalf of the Council and to determine whether benefit payments should be made to a landlord	See Table 6
5.72	To determine and administer applications under the Discretionary Housing Payment Scheme.	See Table 6
5.73	To authorise the prosecution for fraudulent claims for Housing and Council Tax Benefit and issue formal cautions and administrative penalties.	See Table 6
5.74	To appoint and authorised officers with powers to enter on to land and premises to secure the payment of sums due to the Council	See Table 6
5.75	To recover debts due to the Council by civil action	See Table 6
5.76	To institute, appear or authorise appropriate officers to appear on behalf of the Council in civil or criminal proceedings	See Table 6
5.77	To appoint Bailiffs or refer debts to bailiff or debt collection agencies.	See Table 6
5.78	To determine whether benefit overpayments are recoverable.	See Table 6
5.79	To authorise Government returns and subsidy claims.	See Table 6
5.80	To enter into joint working arrangements with external agencies.	See Table 6
5.81	To institute possession proceedings in the County Court for the recovery of housing advance arrears.	See Table 6
5.82	To appoint debt recovery agents	See Table 6
	<b>In relation to the administration of Housing and Council Tax Benefits</b>	
5.83	To determine claims, conduct reviews, administer discretionary housing payments, review decisions, issue formal cautions in administrative, initiate prosecutions and respond to appeals.	See Table 6
5.84	To appear at Appeal Tribunal Hearings, to serve any relevant notices.	See Table 6
5.85	To issue requests for rent or such determination and re-determinations.	See Table 6
5.86	To appoint authorised officers with powers to enter business premises, make enquiries and interview persons.	See Table 6

Ref	Functions	Conditions
5.87	To determine whether benefit overpayments are recoverable and, if so, from whom.	See Table 6
5.88	To determine if benefit payments should be made to landlords	See Table 6
5.89	To agree Service Level Agreements with benefit agency, rent officer and other external agencies.	See Table 6
5.90	To appoint and train officers to verify documents comply with the document verification framework and to represent the Council at liaison meetings and to enter into joint working arrangements with the benefit agency.	See Table 6
5.91	To make any financial transaction including the borrowing and lending of money in line with the member approved Treasury Management Strategy	See Table 6
5.92	To determine applications by staff for car loans under the Assisted Car Purchase Scheme.	See Table 6
5.93	To effect adequate insurance cover for the Council.	See Table 6
5.94	To authorise payments to employees for loss or damage to personal property up to a maximum of £500 for any one claim	See Table 6
<b>Director of Place and Enterprise</b>		
5.95	To undertake all action relating to: (a) the acquisition or disposal of any land or building; and/or (b) any grant and/or termination of any lease or licence for any land or building; (c) any other transaction associated with any land or building	In all cases; (a) the sum of money associated with any such acquisition, disposal or other transaction (including termination) does not exceed £300,000; and (b) all costs associated with any such transaction can be met from within a budget available for such purposes.

Ref	Functions	Conditions
5.96	<p>To undertake all action in relation to any function of the Council concerning neighbourhood planning (including all functions relating to the making and approval of any neighbourhood development plan, neighbourhood development order and/or community right to build order) whether under any Town and Country Planning Legislation or otherwise including power to:</p> <ul style="list-style-type: none"> <li>(a) make a final decision on whether to designate a neighbourhood plan area and/or make such an area a business area;</li> <li>(b) decide whether to submit any matter to independent examination; and/or</li> <li>(c) decide whether to appoint and the appointment of any examiner,</li> </ul> <p>but excluding:</p> <ul style="list-style-type: none"> <li>(i) a final decision on whether to designate a neighbourhood plan area unless in the Director of Place and Enterprise's opinion: <ul style="list-style-type: none"> <li>(A) there is insufficient time to have the matter considered by the relevant committee as part of the normal committee cycle;</li> <li>(B) the Council is legally obliged to approve the designation; and/or</li> <li>(C) there has been no objection to the proposal submitted to the Council within any relevant time for the submission of representations which has not been withdrawn;</li> </ul> </li> <li>(ii) the final decision on whether to submit any document to a referendum;</li> <li>(iii) the final decision on whether to make a neighbourhood development order /community right to build order and the terms of any planning permission granted pursuant to a neighbourhood development order / community right to build order; and</li> <li>(iv) the final decision on whether to make a neighbourhood development plan.</li> </ul>	<p>See Table 6</p> <p>Any costs associated with the appointment of an examiner can be met from an existing relevant budget and/or the prior approval of the Section 151 Officer is obtained</p>

Ref	Functions	Conditions
<b>Director of Strategy and Governance</b>		
5.97	To be the Council's Data Protection Officer under and for the purposes of the Data Protection Act 2018	See Table 6
5.98	To maintain the Council's Data Protection registration and act as Data Protection Officer.	See Table 6
5.99	To respond to requests for information and apply any necessary exemptions with respect to the Data Protection Act, 2018, Freedom of Information Act 2000, Environmental Information Regulations 2005 and the reuse of Public Sector Information Regulations 2005, and to maintain any relevant registers, registrations or records	See Table 6
5.100	To determine the content and be responsible for any publication scheme (including determining any charges) under freedom of information and/or data protection legislation.	See Table 6
<b>Head of Environmental Heath</b>		
5.101	To undertake all action in connection with any application (including any application to grant, review, transfer, vary remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Licensing Act 2003 including power to decide whether a representation is a "relevant representation" for the purposes of the Act, but excluding any matter whether by virtue of section 10 Licensing Act 2003 or otherwise that cannot be discharged by an Officer	See Table 6
5.102	To undertake all action in connection with the submission of any scheme, details and/or other matter pursuant to any licence, notice, permission, consent, approval or other determination issued by or on behalf of the Council pursuant to the Licensing Act 2003 or the Gambling Act 2005.	See Table 6
5.103	To prepare and issue reports on behalf on the Licensing Committee where a matter relates to a licensing function under the Licensing Act 2003 or the Gambling Act 2005 and is necessary to facilitate the exercise of another function of the Council.	See Table 6



Ref	Functions	Conditions
5.104	To undertake all action in connection with any application (including any application to grant, transfer, vary remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Gambling Act 2005 including power to decide whether a representation is a “ relevant representation” for the purposes of the Act, but excluding any matter whether by virtue of section 154 Gambling Act 2005, section 10 Licensing Act 2003 (as it applies to the Gambling Act) or otherwise that cannot be discharged by an Officer	See Table 6
5.105	<p>To issue licences, permits, approvals, consents, notices and registrations (with conditions where appropriate) and refuse, suspend, amend, revoke or transfer the same (unless statutory provisions prohibit such delegation) in respect of the Council’s public health, public safety, housing and environmental functions not otherwise delegated to other officers but including the following functions:</p> <ul style="list-style-type: none"> <li>(a) Hackney carriages and private hire – vehicles, drivers and operators.</li> <li>(b) Lotteries.</li> <li>(c) Sex Establishments and sexual entertainment venues.</li> <li>(d) Street Trading.</li> <li>(e) Charitable Street Collections.</li> <li>(f) House to house collections.</li> <li>(g) Skin Piercing, tattooing, acupuncture and electrolysis.</li> <li>(h) Animals – Establishments and Control.</li> <li>(i) Scrap Metal Dealers.</li> <li>(j) Sunday Trading.</li> <li>(k) Houses in multiple occupation.</li> <li>(l) Caravan sites.</li> </ul>	See Table 6
5.106	To suspend or revoke a Hackney Carriage/Private Hire Drivers Licence with immediate effect in the interests of public safety	<p>The Chairman and Vice-Chairman of the Licensing Committee are to be consulted.</p> <p>See Table 6</p>

Ref	Functions	Conditions
<b>Head of Legal Services</b>		
5.107	To act as Monitoring Officer under and for the purposes of section 5 of the Local Government and Housing Act 1989.	
5.108	To make changes to the Constitution to give effect to decisions of the Council, to secure compliance with the law and to correct or improve layout, spelling or grammar including, but not exclusively changes to ensure individual names, positions and job titles are updated to reflect changes in the composition of the Executive, Committees, and Officers.	All changes, including minor changes, are logged and a version history and change-log is maintained.
5.109	To sign and serve any notice, order or document or act as proper officer under section 234 of the Local Government Act 1972 where no other officer is currently appointed, and any notice in respect of any land owned by or in the process of being acquired by the Council.	See Table 6
5.109A	To seal any document that must be sealed or which in the opinion of the Head of Legal Services should be sealed.	See Table 6
5.110	To authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme.	See Table 6
5.111	To authorise the institution, defence or withdrawal or settlement of any claims or legal proceedings, civil or criminal in relation to any function of the Council or to protect any interest of the Council.	See Table 6
5.112	To prosecute or defend or appear in any legal proceedings and authorise any officer so to do.	See Table 6
5.113	To grant postponement of charges and the release of protective registrations in relation to financial charges on land in favour of the Council.	See Table 6
5.114	<p>To:</p> <ul style="list-style-type: none"> <li>(a) dismiss any councillor conduct complaint that is trivial or concerns conduct that would not be a breach of the relevant council's code of conduct; and/or</li> <li>(b) decide after consultation with an independent person whether a complaint should be referred for investigation or on some other action.</li> <li>(c) refer any complaint concerning a failure to disclose a disclosable pecuniary interest to the police without further reference.</li> </ul>	See Table 6

Ref	Functions	Conditions
<b>Head of Planning</b>		
5.115	<p>To exercise all powers or duties conferred or imposed upon the Council, under any enactment as Local Planning Authority including those functions relating to town and country planning and development control as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, excluding applications for: Planning Permission (including applications for outline or full planning permission; made under section 73 or section 73A of the Town and Country Planning Act 1990; permission in principle and/or technical detail consent; reserved matters approval etc) Listed Building Consents; Advertisement Consents; TPO final confirmations (excluding emergency TPOs); and Works to TPO trees that:</p> <ul style="list-style-type: none"> <li>(a) relate to the Council's own land; or</li> <li>(b) include proposals under which the Council may acquire an interest in or over all or any part of the land or buildings proposed to be developed; or</li> <li>(c) the applicant or agent is a Councillor (or their immediate family) or an Officer (or their immediate family); or</li> <li>(d) relate to land owned by a Councillor (or their immediate family) or an Officer (or their immediate family) or in which a Councillor (or their immediate family) or an Officer (or their immediate family) has a legal interest in the land registered at HM Land Registry; or</li> <li>(e) the Head of Planning reasonably considers that the views of Members are considered desirable or essential due to all of the circumstances of an application including the scale and nature of the development proposed; the degree of compliance with the Joint Local Plan or national planning policy; any technical issues raised; or the number of representations received etc; or</li> <li>(f) has been called in for consideration by the Development Management Committee by a Councillor in accordance with <a href="#">Appendix C</a>.</li> </ul>	See Table 6

Ref	Functions	Conditions
5.116	<p>To undertake all action in respect of any application under any Town and Country Planning Legislation relating to any of the following:</p> <ul style="list-style-type: none"> <li>(a) any certificate of lawfulness including any application for a certificate of lawfulness or development (CLUEDs) and/or a certificate of proposed use or development (CLOPUDs);</li> <li>(b) any prior notification, prior approval and/or any other determination relating to any permitted development provision (including any local development order and/or neighbourhood development order) including: <ul style="list-style-type: none"> <li>(i) whether any such notification/approval/determination is required; and</li> <li>(ii) determining whether any exception, condition, limitation and/or other restriction has been met in connection with any prescribed permitted development;</li> </ul> </li> <li>(c) any non-material amendment;</li> <li>(d) for the discharge of any condition/obligation and/or confirmation of compliance with any condition/obligation;</li> <li>(e) for approval of any scheme, design, code or other documentation submitted for approval by the Council including any application for a variation to any such approved documentation;</li> <li>(f) any advertisement including any banner may be visible from any highway; and/or</li> <li>(g) to undertake any work to any tree in Conservation Area and/or to which a Tree Preservation Order relates.</li> </ul>	<p>See Table 6</p> <p>Notice of the application for a certificate of lawfulness to be given to Ward Members.</p>
5.117	<p>To undertake all action relating to any matter arising in respect of any appeal, call-in and/or other inquiry and/or hearing of whatever nature arising under any Town and Country Planning Legislation including:</p> <ul style="list-style-type: none"> <li>(a) to decide any response required in relation to any procedural issue relating to any such matter including for the avoidance of doubt whether any such matter should be dealt with by means of written representation, hearing or public inquiry;</li> <li>(b) to decide any procedural issue relating to any such matter including the venue for the holding on any hearing and/or appeal; and/or</li> <li>(c) to decide whether or not to defend any reason for refusal</li> <li>(d) to authorise the execution of a section 106 agreement where required in connection with the appeal/inquiry/hearing.</li> </ul>	<p>See Table 6</p>

Ref	Functions	Conditions
5.118	<p>To undertake all action in order to regulate any actual, perceived or potential breach of any of the Town and Country Planning Legislation including:</p> <ul style="list-style-type: none"> <li>(a) any action to seek to regulate any actual or perceived breach of any notice, order, agreement, obligation and/or other document, condition, restriction and/or other limitation issued or provided for pursuant to such Town and Country Planning Legislation;</li> <li>(b) the undertaking of any site visit;</li> <li>(c) to decide whether to issue any notice including: <ul style="list-style-type: none"> <li>(i) any requisition for information;</li> <li>(ii) any planning contravention notice;</li> <li>(iii) any enforcement notice;</li> <li>(iv) any breach of condition notice;</li> <li>(v) any notice pursuant to section 215 Town and Country Planning Act 1990;</li> <li>(vi) any temporary stop notice;</li> <li>(vii) any stop notice;</li> <li>(viii) any advertisement discontinuance notice; and/or</li> <li>(ix) any replacement tree notice;</li> </ul> </li> <li>(d) to decide whether or not to amend and/or withdraw any notice;</li> <li>(e) to decide whether to seek any injunction and/or pursue any action arising therefrom; and/or</li> <li>(f) to decide whether or not to take and/or to cease action whether because in the Head of Planning's opinion the breach is trivial, there is insufficient demonstrable harm and/or, it is not expedient to take/continue to take action.</li> </ul>	<p>See Table 6</p> <p>The relevant Ward Members are to be informed prior to such notices being issued or served unless the issuing of the notice is urgent, in which case. Ward Members are to be informed as soon as reasonably practicable afterwards.</p>
5.119	<p>To exercise the powers of entry under Sections 196A, 196B, 196C, 214B, 214C, 214D, 324 and 325 of the Town and Country Planning Act 1990 and Sections 88, 88A and 88B of the Planning (Listed Building and Conservation Areas) Act 1990 and section 74 of the Anti-Social Behaviour Act 2003 and Regulation 12 of the Hedgerow Regulations 1997 and to authorise all other planning officers whose duties require such powers.</p>	<p>See Table 6</p>

Ref	Functions	Conditions
5.120	To decide whether and how to respond on behalf of the Council to any application pursuant to any of the Town and Country Planning Legislation submitted to any other local authority.	If feasible, to consult with any Executive Member with responsibility for development management and the Chairman of the Development Management Committee
5.121	To exercise all powers and duties conferred upon the Council relating to complaints about High Hedges.	See Table 6
5.122	To make and confirm orders authorising the stopping up or diversion of footpaths under the provisions of Section 257 of the Town and Country Planning Act 1990 and Sections 118 and 119 of the Highways Act 1980 where no objections or adverse comments are received from any interested consultee, member of the public, public utility or Ward Member.	See Table 6

**Table 6: Conditions**

Ref	Functions
6.1.	<b>General.</b> The Scheme of Delegation does not delegate to a committee, sub-committee or an officer any matter reserved to full Council or any matter that by law cannot be delegated to an officer.
6.2	This scheme does not supersede or negate specific delegations that have previously been granted to officers under specific Council Executive or Committee reports and/or policy where that delegation is not specifically included in this scheme.
6.3	All powers must be exercised in accordance with the approved budget, policy framework, financial procedure rules, contract procedure rules, or any other procedure rules, having due regard to the Council's policies and having taken appropriate advice from other officers or requirements of this Constitution
6.4	An Officer is authorised to exercise such powers as are shown in the Scheme of Delegation including those reasonably applied or incidental to the matters specified in respect of the functions of the Council.
6.5	Where, in the opinion of the officer making a delegated decision, that decision is likely to be contentious or sensitive, then before taking that decision the officer will consult with the relevant Committee Chairman or a more senior officer, as the case may be.

Ref	Functions
6.6	An Officer may, instead of exercising a delegated power, refer the matter to a more senior officer, the Executive, a committee or the full Council, as appropriate.
6.7	Subject to <a href="#">Appendix D (RIPA)</a> Chief Officers and Senior Officers have the power to authorise all or any of their delegated functions to other Officers either fully or under their general supervision and control. Such authorisation should be recorded in writing and a copy provided to the Monitoring Officer (See <a href="#">Appendix B</a> ).
6.8	The Head of Paid Service may exercise any delegations of a Director in the absence or default of that Director.
6.9	A Chief Officer may exercise any delegations of an officer, for whom that Chief Officer is responsible, in the absence or default of that officer.
6.10	Where a proposed exercise of delegated authority is such that the Leader of the Council should be consulted and the Leader of the Council is absent or otherwise unavailable then the Deputy Leader can be consulted. Similarly, in the absence of the Chairman of a Committee the Vice-Chairman can be consulted. In the absence of an Executive Member the Leader of the Council should be consulted as an alternative.
6.11	<p>Where the effect of a decision is to grant a permission or licence; affect the rights of an individual or award a contract or incur expenditure, which in either case, materially affects the Council's financial position, a written record must be produced as soon as reasonably practicable after the officer has made the decision and must contain the following information:</p> <ul style="list-style-type: none"> <li>(a) the date the decision was taken;</li> <li>(b) a record of the decision taken along with reasons for the decision;</li> <li>(c) details of alternative options, if any, considered and rejected; and</li> <li>(d) the names of any Councillor who has declared a conflict of interest in relation to the decision.</li> </ul> <p>If a written record containing the information referred to in paragraphs (a) and (b) is already required to be produced in accordance with a statutory requirement, that written record will meet the requirements of this paragraph.</p> <p>The written record must, as soon as reasonably practicable after the decision is made, be available:</p> <ul style="list-style-type: none"> <li>(a) for inspection at Council Offices during normal working hours; and</li> <li>(b) to view online</li> </ul>

Ref	Functions
6.12	<p><b>Contracts.</b> The Monitoring Officer can:</p> <ul style="list-style-type: none"> <li>(a) Sign and/or seal contracts of any value.</li> <li>(b) Sign inter authority, collaboration, partnering and framework agreements.</li> </ul>
6.13	<p>The Chief Executive and Chief Officers can:</p> <ul style="list-style-type: none"> <li>(a) sign contracts (but not those under seal) up to but not exceeding £500,000.</li> <li>(b) give approval to terminate contracts early with a value not exceeding £500,000.</li> <li>(c) give approval to extend contracts where the original contract value does not exceed £500,000 and within the original terms and advertised scope of the contract.</li> <li>(d) authorise and sign letters of intent committing the Council to expenditure not in excess of £500,000.</li> </ul>
6.14	<p>Senior Officers can:</p> <ul style="list-style-type: none"> <li>(a) sign contracts (but not those under seal) up to but not exceeding £100,000;</li> <li>(b) give approval to terminate contracts early with a value not exceeding £100,000; and</li> <li>(c) give approval to extend contracts where the original contract value does not exceed £100,000 and within the original terms and advertised scope of the contract</li> </ul>
6.15	<p><b>Exemptions from Contract Procedure Rules.</b> Any request for an exemption from the Contract Procedure Rules must be dealt with in accordance with the Contract Procedure Rules.</p>
6.18	<p><b>Procurement Tender Evaluation Models.</b> The Officer responsible for a procurement may only authorise procurement tender evaluation models for contracts up with a value not exceeding £100,000. Procurement tender evaluation models above this must be approved by a Chief Officer.</p>
6.19	<p>Covert surveillance and use of Covert human intelligence sources. Additional provision is made in <a href="#">Appendix D</a></p>
6.20	<p><b>Sealing of Documents.</b> The affixing of the Council's seal to a document shall be witnessed by a single authorised officer.</p>



**Table 7: Proper Officer functions**

<b>Proper Officer</b>	<b>Function</b>	<b>Legislation</b>
<b>Head of Paid Service</b>	Parish Trustee (together with the Chairman of the Parish Meeting) for those parishes not having a separate Parish Council and shall be a body corporate by the name 'the Trustees' with the additions of the name of the Parish	Local Government Act 1972 Section 13(3)
<b>Head of Paid Service</b>	The Officer in whose presence declarations of acceptance of office shall be made and to whom such declarations shall be delivered.	Local Government Act 1972 Section 83(1)-(4):
<b>Head of Paid Service</b>	The officer to whom a person elected to any office under the Act may deliver written notice of resignation.	Local Government Act 1972 Section 84.
<b>Head of Paid Service</b>	The officer who may convene a meeting for the election of Chairman of the District Council following a casual vacancy in that office.	Local Government Act 1972 Section 88(2)
<b>Head of Paid Service</b>	The officer to whom notice in writing of a casual vacancy in the office of Councillor shall be given.	Local Government Act 1972 Section 89(1)(b)
<b>Head of Paid Service</b>	The officer to identify which documents contain exempt information not open to inspection by Members of the Council	Local Government Act 1972 Section 100F(2)
<b>Head of Paid Service</b>	The officer who shall exercise any power with respect to a charity exercisable by any officer of a former authority and who shall be deemed to be the holder of a corresponding office for the purpose of sub-section (7)	Local Government Act 1972 Section 210(6)
<b>Head of Paid Service</b>	The officer who shall sign a summons to attend a Council meeting.	Local Government Act 1972 Schedule 12 (paragraph 4(2)(b))
<b>Head of Paid Service</b>	The officer who holds the list of politically restricted posts	LG and Housing Act 1989
<b>Head of Paid Service</b>	Receipt of notices from political groups. Review of allocation of seats.	LG and Housing Act 1989, Sections 15 to 17
<b>Head of Paid Service</b>	Matters relating to the verification number and the receipt and handling of petitions	The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000

<b>Proper Officer</b>	<b>Function</b>	<b>Legislation</b>
<b>Head of Paid Service</b>	The Counting Officer	The Local Authorities (Conduct of Referendums) (England) Regulations 2001
<b>Head of Paid Service</b>	Receiving notice from a member of the address to which a summons to the meeting is to be sent.	Local Government Act 1972 section Schedule 12 (paragraph 4(3)):
<b>Section 151 Officer</b>	The proper officer for the purposes of receiving all money from other officers of the Council	Local Government Act 1972 Section 115(2)
<b>Section 151 Officer</b>	The officer who shall procure the transfer of securities consequent upon any change in name, area of functions of a local authority.	Local Government Act 1972 Section 146 (paragraphs (a) and (b))
<b>Section 151 Officer</b>		LG and Finance Act 1988 Section 114
<b>Section 151 Officer</b>	The officer for the purpose of paying Members' Allowances	Local Government and Housing Act 1989
<b>Section 151 Officer</b>	The officer who shall report on the robustness of estimates and the adequacy of reserves	Local Government Act 2003 Sections 25 and 27
<b>Section 151 Officer</b>	The officer who shall maintain arrangements for financial management and internal control.	Accounts and Audit Regulations 2015 Regulation 4
<b>Monitoring Officer</b>	The officer to decide whether part or the whole of reports should be excluded from public inspection before a meeting if they relate only to items during which the meeting is likely not to be open to the public.	Local Government Act 1972 section 100B(2).
<b>Monitoring Officer</b>	The officer who shall have responsibility for the conduct of legal proceedings on behalf of the Council	Local Government Act 1972 Sections 222 and 223
<b>Monitoring Officer</b>	The officer who shall have responsibility for the custody of Council documents.	Local Government Act 1972 Section 224
<b>Monitoring Officer</b>	The officer for the custody of the deposit and retention of documents.	Local Government Act 1972 Section 225
<b>Monitoring Officer</b>	The officer who shall certify a photographic copy of a document in the custody of the Council, or of a document that has been destroyed while in the custody of the Council, or any part of any such document.	Local Government Act 1972 Section 229(5)

<b>Proper Officer</b>	<b>Function</b>	<b>Legislation</b>
<b>Monitoring Officer</b>	The officer who shall be authorised to sign on behalf of the District Council any notice, order or other document.	Local Government Act 1972 Section 234(1)
<b>Monitoring Officer</b>	The officer responsible for sending copies of byelaws to County, Town and Parish Councils.	Local Government Act 1972 Section 236(9) and (10)
<b>Monitoring Officer</b>	The officer who shall certify a printed copy of the byelaws made by the Council.	Local Government Act 1972 Section 238
<b>Monitoring Officer</b>	The officer who shall certify copies of orders, reports and minutes.	LG (Miscellaneous Provisions) Act 1976, Section 41
<b>Director of Community Service and Delivery</b>	The officer who is the local registrar and who shall register any matters specified by Land Registration Act 2002 and Local Land Charges Act 1975 affecting land within the District	Land Registration Act 2002 and Local Land Charges Act 1975
<b>Director of Strategy and Governance</b>	The officer to whom a member of the Council shall give notice in writing desiring summonses to attend meetings of the Council to be sent to an address specified in the notice other than his place of residence.	Local Government Act 1972 Schedule 12 Part 1, Para 4(3)
<b>Director of Strategy and Governance</b>	The officer who will receive petitions and requests for reviews for handling of the petitions under the Petitions Scheme, verify number and direct to the relevant Council, Committee or Officer for a response.	Local Democracy, Economic Development and Construction Act 2009
<b>Director of Strategy and Governance</b>	To supply to the press additional material supplied to members of the Council in connection with the item to be discussed.	Local Government Act 1972 Section 100B(7)(c):
<b>Director of Strategy and Governance</b>	To prepare a written summary of proceedings taken by a Committee in private.	Local Government Act 1972 Section 100C(2):
<b>Director of Strategy and Governance</b>	To compile a list of background papers to a report to a Committee	Local Government Act 1972 Section 100D(1)
<b>Director of Strategy and Governance</b>	Identifying background papers of reports.	Local Government Act 1972 Section 100D(5)(a):

<b>Proper Officer</b>	<b>Function</b>	<b>Legislation</b>
<b>Director of Strategy and Governance</b>	The officer to receive notice of Local Government and Social Care Ombudsman's report	Local Government Act 1974 Section 30(5):
<b>Director of Strategy and Governance</b>	The officer for notification to deal with objections by the Executive to appointments or dismissals of Chief and Deputy Chief Officers	Local Authorities (Standing Orders) (England) Regulations 2001
<b>Director of Strategy and Governance</b>	Receipt on deposit of lists of buildings of special architectural or historical interest and Building Preservation Notices	Town and Country Planning Act 1971 Sections 54 and 58.
<b>Head of Democratic Services</b>	The officer to whom members shall give notice of address desiring Council summonses to be sent where not place of residence	Local Government Act 1972 Schedule 12 Paragraph.4(3).
<b>Head of Planning</b>	Duties in connection with Ordnance Survey.	Local Government Act 1972 Section 191
<b>Head of Planning</b>	The officer who shall receive on deposit lists of buildings of special architectural or historic interest.	Planning (Listed Buildings and Conservation Areas) Act 1990 Section 2
<b>Head of Devon Building Control Partnership</b>	The officer to exercise the Council's powers in respect of dangerous buildings	Building Act 1984 section 78
<b>Head of Devon Building Control Partnership</b>	The officer to authenticate documents within his province	Building Act section 93
<b>Head of Environmental Health</b>	The officer who shall certify to the local authority that any premises, articles or clothing are filthy or verminous and who shall authorise a registered medical practitioner, or a woman duly authorised by the medical officer of health to carry out the cleaning of females.	Public Health Act 1936 Sections 83, 84 and 85
<b>Head of Environmental Health</b>	The officer authorised for all purposes under the Public Health (Control of Disease) Act 1984	Public Health (Control of Disease) Act 1984

<b>Proper Officer</b>	<b>Function</b>	<b>Legislation</b>
<b>Head of Environmental Health</b>	The officer for action to be taken regarding infectious diseases to be specially reported and making of weekly and quarterly returns.	Public Health (Infectious Disease) Regulations 1988
<b>Head of Environmental Health</b>	The officer to issue temporary prohibition orders on behalf of local authority when evidence that infectious or other disease is attributable to molluscs or shellfish.	The Food Safety (Live Molluscs and other Shellfish) Regulations 1992
<b>Head of Environmental Health</b>	The officer to appoint Consultants in Communicable Disease Control (CCDC) for the receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons	The Health Protection (Notification) Regulations 2010 – Regulations 2, 3, and 6
<b>Head of Environmental Health</b>	The officer to discharge the Council's functions for dealing with stray dogs	Environmental Protection Act 1990 Sections 149 – 151
<b>Head of Environmental Health</b>	Entertainments, licensing control of sex shops and public health	Local Government (Miscellaneous Provisions) Act 1982
<b>Head of Environmental Health</b>	The officer to issue licenses and carry out administrative duties	Licensing Act 2003
<b>Head of Environmental Health</b>	The officer to issue licenses and carry out administrative duties	Gambling Act 2005
<b>Head of Environmental Health</b>	The officer to discharge the Council's functions anti-social behaviour and community protection	Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014

## APPENDIX A – List of legislation

The list below of legislation is not to be taken as exhaustive and shall be taken to include any amended, consequential, ancillary, subsidiary, consolidating Act, Statutory Instrument, Regulation or Order

- Animals Act 1976
- Animal Boarding Establishments Act 1963
- Animal Health Act 1981
- Approved Inspector Regulations 1995
- Anti-Social Behaviour Act 2003
- Betting, Gaming and Lotteries Act 1963
- Breeding of Dogs Act 1973
- Building Act 1984
- Building (Local Authority Charges) Regulations 1998
- Building Regulations 2000
- Caravan Sites and Control of Development Act 1960
- Carriage of Dangerous Goods by Road Act 1996
- Carriage of Goods by Road Act 1965
- Carriage by Air and Road Act 1979
- Carriers Act 1830
- Child Support, Pensions and Social Security Act 2000
- Cinemas Act 1985
- Civil Contingencies Act 2004
- Civil Defence Act 1948
- Civic Amenities Act 1967
- Clean Air Act 1993
- Clean Neighbourhoods and Environment Act 2005
- Construction and Use Regulations 1986
- Control of Asbestos at Work Regulations 1987
- Control of Pesticides Regulations 1986
- Control of Pollution Act 1974
- Coronavirus Act 2020
- Crime and Disorder Act 1998
- Criminal Law Act 1976
- Criminal Law Act 1977
- Criminal Attempt Act 1981
- Criminal Justice and Immigration Act 2008
- Criminal Justice and Police Act 2001
- Criminal Justice and Public Order Act 1994
- Crop Residues (Burning) Regulations 1983
- Dangerous Dogs Act 1991
- Dangerous Wild Animals Act 1976
- Data Protection Act 1984
- Dogs (Fouling of Land) Act 1996
- Egg Products Regulations 1993
- Employment Act 1973
- Environment Act 1995
- Environmental Protection Act 1990
- European Communities Act 1972
- European Parliamentary Elections Act 1978
- Factories Act 1961
- Food Premises (Registration) Regulations 1991
- Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations 1992.
- Food Act 1984
- Food Act 1990
- Food Safety Act 1990
- Food and Environmental Protection Act 1985
- Freedom of Information Act 2000
- Fresh Meat (Health and I) Regulations 1992
- Fresh Meat, Poultry Meat (H,I&E) Regulations 1990
- Game Act 1831

- Gambling Act 2005
- Gaming Act 1968
- Gaming Act 2003
- Goods Vehicles (Licensing of Operators) Act 1995
- Guard Dogs Act 1975
- Health Act 2006
- Health and Safety at Work etc Act 1974
- Health and Safety at Work Act (Enforcing Authority) Regulations 1989
- Health and Safety at Work Act 1990
- Health and Social Care Act 200856
- Health Protection (Local Authority Powers) Regulations 201057
- Health Protection (Part 2A Orders) Regulations 201058
- Health Protection (Notification) Regulations 201059
- Highways Act 1980
- Highways Amendment Act 1986
- Home Energy Efficiency Act 1995
- Homelessness Act 2002
- House to House Collections Act 1939
- Housing Act 1985
- Housing Act 1989
- Housing Act 1996
- Housing Act 2004
- Housing Benefit (General Regulations) 1987
- Housing Grants, Construction and Regeneration Act 1996
- Housing (Homeless Persons) Act 1977
- Hypnotism Act 1952
- Insolvency Act 1986
- Land Compensation Act 1973
- Land Drainage Act 1976
- Land Drainage Act 1991
- Late Night Refreshment Houses Act 1969
- Licensing Act 1964
- Licensing Act 2003
- Local Authorities (Executive Arrangements) (Access to Information) Regulations (England) 2000
- Local Government (Access to Information) Act 1985
- Local Authorities (Members' Allowances) (England) (Amendment) Regulations 2003
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government (Miscellaneous Provisions) Act 1982
- Local Government and Housing Act 1989
- Local Government and Public Involvement in Health Act 2007
- Local Government Act 1972
- Local Government Act 2000
- Local Government Finance Act 1988
- Local Government Finance Act 1992
- Localism Act 201160
- Lotteries and Amusements Act 1976
- Milk and Dairies (General) Regulations 1959
- Milk (Special Designation) Regulations 1989
- Mobile Homes Act 1975
- Mobile Homes Act 1983
- National Assistance Act 1948
- National Assistance (Amendment) Act 195161
- Noise and Statutory Nuisance Act 1993
- Noise Act 1996
- Office, Shops and Railways Premises Act 1963
- Party Wall (etc) Act 1996
- Pesticides Act 1998
- Pet Animals Act 1951
- Planning and Compulsory Purchase Act 2004
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substance) Act 1990
- Police Act 1997
- Police, Factories etc (Miscellaneous Provisions) Act 1916

- Pollution, Prevention and Control Act 1999
- Poultry Meat (Hygiene) Regulations 1976
- Private Security Industry Act 2001
- Prevention of Damage by Pests Act 1949
- Protection from Eviction Act 1977
- Public Health Act 1925
- Public Health Act 1936
- Public Health Act 1961
- Public Health (Ships) Regulations 1979
- Public Health (Control of Disease) Act 1984
- Public Health Act 1907
- Refuse Disposal (Amenity) Act 1978
- Rent Agriculture Act 1976
- Regulation of Investigatory Powers Act 2000
- Representation of the People Act 1983
- Representation of the People Act 2001
- Riding Establishments Act 1964
- Riding Establishments Act 1970
- Road Safety Act 2006
- Road Traffic Act 1974
- Road Traffic (Drivers' Ages and Hours of Work) Act 1976
- Road Traffic Act 1988
- Road Traffic Act 1991
- Road Traffic Amendment Act 1967
- Road Traffic Regulation Act 1984
- Road Traffic Reduction Act 1997
- Road Traffic (New Driver) Act 1995
- Scrap Metal Dealers Act 1964
- Shops Act 1950
- Slaughter of Poultry Act 1967
- Social Security Act 1986
- Social Security Administration Act 1992
- Social Security Administration (Fraud) Act 1997
- Special Waste Regulations 1996
- Sunbeds (Regulation) Act 201062
- Sunday Entertainments Act 1932
- Sunday Trading Act 1994
- Theatres Act 1968
- Town and Country Planning Act 1990
- Town and Country Planning (Listed Building and Conservation Areas) Act 1990
- Town and Country Planning (General Development Procedure Order) 1995
- Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999
- Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000
- Town and Country Planning (Inquiries Procedure) (England) Rules 2000
- Town Improvement Clauses Act 1875
- Town Police Clauses Act 1847
- Transport Act 1968
- Transport Act 1976
- Transport Act 1980
- Transport Act 1981
- Transport Act 1982
- Vehicles (Crime) Act 2001
- Vehicle Excise Registration Act 1994
- Water Industry Act 1991
- Wireless Telegraphs Act 1998
- Zoo Licensing Act 1981



# APPENDIX B – Record of Authorisation

## RECORD OF AUTHORISATION

(To be copied to Monitoring Officer)



South Hams  
District Council

1. Authority/Power to be authorised (including paragraph reference) from Scheme of Delegation

.....  
.....

2. Officer (title and name) authorising exercise of the power

.....

3. Officer (title and name) to whom power is authorised

.....

4. Details of any limits/condition imposed upon onward authorisation

.....

.....

Signature .....

.....

Date .....

## APPENDIX C – Planning Delegation Procedure

### 1. Planning Applications

- 1.1. In the case of Planning Applications, Listed Building Consents, Advertisement Consent Applications and TPO Confirmations (excluding emergency TPOs) and Works to TPO trees, where any written representations are received, including those from a Parish or Town Council, which are contrary to the Head of Planning's recommendations and where the representations are considered to raise material planning issues, the Head of Planning shall have delegated authority to decide the matter in accordance with the Head of Planning's recommendation only where and subject to paragraph 1.2:
- (a) agreement to issuing a delegated decision has been requested in writing from the Ward Member(s), and
  - (b) no written request (supported by material planning reasons) to call the application to Development Management Committee has been received from the Ward Member(s) within the notification period. The notification period is defined as five working days. The notification period commences when the Ward Member has been informed of the request that a delegated decision be made.

- 1.2. Where the Head of Planning's recommendation is to grant planning permission subject to the completion of a section 106 agreement on the heads of terms set out in the report accompanying the request to issue a delegated decision and either:

- (a) there is a material difference between the heads of terms and the final section 106 agreement; or
- (b) it has not been possible to complete the section 106 agreement on those heads of terms within three months of the date on which the Ward Member agreed to the decision being dealt with under delegated powers or in the event that the Ward Member did not reply to the request to agree to the exercise delegated powers by the Head of Planning, the date by which the Ward Member was asked to reply,

the Head of Planning shall re-consult the Ward Member in accordance with paragraph 1.1. It would be expected that the Ward Member would only depart from their previous position where the change was material and of sufficient weight so as to be capable of tipping the planning balance, or in the case of the non-completion of the section 106 agreement where the applicant has not engaged fully and as a result there is no realistic prospect of agreement being reached in the near future.

- 1.3. Where a Ward Member is unavailable for consultation (for whatever reason e.g. holiday, DPI or other interest) then they should nominate an alternative member to carry out this role and notify Member Services and the Head of Planning in writing.

## 2. Call-in to Development Management Committee by Members

- 2.1. Any Member can call-in any Planning Applications, Listed Building Consents, Advertisement Consents, TPO final confirmations (excluding emergency TPOs), and Works to TPO trees to the Development Management Committee, by notifying the Head of Planning with material planning reasons, prior to the expiry of the 28 day public consultation period. Non-Ward Members will only call in an application after confirming that they have consulted with Ward Member(s).
- 2.2. Ward Members can call-in any Planning Applications, Listed Building Consents, Advertisement Consents, TPO final confirmations (excluding emergency TPOs), and Works to TPO trees in their ward to Development Management Committee by notifying the Head of Planning with material planning reasons at any time prior to the expiry of the member consultation period referred to on paragraph 1.1(b) above.
- 2.3. In the absence of a Member call-in request within the permitted time frames, the Head of Planning shall decide the matter.
- 2.4. Where a Ward Member is unavailable for consultation (for whatever reason e.g. holiday, DPI or other interest) then they should nominate an alternative member to carry out this role and notify Member Services accordingly in writing

## 3. Action on decisions of the Development Management Committee

- 3.1. Where the Committee **approves** an application, the Head of Planning will issue the Approval Notice including such conditions as are reasonably required to give effect to the Committee's decision.
- 3.2. Where the Development Management Committee **refuses** an application which the Head of Planning recommended should be approved, the Development Management Committee shall give the reasons for the decision, but the Head of Planning shall decide the precise wording of the reasons for refusal.

## APPENDIX D – Regulation of Investigatory Powers Act 2000 (RIPA)

1. The Council maintains a **RIPA policy** that includes identification of Officers employed within the Council appointed to roles identified with that policy. Officers appointed to such roles have power to undertake all action ascribed to those roles in any relevant legislation and any policy adopted by the Council in relation to RIPA.
2. Any Officer employed by the Council or any partner of Council who is appointed to undertake the role of RIPA Officer on behalf of the Council shall have power to undertake all action to update the RIPA policy at any time to reflect changes to Officers appointed to roles within the RIPA policy.
3. Notwithstanding any other provision in this Officer Scheme an Officer who is identified in any relevant RIPA policy to authorise surveillance cannot nominate any other Officer to exercise the power on their behalf.
4. In the absence of any Officer being identified in a RIPA policy to authorise surveillance, the following Officers shall be able to exercise such a power to the extent identified.

Post	Purpose of Authorisation
<b>Chief Executive</b>	All purposes (including where there is a likelihood of acquiring confidential information)
<b>Monitoring Officer</b>	All purposes (including but only in the absence of the Chief Executive where there is a likelihood of acquiring confidential information)
<b>Director of Customer Service and Delivery</b>	All purposes for Environment Health and Development Management (but excluding where there is a likelihood of acquiring confidential information)

# CHAPTER 3 – MEETING PROCEDURE RULES

## Introduction to the Full Council

The Full Council is responsible for the adoption and approval of the strategies and plans comprising the **Policy Framework** or the **Budgetary Framework**. In addition, there are some other **matters that have been reserved to the Full Council** for a formal decision. The full scope of the Full Council's powers and responsibilities are set out in the **Scheme of Delegation**.

The Full Council makes its decisions at meetings of the Council.  
There are three types of Council meeting:

- (i) the annual meeting;
- (ii) ordinary meetings; and
- (iii) special meetings.

Full Council will normally have 5 ordinary meetings a year in addition to the annual meeting. All of the meetings of the Full Council will be conducted under the **Council Procedure Rules**.

NOTE: Meetings of Committees and of the Executive are conducted under the **Committee Procedure Rules** and the **Executive Procedure Rules** respectively.

Meetings of the Full Council are normally chaired by the Chairman of the Council or, in their absence, the Vice-Chairman of the Council. Both the Chairman of the Council and the Vice-Chairman of the Council are elected by the Council annually. The role and responsibilities of the Chairman of the Council and the Vice-Chairman of the Council are described in their **job profiles**.

# COUNCIL PROCEDURE RULES

## 1. ANNUAL MEETING OF FULL COUNCIL

### 1.1. Date of Annual Meeting

In a year when there is an ordinary election of Councillors, the Annual Meeting of the Full Council will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in April or May.

### 1.2. Business

The Annual Meeting of the Full Council will:

- (a) elect a person to preside if both the Chairman and Vice-Chairman are not present;
- (b) elect the Chairman of the Council;
- (c) elect the Vice-chairman of the Council;
- (d) receive any declarations of interest from Councillors;
- (e) approve the minutes of the last meeting as a correct record and to authorise the Chairman to sign them;
- (f) receive any announcements from the Chairman of Council and/or Head of Paid Service;
- (g) if it is the post-election Annual Meeting, elect the Leader who will hold office until the next post-election Annual Meeting, unless the Leader:
  - (i) resigns from office;
  - (ii) becomes incapacitated or dies;

- (iii) is removed from office by resolution of the Council or
- (iv) the Council elects a new Leader.

- (h) note the appointment of the Deputy Leader and any Portfolio Holders made by the Leader;
- (i) appoint at least one Overview and Scrutiny Committee, a Licensing Committee, and such other Committees or Boards as the Full Council considers appropriate to deal with matters within its control, their size, terms of reference, and powers;
- (j) decide the allocation of seats on Committees to political groups in accordance with the rules on political balance;
- (k) receive nominations from political groups for Councillors to serve on committees or any outside body, and to make appointments to each committee or outside body, except where the Full Council has delegated the appointment or is exercisable only by the Leader;
- (l) appoint the Chairman and Vice-Chairman of relevant committees;
- (m) make any other appointments as may be necessary;
- (n) approve a programme of ordinary meetings of the Full Council and its Committees for the year;
- (o) consider item(s) that, in the opinion of the Chairman of Council, should be considered at the meeting as a matter of urgency; and
- (p) consider any other business set out in the notice convening the meeting.

## 2. ORDINARY MEETINGS OF FULL COUNCIL

### 2.1. Date of ordinary meetings

Five ordinary meetings of the Full Council will take place on dates agreed by the Full Council at its Annual Meeting. If the Chairman considers it is appropriate to do so the Chairman may, in consultation with the Head of Paid Service, cancel the meeting or direct that it is held on another date.

### 2.2. Business

Ordinary meetings of the Full Council will:

- (a) elect a person to preside if both the Chairman of Council and Vice-Chairman are not present;
- (b) receive any declarations of interest from Councillors;
- (c) approve the minutes of the last meeting as a correct record and to authorise the Chairman to sign them;
- (d) receive any announcements from the Chairman or Head of Paid Service;
- (e) receive any report from the Leader and Portfolio Holders and receive any reply from the Leader and Portfolio Holders to Councillors' questions;
- (f) receive and reply to any question from the public;
- (g) receive and reply to any petition from the public;
- (h) receive, consider, and reply to any report or recommendations formally submitted by any Overview and Scrutiny Committee, other Committee, Panel, or Board;
- (i) deal with any business from the last Council meeting;
- (j) deal with any Councillor Questions;
- (k) consider any notices of motion;
- (l) consider any item(s) that in the opinion of the Chairman should be considered at the meeting as a matter of urgency; and
- (m) consider any other business specified in the notice convening the meeting.

## 3. SPECIAL MEETINGS

### 3.1. Calling special meetings

The following may request the Head of Paid Service to call a special meeting of the Full Council:

- (a) the Full Council by resolution;
- (b) the Chairman of Council;
- (c) the Head of Paid Service;
- (d) the Monitoring Officer;
- (e) the Section 151 Officer; or
- (f) any five Councillors by signing and giving a request to the Chairman. If the Chairman refuses to call a meeting, or fails to call a meeting within seven days of the request being presented, any five Councillors may then call a meeting.

### 3.2. Business of special meetings of the Full Council

Unless the Chairman is of the opinion that an item should be considered as a matter of urgency, Full Council will only consider the business which is specified in the notice of the special meeting.

Petitions and questions from members of the public will be accepted only if, in the Monitoring Officer's opinion, they relate to the business for which the special meeting has been arranged.

## 4. TIME AND PLACE OF MEETINGS AND ITEMS ON AN AGENDA

### 4.1. Time and place of meetings

Meetings of the Full Council will take place on the date and at the time published in the agenda for the meeting.

### 4.2. Items on an agenda

- (a) Unless the law otherwise requires, items will be included on an agenda:
  - (i) at the request or at the direction of the Chairman;
  - (ii) as required by these Council Procedure Rules, [the Petition Scheme] or any other provision of the Constitution;
  - (iii) as required by resolution of the Full Council and/or by way of a requisition;
  - (iv) at the request of the Head of Paid Service subject to prior consultation with the Chairman;
  - (v) at the request of the Monitoring Officer or Section 151 Officer subject to prior consultation with the Chairman (unless unavailable or absent);
  - (vi) in accordance with a requirement of the Overview and Scrutiny Committee to consider and reply to a report or recommendation;
  - (vii) to consider any recommendation or referral from a Committee or Sub-Committee of the Full Council;
  - (viii) to consider any Officer report identified by any Officer (nominated by the Head of Paid Service for such a purpose) as appropriate to go to Full Council and/or which refers to

any matter which the Constitution or law requires to be considered by Full Council; and/or

- (ix) in the case of a special meeting of Full Council to address the reason for the special meeting.

- (b) The Head of Paid Service (or any other person as the Head of Paid Service may nominate) with the agreement of the Chairman shall decide the appropriate meeting of the Full Council to which an item should be considered and the order of all such items.
- (c) Any urgent items and the reasons for urgency must be submitted to the Head of Paid Service and the Monitoring Officer in advance of the meeting.

### 4.3. Acting in absence

If the Chairman is absent or unavailable at any time when these Council Procedure Rules would otherwise require the Chairman to act then, unless the procedure rules say otherwise, the Vice-Chairman, or if both are absent or unavailable such other Councillor as the Head of Paid Service may at their absolute discretion determine (if any), may act.

## 5. NOTICE AND AGENDA FOR MEETINGS

- 5.1. The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the [Access to Information Procedure Rules](#).
- 5.2. Normally at least five clear working days before a meeting, the Head of Paid Service will send (or where a Councillor has given an email address, e-mail) a copy of the agenda to every Councillor.



- 5.3. The agenda will be authenticated in such manner as the Head of Paid Service considers appropriate, 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 THE MEETING

The person presiding at a meeting of the Council may exercise any power or duty of the Chairman.

## 7. QUORUM

### 7.1. Full Council

The minimum number of Councillors required to be present or quorum for a meeting of the Full Council is eight.

### 7.2. Absence of a quorum

If during any meeting, the Chairman counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. No further business will be considered. Any remaining business will be considered at a time and date fixed by the Chairman. If the Chairman does not fix a date, any remaining business will be considered at the next ordinary meeting.

## 8. DURATION OF THE MEETING AND TIME PERIODS

### 8.1. Time limits

Once a meeting has been in progress for two hours the Chairman will interrupt the meeting at the conclusion of the item under discussion. The meeting will then adjourn for a period of up to 20 minutes, or such other period as the Chairman may decide is appropriate.

### 8.2. Public Participation Time

At each meeting of the Full Council (except for the Annual Meeting and any special meeting) a period of up to 15 minutes will be allowed for Public Participation Time.

### 8.3. Questions and notices of motion by Councillors

At each meeting of the Full Council (except for the Annual Meeting and any special meeting):

- (a) a period of up to 15 minutes will be allowed for Councillor Questions; and
- (b) a period of up to 45 minutes will be allowed for Notices of Motion.

In either case, the Chairman may increase the period for the asking of questions, or debating notices of motion if, in the Chairman's opinion, the importance of the issue raised merits it and to do so would not have an adverse impact on the efficient running of the meeting.

## 9. PUBLIC PARTICIPATION TIME

- 9.1. [Appendix A - Questions from members of the public](#) explains how the public can ask questions at meetings of the full Council.
- 9.2. Any member of the public may submit a petition at Council meetings. However, the Council will not normally accept any petition that does not comply with the [Petition Scheme](#). Petitions which are accepted for consideration will be dealt with under the Petition Scheme

## 10. REPORTS FROM THE LEADER AND PORTFOLIO HOLDERS

### 10.1. Receiving reports from the Leader and Portfolio Holders

Every ordinary meeting of Full Council (except for the Annual Meeting) may receive a report, usually in writing with oral updates, but may simply be oral, from:

- (a) the Leader on matters affecting the Council; and
- (b) each Portfolio Holder on matters relating to their portfolios.

### 10.2. Presentation of report

- (a) The Head of Paid Service will make arrangements for a copy of any written report to be included on the agenda.
- (b) Where the report has been included on the agenda, there shall not be a requirement for the report to be read out by the Leader/ Portfolio Holder at the meeting.

### 10.3. Asking and replying to questions

- (a) Councillors may ask questions on any oral or written report given by the Leader or Portfolio Holder provided that, in the opinion of the Chairman, the questions relate to the report.
- (b) The total number of questions that may be asked of the Leader and Portfolio Holders and the subjects allowed are at the discretion of the Chairman, but each Councillor will normally not be allowed to ask more than one question and one supplemental question on a report.
- (c) The Leader or Portfolio Holder may reply to any question by:
  - (i) giving an oral answer; or
  - (ii) indicating that they will give an answer within seven days of the meeting, with a copy of the answer being circulated to all Councillors.

## 11. QUESTIONS ON NOTICE BY COUNCILLORS

Any Councillor may ask:

- (i) the Leader;
- (ii) the Chairman;
- (iii) a Portfolio Holder; or
- (iv) the Chairman of any Committee;

questions on notice at a meeting of the Full Council (except at the Annual Meeting or a special meeting) within the area of responsibility of the person being asked. [Appendix B - Questions by Councillors](#) will apply to the asking of any Questions.

## 12. COUNCILLOR NOTICES OF MOTION FOR CONSIDERATION AT FULL COUNCIL

Any two Councillors may give notice of a motion about a topic or issue related to the responsibilities of the Full Council, or which directly affects the Council, to be debated at a meeting of the Full Council (except at the Annual Meeting or a special meeting).

**Appendix C – Notices of Motions** will apply to the giving of notice and to the consideration of the motion.

## 13. ANNUAL BUDGET

A Councillor wishing to move an amendment to any recommendation from the Executive on the annual budget must give written notice to the Head of Paid Service not less than five clear working days before the meeting at which the budget or review of charges are being considered. The notice shall set out details of the proposed amendment. The proposed amendment must ensure a balanced budget.

## 14. MOTIONS WITHOUT NOTICE

14.1. The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) about 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 working group arising from an item on the agenda for the meeting;

- (f) to receive reports and/or propose motions/amendments relating to recommendations (whether verbal or written) of the Executive, any Joint Committee, Committee, Sub-Committee, or Officer, 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 asked;
- (k) to adjourn a debate;
- (l) to extend or adjourn a meeting;
- (m) to suspend a procedure rule subject to any limitation as provided for in the Constitution;
- (n) to exclude the public and press as provided for in the Access to Information Rules;
- (o) to not hear further a Councillor named by the Chairman or to exclude a Councillor from the meeting under **Council Procedure Rule 15**;
- (p) by the Chairman of a Committee to identify an alternative motion to that considered by the Committee in reply to a Notice of Motion referred to it under **Council Procedure Rule 14.1(d) or Appendix C Paragraph C6(b)**;
- (q) to provide a reply to a question or petition from a member of the public to such extent as the Council Procedure Rules or any Petition Scheme allow; and
- (r) to give the consent of the Council where its consent is required by this Constitution.

## 14.2. Agenda items not dealt with

If a motion to adjourn the meeting is passed, any unresolved agenda items will be adjourned to a date decided by the Head of Paid Service in consultation with the Chairman.

## 15. RULES OF DEBATE

### 15.1. No discussion until motion seconded

Subject to the proposer's rights under Council Procedure Rule 15.3(a), a motion or amendment shall not be discussed unless it has been proposed and seconded.

### 15.2. Right to require motion in writing

Unless notice of the motion has already been given, the Chairman may require it to be written down before it is discussed.

### 15.3. Proposer's and Seconder's speeches

- (a) The proposer of a motion or an amendment shall have the right to speak immediately after making the proposal. This is separate from the proposer of a motion's right to reply under [Council Procedure Rule 15.9](#).
- (b) The seconder of a motion or amendment shall have the right to speak:
  - (i) immediately after seconding a motion or amendment; or
  - (ii) may opt to reserve their speech until later in the debate.

### 15.4. Content and length of speeches

- (a) Speeches must be directed to the matter under discussion or to a personal explanation or point of order.
- (b) No speech may exceed three minutes without the consent of the Chairman of Council.

### 15.5. 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 Councillor;
- (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 Councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) to exercise any right of reply;
- (e) on a point of order;
- (f) by way of personal explanation; or
- (g) with the consent of the Chairman.

## 15.6. Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will 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 add others; or
  - (iv) to add words,so long as the effect of the amendment 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 Chairman will read out the amended motion before accepting any further amendments or, if there are none, put it to the vote.
- (f) Where possible as a courtesy to other Councillors, notice should be given to the Head of Paid Service of any proposals to amend a motion of which notice has been given. Notice of amendments should be given 24 hours before the meeting at which the Notice of Motion is to be debated.

## 15.7. Alteration of motion

- (a) A Councillor may alter a motion of which the Councillor has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Councillor may alter a motion or amendments which the Councillor has 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 which could be made as an amendment may be made.

## 15.8. Withdrawal of motion

Subject to [Council Procedure Rule 15.1](#), a Councillor may withdraw a motion which the Councillor has moved with the consent of both the meeting and any seconder. No Councillor may speak on the motion after the Proposer has asked permission to withdraw it unless permission is refused.

## 15.9. Right to reply

- (a) The Proposer of a motion has a right to reply at the end of the debate on the motion, immediately before it is voted upon.
- (b) If an amendment is moved, the Proposer 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.
- (c) The Proposer of an amendment has no right of reply to the debate on their amendment.

## 15.10. Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except any of the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to postpone consideration of the motion;
- (d) that the question be now asked;
- (e) to adjourn the debate;
- (f) to adjourn the meeting;
- (g) to exclude the public and press as provided for in the Access to Information Rules; and
- (h) to not hear further a Councillor named by the Chairman or to exclude a Councillor from the meeting.

## 15.11. Closure motions

- (a) A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:
  - (i) that the question be now asked;
  - (ii) to adjourn a debate; or
  - (iii) to adjourn a meeting.
- (b) If a motion that the question be now asked is seconded and the Chairman thinks the item has been sufficiently discussed, the Chairman will put the procedural motion to the vote. If it is passed the Chairman will give the Proposer of the original motion a right of reply before putting the motion to the vote.

- (c) If a motion to adjourn the debate or the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Chairman will put the procedural motion to the vote without giving the Proposer of the original motion the right of reply.

## 15.12. Point of order

A Councillor may raise a point of order at any time. The Chairman will hear the Councillor immediately. A point of order may only relate to an alleged breach of these procedure rules or the law. The Councillor must indicate the rule or law and the way in which they considers it has been broken. The ruling of the Chairman on the matter will be final.

## 15.13. Personal explanation

A Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

NOTE: [Appendix D - Rules of debate Flowchart](#) shows the rules of debate for motions.

## 16. RECISSION OF PREVIOUS DECISIONS AND MOTIONS

- 16.1. Subject to Council Procedure Rule 16.2, no motion to rescind a decision made within the past six months, and no motion or amendment in similar terms to one that has been rejected in the past six months, shall be proposed unless the Notice of Motion is supported by at least 11 Councillors. Once the motion or amendment is dealt with, a similar motion or amendment cannot be proposed for a further period of six months.

16.2. Council Procedure Rule 16.1 shall not apply:

- (a) in respect of a decision or motion for which the Head of Paid Service or Monitoring Officer consider there are exceptional circumstances justifying reconsideration;
- (b) in respect of any motion that may be moved without notice including for the avoidance of doubt to receive reports and/or propose motions/amendments relating to recommendations of any Committee, Sub-Committee, or Officer, and any resolutions following from them; or
- (c) to give effect to a revised budgetary decision of Full Council as provided for in the [Budget and Policy Framework Procedure Rules](#).

## 17. VOTING

### 17.1. 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 is asked.

### 17.2. Chairman's casting vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There is no restriction on how the Chairman chooses to exercise a casting vote.

### 17.3. Ways of voting

Unless a recorded vote is demanded, the Chairman will take the vote by show of hands, electronic voting or, if there is no dissent, by the affirmation of the meeting.

### 17.4. Recording number of votes

The number of votes for and against a proposal shall be recorded if five or more Councillors at the meeting demand it, immediately before or after the vote is taken. The Chairman of Council will announce the numerical result of the vote immediately the result is known.

### 17.5. Recorded vote

If five or more Councillors present at the meeting demand it, before the vote is 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.

### 17.6. Recorded votes at budget meetings

Recorded votes shall be taken on all decisions at a budget decision meeting on the budget and on the setting of council tax. The names of Councillors who cast a vote for or against the decision, or who abstain from voting, shall be recorded in the minutes.

### 17.7. Right to require individual vote to be recorded

Where immediately after the vote is taken, any Councillor requests their individual vote to be recorded, the minutes will record whether they voted for or against the motion or abstained from voting.

### 17.8. 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.

## 18. MINUTES

### 18.1. Signing the minutes

Unless Council Procedure Rule 18.2 applies, the Chairman will sign the minutes of the proceedings at the next meeting of Full Council. The Chairman 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.

### 18.2. No requirement to sign minutes of previous meeting at special meeting

Where the next meeting of the full Council is a special meeting, the minutes of the previous meeting will be signed at the next ordinary meeting after that special meeting.

### 18.3. Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

## 19. RECORD OF ATTENDANCE

A record of Councillors attending at a meeting of Full Council will be made by the Head of Paid Service or their representative attending at the meeting.

## 20. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded from a meeting either as provided for in the [Access to Information Procedure Rules](#) or in accordance with [Council Procedure Rule 22](#).

## 21. COUNCILLORS' CONDUCT

### 21.1. Chairman wishes to speak

When the Chairman indicates that they wishes to speak, any Councillor speaking at the time must stop. The meeting must be silent.

### 21.2. Councillor not to be heard further

If a Councillor persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructing business, the Chairman may move that the Councillor be not heard further. If seconded, the motion will be voted on without discussion.

### 21.3. Councillor to leave the meeting

If, in the opinion of the Chairman, a Councillor continues to behave improperly at a meeting, the Chairman may move that either the Councillor should leave the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

### 21.4. General disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as they think necessary.



## 22. DISTURBANCE BY PUBLIC

### 22.1. Removal of member of the public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman may order their removal from the room.

### 22.2. Clearance of part of room

If there is a general disturbance in any part of the room open to the public, the Chairman may call for that part to be cleared.

## 23. RECORDING OF MEETINGS

Appendix F will apply to the recording of meeting by members of the public.

## 24. APPOINTMENT OF AND DISCIPLINARY ACTION AGAINST OFFICERS

Where Full Council is to appoint any Officer, or is proposing or considering any disciplinary action against an Officer, then such appointment proposals or consideration shall be carried out in accordance with the Officer Employment and Dismissal Procedure Rules.

## 25. INTERPRETATION OF COUNCIL PROCEDURE RULES

The ruling of the Chairman as to any proceedings of the Full Council, shall not be challenged at any meeting.

## 26. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

### 26.1. Suspension

Any of these procedure rules except any rule except **Council Procedure Rules 17.6, 17.7, and 18.2**, may be suspended by a Notice of Motion or without notice if at least half of the whole number of councillors of the Council are present. Suspension can only be for the duration of the meeting.

### 26.2. Amendment to the Council Procedure Rules

Any motion to add to, vary, or revoke these procedure rules will, when proposed and seconded, stand adjourned without discussion to the next meeting of the Audit and Governance Committee unless such addition, variation, or revocation is contained in a report seeking to formally alter the terms of the Constitution.

## Introduction to Committees, Panels and Governance Boards

The Council has set up the Committees, Panels, and Governance Boards described in the [Scheme of Delegation](#).

The members of the Committees and Panels are appointed by the Full Council. The make-up of each Committee or Panel will reflect the balance of political parties on the Council.

If a member of a Committee or Panel is unable to attend a meeting of the Committee, Panel, or Board it may be possible for a substitute member to be appointed under [Appendix E - Arrangements for appointing Substitutes and Co-optees](#) and to attend the meeting in their place.

Each of the Committees and Panels may set up one or more sub-committees to carry out any of the Committee's or Panel's functions. When creating a sub-committee, the Committee or Panel will normally decide the:

- (a) terms of reference;
- (b) arrangements for the holding and frequency of meetings;
- (c) size of membership; and
- (d) quorum,

of each of its Sub-Committees but if not, the Sub-Committee may decide such matters itself provided that the quorum will be not less than three Councillors.

Committees, Sub-Committees, and Panels will meet in accordance with the programme of meetings agreed by the Full Council at its annual meeting. All of the meetings, including those of any sub-committee, will be conducted under the [Committee Procedure Rules](#).

The Overview and Scrutiny Committee may also set up time-limited and single focus advisory groups called [Task and Finish Groups](#) to support policy development and provide Member oversight of key projects. Membership of such Task and Finish Groups is drawn from those Councillors who are not members of the Executive.

The Executive may also establish a Task and Finish Group to provide oversight of a key corporate project.

When Task and Finish Groups are set up they will be given terms of reference and reporting deadlines. Given the nature of Task and Finish Groups, meetings need not be conducted under the Committee Procedure Rules.

Governance Boards oversee governance arrangements for partnership activity and with specified decision-making powers. The partnership agreement will set out who the members of the partnership are and their roles. Meetings will be conducted in accordance with any rules set out in the partnership agreement.

## COMMITTEE PROCEDURE RULES

### 1. APPLICATION OF COUNCIL PROCEDURE RULES TO COMMITTEES, PANELS, BOARDS, AND SUB-COMMITTEES

1.1. All of the following Council Procedure Rules apply, so far as practicable, to meetings of Committees, Panels, Boards, and Sub-Committees (unless expressly specified otherwise in their terms of reference):

- (a) [Rule 4](#);
- (b) [Rules 5–7.2](#) (excluding Rule 7.1);
- (c) [Rules 15–25](#) (excluding [Rule 15.5](#) (speaking only once)); and in [Rule 17.5](#) (recorded vote) a recorded vote may be requested by three members of a Committee).

together with the following additional procedure rules.

1.2. References to “the Chairman” shall be deemed to be references to the Chairman of the relevant Committee, Panel, Board, or Sub-Committee.

### 2. ABSENCE OF CHAIRMAN AND VICE-CHAIRMAN

In the absence of a Chairman and Vice-Chairman at a Committee or Sub-Committee the remaining Councillors present may move and elect a member of that body to preside at that meeting.

### 3. SPECIAL MEETINGS OF COMMITTEES, PANELS, AND SUB-COMMITTEES

- (a) A special meeting of a Committee, Panel, or Sub-Committee may be called:
  - (i) by the Chairman of Council;
  - (ii) by the Chairman of that Committee, Panel, or Sub-Committee;
  - (iii) at the request of a quarter of the members of the Committee Panel, or Sub-Committee, delivered in writing to the Head of Paid Service, but in no case shall less than five Councillors request a special meeting;
  - (iv) by the Head of Paid Service; and/or
  - (v) by the Monitoring Officer or Section 151 Officer where either are of the opinion that a meeting needs to be called to consider a matter that requires a decision.
- (b) The agenda of the special meeting shall set out the business to be considered and, subject to any matters of urgency approved by the Chairman, no business other than that set out in the agenda shall be considered at that meeting.

#### 4. ATTENDANCE OF COUNCILLORS AT A COMMITTEE / SUB-COMMITTEE

- (a) Subject as provided for below a Councillor not appointed to a Committee, Panel, or Sub-Committee may only speak at the invitation of the Chairman of that Committee, Panel, or Sub-Committee.
- (b) Any Councillor not appointed to a Committee, Panel, or Sub-Committee attending a meeting of that Committee, Panel, or Sub-Committee shall sit separately from the main body of the Committee, Panel, or Sub-Committee.
- (c) Where the Chairman is satisfied that it would not disrupt the conduct of the meeting and the meeting technology can facilitate it, any Councillor not appointed to a Committee, Panel, or Sub-Committee may be present remotely for the purposes of listening to the discussion about an item on the agenda and at the invitation of the Chairman, speaking on that item. A Councillor present remotely is still bound by the procedure rules relating to their conduct and in particular may be excluded from the meeting by having their remote connection terminated. Council Procedure Rule 21.3 (Councillor to leave the meeting) shall be read accordingly.

#### 5. PUBLIC PARTICIPATION TIME

**Appendix A - Questions from members of the public** explains how the public can ask questions at meetings of Committees and Sub-Committees of the full Council.

#### 6. ORDER OF BUSINESS OF A COMMITTEE / SUB-COMMITTEE

- (a) Subject to any other provisions in the Constitution or as otherwise decided by the Chairman of a relevant Committee, Panel, Board, or Sub-Committee the order of business will normally be to:
  - (i) elect a person to preside if the Chairman and Vice-Chairman are not present;
  - (ii) receive any declarations of interest from Councillors;
  - (iii) approve the minutes of the last meeting;
  - (iv) receive any questions, petitions, or motions referred to the Committee/Sub-Committee in accordance with the provisions of the Council Procedure Rules/Petition Scheme;
  - (v) consider any item of urgency approved by the Chairman for consideration;
  - (vi) receive any matter referred to it for consideration by Full Council;
  - (vii) receive any report or recommendations from a Committee or Sub-Committee (as the case may be) and reply to matter(s) arising about it;
  - (viii) receive and reply to any report or recommendations formally submitted by the Overview and Scrutiny Committee pursuant to its legislative powers in this respect (if any); and
  - (ix) consider any other business set out in the agenda of the meeting.

## 7. REFERRAL OF A QUESTION, PETITION, OR MOTION TO A COMMITTEE OR SUB-COMMITTEE

### 7.1. General

- (a) Where a matter is referred to a Committee or Sub-Committee under these procedure rules/**Petition Scheme** then that Committee or Sub-Committee shall deal with such matter in accordance with the provisions of these procedure rules/Petition Scheme as if it was being considered by an ordinary meeting of Full Council unless there are express provisions in these rules and Petition Scheme as to how a Committee or Sub-Committee (as the case may be) should deal with such a referral in which event those rules should take precedence.
- (b) For the avoidance of doubt nothing in this Rule shall prevent a Committee or Sub-Committee suspending any rule in accordance with **Council Procedure Rule 26**.

### 7.2. Attending and speaking about a referred matter

Where a matter to which **Committee Procedure Rule 7.1** applies is referred to a Committee or Sub-Committee of the Council, then if the matter was submitted:

- (a) by a member of the public or an organisation then any such person/representative of the organisation shall be given the same right to speak as would have been made available as if the matter was being presented to an ordinary meeting of Full Council; or

- (b) by a Councillor, then that Councillor may attend that meeting and shall be given the same right to speak as would have been made available as if the matter was being presented to an ordinary meeting of Full Council, provided that the Councillor shall not be entitled:

- (i) to move any motion relating to the matter, but may instead ask any member of the Committee or Sub-Committee to move it, in which case any such member may at their absolute discretion choose to move it or not; or
- (ii) to vote on any motion at that Committee or Sub-Committee,

unless in either case the Councillor is also an appointed member of the Committee or Sub-Committee to which the referral has been made.

## 8. QUESTIONS BY COUNCILLORS AT COMMITTEES / SUB-COMMITTEES

- 8.1. Any Councillor has the right to ask a question of the Committee Chairman at any ordinary meeting of a Committee or Sub-Committee of the Full Council (excluding the Development Management and Licensing Committees and the Salcombe Harbour Board). **Appendix B - Questions by Councillors** will apply to the asking of any Questions.

## Introduction to the Executive

The Executive is responsible for everything that is not the responsibility of the Full Council, the Development Management Committee; the Licensing Committee and any other committee other committee of the Council under the **Scheme of Delegation**.

It consists of the **Leader**, who is the Chairman of the Executive and at least two, but not more than nine, other Members appointed by the Leader. The Leader cannot appoint the Chairman and Vice-Chairman of Full Council or any member of the Overview and Scrutiny Committee to the Executive.

The Executive decides annually when it is to meet, but the Leader may call a special meeting of the Executive when the Leader considers it necessary. The Leader may also cancel a meeting of the Executive if there is insufficient business.

The Executive may have Informal Meetings. Informal Meetings are held in private and are for discussion purposes only. For that reason Informal Meetings are not decision-making meetings of the Executive.

Meetings of the Executive will be held in accordance with the **Executive Procedure Rules**.

## EXECUTIVE PROCEDURE RULES

### 1. APPLICATION OF COUNCIL PROCEDURE RULES TO THE EXECUTIVE

- 1.1. All of the following Council Procedure Rules apply, so far as practicable, to meetings of the Executive (unless they are inconsistent with these Executive Procedure Rules):
  - (a) **Rule 4**;
  - (b) **Rules 5–7.2** (excluding Rule 7.1);
  - (c) **Rules 15–25** (excluding **Rule 15.5** (speaking only once); and in **Rule 17.5** (recorded vote) a recorded vote may be requested by three members of the Executive)

together with the following additional procedure rules.

- 1.2. References to “the Chairman” shall be deemed to be references to the Leader.

### 2. MEETINGS OF THE EXECUTIVE

#### 2.1. Dates of Meetings

- (a) Each year the Executive will decide the programme of meetings of the Executive. The Leader may direct that a meeting shall be cancelled or held on another date.
- (b) A special meeting of the Executive may be called by the Leader or, if absent, the Deputy Leader, or by the Monitoring Officer if he/she considers it necessary or appropriate.

## 2.2. Business

At each meeting of the Executive the following business shall, subject to the remaining provisions of these Executive Procedure Rules, be conducted:

- (a) consideration of the record of decision and record of the last meeting;
- (b) declarations of interest, if any;
- (c) a statement from the Leader, if any;
- (d) any other matters set out in the agenda that are Key Decisions (except those containing confidential or exempt information);
- (e) any decisions referred to the Executive for reconsideration;
- (f) consideration of any report and/or recommendation from any Overview and Scrutiny Committee;
- (g) Questions from Councillors to the Executive; and
- (h) other matters set out in the agenda including review of the Forward Plan and other ongoing or outstanding matters.

## 3. CHAIRING MEETINGS OF THE EXECUTIVE

If the Leader is present they will preside. In their absence, then the Deputy Leader shall preside. If both the Leader and the Deputy Leader are absent, or where they agree, the Executive shall elect another member of the Executive to preside.

## 4. QUORUM

- 4.1. The quorum for a meeting of the Executive will be no less than half of the total membership (including the Leader or Deputy Leader, if present).
- 4.2. The quorum for a meeting of an Executive Committee will be no less than two members of the Executive.

## 5. AGENDA ITEMS

### 5.1. Items requested by members of the Executive

Any **Executive Member** may request the Head of Paid Service to place an item of business, which is about a matter for which the Council has a responsibility or which affects the area of the Council, on the agenda of the next available meeting of the Executive.

### 5.2. Items requested by other Councillors

- (a) Any Councillor may ask the Leader to place an item of business about a matter for which the Council has a responsibility or which affects the area of the Council to be placed on the agenda of the next available meeting of the Executive for consideration. The Leader, or in their absence Deputy Leader, has a discretion to limit the number of such items of business at the meeting of the Executive.
- (b) Where the Leader has agreed to the Councillor's request, the Notice of the Meeting shall state the name of the Councillor who requested the item of business to be considered. This Councillor shall be invited to attend the meeting, whether or not it is a meeting in public session.

### 5.3. Referrals from the Overview and Scrutiny Committee or Council

Any item of business resolved by the Overview and Scrutiny Committee or the Council for referral to the Executive shall be placed on the agenda of the next available meeting of the Executive or as soon as practicable after that meeting

### 5.4. Items by the Head of Paid Service, the Monitoring Officer, or the Section 151 Officer

The Head of Paid Service, the Monitoring Officer, or the Section 151 Officer may include one or more items of business for consideration on the agenda of a meeting of the Executive and may require a meeting to be called. If there is no meeting of the Executive in time to deal with the matter in question, then the Head of Paid Service, the Monitoring Officer, or the Section 151 Officer may also require that a meeting be convened at which the matter will be considered.

## 6. ATTENDANCE AT FORMAL MEETINGS OF THE EXECUTIVE

- 6.1. All Councillors shall be entitled to attend formal meetings of the Executive, or its committees, unless the Executive decides otherwise. In the case of Councillors who are not members of the Executive, where the Executive is satisfied that it would not disrupt the conduct of the meeting and the meeting technology can facilitate it, this includes being present remotely for the purposes of listening to the discussion about an item on the agenda and at the invitation of the Chairman, speaking on that item. A Councillor present remotely is still bound by the procedure rules relating to their conduct and in particular may be excluded from the meeting by having their remote connection terminated. **Council Procedure Rule 21.3** (Councillor to leave the meeting) shall be read accordingly.

- 6.2. All members of the Executive will be given notice of all meetings of an Executive Committee and are entitled to attend, whether or not they are members of that committee.

- 6.3. The Head of the Paid Service, the Section 151 Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and any Executive Committee.

- 6.4. The **Access to Information Procedure Rules** set out the rights of access of the press and public to formal meetings of the Executive or its committees.

- 6.5. Executive Procedure Rule 6 does not apply to meetings where members of the Executive meet in an informal private session for political discussion about forthcoming issues and for Executive Members to be briefed collectively and to give an appropriate steer. Such informal meetings are not formal decision-making meetings of the Executive.

## 7. SPEAKING AT MEETINGS OF THE EXECUTIVE

- 7.1. The Chairman of the Overview and Scrutiny Committee is entitled, at any formal public meeting of the Executive, to speak to any matter on the agenda for that meeting.

- 7.2. Other Councillors may also speak at such meetings with the agreement of the Leader or person presiding in their absence.

- 7.3. The mover of a **Notice of Motion** under **Council Procedure Rule 12** which has been referred to the Executive for consideration may attend the meeting of the Executive when the motion is under consideration and to explain the motion. The mover of the motion will be advised of the date and time of the meeting when the matter is to be considered and he/she will be sent a copy of the relevant papers.



## 8. QUESTIONS BY COUNCILLORS AT THE EXECUTIVE

Any Councillor may ask Questions of the Executive at any ordinary formal meeting of the Executive. [Appendix B - Questions by Councillors](#) will apply to the asking of any Questions.

## 9. KEY DECISIONS AND THE FORWARD PLAN

A Forward Plan of Key Decisions to be taken by the Executive, an Executive Committee, or an individual member of the Executive, will be prepared in accordance with the [Access to Information Procedure Rules](#).

## Introduction to the Overview and Scrutiny Committee

The Principles of Scrutiny underpin the Council’s overview and scrutiny function.

This means that scrutiny:

- Provides a critical challenge to Executive policy makers and decision makers;
- Enables the voice and concerns of the public to be heard;
- Is carried out by “independent minded governors” who lead and own the scrutiny role; and
- Drives improvement in public services.

The Overview and Scrutiny Committee is responsible for scrutinising decisions the Executive is planning to take, those it plans to implement, and those that have already been taken/ implemented. Recommendations following scrutiny enable improvements to be made to policies and how they are implemented. The Committee is therefore to be seen as a “critical friend” rather than something that opposes the Executive.

The Overview and Scrutiny Committee also plays a valuable role in developing policy. Time limited Task and Finish Groups may be set up for this purpose.

Evidence sessions are a key way in which the Overview and Scrutiny Committee may inform its work. They might happen at formal committee or in less formal ‘task and finish’ groups.

The [Scheme of Delegation](#) sets out the full responsibilities of the Overview and Scrutiny Committee.

Meetings of the Overview and Scrutiny Committee will be held in accordance with the Overview and Scrutiny Procedure Rules.

## OVERVIEW AND SCRUTINY PROCEDURE RULES

### 1. APPLICATION OF COMMITTEE PROCEDURE RULES TO THE OVERVIEW AND SCRUTINY COMMITTEE

All of the [Committee Procedure Rules](#) together with the following additional procedure rules shall apply to the Overview and Scrutiny Committee.

References to “the Chairman” shall be deemed to be references to the Chairman of the Overview and Scrutiny Committee.

## 2. ORDER OF BUSINESS

Subject to any other provisions in the Constitution or as otherwise decided by the Chairman of the Overview and Scrutiny Committee the order of business will normally be to:

- (a) Agree the minutes of the last meeting;
- (b) declarations of interest;
- (c) consideration of the **Executive Forward Plan**;
- (d) the **Work Programme**;
- (e) consideration of any matter referred to the Committee for a decision in relation to the call-in of a decision;
- (f) responses of the Executive to reports of the Committee; and
- (g) the business otherwise set out on the agenda for the meeting.

## 3. CHAIRING MEETINGS

- 3.1. The Chairman and Vice-Chairman of the Overview and Scrutiny Committee are to be appointed by the Council based on ability and expertise without reference to party political affiliation.
- 3.2. In the absence of the Chairman or Vice-Chairman Council Procedure Rule 4.3 shall apply.

## 4. CO-OPTees

The Overview and Scrutiny Committee and its sub-committees can include people who are not Councillors. **Appendix E - Arrangements for Substitutes and Co-optees** determines how people will be co-opted onto the Overview and Scrutiny Committee.

## 5. WORK PROGRAMME

The Overview and Scrutiny Committee will be responsible for setting its overall **Work Programme**.

## 6. AGENDA ITEMS

### 6.1. Rights of Councillors to have matters put on the agenda of the Committee

- (a) Any Councillor shall be entitled to give written notice to the Head of Paid Service that they would like an item relevant to the functions of the Overview and Scrutiny Committee, but not being an **excluded matter** to be included on the Work Programme. The notice must specify the item and the reasons why the Councillor would like the item included. The reasons should be relevant to the overview and scrutiny function.
- (b) The Head of Paid Service will ensure that request is included on the next available agenda and will inform the Chairman. The Overview and Scrutiny Committee will discuss the reasons for the request and the item will only be included on the Work Programme if the Overview and Scrutiny Committee agrees that the reasons are sufficient to justify the item being included.
- (c) If a request for an item to be included on the Work Programme is agreed, the item will be included on the first reasonably scheduled meeting of the Overview and Scrutiny Committee.

### 6.2. Requests from Council and the Leader/Executive

Full Council and the Leader/the Executive, may request that any matter is included on the agenda of the Overview and Scrutiny Committee and the Overview and Scrutiny Committee shall include the request in its work programme.

## 7. REPORTS AND RECOMMENDATIONS

- 7.1. Once it has formed proposals, the Overview and Scrutiny Committee will submit a formal report, including recommendations for consideration by the Leader/Executive (if the proposals relate to an executive function and are consistent with the existing budget and policy framework), or to the Council as appropriate.
- 7.2. The Council or Leader/Executive shall consider and respond to the report and/or recommendations of the Overview and Scrutiny Committee, indicating what (if any) action is proposed within two months of the report being submitted.
- 7.3. Where the Overview and Scrutiny Committee submit a report for consideration by the Executive on a matter where the Leader has delegated decision-making power to a Portfolio Holder, the report will be submitted to them for consideration. The Portfolio Holder must consider the report and respond in writing to the Overview and Scrutiny Committee within two months of receiving it. The Portfolio Holder will also attend a future meeting of the Overview and Scrutiny Committee to present their response if requested to do so.

## 8. FAILURE TO CONSIDER REPORT

In the event that Leader/Executive fails to consider and to respond to the Overview and Scrutiny Committee within two months of the report being submitted, the Chairman of the Overview and Scrutiny Committee shall be entitled to refer the matter to the next meeting of the Full Council.

## 9. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

In addition to their rights as Councillors, members of the Overview and Scrutiny Committee or sub-committee have the right to documents and to notice of meetings as set out in the [Access to Information Procedure Rules](#).

## 10. COUNCILLORS AND OFFICERS GIVING ACCOUNT

- 10.1. The Overview and Scrutiny Committee may scrutinise and review decisions made, or actions taken, in connection with the discharge of any Council functions. As well as reviewing documentation, it may require any officer or Executive Member to attend a meeting to answer questions. This will normally be confined to the Leader, any Portfolio Holder, the Head of Paid Service, and any statutory or chief officer. Attendance by officers below these will require the prior agreement of the Head of Paid Service.
- 10.2. Where the Leader, Portfolio Holder, or officer is required to attend an overview and scrutiny body under this Rule, the Democratic Services Manager shall inform the Executive Member or officer in writing, giving sufficient notice of not less than 10 working days. The notice will state the nature of the matter on which the Executive Member or officer is required to give an account and whether any written evidence needs to be produced for the meeting. Sufficient notice should be given to allow reasonable time to produce the written evidence.
- 10.3. Where a specific request has been made, it is the duty of those persons to attend, if so required, unless they have a reasonable excuse for being unable to attend.

## 11. ATTENDANCE BY OTHERS AND EVIDENCE GATHERING

- 11.1. The Leader/Executive has a standing invitation to attend any meeting of the Overview and Scrutiny Committee.
- 11.2. The Overview and Scrutiny Committee may appoint advisors and invite people to attend at their meetings to provide information. Attendees at a meeting should be treated with respect and courtesy.

## 12. CALL-IN

- 12.1. Call-in should only be used in exceptional circumstances.
- 12.2. When a decision is made by the Leader/Executive, Portfolio Holder, or an Executive Committee, or is made by an officer with delegated authority or under executive joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two days of being made. The Chairman of the Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- 12.3. The decision notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, subject to the provisions of this Rule on the expiry of five clear working days after the publication of the decision.
- 12.4. If the Chairman, any three members of the Overview and Scrutiny Committee, or any four other Councillors consider that a **Key Decision** has breached or will breach **the principles for good decision-making** or a decision has been made that was not treated

as being a Key Decision, they may give a written call-in notice to the Head of Paid Service. The call-in notice shall identify the decision to be called-in and the grounds for the call-in.

- 12.5. If the Head of Paid Service is satisfied that there are reasonable grounds for the proposed call-in, they will notify the decision-maker of the call-in within five clear working days. The Head of Paid Service will arrange for a meeting of the Overview and Scrutiny Committee to be held. The meeting will be held as soon as reasonably practicable after receipt of the call-in notice.
- 12.6. If, having considered the decision, the Overview and Scrutiny Committee is concerned about it, then:
  - in the case of a decision that was not treated as being a Key Decision, the Committee may require the decision-maker to submit a report to Full Council within such reasonable period as it may specify setting out the particulars of the decision, the reasons for the decision, and if the decision-maker considers that the decision was not a key decision, the reasons for that opinion; or
  - in the case of a Key Decision, the Committee may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter to Full Council. If referred to the decision-maker they shall then reconsider within a further five working days, amending the decision or not, before adopting a final decision.
- 12.7. If, having considered the decision, the Overview and Scrutiny Committee is not concerned about it, then the decision will come into force, and may then be implemented immediately.

- 12.8. If the decision was referred to Full Council and the Council:
- does not object to a decision which has been made, then no further action is necessary and the decision will come into force and may then be implemented immediately.
  - objects to the decision, then the decision will be referred back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- 12.9. Where the decision that has been called-in was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider the Council's view as soon as reasonably practicable.
- 12.10. Where the decision was made by an individual, the individual will reconsider within five working days of the Council request.

### 13. EXCEPTIONS TO CALL-IN

Call-in will not apply to the following decisions:

- (a) non-executive decisions, e.g. individual planning decisions;
- (b) executive decisions made by Area Committees (if any);
- (c) decisions made on any appeal;
- (d) decisions already called-in once;
- (e) non-key decisions made by officers; and
- (f) urgent decisions (subject to compliance with [Overview and Scrutiny Procedure Rule 14](#)).

### 14. URGENT DECISIONS EXCLUDED FROM CALL-IN

- 14.1. The call-in procedure set out in [Overview and Scrutiny Procedure Rule 13](#) shall not apply where the decision being taken by the Council, Leader/Executive, or officer is urgent. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.
- 14.2. The Chairman of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Chairman of the Council or, in their absence, the Vice-Chairman of Council must agree.
- 14.3. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 14.4. For the purposes of this Rule a decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.

### 15. MONITORING AND REVIEW OF CALL-IN RULES

The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council by the Democratic Services Manager with proposals for review if necessary.

### 16. THE PARTY WHIP

There is a presumption that a party whip shall not be applied to matters considered by Councillors when engaged in overview and scrutiny.

## APPENDIX A – Questions from members of the public

A1. As part of every ordinary meeting of the Full Council (other than the Annual meeting), the Executive or a Committee (other than the Development Management, Licensing, or Audit Committees, or the Salcombe Harbour Board) a period of time will be set aside for any member of the public living or working within the Council's area; and any appointed representative of any organisation operating within the Council's area to ask a question of the:

- (a) Leader or Portfolio Holder; or
- (b) the Committee Chairman.

A2. In the case of a special meeting of the Full Council, a Committee (other than the Development Management Committee), or the Executive questions from any member of the public living or working within the Council's area; and any appointed representative of any organisation operating within the Council's area to the Leader, Portfolio Holder, or the Committee Chairman, will only be permitted if the Monitoring Officer is satisfied they specifically relate to the business for which the special meeting has been arranged.

### A3. Time for public questions

- (a) A period of 15 minutes will be set aside at each meeting to receive and reply to any questions from members of the public or appointed representatives.
- (b) The Chairman may increase the period for the asking of questions, or receiving petitions if, in the Chairman's opinion, the importance of the issue raised merits it and to do so would not have an adverse impact on the efficient running of the meeting.

### A4. Number and duration of questions

No person or organisation may ask more than one question in total during public participation time. Sub-divided questions will count towards this total.

### A5. Notice of questions

A question, which must be limited to 50 words and not be broken down into multiple parts, may only be asked if notice has been given in writing or by email to the Head of Paid Service before 1pm three clear days before the meeting at which it is to be asked. The notice must include:

- (a) the name and address of the person wanting to ask the question;
- (b) the title of the Councillor to whom the person would prefer it to be directed (if any); and
- (c) the text of the question.

## **A6. Scope of questions**

- (a) Questions must be about items appearing on the published agenda for the meeting. The Monitoring Officer in consultation with the Head of Paid Service may reject any question if the Monitoring Officer considers that it:
  - (i) is about a matter that is not on the published agenda;
  - (ii) is defamatory, frivolous or offensive;
  - (iii) is substantially the same, or is about a subject which is substantially the same, as a question that has been asked/ received at a meeting of the Council in the past six months;
  - (iv) has already been answered or dealt with through other mechanisms or procedures, such as the Council's complaints procedure or the Local Government and Social Care Ombudsman;
  - (v) requires the disclosure of confidential or exempt information;
  - (vi) is about any standards, planning, or licensing matter or similar such matters;
  - (vii) is about any on-going investigation; and/or
  - (viii) is otherwise inappropriate for such a question to be asked.
- (b) If the Monitoring Officer decides that a question cannot be asked at the meeting then the reason why not will be sent to the person seeking to raise it.

## **A7. Identification of who will reply**

- (a) The Chairman in consultation with the Head of Paid Service shall decide the most appropriate Councillor to reply to any question where a reply is needed. If this differs from that identified by the person presenting the question then this shall be identified before the question is read.
- (b) The Head of Paid Service will arrange for each question that is to be presented to be given to any Councillor who is to reply as soon as reasonably practicable following its receipt.

## **A8. Order of questions**

Questions will be taken in the order in which notice of them was received except that the Chairman may also decide to group together similar questions.

## **A9. Asking the question at the meeting**

- (a) A copy of every question to be read at Full Council will normally:
  - (i) be circulated to Councillors at the meeting;
  - (ii) be made available to the public attending the meeting; andeither recorded verbatim in the minutes or summarised.
- (b) The Chairman will invite the person presenting the question to ask it.



### **A10. Discussion and referral of questions**

- (a) There will be no discussion on matters raised by questions by the public unless the Chairman decides otherwise.
- (b) Any Councillor may suggest that a question which is within the terms of reference of the Executive or a Committee might be better dealt with by the Executive or the Committee. If the Chairman agrees, the Chairman may direct that the question is referred to the Executive or such Committee as the Chairman considers appropriate and the Head of Paid Service will arrange for the question to be included on the next suitable agenda.

### **A11. Replying to a question**

- (a) A reply to any question shall take such form as the Councillor replying considers appropriate, including:
  - (i) an oral reply;
  - (ii) where the information is in a Council publication or other published work, a reference to that publication;
  - (iii) a referral of the matter to the Executive, a Committee, or Sub-Committee for consideration; or
  - (iv) where a reply cannot be given at the meeting, a written reply to the person asking the question.
- (b) The Councillor need not reply to a question where they consider it to be inappropriate to reply.

### **A12. Supplementary question**

Where a reply has been given to a question/statement no supplementary questions will be permitted

### **A13. Inability to present a question**

- (a) If the person asking the question is unable to attend the meeting, the Chairman may decide that a written reply will be given to the question or that the question will not be dealt with.
- (b) Any question which cannot be dealt with during public participation time, whether because of lack of time or the non-attendance of the Councillor who was to reply, will be dealt with by giving a written reply within a reasonable timescale.
- (c) Where written reply is given to a question the Head of Paid Service will arrange for the question and any reply to be copied to all Councillors.

## APPENDIX B – Questions by Councillors

B1. As part of every ordinary meeting of the Full Council (other than the Annual Meeting), the Executive, or a Committee (other than the Development Management, Licensing, or Audit Committees, or the Salcombe Harbour Board) a period of time will be set aside for any Councillor to ask a question on notice of the:

- (a) Leader or Portfolio Holder; or
- (b) Committee Chairman (as relevant to the meeting).

B2. In the case of a special meeting of the Full Council, a Committee, or the Executive no period of time will be set aside for questions on notice by Councillors.

### B3. Time for questions

- (a) A period of 15 minutes will be set aside at each meeting to receive and reply to any questions from Councillors.
- (b) The Chairman of the meeting may increase any of the period for the asking of questions if in the Chairman's opinion, the importance of the issue raised merits it and to do so would not have an adverse impact on the efficient running of the meeting.

### B4. Number and duration of Questions

There is no limit on the number of Questions on Notice that a Councillor may ask during Councillors' Question time.

### B5. Notice to be given of Questions

A Question may only be asked if notice has been given in writing or by email to the Head of Paid Service before 1pm seven clear working days before the meeting at which it is to be asked. Each notice must include:

- (a) the title of the Councillor to whom the Councillor would prefer it to be directed (if any); and
- (b) the text of the Question.

### B6. Scope of Questions

- (a) Questions must be limited to 50 words, not be broken down into multiple parts, and must be about matters within the responsibility of the Full Council, the Committee, or the Executive as the case may be.
- (b) The Monitoring Officer in consultation with the Head of Paid Service may reject any Question if the Monitoring Officer considers that it:
  - (i) is defamatory, frivolous or offensive;
  - (ii) is substantially the same, or is about a subject which is substantially the same, as a question that has been asked/ received at a meeting of the Council, the Committee, or the Executive in the past six months;
  - (iii) has already been answered or dealt with through other mechanisms or procedures such as the Council's complaints procedure or the Local Government and Social Care Ombudsman;
  - (iv) requires the disclosure of confidential or exempt information;
  - (v) is about matters that the Council does not have any powers or statutory duties;
  - (vi) is about any standards, planning, or licensing matter, or similar such matters;
  - (vii) is about any on-going investigation; and/or
  - (viii) is otherwise inappropriate for such a Question to be asked.

- (c) If the Monitoring Officer decides that a Question cannot be asked at the meeting then the reason why not will be sent to the Councillor seeking to raise it.

### **B7. Identification of who will reply**

- (a) The Leader or Chairman (as appropriate) in consultation with the Head of Paid Service shall decide the most appropriate Councillor to reply to any Question where a reply is needed. If this differs from that identified by the person presenting the Question then this shall be identified before the question is read.
- (b) The Head of Paid Service will arrange for each Question to be given to any Councillor who is to reply as soon as reasonably practicable following its receipt.

### **B8. Order of questions**

Questions will be printed on the agenda and taken in the order in which notice of them was received. Where a Councillor has however given notice of more than one Question, the second or further Question will be taken after all those Councillors who have given notice of a Question have had the opportunity of asking their first Question. The Chairman may however decide to group together similar questions.

### **B9. Asking and Replying to the Question at the meeting**

- (a) A copy of every Question together with the answer (unless an oral answer is to be given) will normally:
  - (i) be circulated to all Councillors before 10am on the day of the meeting;
  - (ii) be made available to the public attending the meeting; andeither recorded verbatim in the minutes or summarised.

- (b) Questions and the answers that have been circulated before the meeting will be taken as read.

### **B10. Supplementary question**

The Councillor asking the Question shall be entitled to ask one supplementary question. The supplementary question must relate to the answer given to the original Question.

### **B11. Discussion and referral of Questions**

- (a) Subject to paragraph B10, there will be no discussion on matters raised by Questions by Councillors unless the Chairman decides otherwise.
- (b) Any Councillor may suggest that a Question which is within the terms of reference of the Executive or a Committee might be better dealt with by the Executive or the Committee. If the Chairman agrees, the Chairman may direct that the question is referred to the Executive or such Committee as the Chairman considers appropriate and the Head of Paid Service will arrange for the question to be included on the next suitable agenda.

### **B12. Inability to reply to a Question**

- (a) Any Question which was to be answered orally cannot be dealt with during Councillors Questions, whether because of lack of time or the non-attendance of the Councillor who was to reply, will be dealt with by giving a written reply within a reasonable timescale.
- (b) Where written reply is given to a Question the Head of Paid Service will arrange for the question and any reply to be copied to all Councillors.

## APPENDIX C – Notices of Motion

C1. As part of every ordinary meeting of the Full Council (other than the Annual Meeting) a period of time will be set aside for Councillors to debate Notices of Motion.

C2. In the case of a special meeting of the Full Council, no period of time will be set aside for Councillors to debate Notices of Motion.

### C3. Time for Notices of Motion

- (a) A period of 45 minutes will be set aside at each meeting to debate notices of motion.
- (b) The Chairman of the meeting may increase any of the period for debating notices of motion if in the Chairman's opinion, the importance of the issue raised merits it and to do so would not have an adverse impact on the efficient running of the meeting.

### C4. Number of Notices of Motion

There is no limit on the number of Notices of Motion that a Councillor may propose for debating during the time set aside for Notices of Motion.

### C5. Notice of Motion

- (a) A Notice of Motion is a proposal of which written notice has been given by any two Councillors to the Head of Paid Service before 1pm seven clear working days before the meeting and which in the opinion of the Monitoring Officer:
  - (i) is about a topic or issue related to the responsibilities of the Full Council or which directly affects the Council;
  - (ii) is clearly identifiable as a Notice of Motion;

- (iii) identifies which of the two Councillors is to be the Proposer and which is to be the Seconder; and
- (iv) is signed by the Councillors submitting it (unless submitted by e-mail) and the date it was submitted to the Head of Paid Service; but
- (v) does not relate to the personal affairs or conduct of any individual Councillor or Officer; nor
- (vi) contain defamatory, inappropriate or inflammatory language.

(b) A Notice of Motion may be debated despite written notice not having been given under Paragraph C5(a) if in the opinion of the Monitoring Officer the Notice of Motion is about an urgent matter and the Notice of Motion was put in writing and given to the Head of Paid Service as soon as reasonably practicable before the meeting.

### C6. Where Notice of Motion is to be considered and order in which to be considered

- (a) Unless Paragraph C6(b) applies, a Notice of Motion will normally be considered at the next ordinary meeting of Full Council. The Notice of Motion may be considered at a later ordinary meeting if the Councillors who submitted it prefer and the Chairman of Council considers this appropriate.
- (b) Where the Head of Paid Service considers that a Notice of Motion is about a matter within the terms of reference of the Executive or a Committee then, subject to prior discussion with the Chairman of Council, the Head of Paid Service may arrange for the Notice of Motion not to be included on an agenda for the Full Council, but included on the next suitable agenda of the Executive or the Committee.

- (c) Subject to Paragraph C6(d), Notices of Motion will be listed on the relevant agenda in the order they have been received unless the Chairman considers a different order is appropriate.
- (d) Where a Councillor has submitted more than one Notice of Motion, the second and any subsequent Notice of Motion will be listed after all those Councillors who have submitted a Notice of Motion have had their first Notice of Motion listed.

## C7. Presenting a Notice of Motion

The Councillor identified in the Notice of Motion as the Proposer will read out Notice of Motion and propose it. In the absence of the Proposer or if the Proposer declines to read it then the Notice of Motion shall be dealt with as the Chairman considers appropriate.

## C8. Consideration of a Notice of Motion

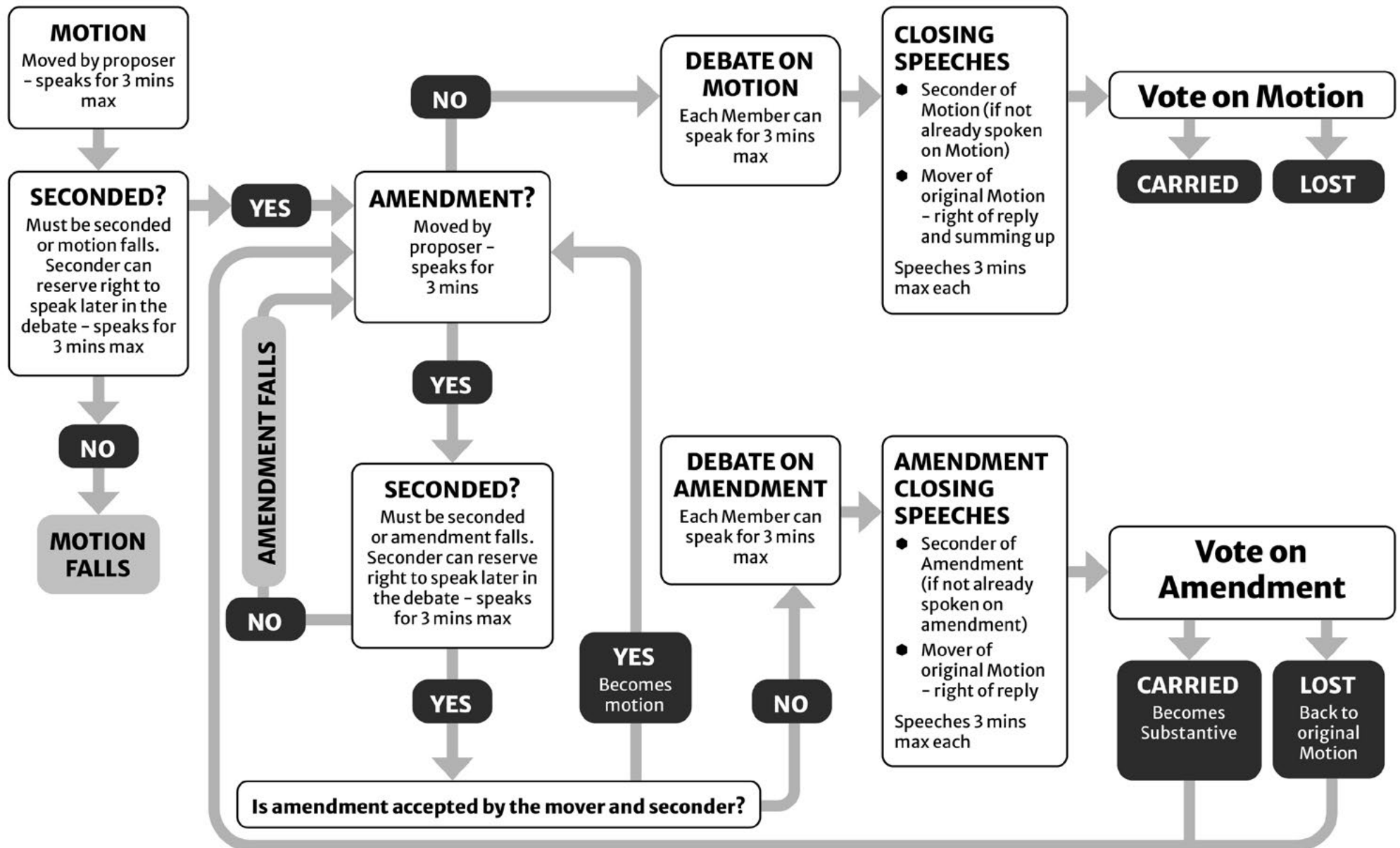
- (a) If a Notice of Motion is not:
  - (i) moved either by the Proposer of it or where the Chairman considers it appropriate, by one of the other signatories on the Proposer's behalf; and
  - (ii) seconded,

then unless postponed by consent of the Chairman, it shall be treated as withdrawn and may not be moved without a new notice. This will also apply to Notices of Motion that are unable to be moved due to the expiration of the time period allowed under paragraph C3(a) or any extension of that period under paragraph C3(b). Accordingly, there will no rolling-over of Notices of Motion from one meeting to the next.
- (b) A Notice of Motion shall not be debated unless it is both moved and seconded. If it is both moved and seconded then the normal rules of debate as set out below shall apply.

## C9. Notice of Motion referred to a Committee

- (a) If a Notice of Motion has been referred to the Executive or a Committee, the Executive or the Committee shall report on it to the next suitable meeting of Full Council. The report shall be presented by the Leader or the Committee's Chairman during that part of the Full Council meeting set aside to consider Notices of Motions.
- (b) When the report has been presented, the Notice of Motion shall be read to the meeting. If the Notice of Motion is not proposed and seconded it shall fall and shall not be considered further without the submission of a new Notice of Motion.
- (c) If the Executive or Committee decided that a different motion to the Notice of Motion should be considered by Full Council then:
  - (i) if the Notice of Motion is proposed and seconded, the Leader or Committee Chairman shall propose the alternative motion as an amendment. If that is proposed and seconded it shall be debated and voted upon under the rules of debate (see [Council Procedure Rule 16](#) or [Appendix D](#)); or
  - (ii) if the Notice of Motion is not proposed and seconded then the Leader or Committee Chairman shall move the alternative motion identified by the Committee. Such a motion may be moved without notice. If seconded it shall be debated and voted upon under the rules of debate (see [Council Procedure Rule 16](#) or [Appendix D](#)).
- (d) Any amendment to either motion if it has been moved and seconded shall be debated and voted upon under the rules of debate (see [Council Procedure Rule 16](#) or [Appendix D](#)).

## APPENDIX D – Flowchart for the Rules of Debate



## APPENDIX E – Arrangements for the appointment of substitutes and co-opted persons to Committees, Panels, and Boards

### E1. Substitutes

- (a) Unless there is express provision to the contrary every Committee, Panel, Board, and Sub-Committee shall have the right to have substitutes appointed to it for the purposes of any meeting.
- (b) In relation to Councillors, arrangements for any substitute shall normally be made:
  - (i) by the group leader of the Councillor for whom the substitution is being sought; or
  - (ii) if the group leader is unavailable/absent, or it is not practical for the group leader to do so, then by any person appointed as a deputy for that group leader,
- (c) by giving notice to the Democratic Services Manager as soon as practicable and no later than 4pm on the working day before the meeting. In the event of advance notification not being provided/received then the substitute shall not be treated as a member of the Committee, Board, Panel, or Sub-Committee for the purposes of being able to speak or vote.
- (d) A substitute for a Councillor may only be from the same political group as the Councillor for whom the substitution is being made.
- (e) A Councillor may not be appointed as a substitute to the Development Management Committee or to the Licensing Committee unless they have undertaken appropriate training.

- (f) In the case of any appointment of a person to a Committee, Panel, or Board who is not a Councillor then there shall be no power to appoint a substitute unless expressly provided for below or the law otherwise requires. Where a substitute for a non-Councillor is permitted, the substitute shall be notified to the Democratic Services Manager as soon as practicable in advance of the meeting of the Committee, Panel, or Board and in any event no later than 4pm on the working day before the meeting.

### E2. Co-opted persons

Where any Committee, Panel, Board, or Sub-Committee described in the [Scheme of Delegation](#) has persons who are not Councillors forming part of it, then unless the provisions identify otherwise, or the law otherwise requires, Committee, Panel, Board, or Sub-Committee may appoint its non-members.

## APPENDIX F – Use of mobile phones, social media, filming and recording at meetings

### F1. Introduction

- (a) It is important that Councillors who are members of the meeting can concentrate fully on proceedings and these Councillors must not be distracted by any filming and recording. Accordingly, this protocol provides guidance to members of the public, press and Councillors on the use of mobile phones, social media and on filming and recording at all formal meetings of the Council (including the Executive, Committees and Sub-Committees).
- (b) Social media refers to the use of web-based technologies to share information and to interact with online communities, e.g. blogs, Twitter, Facebook.

### F2. General

- (a) While no prior permission is required, as a courtesy, anyone proposing to film, record or take photographs during a meeting is requested to tell the Democratic Services Team before the start of the meeting and to provide their name and contact details.
- (b) The Council expects those recording the proceedings:
  - (i) Not to edit the film/recording photographs in a way that could lead to misinterpretation or misrepresentation of the proceedings. This includes refraining from editing an image or views expressed in a way that may ridicule or show a lack of respect towards those being photographed/recorded or filmed;
  - (ii) To comply with any request of a member of the public not to be filmed, recorded or photographed;

- (iii) Not to provide an oral commentary during the meeting as this could be disruptive; and

- (iv) Not to use flash photography.

- (c) If any person wanting to film, record or photograph a meeting, intends to bring large equipment or has any special requirements, they should contact the Democratic Services Team in advance of the meeting, where possible, for any necessary arrangements or adjustments to be made.

### F3. Filming, Photographing and Recording of Meetings

- (a) The filming, photographing or recording of Council meetings or other meetings that are open to the public, and use of social media at those meetings, is allowed, providing it does not disrupt or disturb the conduct of the meeting. The Chairman's decision on whether or not the meeting is being disrupted or disturbed is final. If the Chairman decides that the meeting is being disrupted or disturbed, the Chairman can require the filming, photographing recording or use of social media to stop.
- (b) All those filming a meeting are requested to only focus on recording councillors, officers and the public who are directly involved in the conduct of the meeting.
- (c) If a meeting passes a motion to exclude the press and public then, in conjunction with this, all rights to film, video photograph or record the meeting are removed.
- (d) The Council does not accept liability for any equipment that may be lost, stolen or damaged at any of its meetings that are open to the public.



#### **F4. Filming Members of the Public**

- (a) At the beginning of the meeting, the Chairman will announce that the meeting will be filmed, recorded or photographed and will ask if anyone objects to this.
- (b) In the case of members of the public speaking at meetings (at the Development Management Committee, for example) the Chairman will ask each individual to give their express permission to being filmed and they are not to be filmed if they object.

#### **F5. Use of Mobile Devices and Social Media**

- (a) To minimise disruption to others attending the meeting, all those attending the meeting including Councillors must ensure that their phone or other mobile device is switched off or set to silent mode during the meeting.
- (b) The use of social media in formal meetings is permitted for members of the public, press and Councillors, so long as this does not cause any disruption or disturbance. The Chairman's decision is final.
- (c) No Councillor in attendance, whether a decision-maker or observer, is permitted to use social media or mobile devices during a private session (when the press and the public are excluded), or to disclose in any way the content of the items under discussion.
- (d) The Councillors' Code of Conduct will apply when using social media. Inappropriate comments made during a meeting could open Councillors to potential complaints or investigation under the Code of Conduct.

#### **F6. Legal Responsibility**

Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure compliance. This will include the Human Rights Act 1998, the Data Protection Act 2018 and the laws of libel and defamation.

# CHAPTER 4 – ACCESS TO INFORMATION PROCEDURE RULES

## Introduction to the Access to Information Procedure Rules

Openness and transparency are important for building trust and accountability between the Council and members of the public and between Councillors.

These Access to Information Procedure Rules explain how members of the public can attend meetings of the Council and to see and to have copies of documents being considered at those meetings. They also explain additional rights of Councillors to information supporting decisions being taken by the Executive, an individual member of the Executive or an officer in respect of the Council's executive decisions.

## ACCESS TO INFORMATION PROCEDURE RULES

### 1. Application of the Rules

These Access to Information Procedure Rules apply to all formal meetings of the Council, its Committees and Sub-Committees, public meetings of the Executive and where appropriate individual executive decisions.

### 2. Summary of the Public's rights

A copy of these Access to Information Procedure Rules, which are a written summary of the public's rights to attend meetings and to inspect and copy documents, will be kept at and made available to the public at the Council's offices and published on the Council's website.

### 3. Additional rights to information

These Access to Information Procedure Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### 4. Rights to attend meetings

Members of the public may attend all public meetings subject only to the exceptions in these Access to Information Procedure Rules.

## 5. 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's offices and publishing on its website.

## 6. Access to agenda and reports before the meeting

6.1. The Council will normally make copies of the agenda and reports open to the public available for inspection at the Council's offices at least five clear days before the meeting.

6.2. If an item is added to the agenda later, the revised agenda (or where reports are prepared after the agenda has been sent out), the **Proper Officer** shall make each such report available to the public as soon as the report is completed and sent to Councillors.

6.3. Nothing in this requires a copy of the agenda, item or report to be available for inspection by the public until a copy is available to Councillors.

## 7. Supply of copies

7.1. The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection; and
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda

7.2. If the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item may be supplied to any person on payment of a charge for postage and any other costs.

## 8. Access to decision-making papers

8.1. The Council will make available for inspection by members of the public copies of the following for six years after a meeting:

- (a) the minutes of the meeting, or records of decisions taken for all formal meetings of the Council and the Executive excluding any documents which disclose exempt or confidential information;
- (b) the agenda for the meeting; and
- (c) reports relating to items when the meeting was open to the public.

8.2. 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 excluding any documents which disclose exempt or confidential information.

8.3. Unless a delegated decision is already required to be produced in accordance with another statutory requirement, the Council will publish on the Council's website a record of decisions showing decisions delegated to officers and/or individual members of the Executive where the effect of the decision is to:

- (a) grant a permission or licence;
- (b) affect the rights of an individual; or
- (c) award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

## 9. Background papers

### 9.1. List of background papers

The officer with responsibility for the report (usually the report author) 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:

- (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 Access to Information Procedure Rule 10).

## 10. Exclusion of the public from meetings

### 10.1. Confidential information – requirement to exclude public

The public must be excluded from meetings if it is likely in view of the nature of the business to be considered 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 if it is likely in view of the nature of the business to be considered or the nature of the proceedings that **exempt information** would be disclosed. Where the meeting will decide 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.

### 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 Court Order.

### 10.4. Meaning of exempt information.

Exempt information means information falling within the following seven categories (subject to any qualification):

Category	Condition
1. Information relating to any individual.	See General Note above.
2. Information which is likely to reveal the identity of an individual.	See General Note above
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information in Category 3 is not exempt if it is required to be registered under the Companies Act 1985, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Building Societies Act 1986, or the Charities Act 1993.  Also see General Note above.

Category	Condition
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	“Labour relations matters” are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute.  Also see General Note above
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	See General Note above
6. Information which reveals that the authority proposes:  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  (b) to make an order or direction under any enactment.	See General Note above
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	See General Note above

**General Note:** In all categories, information is not exempt if it relates to development for which the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

Subject to this, and the qualification in Category 3, Information in Categories 1 to 7 is exempt 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 it.

## 11. Exclusion of access by the public to reports

If the **Proper Officer** thinks fit, the Council may exclude access by the public to reports that in their opinion relate to items during which, in accordance with Access to Information Procedure 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. Procedure before taking key decisions

12.1. A Key Decision is an executive decision, which is likely:

- (a) to result in the Council incurring expenditure which is, or the making 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..

For the purpose of this definition, savings or expenditure will not normally be considered to be significant if less than £500,000

- 12.2. Subject to Access to Information Procedure Rules 14 and 15, a Key Decision may not normally be taken unless:
- (a) notice of the Key Decision has been included in the **Forward Plan**;
  - (b) at least 28 clear days have elapsed since the publication of the Forward Plan in which the Key Decision was first included; and
  - (c) where the Key Decision is to be taken at a meeting of the Executive or an Executive Committee, notice of the meeting has been given in accordance with Access to Information Procedure Rule 5.

### 13. Forward Plan

#### 13.1. Advance notice of Key Decisions

Where the Executive, an Executive Committee, individual members of the Executive, Officers, or under joint arrangements intend to take a Key Decision, a Forward Plan or other document will be published at least 28 days before the Key Decisions referred to in it are to be made.

#### 13.2. Contents of Forward Plan.

The Forward Plan or other document will normally contain matters which the Leader of the Council and/ or Head of Paid Service believes will be subject of a Key Decision to be taken by the Executive, an Executive Committee, individual members of the Executive, Officers, or under joint arrangements during the period covered by the plan. It will usually include the following particulars insofar as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;

- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken; the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (f) a list of the documents submitted to the decision taker for consideration in relation to the matter.

### 14. General exception

- 14.1. If it is impracticable to comply with the Forward Plan requirements of Access to Information Procedure Rule 13 above then, subject to Access to Information Procedure Rule 15, the decision may still be taken if the **Proper Officer**:

- (a) is satisfied that it is appropriate for the decision to be taken in any event;
- (b) has informed the Chairman of the Overview and Scrutiny Committee or if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;
- (c) has made copies of that notice available to the public at the Council's offices and on the Council's website; and
- (d) at least 5 clear days have elapsed since the Proper Officer complied with (b) and (c).

14.2. As soon as reasonably practicable after the **Proper Officer** has complied with Access to Information Procedure Rule 14.1, they must make available at the Council's offices a notice setting out the reasons why compliance with Access to Information Procedure Rule 13 is impracticable; and publish that notice on the Council's website.

14.3. Where this Rule applies, Access to Information Procedure Rule 13 need not be complied with.

## 15. Special urgency

15.1. Where the date by which a Key Decision must be made, makes compliance with Access to Information Procedure Rule 14 impracticable, the Key Decision may only be made where the decision-maker has obtained agreement from:

- (a) the Chairman of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chairman of the Overview and Scrutiny Committee is unable to act, the Chairman of Council, or where Chairman of the Council is unable to act, the Vice-Chairman of Council,

that the making of the decision is urgent and cannot reasonably be deferred.

15.2. As soon as reasonably practicable after the decision-maker has obtained agreement under Access to Information Procedure Rule 15.1, the decision-maker must make available at the Council's offices a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred; and publish that notice on the Council's website.

## 16. Report to Council

### 16.1. When the Overview and Scrutiny Committee can require a report

If the Overview and Scrutiny Committee thinks that a decision has been taken which:

- (a) was not treated as being a Key Decision; and
- (b) the Overview and Scrutiny Committee are of the opinion that the decision was a Key Decision,

the Overview and Scrutiny Committee may require the Executive to submit a report to the Council within such reasonable time the Committee specifies.

### 16.2. The Executive's report to Council

- (a) For the purposes of Access to Information Procedure Rule 16.1, the Executive will prepare a report for submission to the next available meeting of the Council.
- (b) If the next meeting of the Council is within 7 days of receipt of the written notice, then the report may be submitted to the meeting after that.
- (c) The report to Council will set out particulars of the decision, the individual 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.

### 16.3. Quarterly reports on special urgency decisions

In any event the Leader of the Council will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Access to Information Procedure Rule 15 in the preceding three 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.

## 17. Record of decisions

- 17.1. As soon as reasonably practicable after any meeting of the Executive or an Executive Committee, the Head of Democratic Services or if the Head of Democratic Services was not present, the person presiding at the meeting, will produce a record of every decision taken at that meeting, which may be in the form of minutes. The record will include:
- (a) a record of the decision including the date it was made;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
  - (d) 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
  - (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer.
- 17.2. As soon as reasonably practicable after a **Key Decision** has been taken by an Officer, they will prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. This does not require the disclosure of exempt or confidential information.
- 17.3. The Head of Democratic Services will maintain and publish a record of all **Key Decisions** on the Council's website as soon as reasonably practicable after the decision was taken. The Head of Democratic Services will also ensure that the record of Key Decisions is available for public inspection during all normal office hours and that the public has the right to copy or to be provided with a copy of any part of that record upon payment of a reasonable copying and administrative charge.

## 18. Procedures before an Executive Meeting at which the public are to be excluded

- 18.1. This Access to Information Procedure Rule applies to any meeting or part of a formal meeting of the Executive or an Executive Committee at which members of the public are to be excluded in accordance with **Access to Information Procedure Rule 10**. It does not apply to meetings where members of the Executive meet in an informal private session for political discussion about forthcoming issues and for Executive Members to be briefed collectively and to give an appropriate steer. Such informal meetings are not formal decision-making meetings of the Executive.
- 18.2. Where Access to Information Procedure Rule 18.1 applies, the formalities for the setting up of such a meeting required by Regulation 5 of Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 will be complied with.

## 19. Decisions by individual members of the Executive

### 19.1. Reports intended to be taken into account.

Where an individual member of the Executive receives a report which s/he intends to take into account in making any Key Decision, then they will not normally make the decision until at least five clear days after receipt of that report.

### 19.2. Record of individual decision.

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive they will prepare, or instruct the **Proper Officer** to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected.



## 20. The Overview and Scrutiny Committee's access to documents

### 20.1. Right to copies

Subject to Access to Information Procedure Rule 22.3 below, the Overview and Scrutiny Committee (and its sub-committees) is entitled to copies of any document which is in the possession or control of the Executive (or its committees) and which contains material relating to:

- (a) any business transacted at a public or Executive Briefing or its committees; or
- (b) any decision taken by an individual member of the Executive; or
- (c) any decision taken by an officer of the authority exercising an Executive function.

### 20.2. Provision of copies

Copies of documents requested under this Rule must be supplied within 10 clear days of receipt of the request.

### 20.3. Limit on rights

The Overview and Scrutiny Committee is not 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 it is reviewing or scrutinising or intends to scrutinise; or
- (c) the advice of any political adviser or assistant.

## 21. Additional rights of access for Councillors

### 21.1. Material relating to previous business

All Councillors will be entitled to inspect any document that is in the possession or under the control of the Executive; and: contains material relating to any business to be transacted at a public meeting or; contains material relating to any business considered at an Executive Briefing, any decision made by an individual Councillor in accordance with executive arrangements, or a decision made by an officer in accordance with executive arrangements, at the times and in accordance with the timescales set out in Regulation 16 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 except where it appears to the **Proper Officer** the document or part contains exempt information or advice provided by a political advisor or assistant.

### 21.2. Nature of rights

These rights of a Councillor are additional to any other right a Councillor may have.

# CHAPTER 5 – OTHER PROCEDURE RULES

## BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

### Introduction

These Budget and Policy Framework Procedure Rules apply to the development and amendment of the plans or strategies comprising the Policy Framework and of the Budget.

#### 1. The structure for Executive decisions

The Council will be responsible for the adoption of its **Budget and Policy Framework**. Once a budget or policy framework is in place, it will be the responsibility of the Executive to implement it. The adoption of most other policies will be dealt with in accordance with relevant executive arrangements.

#### 2. The process for developing the framework

- 2.1. Before a plan/strategy/budget that is part of the Budget and Policy Framework can be adopted, initial proposals will be published in accordance with relevant executive arrangements. Details of any consultation process shall be included in relation to each of these matters in the forward plan. Any representations made to any consultation shall be taken into account in formulating the initial proposals. The Overview and Scrutiny Committee and in the case of the Medium Term Financial Strategy, the Audit and Governance Committee, shall be notified of initial proposals and may suggest additional or alternative arrangements for consultation.
- 2.2. At the end of the consultation period, the Executive will draw up firm proposals having regard to the responses to any consultation (including any from the Overview and Scrutiny Committee and/or the Audit and Governance Committee). The Executive's report to the Council will reflect the comments made by consultees and the Executive's response. The Proper Officer will refer them at the earliest opportunity to the Council for decision.

- 2.3. The Council will consider the Executive's proposals and may adopt them, amend them, refer them back to the Executive for further consideration, or subject to Council Procedure Rule\*, substitute its own proposals in their place. In considering the matter, the Council shall have before it the Executive's proposals and any report from the Overview and Scrutiny committee.
- 2.4. A copy of the Council's decision will be given to the Leader of the Council. The Notice of Decision shall be dated and:
- (a) if the Council accepts the Executive's proposals without amendment shall state that the Council's decision shall be effective immediately.
  - (b) if the Executive's proposals are accepted but with amendments or are substituted by the Council's own proposals, shall state that unless the Leader of the Council objects to the Council's decision or submits revised proposals within five clear working days of the publication of the notice, the decision will take effect on the expiry of that period. The Leader may waive their right to object in writing, and if so the decision will take effect immediately.
  - (c) if the Council decides to refer the matter back to the Executive for the further consideration, that decision shall take effect immediately.
- 2.5. If the Leader of the Council objects to the decision of the Council, or the Leader of the Council intends to submit revised proposals the Leader of the Council shall give written notice to the Proper Officer to that effect before the date upon which the decision is to be effective.
- 2.6. Where the Leader of the Council objects the notice must state the reasons why the Leader objects. Where a notice is received, the Proper Officer shall call a further Council meeting to reconsider its decision and the decision shall not be effective pending that meeting. The Council meeting must take place as soon as reasonably practicable following the receipt of the Leader of the Council's written objection.
- 2.7. Where the Council has referred the matter back to the Executive for further consideration, the Proper Officer shall convene a further Council meeting to reconsider the matter following the Executive's further consideration. The Council meeting must take place as soon as reasonably practicable following the receipt of the Leader of the Council's revised proposals.
- 2.8. At the further meeting, the Council shall make its final decision on the proposed plan and the decision shall be implemented immediately.
- 2.9. In approving the plan/strategy/budget, the Council will specify the extent of virement (to the extent this is relevant) and the degree of in-year changes which may be undertaken by the Executive, in accordance with Budget and Policy Framework Procedure Rules 4 and 5. Any other changes to the Budget and Policy Framework are reserved to the Council.

### **3. Decisions outside of the Budget and Policy Framework**

- 3.1. Subject to the provisions of Budget and Policy Framework Procedure Rules 4 and 5, the Executive, individual members of the Executive and any officers, area committees (if any) or joint arrangements (if any) discharging executive functions shall only take decisions which accord with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which 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.
- 3.2. If the Executive, individual members of the Executive and any officers, area committees (if any) or joint arrangements (if any) discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and the Section 151 Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those officers is that the decision would not accord with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision.

### **4. Virement**

Above the limits set out in the Council's Financial Procedure Rules, any virement across budget heads shall require the approval of Full Council.

### **5. In-year-changes to the Budget and Policy Framework**

No changes to any policy and strategy that makes up the Policy Framework may be made other than by the Council.

### **6. Call-in of decisions contrary to or not wholly in accordance with the Budget and Policy Framework**

Without prejudice to Overview and Scrutiny Procedure Rule \* (call-in) if the Overview and Scrutiny Committee is of the opinion that an Executive decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then having sought advice from the Monitoring Officer and Section 151 Officer, it may call-in the decision under the Overview and Scrutiny Procedure Rules.

# CONTRACT PROCEDURE RULES

## Introduction to the Contract Procedure Rules

**Procurement is ‘the process of acquiring works, supplies or services from third parties.**

The process spans the whole cycle from identification of needs, through to the end of a service contract or the end of the useful life of an asset. It involves options appraisal and the critical “make or buy” decision, which may result in the provision of services in-house in appropriate circumstances.”

Good procurement depends on ensuring that requirements are reliably determined, appropriate sourcing strategies are developed, and contracts are well-managed. Failure to procure in this way can result in additional costs and put the achievement of the Council’s strategic priorities at risk.

These Contract Procedure Rules explain the processes that the Council will apply when purchasing, licensing, leasing, contracting, commercial partnering or commissioning of works, supplies or services from third parties. They are intended to:

- (a) ensure that the Council secures the best value;
- (b) provide those involved in spending public money, with clear and transparent procedural requirements to complement existing professional skills, integrity and commitment and to protect officers (and the Council) from legal challenge;
- (c) ensure fairness to those seeking to contract with the Council;
- (d) prevent fraud and corruption or the suspicion of it; and
- (e) ensure the Council operates within the law.

The following are the Council’s rules for the letting of contracts for the supply of goods or materials or for the carrying out of works or services. They do not affect the validity of anything done under any earlier version of these rules.

**PART A – applies to all contracts**

**PART B – applies to below Procurement Regulations contracts**

**PART C – applies to above Procurement Regulations contracts**

**PART D – applies to all contracts, where appropriate**

## **PART A – applies to all contracts**

### **1. Interpretation**

In these Contract Procedure Rules, references to:

- (a) “the eTS” means the Council’s electronic tendering system;
- (b) “Procurement Regulations” means the Public Contracts Regulations 2015 or the Public Concessions Regulations 2016 or similar, subsequently amended by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020; and
- (c) the “Section 151 Officer” and the “Monitoring Officer” include any other Officer duly authorised by either of them to act under these Rules.

### **2. General**

#### **2.1. Requirement for compliance**

- (a) Unless Contract Procedure Rule 2.2 applies every contract made by or on behalf of the Council, (including those where there is no cost to the Council, but which result in income being generated for the supplier or contractor) must comply with these Contract Procedure Rules.
- (b) Every contract should also comply with the Financial Regulations, all relevant statutory provisions and any direction of the Council.

#### **2.2. Exceptions**

These Rules shall not apply to:

- (a) contracts of employment;
- (b) contracts for individual temporary agency staff;
- (c) treasury management;
- (d) the use of counsel or any other external legal service where advice, assistance and/or representation is required, and:
  - (i) the requirement for appointment is considered to be urgent by the Monitoring Officer or the Head of Legal Services or any other Officer authorised by either of them; or
  - (ii) where the appointment is not urgent, the contract value is estimated at the time of the initial instruction to be less than £49,999;
- (e) contracts for works, or the purchase of goods or services under an existing framework agreement if Contract Procedure Rule 3 is followed;
- (f) contracts for the sale, letting or purchase of land or buildings;
- (g) contracts where the works, or the purchase of goods or services are on behalf of a partnership of public sector bodies including the Council and the award of the contract is under the lead body’s own rules;
- (h) contracts for the execution of mandatory works by statutory undertakers;
- (i) trading arrangements under which the Council provides, goods, services or works to a third party; and
- (j) a contract that any Senior Officer considers is necessary for the purposes of an emergency.

## 2.3. Variation or exemption of Contract Procedure Rules

- (a) No variation of or exemption from these Rules is allowed unless:
  - (i) the Council or the Executive resolves;
  - (ii) the law requires otherwise; or
  - (iii) the officer seeking the variation or exemption has completed the relevant exception record and it has been approved in advance of a contract being awarded.
- (b) No variation or exemption may be made which will result in a breach of any relevant Procurement Regulations or threshold.
- (c) A variation or exemption may be granted on any one or more of the following grounds:
  - (i) the nature of the market has been investigated and is considered to be such that a departure is justified because the Contract can only be performed by one supplier or best value as likely to be achieved by approaching one supplier; or
  - (ii) the contract is required in circumstances of urgency that could not reasonably have been foreseen; or
  - (iii) the Council has a contract with an organisation already engaged by the Council for similar and related works, goods or services and it is considered that there would be significant benefit to extend the existing contract to cover any additional requirement without exposing the Council to unacceptable risk; or
  - (iv) where any Procurement Regulations or other legislation prevents a procurement process being followed; or

- (v) contracts for supplies, materials, services or works which are available only as proprietary or patented articles, services or works from one contractor or supplier and for which an Senior Officer decides that there is no reasonable alternative available including contracts for repairs, or the supply of, parts to such articles or works; or
- (vi) the Council would incur or suffer increased costs or loss of income that would be significant compared to the overall Contract Value;

and in all cases, in the opinion of the Officers approving the exemption, it is appropriate.

## 2.4. Authority to procure

Any procurement carried out on behalf of the Council may only be undertaken with authority to carry out such task whether by way of a delegation in the Scheme of Delegation – Part 3 of the Constitution or otherwise.

## 2.5. Calculating the financial value of a Contract

When calculating the value of a contract for the purposes of these Rules (other for concession contracts):

- (a) values are total lifetime contract values not annual values;
- (b) values including recoverable VAT;
- (c) values are to be aggregated – for example, if there is a recurring need on an annual basis for supplies, or where the procurement is a joint procurement with West Devon or any other authority;
- (d) if there are variables which result in the estimate being a range of figures rather than a single figure, then the highest figure in the range will be the value of the contract;

- (e) the valuation shall include the value of possible contract extensions and possible additional options including sub-contractors' costs; and
- (f) where a contract is of indeterminate length the value of the contract shall be assessed on the basis of the monthly estimated cost x 48.

## **2.6. Contract Extensions**

- (a) Any contract below Procurement Regulations thresholds may be extended in accordance with its contract terms.
- (b) All contracts above Procurement Regulations threshold can only be extended if contract notice provided for the possibility of the contract being capable of being extended and the relevant statutory requirements prevailing at the time.

## **3. Officer responsibilities**

### **3.1. Senior Officers must:**

- (a) comply with these Contract Procedure Rules and must ensure that their officers comply with them too.
- (b) keep a written record of all approved exemption requests for his/her department. This record must be produced when required by the Monitoring Officer or audit.
- (c) arrange the safekeeping of original tender documents, exemptions and Contracts in accordance with the Council's retention policy and ensure all Contract details are provided to the Section 151 Officer to record in the Contracts Register.

### **3.2. The Officer is responsible for the procurement must:**

- (a) comply with these Contract Procedure Rules and procurement law;
- (b) ensure that any Agents, Consultants and contractual partners, conducting procurement activities on their behalf also comply;
- (c) take account of all necessary legal, financial, procurement and any technical advice;
- (d) have regard to Guidance provided by the Procurement Officer;
- (e) keep the records required by Contract Procedure Rule 29;
- (f) ensure security and confidentiality of documentation at all stages of the procurement activity, including Tender Evaluation Reports, working papers and minutes of meetings. The officer must ensure that he or she records in writing all minutes of meetings and decisions/actions taken.



## 4. Steps before starting a procurement

Before starting to procure goods, services or works, the Senior Officer or the Officer responsible for the procurement must:

- (a) consider options for delivery of the required goods, services or works and may conduct market consultations to obtain information and advice for the purposes of planning the quotation or tender procedure and informing potential contractors of their plans and requirements;
- (b) identify the size, scope, term and specification of the goods, services or works required
- (c) check whether:
  - (i) the Council already has an available and appropriate contract in place in the Contracts Register, or an appropriate national, regional or other collaborative contract is available for use;
  - (ii) there is appropriate Council authority (permission) to procure and sufficient budgetary provision has been formally approved for the anticipated Contract expenditure;
  - (iii) any employee, either of the Council or of a service provider, may be affected by any transfer arrangement, then any Transfer of Undertaking (Protection of Employment) (“TUPE”) issues and costs are considered and appropriate advice is obtained.

## 5. Framework agreements

### 5.1. To be used where appropriate

Public sector-led frameworks agreements and contracts let by other public sector bodies for the purchase of goods and services may offer Best Value to the Council. Subject to Rule 5.2, Framework Agreements may be used where the Council’s requirements can be met, it is practicable to do so and there is no existing corporate contract for the same or similar goods, works, and services which would be breached if a framework agreement was used.

### 5.2. Pre-conditions

Before entering into an existing framework agreement, the relevant Senior Officer should be satisfied that:

- (a) the Council is within the description of the contracting bodies who can use the framework agreement; and
- (b) the framework agreement has been advertised and meets the relevant statutory requirements prevailing at the time.

### 5.3. Subsequent purchases

Unless the terms of the framework agreement say differently and/ or the framework agreement does not contain clear call-off contract criteria, once the framework agreement is operating, all subsequent purchases under the call-off contract shall, either:

- (a) not require further competition or,
- (b) if there are 2 or more suppliers of those goods or services, the competition shall be by inviting quotations from all of those suppliers on the price payable for the goods or services.

## **PART B – applies to contracts with a Contract Value of less than the Procurement Regulations Threshold**

### **6. No framework agreement – contracts with a value up to £25,000**

- 6.1. Where the relevant Senior Officer estimates at the beginning of the procurement the contract value up to £25,000, the relevant Senior Officer should seek to obtain best value, which for the purpose of this Contract Procedure Rule means using an existing corporate contract or seeking one or more quotes.
- 6.2. If the expenditure has been approved in estimates and any necessary financial or other approvals have been obtained, the relevant Senior Officer may proceed with the contract.

### **7. No framework agreement – contracts with a value between £25,000 and £100,000**

- 7.1. Where the relevant Senior Officer estimates at the beginning of the procurement that the contract value is between £25,000 and £100,000 three written quotations shall be sought wherever possible, which should include at least one from a local contractor based in the Council's area. This should be done through the [eTS](#), but may be by letter, e-mail or some other mechanism by which the price can be evidenced before a purchase decision is taken.

- 7.2. When requesting quotations above £25,000 the relevant Senior Officer must also specify:

- (a) the goods, works or service required;
- (b) the award criteria; and
- (c) any relevant terms or conditions or special requirements.

### **8. No framework agreement – contracts with a value of between £100,000 and Procurement Regulations thresholds – requirement for tenders**

#### **8.1. Financial thresholds**

Tenders shall be invited where the contract value is estimated at the beginning of the procurement to be £100,000 or more but below relevant Procurement Regulations thresholds.

#### **8.2. Requirement to advertise**

All contracts where the contract value is estimated at the beginning of the procurement to be £100,000 or more, but below relevant Procurement Regulations thresholds must be advertised through Contracts Finder. A Senior Officer may advertise contract opportunities below this threshold on Contracts Finder if they are satisfied that it is unlikely there will be sufficient local competition or considers this to be a preferred approach for any other reason.

#### **8.3. Methods to be used**

Tenders shall be sought by way of an Invitation to Tender using the [eTS](#).

## 9. Pre-Qualification or Selection

- 9.1. The Crown Commercial Services' Standard Selection Questionnaire must be provided to all contractors requesting to participate, which shall be used to determine the Contractor's eligibility, financial standing and technical capacity.
- 9.2. The Council shall treat as ineligible and shall not select any Contractor who has been convicted of any of the offences set out in Regulation 57 of the Procurement Regulations.
- 9.3. The Senior Officer shall only agree to the selection of a contractor once they are objectively satisfied as to the Contractor's:
- (a) eligibility;
  - (b) suitability to pursue a professional activity;
  - (c) economic and financial standing; and
  - (d) technical or professional ability.

## 10. Form of invitation to tender and submission of tenders

### 10.1. Form

The Invitation to Tender shall be prepared by the relevant Senior Officer and shall:

- (a) describe the scope of the goods, works and/or services to be procured including any relevant outputs necessary for monitoring performance;
- (b) give reasons to justify any decision not to accept sub-division of the contract into lots;

- (c) require tenderers to answer questions about their suitability, capability, legal status and financial standing;
- (d) invite tenderers to identify information they consider to be confidential, commercially sensitive and/or exempt from disclosure in response to a relevant statutory request made to the Council;
- (e) include the criteria and the weightings that will be the basis for the evaluation of tenders;
- (f) state the form of contract and/or terms of the contract including any required by these Contract Procedure Rules and state that the Council will not accept any alteration or amendment of those terms and conditions of contract;
- (g) state that the Council does not accept any qualification or addition to the invitation to tender other than when requested;
- (h) set out an adequate timetable for the submission and consideration of tenders; and
- (i) require all tenders to be submitted on a form of tender prepared by the relevant Senior Officer which shall include where appropriate:
  - (i) a certificate against collusion;
  - (ii) a statement that tenders should be kept open for a specified period after the date of tender opening;
  - (iii) a statement that the Council will not be bound to accept any tender; and
  - (iv) a statement that any tender or contract may be inspected by any regulator.

## 10.2. Receipt

- (a) The relevant Senior Officer will arrange for the opening of tenders and release for evaluation as soon as possible after the date and time specified in the Invitation to Tender. Any tender received after the date and time specified for receipt will be recorded as being received late and will not be considered.
- (b) Tenders submitted by fax or e-mail will not be accepted.

## 10.3. Custody of tenders received

Tenders shall remain unopened in the eTS until the time set for their opening.

## 11. Opening and registration of tenders

- 11.1. All tenders received by the date and time set for receipt of tenders and which meet the requirements of Contract Procedure Rule 7.1(i) will be opened at the same time by the relevant Senior Officer or their nominee after the time set for their receipt.
- 11.2. The names of the tenderers and the amounts will be recorded in the eTS.

## 12. Evaluation of tenders

- 12.1. Before evaluating tenders, the relevant Senior Officer must check that the tenders comply with any instructions to tenderers, pricing, schedule and any other explicit requirements (e.g. submission of method statements) and unless provided for in the invitation to tender that the tender is not a qualified tender.
- 12.2. The criteria and weightings described in the Invitation to Tender must be used in scoring any tenders.

## 13. Alterations to tenders

- 13.1. Errors identified before closing date If an error is identified in the specification or other tender documentation before the closing date for the return of tenders, all tenderers are to be told about the error promptly and allowed to adjust their tenders.
- 13.2. Errors identified after closing date If an error is identified in the specification or other tender documentation after the closing date for the return of tenders, all tenderers are to be told about the error and given the chance to either withdraw or amended their tender.
- 13.3. Errors or discrepancies in successful tenders Where examination of tenders shows errors or discrepancies which would affect the tender figure in an otherwise successful tender the tenderer shall be told of the errors and discrepancies and given the chance of confirming or withdrawing his offer, or in the case of arithmetical errors, of correcting them. If the tenderer withdraws, the next tender in competitive order is to be examined and dealt with in the same way.

## 14. Post-tender negotiation

- 14.1. Post-tender negotiations for contracts below any relevant Procurement Regulations thresholds shall not be conducted where to do so might distort competition particularly with regard to price. In the event that post-tender negotiations are necessary following the submission of a tender, then such negotiations must only be undertaken with the tenderer who has previously submitted the most economically advantageous tender as assessed against the tender evaluation method. Full and proper records shall be kept of any post-tender negotiations.
- 14.2. Unless the Section 151 Officer and the Monitoring Officer otherwise agree, any post-tender negotiations must be conducted by at least two Officers.

- 14.3. If post-tender negotiations take place the relevant Senior Officer shall prepare a report to the Executive for approval before any tender is accepted
- 14.4. The Council may require a Contractor to provide information supplementing the information provided in their tender.
- 14.5. The Council may require a Contractor to clarify information relating to their eligibility, economic and financial standing or technical or professional ability or information included in their tender provided this does not discriminate either in favour or against the Contractor.
- 14.6. Where any further information or post-tender negotiation results in a fundamental change to the specification or contract terms the contract shall not be awarded but shall be re-tendered.

## **15. Acceptance of tenders – Most favourable tender**

- 15.1. A tender may not be accepted without approval Executive unless it:
  - (a) is within the approved budget;
  - (b) meets all of the tender submission requirements in Contract Procedure Rule 7.1(i);
  - (c) complies with the detailed specification;
  - (d) is the most economically advantageous tender having regard to any award criteria and the weightings applied to them; and
  - (e) it is not a tender qualified by reservations or statements made by the tenderer limiting any liability that the tenderer would be subject to if that tenderer is awarded the contract.
- 15.2. A tender which meets the criteria in Contract Procedure Rule 12.1(a)-(e) shall not be accepted if the Contract Value is more than £500,000 without approval of the Executive.

## **PART C – applies to contracts with a Contract Value above the Procurement Regulations Threshold**

### **16. No framework agreement – contracts with a value above Procurement Regulations thresholds – requirement for tenders**

- 16.1. Subject to the agreement of the Section 151 Officer any of the procedures permitted by the relevant statutory requirements prevailing at the time and which are appropriate may be used to obtain tenders.
- 16.2. The procedure adopted shall comply with the relevant statutory requirements prevailing at the time and these Contract Procedure Rules where relevant.
- 16.3. Where the Open or Restricted List procedures are used post-tender negotiations are not permitted.
- 16.4. No tender that is for a contract above any relevant Procurement Regulations threshold shall be accepted unless the Monitoring Officer is satisfied that the notices of the intention to award the contract have been given to unsuccessful tenderers (and if necessary, to contractors not invited to tender) and the period for them to challenge the award has ended.

## **PART D – applies to all contracts, where appropriate**

### **17. Promotion of equalities**

To comply with the Council's duty under the Equality Act 2010 to promote equality of treatment, tenderers for contracts above any relevant Procurement Regulations thresholds shall be required to explain what measures they would take to actively promote equality of opportunity.

### **18. Public Services (Social Value) Act 2012**

To comply with the Council's duties, in preparing tenders for any contract above any relevant Procurement Regulations thresholds the Senior Officer must consider how to incorporate relevant social value considerations into the procurement process.

### **19. Local Government (Contracts) Act 1997**

No tender relating to a contract to which the Local Government (Contracts) Act 1997 Sections 2–9 apply shall be accepted without consideration by the Monitoring Officer.

### **20. Letters of intent**

A letter of intent providing the basis for a future agreement should only be used by a Senior Officer following the taking of advice from the and Monitoring Officer.

## **21. Contracts to be in writing**

### **21.1. Form**

- (a) All contracts for goods, services and works shall be in writing or in approved electronic format.
- (b) Every contract having a Contract Value of less than £25,000 shall be by Purchase Order incorporating the Council's standard terms and conditions unless a formal agreement is entered into.
- (c) Every contract having a Contract Value of £25,000 or more shall be in form agreed with the Monitoring Officer.

### **21.2. Content**

Every contract having a value of £25,000 or more shall, in addition to any other relevant matters, specify:

- (a) the goods, materials, works, services or other things to be furnished supplied had or done;
- (b) the price to be paid with a statement of discount or other deductions;
- (c) a condition that the contractor shall subscribe to the standards of ethical conduct expected by the public from those working in the public sector;
- (d) unless it is for the one off purchase of goods and/or materials, the date when the contract will terminate and the terms on which the contract may be terminated early; and
- (e) where applicable the time or times within which the contract is to be performed.

### 21.3. Signing of contracts

- (a) Other than contracts in the form of an official order every contract less than £25,000 in value not required or intended to be sealed, shall be signed on behalf of the Council by the relevant Head of Service (or other officer authorised by them in accordance with the Scheme of Delegation).
- (b) Other than contracts in the form of an official order every contract between £25,000 and £100,000 in value not required or intended to be sealed, shall be signed on behalf of the Council by the relevant Chief Officer (or other officer authorised by them in accordance with the Scheme of Delegation).
- (c) Every contract over £100,000 in value shall be signed or where required or intended to be made under seal shall be sealed on behalf of the Council by the Monitoring Officer (or other officer authorised by them in accordance with the Scheme of Delegation)

## 22. Safeguards for due performance

### 22.1. Failure to Deliver

- (a) Every contract for the supply of goods, services, works and/or materials to which these rules apply should, unless the relevant Senior Officer considers it inappropriate, include a clause protecting the Council against the Contractor's failure to deliver. The clause should include the right for the Council to:
  - (i) purchase other goods, services, works or materials to put right the effects of the Contractor's failure; and
  - (ii) recover from the Contractor any excess cost of purchasing other goods, services, works or materials.

- (b) In every contract for the supply of goods, services, works and/or materials, a clause will, unless the relevant Senior Officer considers it inappropriate, be included to the effect that the goods, services, works and/or materials will only be deemed to have been delivered to the Council if they have been delivered to the location specified by the Council and signed for.

### 22.2. Liquidated Damages for contracts exceeding £100,000

The Contract must, unless the relevant Senior Officer considers it inappropriate, require the payment of liquidated damages by the contractor in the event of delay by the contractor. The amount of the liquidated damages to be specified will be the Council's genuine pre-estimate of the losses to be paid by the contractor in the case the terms of the contract are not duly performed.

### 22.3. Performance Bonds for contracts exceeding £500,000

Where a contract exceeds £500,000 the contractor will be required to give a performance bond or other form of security acceptable to the relevant Senior Officer and the Section 151 Officer, unless both consider it is unnecessary.

## 23. Assignment or sub-letting

A clause will, where appropriate, be inserted in every contract for the execution of work, for supplies, and/or services to which these rules apply prohibiting the assigning or sub-letting of the contract without the previous consent of the relevant Senior Officer.

## 24. Specifications and standards

All contracts to which these rules apply where a specification issued by the British Standards Institution or a European Standard is current at the date of the tender and is relevant shall require as a minimum that goods and materials used in their execution shall be in accordance with the specification.

## 25. Prevention of bribery clause

Every contract to which these rules apply will, where practicable, include a clause allowing the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor or any person employed by him or acting on his behalf has committed any offence under the Bribery Act 2010 or under the Local Government Act 1972 Section 117.

## 26. Nominated sub-contractors

Where a sub-contractor or supplier is to be nominated by the Council to a main contractor, the relevant Senior Officer will, wherever practical, comply with these Rules as though the sub-contract were a contract with the Council.

## 27. Publication of contract awards

- 27.1. Details of every contract award over £25,000 including those covered by an exemption shall be published on the Council's Contracts Register.
- 27.2. In addition, unless there is a relevant exception in the Procurement Regulations, where the contract is:
  - (a) £100,000 or more the award shall be published on Contract Finder.
  - (b) over any relevant Procurement Regulations threshold, the award shall be published Contract Finder and FTS and any report required by a third party shall be prepared in accordance with the relevant statutory requirements prevailing at the time.

**Note:** These requirements are in addition to any requirement under the Transparency Code for Local Government to publish details of expenditure above a specified threshold.

## 28. Retention of tenders and contracts

Unsuccessful tenders, accepted tenders and contracts and tender evaluation results shall be kept in accordance with the Council's information asset register.

## 29. Review of financial limits

The financial limits set out in these Contract Procedure Rules shall be reviewed periodically by the Council.

**Note to Officers:** The principal requirements of these Contracts Procedure Rules are summarised in the Appendix. The Appendix is not part of the Contract Procedure Rules, but is guidance.



## APPENDIX – The table is not part of these Contract Procedure Rules

**Note for officers:** The following table summarises the type of procurement process; the minimum number of quotes or tender that should be sought or invited where practicable; any publicity and contractual requirements. Contract values are inclusive of VAT and for joint procurements means the total value of the contract, not just the Council’s share.

Contract Value	Minimum requirements	Contract Notice FTS	Contract Notice Contract Finder	Contract Award Notice FTS	Contract Award Notice Contract Finder	Acceptance	Minimum order / contract requirements
Up to £25,000	Call-Off from an existing Framework Agreement let by the Council or other third party; or 1 or more quotes	No	No	No	No	Senior Officer	Official Order
£25,000 to £100,000	Call-Off from an existing Framework Agreement let by the Council or other third party; or 3 written quotes (where practicable) using eTS	No	No	No	No	Senior Officer	Official Order unless a formal agreement is entered into
£100,000 to Procurement Regulations Threshold	Call-Off from an existing Framework Agreement let by the Council or other third party; or tenders sought using eTS	No	No	No	Yes	Senior Officer	Formal agreement under hand or seal
Above Procurement Regulations Threshold	As for £100,000 but following Procurement Regulations	Yes (unless call-off)	Yes, within 24 hours of publishing on FTS(unless call off)	Yes within 30 days of award (unless call off)	Yes within reasonable time after published on FTS (including call off)	As for £100,000 but prior approval may be required from the Executive if the contract value is £500,000 or more	

# FINANCIAL PROCEDURE RULES

## Introduction

The Financial Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Councillor and Officer of the Council and anyone acting on its behalf.

The Financial Procedure rules are part of a wider set of operational and managerial arrangements, which when followed protect the Council and the public, from poor decision making, theft, fraud and material error. They also offer significant protection to Councillors and Officers from undue criticism and accusations of impropriety.

All Councillors and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value

## 1. Application

These Financial Procedure Rules apply to:

- (a) every Member and officer and anyone acting on the Council's behalf.
- (b) any partnership where the Council exercises management control. If in any doubt issues should be discussed with the relevant Director and/or the Section 151 Officer

## 2. Exceptions

The Section 151 Officer can allow exceptions to these rules where the Section 151 Officer believes that the interests of the Council would be best served subject to prior consultation with the Leader of the Council and any other Councillor as the Section 151 Officer considers appropriate.

## 3. Guidance

The Section 151 Officer will issue advice, guidance and detailed financial procedures to underpin these Financial Regulations that Members, officers and others acting on behalf of the Council are required to follow. The [Section 151 Officer's guidance and detailed procedures](#) are published separately and do not form a formal part of the Constitution.

## 4. Reporting

The Section 151 Officer is responsible for reporting, where appropriate, financial breaches of these Financial Regulations to the Audit and Governance Committee. Breaches that amount to unlawful actions will be reported by the Section 151 Officer in accordance with their duties under section 114 of the Local Government and Finance Act 1988.

## 5. Review

The Section 151 Officer will review these Financial Procedure Rules and make changes as they consider necessary for the efficient and effective financial management of the Council subject to any changes being reported to the next meeting of the Audit and Governance Committee.

## A. Financial Management

### Introduction

- A.1. Financial management covers all financial accountabilities in relation to the running of the Council, including the budgetary framework and budget.

### Section 151 Officer

- A.2. The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Council.

### Senior Officers

- A.3. Each Senior Officer is responsible in their own service areas for:
- (a) ensuring that all reports to Members contain sufficient financial information to allow them to understand the budgetary implications and financial risks associated with any proposals.
  - (b) signing contracts on behalf of the Council as provided for in the [Scheme of Delegation](#).
- A.4. A Senior Officer must take financial advice on any matter liable to result in any budget in their control being exceeded in any financial year (after any approved virements), before any further commitments are incurred.

## Other Financial Accountabilities

### Virement

- A.5. Virement between budget lines of the annual revenue estimates need not be approved by Council provided it does not:
- (a) compromise policy objectives for the cost centre relinquishing the budget;
  - (b) result in any additional costs or commitments in future years;
  - (c) utilise fortuitous savings in expenditure or increases in income; or
  - (d) involve virement from recharge budgets.
- A.6. A Senior Officer is responsible for agreeing virements within delegated limits on budgets within their responsibility and/or control, in consultation with the Section 151 Officer where required. The Senior Officer must notify the Section 151 Officer of all virements and as necessary these will be reported by the Section 151 Officer to Councillors.
- A.7. The Section 151 Officer may vire between budgets within the control of any one or more Senior Officers.

### Treatment of year-end balances

- A.8. Members are responsible for agreeing procedures for carrying forward under and overspend budgets.

### Accounting policies

- A.9. The Section 151 Officer shall determine appropriate technical accounting policies and standards.

## Accounting records and returns

- A.10. The Section 151 Officer shall determine the accounting records and returns for the Council.

## The Annual Statement of Accounts

- A.11. The Section 151 Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with relevant accounting Codes of Practice and the Accounts and Audit Regulations 2015. The Audit and Governance Committee is responsible for approving the annual statement of accounts.

## Government Grants

- A.12. All bids and claims for Government grant, including lottery funding, and all related estimates or forecasts, must be submitted to the Section 151 Officer and the relevant Senior Officer before submission or as otherwise provided for in the Scheme of Delegation.

## Bank Arrangements

- A.13. The Section 151 Officer is responsible for putting in place appropriate banking arrangements with the Council's bankers, including setting up subsidiary accounts.

## Procurement

- A.14. The Section 151 Officer is responsible for advising the Executive on the Council's procurement policies and arrangements

## B. Financial Planning

- B.1. The Full Council is responsible for approving the Council's Budget and Policy Framework and the council tax which will be proposed by the Executive. The key elements of financial planning are the:
- (a) Corporate Plan;
  - (b) Capital Strategy;
  - (c) Asset Management Plan;
  - (d) Risk Management Policy Statement and Strategy;
  - (e) Treasury Management Strategy;
  - (f) Medium Term Financial Plan;
  - (g) Revenue Budget; and
  - (h) Capital Programme.

## Policy Framework

- B.2. Unless it determines otherwise, the Full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision is deemed to be contrary to the Budget and Policy Framework. Decisions will be referred to the Full Council by the Monitoring Officer and/or the Section 151 Officer.
- B.3. The Full Council is responsible for setting the level at which the Executive may reallocate budgets from one service to another. The Executive is responsible for taking in-year decisions on resources and priorities to deliver the Budget and Policy Framework within the financial limits set by the Council.

## Budgeting

### Budget format

- B.4. The Section 151 Officer is responsible for determining the general format of the budget. The draft budget will include allocation to different services and projects, proposed taxation levels and contingency funds.

### Budget preparation

- B.5. The Section 151 Officer is responsible for ensuring that a budget is prepared on an annual basis and a longer-term budget plan is prepared for consideration by the Executive, before submission to the Full Council. The Full Council may amend the budget or ask the Executive to reconsider it before approving it. Further details on this procedure can be found in the [Policy and Budgetary Framework Procedure Rules](#).
- B.6. Guidelines on budget preparation will be issued to Senior Officers by the Executive following agreement with the Section 151 Officer. The guidelines will take account of:
- (a) legal requirements;
  - (b) medium-term planning prospects;
  - (c) the Corporate Plan;
  - (d) available resources;
  - (e) spending pressures;
  - (f) best value and other relevant Government guidelines;
  - (g) other internal policy documents; and
  - (h) cross-cutting issues (where relevant).

- B.7. A Senior Officer is responsible for submitting budget estimates to the Section 151 Officer that reflect agreed service plans and that are prepared according to the guidance issued by the Executive.

### Resource Allocation

- B.8. The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's Policy Framework.

### Preparation of the Capital Programme

- B.9. The Section 151 Officer is responsible for ensuring that a capital programme is prepared annually for consideration by the Executive before submission to the Full Council.

### Maintenance of Reserves and Balances

- B.10. The Section 151 Officer is responsible for advising the Executive and/or the Full Council on prudent levels of reserves and balances.

### Budget Monitoring and Control

- B.11. The Section 151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively.
- B.12. The Section 151 Officer must monitor and control expenditure against budget allocations. Any variation (after approved virements) that the Section 151 Officer considers material will be reported to the Executive.

- B.13. A Senior Officer is responsible for controlling income and expenditure in their own service area and for monitoring performance, taking account of financial information provided by the Section 151 Officer. The Senior Officer will alert the Section 151 Officer and report to Members on variances in their own service areas and take any action necessary to avoid exceeding their budget allocation (after any approved variations).
- B.14. No expenditure will be incurred on a purpose for which there is no provision in the approved estimates except:
- (a) where a supplementary estimate has been approved by the Executive/Full Council (as relevant); or
  - (b) in the case of an emergency as provided for in the Scheme of Delegation.

## C. Risk Management and Control of Resources

### Introduction

- C.1. It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

### Risk Management

- C.2. The Section 151 Officer and/or Monitoring Officer is responsible for:
- (a) preparing the Council's risk management policy statement and strategy for approval by the Executive;
  - (b) ensuring that appropriate insurances are in place;
  - (c) promoting risk management throughout the council; and
  - (d) reviewing the effectiveness of the risk management policy statement and strategy.
- C.3. The Audit and Governance Committee is responsible for recommending approval of the Council's Risk Management policy statement and for reviewing the effectiveness of risk management.

### Internal control

- C.4. Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

- C.5. The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other requirements that govern their use.
- C.6. It is the responsibility of all Senior Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

## Audit Requirements

- C.7. The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit. The Section 151 Officer is responsible for internal audit and for this purpose the Section 151 Officer or their representative may inspect and audit all books of account, financial documents and all other records of the Council, visit any of the Council's premises and obtain such explanations and take away such records for examination as they consider necessary.
- C.8. The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

## Preventing fraud and corruption

- C.9. The Council has a zero tolerance to fraud, bribery and corruption.
- C.10. The Section 151 Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

- C.11. Where it is suspected that money or property has been stolen or otherwise misappropriated, or that a financial irregularity has occurred, the relevant Senior Officer must immediately report the matter to the Section 151 Officer. The Section 151 Officer will report such matters as appropriate to Members.

## Assets

- C.12. A Senior Officer will ensure that records and assets in their own service area are properly maintained and securely held. The Senior Officer will also ensure that contingency plans are in place for the security of assets and continuity of service in the event of disaster or system failure.
- C.13. An Senior Officer is responsible for reporting any deficiencies of equipment or stores in their own service areas to the to the Section 151 Officer, who may authorise the items to be written off or instigate an investigation into the circumstances.

## Leasing, Finance and Hire Agreements

- C.14. An Senior Officer is responsible for ensuring that any proposal to enter into a leasing, finance or hire agreement in their own service areas is agreed in advance with the Section 151 Officer.

## Property

- C.15. The agreement of any terms for leasing of any property or the taking or granting of any interest in property must be undertaken by an Senior Officer (or any other Officer delegated/nominated power for such purposes in accordance with the [Scheme of Delegation](#)).
- C.16. Legal interests in property will be recorded in a Property Terrier or other record.

- C.17. Where exclusive possession of a building, parts of a building or any land is involved on other than a sessional basis or occasional hiring, a Senior Officer or any other Officer delegated/nominated power for such purposes in accordance with the **Scheme of Delegation** will be responsible for making the necessary arrangements including the assessment of rent
- C.18. The Council has adopted policies on whistleblowing, fraud, bribery and anti-corruption all of which support the Council's zero tolerance to fraud, bribery and corruption.

## Treasury Management

- C.19. The Council has adopted CIPFA's Treasury Management Code of Practice 2017.
- C.20. The Full Council is responsible for approving a Treasury Management Strategy compliant with the Code of Practice.
- C.21. The Council has delegated responsibility for the implementation and monitoring of treasury management policies and practices to the Executive. The Executive has delegated the administration of treasury management decisions to the Section 151 Officer who will act in accordance with the Treasury Management Policy statement and CIPFA's standard of professional practice on treasury management.
- C.22. The Council has delegated to the Audit and Governance Committee responsibility for ensuring scrutiny of the Treasury Management Strategy and policies.

## Staffing

- C.23. The Head of Paid Service, is responsible for providing overall management to staff. The Head of Paid Service is also responsible for the evaluation or other agreed systems for determining the remuneration of a job.
- C.24. A Senior Officer is responsible for controlling total staff numbers in their own service areas by:
- (a) advising the Executive on the annual budget required to cover estimated staffing levels;
  - (b) adjusting staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint to meet changing operational needs; and
  - (c) proper use of appointment procedures.



## D. Financial Systems and Procedures

- D.1. Sound systems and procedures are essential to an effective framework of accountability and control.

### General

- D.2. The Section 151 Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by the Senior Leadership Team to the existing financial systems or the establishment of new systems must be approved by the Section 151 Officer. However, Senior Officers are responsible for the proper operation of financial processes within their area of responsibility.

- D.3. A Senior Officer must agree any changes to agreed procedures to meet their own specific service needs with the Section 151 Officer.

- D.4. Senior Officers should ensure that staff receive relevant financial training that has been approved by the Section 151 Officer.

- D.5. Senior Officers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Senior Officers must ensure that staff are aware of their responsibilities under freedom of information legislation.

### Income and expenditure

- D.6. The Section 151 Officer will be responsible for paying all properly incurred liabilities.

- D.7. A Senior Officer is responsible for ensuring that a proper Scheme of Delegation has been established in their own service areas and is operating effectively. The Scheme of Delegation identifies staff

authorised to act on the Senior Officer's behalf, or on behalf of the Executive, in respect of payments, income collection and placing orders, together with the limits of their authority. Further details relating to officer delegations can be found in the [Scheme of Delegation](#).

- D.8. Once a charge has been raised no debtor will be excused a payment due to the Council other than with the approval of the relevant Senior Officer and the Section 151 Officer. The Section 151 Officer will maintain a record of write-offs.

### Payment to Employees and Members

- D.9. The Head of HR is responsible for payments of salaries, wages and allowances to staff, including payments for overtime. The Head of Democratic Services is responsible for payment of allowances to Members.

### Taxation

- D.10. The Section 151 Officer is responsible for advising Senior Officers, in the light of guidance issued by the appropriate bodies and relevant legislation, on all taxation issues that affect the Council.
- D.11. The Section 151 Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

### Trading Accounts/Business Units

- D.12. It is the responsibility of the Section 151 Officer to advise Senior Officers on the establishment and operation of trading accounts and business units, and to determine the arrangements under which these are operated.

## **E. External Arrangements**

### **Introduction**

- E.1. The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders.

### **Partnerships**

- E.2. The Executive will normally take the lead in forming partnerships with public, private voluntary and community sector organisations.
- E.3. The Section 151 Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. Also, the Section 151 Officer must ensure that the financial risks have been fully appraised before agreements are entered into with external bodies.
- E.4. A Senior Officer is responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### **External Income**

- E.5. The Section 151 Officer is responsible for the Council's arrangements for the pursuit, receipt and recording of external income.

### **Work for Third Parties**

- E.6. The Head of Paid Service is responsible for the arrangements for any work for third parties.

## Section 151 Officer's guidance and advice on financial procedures

As South Hams District Council and West Devon Borough Council share services and officers, this guidance has been issued as joint guidance for both Councils.

Where there are differences in the processes or guidance applicable to one or other Council these are set out and references to the Executive and **Hub Committee** should be read accordingly.

Section	Contents	Financial Procedure Rule category
1. Accounting	<ul style="list-style-type: none"> <li>● Financial Management Standards</li> <li>● Separation of Duties</li> <li>● Other Information – Costing</li> <li>● Reports to Member Bodies</li> <li>● Accounting Records</li> <li>● Trading Accounts</li> <li>● Annual Accounts and Treatment of Year End Balances</li> </ul>	Financial Management
2. Assets	<ul style="list-style-type: none"> <li>● Asset Management</li> <li>● Land and Buildings</li> <li>● Vehicles, Plant and Equipment</li> <li>● Acquisition</li> <li>● Capital Programme</li> </ul>	Risk Management and Control of Resources

Section	Contents	Financial Procedure Rule category
3. Assets – Disposal	<ul style="list-style-type: none"> <li>● Land and Buildings</li> <li>● Vehicles</li> <li>● Plant and Equipment</li> <li>● Computer and Computer Related Equipment</li> <li>● General – Recycling</li> </ul>	Risk Management and Control of Resources
4. Audit	<ul style="list-style-type: none"> <li>● Internal audit</li> <li>● External audit</li> </ul>	Risk Management and Control of Resources
5. Banking Arrangements	<ul style="list-style-type: none"> <li>● Bank Accounts</li> <li>● Separation of Duties</li> <li>● Bank Reconciliations</li> <li>● General – Cheques</li> </ul>	Financial Systems and Procedures
6. Budgets and Budgetary Control	<ul style="list-style-type: none"> <li>● Format of the Budget</li> <li>● Budget Preparation</li> <li>● Resource Allocation</li> <li>● Budget Management</li> <li>● Virement (Budget Changes)</li> <li>● Supplementary Estimate Request</li> <li>● Reserves and Funds for Section 106 Agreements</li> <li>● Shared Services</li> <li>● Capital Programme</li> </ul>	Financial Planning

Section	Contents	Financial Procedure Rule category
7. Car Loans	<ul style="list-style-type: none"> <li>No longer provided by the Council</li> </ul>	
8. Expenditure – Ordering of Goods and Services	<ul style="list-style-type: none"> <li>Orders</li> <li>Ordering</li> <li>Quotations</li> <li>Open/Regular Supply Order</li> <li>ICT Equipment and Software</li> <li>Orders, Delivery Notes and Invoices</li> <li>Orders to Individuals (Self Employed)</li> </ul>	Financial Systems and Procedures
9. Expenditure – Payment of Accounts	<ul style="list-style-type: none"> <li>Invoices</li> <li>Invoices – Self Employed Status</li> <li>Payment Request Forms</li> <li>Receiving/Certification</li> <li>Authorisation</li> <li>Separation of Duties</li> <li>Payment</li> <li>Returned Cheques</li> <li>VAT</li> <li>Credit/Purchase Cards</li> <li>Financial Year End</li> <li>Loans Leases and Rental Agreements</li> </ul>	Financial Systems and Procedures

Section	Contents	Financial Procedure Rule category
10. External Funding	Responsibilities for: <ul style="list-style-type: none"> <li>Senior Officers</li> <li>Section 151 Officer</li> </ul>	External Arrangements
11. Fraud, Corruption and Bribery – Prevention	Responsibilities for: <ul style="list-style-type: none"> <li>Section 151 Officer, Monitoring Officer,</li> <li>(Internal) Audit Manager</li> <li>Senior Officers</li> </ul>	Risk Management and Control of Resources
12. Grants, Subsidies, Claim Forms and Statistical Returns	<ul style="list-style-type: none"> <li>Grant Conditions</li> <li>Receipts and Payments</li> <li>Audit Requirements of the Grant Paying Body</li> </ul>	Financial Systems and Procedures
13. Income	<ul style="list-style-type: none"> <li>Charges for Services</li> <li>Cash Collection and Banking</li> <li>Personal Cheques</li> <li>Change Floats</li> <li>Security</li> <li>Raising Invoices (Sundry Debtors)</li> <li>Recovery</li> <li>Bad and Doubtful Debtors</li> <li>Cancellations</li> <li>Financial Year End</li> </ul>	Financial Systems and Procedures

Section	Contents	Financial Procedure Rule category
<b>14. Insurance</b>	<ul style="list-style-type: none"> <li>● Cover</li> <li>● Inspections</li> <li>● Claims</li> </ul>	Risk Management and Control of Resources
<b>15. Intellectual Property</b>	Responsibilities for: <ul style="list-style-type: none"> <li>● Senior Officers</li> <li>● Section 151 Officer</li> </ul>	Risk Management and Control of Resources
<b>16. Inventories</b>	<ul style="list-style-type: none"> <li>● Inventories</li> <li>● Council Property</li> </ul>	Risk Management and Control of Resources
<b>17. Partnerships including Shared Services</b>	Responsibilities for: <ul style="list-style-type: none"> <li>● Members</li> <li>● Senior Officers</li> <li>● Section 151 Officer Partners</li> <li>● Shared Services</li> </ul>	Risk Management and Control of Resources
<b>18. Payments to Employees and Members (Payroll)</b>	<ul style="list-style-type: none"> <li>● Appointment</li> <li>● Appointment – Self Employed Status</li> <li>● Time and Other Amendment Records</li> <li>● Payment Absence</li> <li>● Leavers</li> <li>● Pay Awards</li> <li>● Verification</li> <li>● Staffing</li> </ul>	Financial Systems and Procedures

Section	Contents	Financial Procedure Rule category
<b>19. Payment of Housing and Council Tax Benefits</b>	<ul style="list-style-type: none"> <li>● Personal Data/Declaration of Interest</li> <li>● Payment – BACs</li> <li>● Payment – Cheques</li> </ul>	Financial Systems and Procedures
<b>20. Petty Cash</b>	<ul style="list-style-type: none"> <li>● Expenditure</li> <li>● Reimbursement</li> <li>● General</li> <li>● Centralised Imprest – Petty Cash Advances</li> </ul>	Financial Systems and Procedures
<b>21. Retention of Documents</b>	Responsibilities for: <ul style="list-style-type: none"> <li>● Section 151 Officer,</li> <li>● Monitoring Officer,</li> <li>● Senior Officers</li> </ul>	Risk Management and Control of Resources
<b>22. Risk Management and Internal Control</b>	<ul style="list-style-type: none"> <li>● Risk Management</li> <li>● Internal Control (System of)</li> <li>● System Changes</li> <li>● Corporate Governance</li> <li>● Performance Management/Data Quality</li> <li>● Business Continuity</li> </ul>	Risk Management and Control of Resources

Section	Contents	Financial Procedure Rule category
<b>23. Security</b>	<ul style="list-style-type: none"> <li>● Security;</li> <li>● Safes</li> <li>● Postal Franking Machines</li> <li>● ICT – Software and Hardware</li> <li>● Data – Electronic/Paper</li> </ul>	Risk Management and Control of Resources
<b>24. Stocks and Stores</b>	<ul style="list-style-type: none"> <li>● Stock Control and Issues</li> <li>● Stock Takes</li> <li>● Stock Certificates</li> <li>● Surpluses, Deficiencies and Write Offs</li> </ul>	Risk Management and Control of Resources
<b>25. Taxation</b>	<ul style="list-style-type: none"> <li>● Pay as You Earn (PAYE)</li> <li>● Value Added Tax (VAT)</li> </ul>	Financial Systems and Procedures
<b>26. Travel and Subsistence</b>	<ul style="list-style-type: none"> <li>● Claim Completion and Certification</li> <li>● Receipts</li> <li>● Timeliness of Claim</li> <li>● Motor Insurance, Driving Licences and Vehicle Roadworthiness</li> <li>● Council Members</li> </ul>	Financial Systems and Procedures

Section	Contents	Financial Procedure Rule category
<b>27. Treasury Management</b>	<ul style="list-style-type: none"> <li>● Cash Position;</li> <li>● Investments</li> <li>● Borrowing</li> <li>● General including Monitoring</li> <li>● Trust Funds</li> </ul>	Risk Management and Control of Resources
<b>28. Work for Third Parties</b>	<ul style="list-style-type: none"> <li>● Approval</li> <li>● Legality</li> <li>● Financial Matters</li> <li>● Contracts</li> <li>● Service Provision</li> </ul>	External Arrangements

The following financial limits apply to the relevant section in the guidance:

Table 1:

Item Value including VAT	Acquisitions: Land and Buildings – Section 2
Up to £500,000	The Head of Assets (Corporate Property Officer) in consultation with the Section 151 Officer, the Director of Place and Enterprise, Lead Member for Assets and Leader, may agree to the acquisition of land and property where the market value does not exceed £500,000.00
£500,000 to £1,000,000	The acquisition of any land and buildings of a value between £500,000 to £1,000,000 requires the approval of the Hub Committee (West Devon), or the Executive (South Hams) (as appropriate) and shall be made within the context of the Council's Asset Management Plan.
Above £1,000,000	The acquisition of any land and buildings of a value in excess of £1,000,000 requires the approval of the full Council and shall be made within the context of the Council's Asset Management Plan.

Table 2:

Project Total Value including VAT	Maximum % Overspend including VAT	Authorised By
Up to £50,000	10%	Section 151 Officer in consultation with the Head of Assets (Corporate Property Officer), the Relevant Executive Member (South Hams); or  Chairman of Hub Committee (West Devon) (as appropriate)  With retrospective reporting to the Executive (South Hams) or Hub Committee (West Devon) (as appropriate) within the quarterly monitoring report.
£50,000 to £500,000	10%	Approval required from Hub Committee (West Devon) or Executive (South Hams) (as appropriate)
Over £500,000	10%	Approval required from full Council

**Table 3:**

Item Value including VAT	Disposals: Land and Buildings – Section 3
Up to £300,000	The Head of Assets (Corporate Property Officer) in consultation with the Section 151 Officer, the Director of Place and Enterprise, the Lead Member for Assets and the Leader, may agree to the disposal of land or building assets, where the market value does not exceed £300,000
Above £300,000	The disposal of any land and buildings over £300,000.00 in market value requires the prior approval of the Hub Committee (West Devon), or the Executive (South Hams) (as appropriate) and shall be made within the context of the Council's Asset Management Plan.

**Table 4:**

Item Value including VAT	Disposals: Plant and Equipment – Section 3
Above £5,000	The disposal of any item of plant and equipment valued at more than £5,000, at date of disposal shall require the prior approval of the Section 151 Officer.

**Table 5:**

Item Value including VAT	Income: Banking – Sections 5 and 13
Daily/Weekly according to Insurance Limit	All monies received on behalf of the Council shall be banked without delay.

**Table 6:**

Sum involved for each individual virement	Budget Changes (Virement) – Section 6
Up to £5,000	The appropriate responsible budget holder may approve the virement in consultation with the appropriate accountant. No form is required.
£5,000 to £30,000	A virement form is required which is to be authorised by the relevant Senior Officer and Section 151 Officer or nominated deputy.
£30,000 to £100,000	The appropriate Senior Officer and the Section 151 Officer shall sign a virement form in consultation with the appropriate accountant and submit it to the Executive (South Hams only) for approval.
Above £100,000	The appropriate Senior Officer and the Section 151 Officer shall sign a virement form in consultation with the appropriate accountant and submit it to full Council for approval.



**Table 7:**

<b>Item Value including VAT</b>	<b>Use of Reserves – Section 6</b>
<b>Up to £100,000</b>	The Section 151 Officer may approve the use of Earmarked Reserves and Unearmarked General Fund Reserves up to a limit of £100,000, and may also approve increasing or creating Earmarked Reserves up to a limit of £100,000.
<b>£100,000 to £500,000</b>	The use of Reserves of between £100,000 to £500,000 requires the prior approval of the Hub Committee (West Devon), and the Executive (South Hams) (as appropriate) upon receipt of a report from the Senior Officer and Section 151 Officer.
<b>Above £500,000</b>	The use of Reserves above £500,000 requires the prior approval of the full Council upon receipt of a report from the Senior Officer and Section 151 Officer.
	The use of reserves for Salcombe Harbour requires a recommendation to the Executive by the Salcombe Harbour Board.

**Table 8:**

<b>Item Value including VAT</b>	<b>Use of Section 106 Monies – Section 6</b>
<b>Below £100,000</b>	Authorisation of expenditure using funds received from Section 106 Agreements must be sought from the Section 151 Officer for amounts up to £100,000 by the appropriate Senior Officer, following consultation with the relevant Ward Member as a minimum.
<b>£100,000 to £500,000</b>	The use of funds received from Section 106 Agreements for projects between £100,000 to £500,000 requires the prior approval of the Hub Committee (West Devon), and the Executive (South Hams) (as appropriate) upon receipt of a report from the Senior Officer and Section 151 Officer, following consultation with the relevant Ward Member.
<b>Above £500,000</b>	The use of funds received from Section 106 Agreements for projects above £500,000 requires the prior approval of the full Council upon receipt of a report from the Senior Officer and Section 151 Officer, following consultation with the relevant Ward Member.

**Table 9:**

Item Value including VAT	Quotations/Tendering for Goods and Services – Section 8
Below £25,000	Most favourable prices and terms, having regard to the principles set out in the Council’s Procurement Strategy appropriately evidenced (in accordance with Contract Procedure Rules).
£25,000 to £100,000	3 written quotations appropriately evidenced (in accordance with Contract Procedure Rules).
Above £100,000	Tendering in accordance with Contract Procedure Rules and UK Procurement Legislation as appropriate.

**Table 10:**

Item Value including VAT	Quotations/Tendering for Works and ICT – Section 8
Below £25,000	Most favourable prices and terms, having regard to the principles set out in the Council’s Procurement Strategy appropriately evidenced (in accordance with Contract Procedure Rules).
£25,000 to £100,000	3 written quotations appropriately evidenced (in accordance with Contract Procedure Rules).
Above £100,000	Tendering in accordance with Contract Procedure Rules and UK Procurement Legislation as appropriate.

**Table 11:**

Item Value including VAT	Income: Unders and Overs – Section 13
Over £100	‘Unders and overs’ and discrepancies must be reported immediately to the Section 151 Officer.

**Table 12:**

Item Value including VAT	Write Off: Bad and Doubtful Debts – Section 13
Finance Up to £5,000	The Section 151 Officer is empowered to write off bad and doubtful debts, after satisfying her/himself that it would be uneconomic or inappropriate for the Council to pursue them, and where appropriate a Legal representative has considered the Council’s position.
Other Services Up to £5,000	In the case of debts due to other service groups, the Section 151 Officer will consider write off in accordance with the above upon the written authorisation of the Senior Officer involved or her/his deputy.
All Debts Up to £5,000	The total amounts of debt written off by the Section 151 Officer under delegated powers will be reported to the Hub Committee (West Devon), and the Executive (South Hams) (as appropriate).
All Debts Above £5,000	No debts in excess of £5,000 may be written off without the prior approval of the Section 151 Officer and the Hub Committee (West Devon), and the Executive (South Hams) (as appropriate).

**Table 13:**

<b>Item Value including VAT</b>	<b>Inventories – Section 16</b>
<b>Individual items above £5,000</b>	Inventories of all property (furniture, fittings and equipment) belonging to or in the care of the Council, other than stores, shall be prepared and maintained by the Senior Officer concerned or a designated officer.

**Table 14:**

<b>Item Value including VAT</b>	<b>Write Off: Stock Deficiencies and Obsolete Stocks – Section 24</b>
<b>Above £5,000</b>	The disposal or write-off of any stock or stores item/s valued at more than £5,000 at date of disposal shall require the prior approval of the Section 151 Officer.

**Table 15:**

<b>Sum involved</b>	<b>Borrowing – Section 27</b>
<b>Up to £500,000</b>	The borrowing of up to £500,000 for any purpose requires the prior approval of the Hub Committee (West Devon), and the Executive (South Hams) and any approval shall be made in the context of the borrowing limits set by the full Council at the beginning of the financial year.
<b>Above £500,000</b>	The borrowing above £500,000 for the acquisition of land or buildings requires the prior approval of the full Council.

## 1. ACCOUNTING

### Why is this important?

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources.

The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year, which are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

### Risks:

- The Council may not account for all income received and expenditure made;
- Financial systems could provide inaccurate or misleading information leading to poor decision making;
- Insecure accounting or financial systems could give rise to opportunities for fraud or loss; and
- Statutory requirements for reporting on the Council's financial affairs may not be met.

## Responsibilities

### Financial Management Standards

- 1.1. All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.
- 1.2. The **Section 151 Officer** shall:
  - Ensure the proper administration of the financial affairs of the Council.
  - Set the financial management standards and to monitor compliance with them.
  - Ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Council.
  - Advise on the key strategic controls necessary to secure sound financial management.
  - Ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.
  - Determine the accounting procedures and keep the accounting records of the Council including cost and stores accounts for all service groups of the Council, and to select suitable accounting policies and ensure that they are applied consistently
  - Administer the Council's arrangements for underspendings to be carried forward to the following financial year.

- 1.3. Where she/he is satisfied that it is in the interest of administrative efficiency for any such records to be maintained in other service groups, the **Senior Officer** of that service group shall have a duty to maintain a standard of financial control which is to the satisfaction of the **Section 151 Officer**.
- 1.4. In all cases the **Section 151 Officer** shall be consulted and shall approve the form of new accounting records, financial stationery and systems or changes to them following consultation with the **Senior Officer** of the service group concerned.
- 1.5. This will include adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements. Financial and accounting systems shall incorporate appropriate controls to ensure that, where relevant:
  - All input is genuine, complete, accurate, timely and not previously processed;
  - All processing is carried out in an accurate, complete and timely manner; and
  - Output from the system is complete, accurate and timely.
- 1.6. **Senior Officers** shall:
  - Promote the financial management standards set by the **Section 151 Officer** to their departments and to monitor adherence to the standards and practices, liaising as necessary with the **Section 151 Officer**.
  - Promote sound financial practices in relation to the standards, performance and development of staff in their departments.

## Separation of Duties

- 1.7. The following principles should be applied when allocating accounting duties, unless good reason disallows and the prior approval of the **Section 151 Officer** has been obtained normally through Internal Audit:
  - The duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums should be separate from the duty of collecting or disbursing them; and
  - Employees with the duty of examining or checking the accounts of cash transactions shall not themselves be engaged in these transactions.

Compensating controls should be in place where the **Section 151 Officer** approves a reduced separation of duties for reasons such as low staffing levels.

## Other Information

- 1.8. **Senior Officer** shall supply requisite information to the **Section 151 Officer** for financial costing and accounting purposes.
- 1.9. The **Section 151 Officer** shall by arrangement with a Senior Officer provide such costing or other financial information required to facilitate the efficient conduct of their functions by officers responsible for incurring expenditure.
- 1.10. The **Senior Officer** will be the responsible for advising the **Section 151 Officer** of any likely overspending of their authorised budget provision.

## Reports to Member Bodies

- 1.11. Copies of all reports having financial implications shall be submitted to the **Section 151 Officer** in sufficient time prior to the meeting of the member body at which such reports are to be considered to enable the **Section 151 Officer** to make her/his observations on the financial implications to the **Senior Officer** concerned. Where the **Section 151 Officer** is not a signatory to the report, her/his observations and submissions must be reflected in the report by the author.

## Accounting Records

- 1.12. The **Section 151 Officer** is to ensure that accounting and financial records are held securely and procedures are in place to enable accounting records to be reconstituted in the event of a system failure. A documented and tested disaster recovery plan to allow information processing to resume quickly in the event of an interruption shall be in place.
- 1.13. Working papers leading to the preparation of Final Accounts are to be kept by the officer responsible for the year of audit and for preceding years in accordance with the Document Retention Policy. Adequate records to provide a management trail leading from the source of income/expenditure through to accounting statements is to be maintained.
- 1.14. All financial systems shall be documented and users trained in their operation prior to the system being used in a live environment.

## Trading Accounts

- 1.15. The **Section 151 Officer** shall advise on the establishment and operation of Trading Accounts. With **Senior Officers**, s/he will ensure that the same accounting principles are applied in relation to trading accounts as for other services.
- 1.16. **Senior Officers** shall observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure and overheads are charged. An annual report shall be prepared in support of the final accounts.

## Annual Accounts and Treatment of Year End balances

- 1.17. The **Section 151 Officer** shall:
  - Prepare annual accounts, which present fairly the financial position of the Council, in accordance with statutory and professional requirements, CIPFA best practice and in liaison with the External Auditors.
  - Make proper arrangements for the audit of the accounts.
  - A timetable for their preparation shall be drawn up and staff and the external auditors advised accordingly.
  - Prepare and sign the statutory annual statement of accounts, and produce an annual report. There is a statutory requirement for the **Section 151 Officer** to sign the accounts and the Council to approve the accounts by the required date and this must be adhered to.
  - Select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year.

1.18. For specific trading accounts, the year-end balance will be taken to an earmarked reserve in line with current legislation.

1.19. **Senior Officers** must:

- Comply with accounting guidance provided by the **Section 151 Officer** to supply the information required. This includes notification of any outstanding income and/or expenditure relating to the previous financial year as soon as possible after the 31st March in accordance with the year-end timetable.
- Maintain adequate records to provide a trail leading from the source of income/expenditure to the accounts.
- Consult and obtain the approval of the **Section 151 Officer** before making any changes to accounting records and procedures.

1.20. The **Section 151 Officer** is to administer the Council's arrangements for under and overspendings at year end to be carried forward to the following financial year. This will include advising the **Hub Committee for West Devon** or the **Executive for South Hams** (as appropriate) comparisons of actual income and expenditure with that budgeted and advice on the appropriate treatment of the year end balances, having considered the reasons behind the nature of their origins.

1.21. For **West Devon** only:

- Responsible Budget Officers should seek to match overspends with underspending within the same costs centres within the same **Committees**.
- Any overspending on a **Committee's** budget may be carried forward to the following year. If this course of action is taken the overspend will constitute the first call on that **Committee's** budget in the following year.
- Net underspendings on a **Committee's** budgets may be carried forward subject to the approval of the **Hub Committee** following advice from the **Section 151 Officer** who shall consider the implications of the Council's overall financial position.

## 2. ASSETS

### Why is this important?

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register and inventory is a prerequisite for sound asset management.

### Risks:

- Assets may be acquired without prior approval, for which there is no use and/or on financially unacceptable terms;
- Assets could be lost, stolen or used for non-Council business; and
- Assets are not available when required in the provision of a service.

## Responsibilities

### Asset Management

- 2.1. The Head of Assets shall be the **Corporate Property Officer (CPO)**.
- 2.2. The **Corporate Property Officer** shall be the Chair of, and be responsible for the operation of the Asset Management Group whose role is set out in the Council's Asset Management Plan and includes:
  - Providing advice to Members and Senior Leadership Team on strategic management of the Council's assets and the performance of the Council's portfolio;
  - Contributing to plans dealing with maintenance, acquisitions and disposals of land and property, health and safety and risk assessment, so far as the Council's portfolio is concerned; and
  - Recommending projects to be included in the Council's Capital Programme and monitoring of these projects.
- 2.3. The **Corporate Property Officer** shall be empowered to:
  - Give consent to the assignment, sub-letting or surrender of existing leases (authority also to be exercised by a nominated deputy).
  - Subject to authorisation by the Monitoring Officer, to authorise and take necessary legal proceedings towards the termination and renewal of leases, agreements and licences.
  - Subject to authority from the Monitoring Officer to take legal and court action to enforce payment of rent and charges due.
  - To approve the revision of rents and licence fees.



- To approve amendments to the terms of an existing lease, agreement or licence.
  - To grant or obtain easements and wayleaves.
  - To grant licences, periodic tenancies and leases (not exceeding 15 years) at a fee/rental calculated.
  - To approve the conveyancing of land to public utility services in connection with Council development.
  - Day to day management of Council land and buildings where not delegated to other **Senior Officers**.
  - Imposition or release of covenants in respect of land where the Council has an interest.
  - Ensure that lessees and other prospective occupiers of Council owned land are not allowed to take possession or enter the land until a lease or agreement (in a form approved by the Council's Solicitor has been completed.
- 2.4. The **Corporate Property Officer** shall maintain a property asset register (terrier) of all properties owned by the Council (except dwellings provided under the Housing Acts) recording amongst other things service user, purpose for which held, location, nature of the Council's interest and rents payable, extent and plan references, purchase details, particulars and terms of tenancies granted together with other information as may be required by law.

2.5. The **Section 151 Officer** shall:

- Ensure that an asset register is maintained by the Head of Finance in accordance with good practice for all fixed assets with a value in excess of £10,000 and all land/buildings regardless of value. This register should be compared with other registers (e.g. the property terrier on a regular basis. An up to date asset register is a prerequisite for proper fixed asset accounting and sound asset management.
- To receive the information required for accounting, costing and financial records from each relevant **Senior Officer**.
- To ensure that arrangements are made for the assets to be valued in accordance with the [Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice \(CIPFA/LASAAC\)](#).

2.6. **Senior Officers** shall:

- Ensure that the department informs the **Section 151 Officer** of the purchase/disposal of moveable assets in accordance with arrangements defined by the **Section 151 Officer**.
- Assist the **Corporate Property Officer** to provide a report on property performance and asset management to the Council.

## Land and Buildings

2.7. The **Council's Monitoring Officer** will have custody of all title deeds or Land Registry confirmation documents under security arrangements agreed with the **Section 151 Officer**.

## Vehicles, Plant and Equipment

- 2.8. Senior Officers shall ensure that up to date records exist for all vehicles and items of plant and equipment under her/his control. The records are to include:
- Registration or serial numbers;
  - Council identification numbers;
  - Description; and
  - Usual storage location.
- 2.9. All Council vehicles and items of plant and equipment are to be kept under secure arrangements at all times. Relevant **Senior Officers** shall nominate the employees who are responsible for the security arrangements.
- 2.10. No private use is permitted of any vehicle (except cars leased to officers for this purpose) or item of plant or equipment in the ownership of or leased to the Council.

## Acquisition

- 2.11. All purchases or the leasing of land, buildings, vehicles or items of plant and equipment shall be on the best financial terms that can be obtained for the Council. The purchasing or leasing arrangements are to be in accordance with the purchasing arrangements laid down elsewhere in these Rules and the [Contract Procedure Rules](#).
- 2.12. All purchases or the leasing of land, buildings, vehicles or items of plant or equipment shall be within the budget provision and the **Section 151 Officer** must be consulted on the method of financing. This includes any simple rental agreements because of the potential implication for the accounts.

**Note:** [Table 1](#) sets out the financial limits and approvals required

## Insurance

- 2.13. All buildings, vehicles or plant or equipment shall be appropriately insured, see also FPR Insurance. The circumstances of losses of or damage to any vehicle or item of plant and equipment must be reported immediately to the relevant **Senior Officer** and the **Section 151 Officer**. Losses are to be recorded in the appropriate inventory or asset register.

## Capital Programme

- 2.14. The **Section 151 Officer** shall:
- Issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by, having regard to government regulations and accounting requirements.
  - Determine the most appropriate method of funding of items approved in the capital programme in subsequent financial years.
- 2.15. The **Section 151 Officer** and **Corporate Property Officer**, in association with other relevant **Senior Officers** shall:
- Ensure that specific approval has been obtained from the Council, or as delegated, for capital expenditure prior to any costs being incurred;
  - Prepare capital estimates and jointly report them to Council for approval. Council approval is required where a **Senior Officer** proposes to bid for or exercise additional borrowing not anticipated in the capital programme. This is because the extra borrowing may create future commitments to financing costs.
  - Procurement for approved capital projects must be made in line with the [Contract Procedure Rules](#).

- Where any tender for projects under the Capital Programme exceeds the available budget by 10% approval to proceed may be made by the **Corporate Property Officer** and **Section 151 Officer** with retrospective reporting through the monitoring process. Above these amounts the specific approval of the **Hub Committee** (West Devon only) should be sought prior to acceptance.
- Have monitoring responsibilities to receive regular reports from Project Managers on the performance of their project; and report quarterly to the **Hub Committee** (West Devon) or the **Executive** (South Hams) (as appropriate) on the overall progress of the Capital Programme. The monitoring report will outline the budget position as a whole and include, as a minimum, the financial position of each approved project.

## Project Overspends

- 2.16. In monitoring expenditure on a project, the **Officer/Project Manager** shall make all efforts to ensure that no overspend occurs. In exceptional circumstances he/she shall seek the formal approval of the **Section 151 Officer, Corporate Property Officer** or Member body at the earliest opportunity where the approved expenditure appearing in the capital programme is likely to be exceeded.
- 2.17. **Table 2** sets out the authorisation required for project overspends.
- 2.18. **Senior Officers** shall:
- Comply with guidance concerning capital schemes and controls issued by the **Section 151 Officer**.
  - Ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of **Section 151 Officer** and, if applicable, approval of the scheme through the capital programme.

- Ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the **Section 151 Officer**.
- A scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the appropriate **Committee** and by **Council**; accountability for each proposal is accepted by a named project leader.
- To ensure that adequate records are maintained for all capital contracts.
- To consult with the **Section 151 Officer** where the **Senior Officer** proposes to bid for capital expenditure supported by an external capital grant to support expenditure that has not been included in the current year's capital programme. The capital expenditure and external capital grant should then be reported to the **Hub Committee** (West Devon) or the **Executive** (South Hams) (as appropriate) as part of the capital programme monitoring report.

### 3. ASSETS – Disposal

#### Why is this important?

It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the Council with the objective of securing maximum residual value.

#### Risks:

- Assets could be sold when there remains an operational use for them;
- Assets could be sold for far less than the market or expected residual value; and
- Assets could be disposed of to officers, Members or others at no or very little cost, which could be construed as tantamount to fraud; and compliance with Government directives such as for electronic equipment.

### Responsibilities

- 3.1. Assets no longer required may be disposed of, but only in accordance with the law and the rules of the Council as to maximise the benefit.
- 3.2. The relevant **Senior Officers** will ensure that income received from the sale of surplus assets is properly banked and coded to the Council's accounts, and the **Section 151 Officer** informed promptly.
- 3.3. The **Section 151 Officer** will ensure that the appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds in the accounts as appropriate
- 3.4. The proceeds for the sale of any asset will be held corporately and may not be attributed to the service that used or disposed of the asset.

### Land and Buildings

- 3.5. The **Corporate Property Officer**, in association with **Senior Officers**, will draft the Council's Disposal Strategy and ensure that the procedures in the Strategy are complied with.
- 3.6. **Table 3** sets out the financial limits and approvals required for the disposal of land and buildings.

## Vehicles

- 3.7. Any vehicles that are surplus to the Council's requirements shall only be disposed of on the prior written authority of the relevant **Senior Officer**. S/he is empowered to dispose of vehicles by way of trade-in or, following advertisement, to the highest tenderer and to hire additional vehicles where necessary. Where a vehicle has little or no sale value parts should be re-used where appropriate. The disposal of any vehicle shall either be by part-exchange or by public auction in normal circumstances. The decision on the method of disposal is the responsibility of the relevant **Senior Manager**, in consultation with the **Section 151 Officer**, who may also in exceptional circumstances use alternative methods where it is beneficial to the Council.
- 3.8. All documentation relating to the sale of any vehicle is to be retained in safe custody for a period of six years and is to be available for inspection by Internal Audit, if requested.
- 3.9. Any inventory or similar record relating to the vehicle disposed of is to be endorsed with the date of disposal and the receipt number for the income received.

## Plant and Equipment

- 3.10. The term equipment in this section includes all equipment of the Council including engineering, building and office equipment or machinery, but excluding computer equipment.
- 3.11. Proposed disposals of plant and equipment that are surplus to the Council's requirements shall not be separated to avoid the approval and reporting limits set out in [Table 4](#).
- 3.12. On acceptance of the highest offer, the purchaser must pay the Council before the item is released.

- 3.13. All documentation relating to the sale of any item of plant and equipment is to be retained in safe custody for a period of six years and is to be available for inspection by Internal Audit, if requested.
- 3.14. Any inventory or similar record relating to the item of plant and equipment disposed of is to be endorsed with the date of disposal and the receipt number for the income received.

## Computer and Computer Related Equipment

- 3.15. The disposal of computers and computer related equipment on behalf of the Council is the responsibility of the **Head of ICT**, although the above principles will apply.
- 3.16. In certain circumstances, where the cost of preparing an item for disposal exceeds the estimate of likely income, obsolete equipment may be destroyed on obtaining the prior written authority of the **Section 151 Officer** or her/his authorised representative.
- 3.17. Disposal of electrical and electronic equipment including household appliances, IT/telecommunications equipment, electrical and electronic tools, leisure and sports equipment etc. should comply with any relevant government/health and safety directives. Wherever possible, items should be offered for re-use or recycling where there is little or no residual value.

## 4. AUDIT

### Why is this important?

#### Internal Audit

The Chartered Institute of Public Finance and Accountancy (CIPFA) states that 'Internal audit is an assurance function that primarily provides an independent and objective opinion to the Council on the control environment comprising risk management, control and governance by evaluating its effectiveness in achieving the Council's objectives. Internal audit objectively examines, evaluates and reports on the adequacy and effectiveness of the control environment as a contribution to the proper, economic, efficient and effective use of resources'.

#### External Audit

External auditors are appointed by the Public Sector Audit Appointments ("PSAA") for a fixed period (normally five consecutive financial years). External auditors are required to be satisfied that proper arrangements have been made by the Council for governance and securing value for money in its use of resources. This work includes providing an opinion on the Council's published accounts and an annual letter to Members outlining the auditor's key findings and recommendations.

#### Risks:

- Changes in the delivery of services could lead to internal control systems failing thereby increasing the possibility of fraud, loss, extravagance, waste or embarrassment to the Council; and
- The Council could face legal action for failing to maintain an adequate and effective internal audit service.

## Responsibilities

### Internal Audit

- 4.1. The Accounts and Audit Regulations 2015 state that a relevant body must 'maintain an adequate and effective system of internal audit of the Council's accounting records and of its system of control in accordance with the proper internal audit practices'.
- 4.2. The Council, through the **Section 151 Officer**, shall therefore make provision for an independent internal audit in accordance with the professional standards set out in the CIPFA Code of Practice for **Internal Auditors** in Local Government in the United Kingdom.
- 4.3. Representatives from **Internal Audit** shall have authority to:
  - Enter at all reasonable times on to any Council premises or land;
  - Have access to all assets, records documents and correspondence relating to any transaction of the Council;
  - Require and receive such information and explanations as are necessary concerning any matter under examination;
  - Require any employee or agent of the Council to account for cash, stores or any other Council property under her/his control; and
  - Access records belonging to third parties, such as contractors, partners etc. when required. Such a requirement shall be written into all contracts and partnership agreements.
- 4.4. The **Section 151 Officer** and **Senior Officers** must ensure that the above requirements are not compromised, and that all records and systems are up to date and available for inspection.

- 4.5. The **Internal Auditor** will follow professional standards and guidelines issued by CIPFA, specifically the Code of Practice for Internal Audit in Local Government in the United Kingdom and prepare risk based strategic and annual audit plans as a basis of their work.
- 4.6. At the beginning of each financial year, the **Internal Auditor** will present to the **Audit and Governance Committee** a risk based audit plan which over a period of time will cover all aspects of the Council's control environment and be accompanied by Terms of Reference and a Strategy setting out how the plan will be achieved.
- 4.7. Internal audit will report on its activities to the **Audit and Governance Committee** quarterly. Such reports are to include details of action agreed on recommendations of a significant nature and the **Internal Auditor** shall deliver an annual opinion as to the adequacy of internal control within the authority.
- 4.8. **Senior Officers** are to consider and promptly respond to recommendations set out in Internal Audit reports and to ensure that any agreed actions arising from the recommendations are carried out in a timely and efficient fashion.

### Systems Changes – Direct or Indirect Financial Nature

- 4.9. The **Section 151 Officer** shall advise the **Internal Auditor** of any changes to systems that s/he has been informed of, to allow Internal Audit to influence the controls in the new system at an early stage.

### Irregularities (Anti-Fraud and Corruption)

- 4.10. The **Section 151 Officer** in conjunction with the **Monitoring Officer**, must ensure that effective procedures are in place to promptly investigate any fraud, corruption or other irregularity.

- 4.11. The Council's 'Anti-Fraud, Corruption and Bribery Policy and Strategy' is the responsibility of the **Section 151 Officer, Monitoring Officer** and **Internal Auditor** and sets out the Council's anti-fraud position. A published 'Response Plan' sets out the procedures to be followed for investigations.
- 4.12. Internal Audit officers will be the normal independent investigators particularly where suspicions involve assets. The **Internal Auditor** must set aside a contingency budget within the audit plan to cover such eventualities, having regard to other pressures on the team.

### Direct Access to the Head of Paid Service, the Audit and Governance Committee and Executive or Hub Committee

- 4.13. In the event of the necessity arising, the facility exists for Internal Audit to have direct access to the **Head of Paid Service, Section 151 Officer** and the Chairman the **Audit and Governance Committee** and/or of the **Executive** or **Hub Committee**.

### External Audit

- 4.14. The **Section 151 Officer** shall ensure that there is effective liaison between external and internal audit.
- 4.15. The **Section 151 Officer** will work with the external auditor and advise the **Council, Executive** or **Hub Committee**, and the **Audit and Governance Committee** on their responsibilities in relation to external audit.
- 4.16. **Senior Officers** shall ensure that external audit are given access at reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.

## 5. BANKING ARRANGEMENTS

### Why is this important?

Banking arrangements determine who has access to the funds of the Council. All the Council's income and expenditure is managed through its bank accounts. Each day many transactions take place between the Council, its customers and the Council's bankers. Bank accounts are, therefore, exposed to risk in the form of fraud or error. As a result tight control over setting them up, maintaining them and dealing with the transactions that flow through them is required.

### Risks:

- Bank accounts could be opened in the name of the Council with the aim of perpetrating a fraud;
- Unauthorised persons could gain access to the Council's bank account and carry out fraudulent transactions; and
- Banking instruments, e.g. cheques, money orders etc. could be stolen and used to steal money from the Council's bank account.

## Responsibilities

### Section 151 Officer

- 5.1. All arrangements with the Council's bankers regarding the Council's bank accounts and the terms on which they are conducted shall be made by the **Section 151 Officer** who will advise on the establishment of suitable controls over access to the bank account including approval of signatories.
- 5.2. No account shall be opened, closed or altered with any bank or other such institution without the prior approval of the **Section 151 Officer**.
- 5.3. All the Council's bank accounts must be in the full name of the Council.
- 5.4. The Council operates on a cashless basis and no longer accepts cash or cheques. References to cheques in this guidance are for the rare instances when cheques are used in exceptional circumstances, for example, in an emergency.
- 5.5. Cheques and related stationery shall be ordered only on the authority of the **Section 151 Officer** or nominated Deputy who shall make proper and secure arrangements for safe custody.
- 5.6. All cheques drawn on the Council's bank accounts shall be signed by the **Section 151 Officer** or an officer designated in the Bank's mandate or bears the facsimile signature of the **Section 151 Officer**.



## Separation of Duties

- 5.7. The **Section 151 Officer** shall arrange such safeguards as she/he deems necessary and practicable including separation of staff duties so that as far as possible the following:
- Receipt and banking of cash and cheques;
  - Checking of creditors'; benefits; salaries and wages;
  - Control of cheques;
  - Preparation of cheques;
  - Despatch of cheques; and
  - Reconciliation of bank balances

## Reconciliation of Bank Accounts

- 5.8. The **Section 151 Officer** shall nominate an officer to be responsible for reconciling all bank accounts in the name of the Council with the accounting records on a regular basis, and not less frequently than monthly. The reconciliation statement is to be signed jointly by the officer responsible for its preparation and the **Section 151 Officer** or their nominated deputy.
- 5.9. Any discrepancy arising at the time of reconciling the accounts and records will be made known to the **Section 151 Officer** and any such discrepancy clearly stated on the reconciliation statement.

## General

- 5.10. Crossed cheques issued by the Council shall only be opened with the express approval and countersignature of the **Section 151 Officer** or designated authorised officer.
- 5.11. Reference should be made to [Table 5](#).

## 6. BUDGET AND BUDGETARY CONTROL

### Why is this important?

Budget management ensures that once the budget has been approved by the full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

### Risks:

- There may be inefficient use of public money and a failure to comply with the Council's objectives;
- The viability of the Council as a business could be undermined; and
- The Council's resources may be vulnerable to fraud or misuse.

## Responsibilities

### Format of the Budget

- 6.1. The format of the budget determines the level of detail to which financial control and management will be exercised.
- 6.2. The **Section 151 Officer** will advise the Council through the **Hub Committee** (West Devon), or the **Executive** (South Hams), (as appropriate) on the format of the budget that must be approved by Council ensuring that the format complies with all legal requirements; reflects the accountabilities of service delivery.

## Budget Preparation

- 6.3. The **Section 151 Officer** is responsible for ensuring that a revenue and capital budget is prepared on an annual basis and a medium term financial strategy on a three-yearly basis for consideration by the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate), and in accordance with professional and statutory requirements.
- 6.4. The Council's proposed budgets must reflect service plans and identify areas of cost pressure and budget holders applications for growth in the budget. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds in accordance with corporate priorities.
- 6.5. The full Council may amend the budget or ask the the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate) to reconsider before approving it.
- 6.6. Responsible Budget Officers (RBOs) are consulted in the preparation of the budget as they are accountable for the budgets which arise from the planning process,
- 6.7. The **Section 151 Officer** will encourage the best use of resources and value for money by working with **Senior Officers** to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 6.8. **Senior Officers** must prepare estimates of future anticipated incomes and expenditures including areas of cost pressures and growth for inclusion in the five-year financial plan with a careful consideration of corporate and service priorities.

## Resource Allocation

### 6.9. The **Section 151 Officer** shall:

- Advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- Assist in the allocation of resources to Responsible Budget Officers (RBOs).
- For **West Devon**, bids to the Contingency Fund must be approved by the **Hub Committee** and bids to the Emergency Fund must be approved by the **Section 151 Officer** in consultation with the Chair and Vice Chair of the **Hub Committee**.

### 6.10. **Senior Officers** shall:

- Work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- Identify opportunities to minimise resource requirements without having a detrimental effect on service delivery.

## Budget Management

6.11. After approval by the Council budget management must be exercised within the annual budget limits; there must be no increase in the overall budget (see Supplementary Estimate Request below). Expenditure is to be committed only against an approved budget head.

### 6.12. The **Section 151 Officer**:

- Is responsible for establishing an appropriate framework and providing appropriate financial information to enable budgets to be monitored effectively on an individual basis and as a whole;
- Must monitor and control expenditure against budget allocations and report to the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate) on the overall position and projected income and expenditure on a regular basis;
- To submit reports to the **Hub Committee** (West Devon), or the **Executive** (South Hams), (as appropriate) in consultation with the relevant **Senior Officer** where the **Senior Officer** is unable to balance expenditure and resources within existing approved budgets under their control.
- Must ensure that:
  - expenditure is committed only against an approved budget codes;
  - each budget has a single named RBO, determined by the relevant Senior Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making process that commits expenditure;
  - each RBO has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
  - all officers responsible for budgets comply with relevant guidance, and the Financial Procedure Rules;
  - significant variances from approved budgets are investigated and reported by RBOs regularly.
- Will administer the Council's scheme of virement.

### 6.13. **Senior Officers** must:

- Ensure prior approval by Council or the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate) for new proposals, of whatever amount, that:
  - create financial commitments in future years;
  - materially extend or reduce the Council's services; or
  - involve expenditure for which budget provision is not made or is exceeded.
- Maintain budgetary control within their service;
- Control income and expenditure within their area and to monitor performance, taking account of financial information provided by the **Section 151 Officer**. They should report on variances within their own areas.
- Ensure that an RBO is identified for each item of income and expenditure under the control of the **Senior Officer** (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making process that commits expenditure.
- Responsible Officers are to be accountable for the income and expenditure for the budgets that they control. Responsible Officers are to understand their financial responsibilities and comply with accounting guidance provided by the **Section 151 Officer** and the Council's Financial Procedure Rules.
- Take any action necessary to avoid exceeding their budget allocation and alert the **Section 151 Officer** to any problems.

## General

- 6.14. No officer should code expenditure to a cost centre without the approval of the RBO for that cost centre.

## Virement (Budget Changes)

- 6.15. The full Council is responsible for agreeing the procedures for virement between budget headings. **Table 6** sets out the financial limits and the approvals required
- 6.16. Virement does not create additional budget liability.
- 6.17. The scheme of virement is to be administered by the **Section 151 Officer**, and applies to both revenue budgets and the capital programme (but not between the two):
- Properly approved virement request forms and requests not requiring approval must be processed by the appropriate Accountant who will amend the financial management system (general ledger) budget files. Approved forms must be retained for audit purposes.
  - The transfer of non-salary budgets for use on salary expenditure will be permitted up to a total of £10,000 per relevant **Senior Officer** per annum (not per service).
- 6.18. RBOs are responsible for initiating the virement procedure if an overspend is likely to occur within the departmental budget.
- 6.19. A 'Virement Request' form may need to be completed where approval is required as set out in the tables below.

No virement relating to a specific financial year can be made after 31 March in that year.

## Supplementary Estimate Request

- 6.20. If virement is not possible, for example if there is no existing budget to vire or use of reserves is inappropriate, the **Senior Officer** concerned, in consultation with the **Section 151 Officer**, shall submit

a Supplementary Estimate Request to the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate). No such expenditure may be incurred except on resolution of the Council after considering the proposals of the the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate).

## Reserves

- 6.21. The **Section 151 Officer** will advise Council on prudent levels of reserves for the Council, and to take account of the advice of the external auditor in this matter.
- 6.22. For each reserve established, the purpose, usage and basis of transactions should be clearly identified. Reserves should only be used for the purposes for which they were intended.
- 6.23. Authorisation of expenditure from reserves must be sought by the appropriate **Senior Officer** in consultation with the **Section 151 Officer**
- 6.24. [Table 7](#) sets out the financial limits and the approvals required.

## Using Funds Held Under Section 106 Agreements

- 6.25. Projects to be funded, in whole or in part, from Section 106 Agreements must meet the requirements of the agreement.
- 6.26. [Table 8](#) sets out the financial limits and the approvals required

## Shared Services

- 6.27. The **Section 151 Officer** will ensure that a framework exists for the recharging of costs incurred by one partner Council on behalf of the other, having regard to the:

- Legal requirement that tax payers of one authority are not subsidising the costs of the others:
- Principle accepted by Members that partner Council's do not incur excessive costs in establishing the value of recharge due, although the recharge must be transparent and supportable to ensure its acceptability to the Councils' external auditors.

6.28. **Senior Officers** must ensure that:

- Appropriate staff are aware of their responsibilities for the recharging of costs incurred and must consider budget implications of using employees of the shared Council before deciding where a shared resource is deployed. In each case focus needs to be on who will benefit from the expenditure (and therefore who should bear the cost of the work).
- Budgets must not be used to fund another authority's costs even where they have a budget shortfall.
- All recharges must be transparent and robust with a clear audit trail and a clear basis for recharge.
- Should tasks be undertaken by an officer in one Authority on behalf of both, clear parameters need to be set to ensure that there is no duplication

6.29. The lead officer must check the VAT and insurance implications of any proposed new shared services working arrangements with the Head of Finance well before they are due to start.

6.30. Officers must always be thinking about shared services and whether any of their work needs to be recharged (on a regular or ad hoc basis).

## Capital Programme

6.31. See [Section 2 - Assets](#)

## 7. CAR LOANS

**No longer applicable**

The Councils no longer provide car loans

## 8. EXPENDITURE – ORDERING (Goods, Works, Services)

### Why is this important?

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements.

### Risks:

- The incorrect volume, number or quality of goods, works and services may be received; Goods, works or services received may not be fit for purpose;
- The Council may be committed to spending on goods, works or services for which no budgetary provision has been determined;
- Officers failing to follow contract and tendering procedures may leave both themselves and the Council open to accusations of favouritism and unfair contract terms;
- Goods, works or services ordered may fail to meet the Council's environmental, health and safety and other strategies and policies; and
- Short-term expenditure may commit the Council to longer-term maintenance costs.

## Responsibilities

- 8.1. This guidance should be read in conjunction with the Council's Contract Procedure Rules and the Procurement Strategy.
- 8.2. Every officer and Member of the Authority has a responsibility to declare to the **Monitoring Officer** any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct.
- 8.3. Each relevant **Senior Officer** is authorised to incur normal recurring expenditure provided that:
  - Provision has been made by way of revenue budget or supplementary estimate, virement or the work is rechargeable. Officers must not use an incorrect expenditure code to avoid overspending;
  - The quotation or tendering procedure required by the Contract Procedure Rules has been observed unless the Council has given authority for **Exemption to Contract Procedure Rules**;
  - In cases not covered by Contract Procedure Rules, **Senior Officers** shall obtain competitive quotations; and
  - Each order shall conform to the directions of the Council with respect to central purchasing and the standardisation of supplies and materials.

## Orders

- 8.4. Official orders shall be in a form agreed by the **Section 151 Officer** with the responsible **Senior Officer** which in normal circumstances will be the Council's electronic ordering system.
- 8.5. The **Section 151 Officer** may approve alternative arrangements for the ordering of goods etc. where circumstances or trading necessity make this in her/his opinion desirable. Such approval must be given in writing/email.
- 8.6. Official orders shall be serially numbered and directions shall be specified on all orders that invoices shall be sent to Kilworthy Park for West Devon, and service group or establishment issuing the orders for South Hams as soon as possible after the despatch of goods.
- 8.7. The relevant **Senior Officer** of a service area shall be responsible for all orders issued from that service group. S/he shall maintain a list of all persons authorised to raise orders on her/his behalf and a copy of the list shall be supplied to the **Section 151 Officer**.
- 8.8. Blank paper orders (where held) should be kept securely at all times.

## Ordering

- 8.9. **Senior Officers** should ensure that:
- All goods and services are ordered only by appropriately authorised persons;
  - Officers are aware that official orders, either in whole or in part, are not to be used to obtain goods works or services for private use.
  - Official orders are issued for all work, goods and services to be supplied to the Council. They are a simple form of contract between the Council and a supplier.

- 8.10. Orders are not required for:-
- Rates;
  - Supply of utility services (e.g. gas, water, electricity, telephone); and
  - Small cash purchases properly paid out of petty cash (see FPR Petty Cash).
- 8.11. Other exceptions must be agreed by the **Senior Officers** concerned, in consultation with the **Section 151 Officer**.
- 8.12. Oral orders shall only be given in the case of urgency by an officer authorised to sign the relevant order. Such oral orders shall be confirmed as soon as practicable within 48 hours by the issue of an official order unless exempt by the paragraph above.
- 8.13. No order shall be issued for goods, work, or services unless the cost is covered by the approved annual budgets, supplementary estimate or by virement approved under these Financial Procedure Rules. The electronic ordering system will alert the authorising officer if there is a shortfall in the cost code being used, and this should only be overridden if the officer is certain that funds are available in related cost codes.
- 8.14. All official orders shall show the relevant expenditure code and the actual or estimated cost of the goods, materials or services taking into account discounts, carriage etc. at the time of the order. The commitment against the budget will be shown when the electronic ordering system is used.
- 8.15. No supplies are to be obtained on behalf of the Council without an order number being quoted and an order despatched.
- 8.16. Orders placed internally for central purchasing contract purchases e.g. stationery, office equipment may only be signed by those authorised to sign orders by the relevant **Senior Officer**.



- 8.17. In cases where orders are lost in the post or by suppliers, confirmation of the order shall be given by letter quoting the original order number, except where duplicate orders issued marked as such (e.g. using the electronic ordering system).
- 8.18. Standard Terms and Conditions must not be varied without the prior approval of the Council's Procurement Officer and/or the **Council's Solicitor** dealing with contracts.
- 8.23. In exceptional circumstances, where ongoing large orders are placed and individual items can be found substantially cheaper elsewhere, corporate contracts can be ignored with the written/email approval of both the **Senior Officers** and **Corporate Procurement Officer**.
- 8.24. Certain suppliers e.g. Devon Purchasing, and other formal Procurement Partnerships are deemed to have obtained sufficient quotations etc. to comply with this requirement, as a part of their compliance with the UK public procurement rules. The Contract Procedure Rules Section 3 refers and the advice of the **Corporate Procurement Officer** or Internal Audit should be sought.

## Quotations

- 8.19. Best endeavours must be made by ordering officers to ensure that the most favourable prices and terms are obtained for the supply of goods, works and services in accordance with the Council's Contract Procedure Rules and Procurement Strategy.
- 8.20. **Table 9** and **Table 10** set out the financial limits and the approvals required
- 8.21. Where an internal supplier exists, such as printing, waste disposal, legal etc., **Senior Officers** are expected to approach these support services for a quotation before placing any external order for the service.
- 8.22. The use of formal corporate contracts is a requirement and individual orders from other suppliers of items within these contracts should not be made. This is because although a lower price may be found elsewhere, quality will have been tested as part of the contract letting, and the additional costs of looking for lower prices, physically placing a separate order, processing and paying the invoice and in some cases retrospective discounts (rebates), are masked.
- 8.25. Reliance upon quotations obtained by formal partners should only be used if they meet the requirements of these rules, and are current and appropriately evidenced.
- 8.26. The best value for money for the Council may not necessarily lie with the lowest quotation. Consideration needs to be given to the whole life costs of goods, works and services. In these circumstances, an order may be placed with a provider other than the cheapest. However, the written/email approval of the responsible **Senior Officer** must be obtained and the reasons appropriately recorded.
- 8.27. All **Senior Officers** shall ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the **Section 151 Officer**. This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

## Open/Regular Supply Orders

- 8.28. Normally orders must not be kept “open” for more than fourteen working days or until completed, whichever comes first.
- 8.29. However, approval will be given by **Section 151 Officer** or **Head of Finance Senior Specialists** to keep an order open where it can be shown that specified supplies from one contractor are required on a continuing regular basis, such as rental charges, having regard to the market testing limits above. All such orders are to be closed down immediately following the approved period to a maximum of the financial year-end, and the expected payments to be recorded on it.

## Information Technology (ICT) Equipment and Software

- 8.30. All system developments and purchases of computer equipment or software must be approved by the **Head of ICT**, or her/his nominated deputy, in accordance with the Council’s ICT Strategy and must comply with UK Procurement Legislation. For the purpose of this paragraph, equipment will include any device capable of being linked physically or otherwise to the Council’s computer or telephone systems (e.g. digital cameras).
- 8.31. Orders in respect of ICT hardware and software should be in the form of an ICT hardware/software request. These must be submitted to the **Head of ICT**, who is authorised to place the official order.

## Orders, Delivery Notes and Invoices

- 8.32. All incoming invoices should be matched with the relevant order and the delivery note filed accordingly.

## Orders to Individuals (Self-employed)

- 8.33. Special care should be taken when issuing orders or making payments to individuals. The fact that a person considers her/himself to be self-employed does not necessarily mean that they are in the view of the Inland Revenue. Where a service is provided (rather than goods), and payments are calculated by the hour or day, it is probable that payment should be through the Council’s payroll.
- 8.34. The matter should be referred to the Head of HR without delay. (It should be noted that failure to treat such payments in the correct manner might result in the Council incurring significant penalties for failing to comply with tax legislation).
- 8.35. See also section 25 Taxation regarding the completion of the HMRC.
- 8.36. Using an existing Council employee, or a relative, as a self-employed consultant should be avoided, even if quotations have been obtained in line with these Rules. In exceptional circumstances, the relevant **Senior Officer** with the agreement of the **Monitoring Officer** may override this Rule where such action is clearly beneficial to the Council.

## 9. EXPENDITURE – PAYMENT OF ACCOUNTS

### Why is this important?

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements.

### Risks:

- The Council could pay for goods and services that have not been received;
- The Council could pay for goods and services twice or more in error; and
- Interest could be charged to the Council by suppliers following late payment.

## Responsibilities

- 9.1. These procedures should be read in conjunction with the previous section on ordering, and the Council's Contract Procedure Rules (Part 4 of the Constitution).
- 9.2. Apart from petty cash, the normal method of payment from the Council shall be electronic or by cheque or other approved method, drawn on the Council's bank account by the **Section 151 Officer**. The use of direct debit or standing order shall require the prior agreement of the **Section 151 Officer** or **Senior Finance Specialist**, although the most economical method of payment will be encouraged.

## Invoices

- 9.3. The payment of all monies due from the Council will be made under the control of the **Section 151 Officer** with the exception of payments properly made from petty cash (FPR Petty Cash). This includes making payment specifically required under statute or court order whether or not the budget provision exists.
- 9.4. Each **Senior Officer** will arrange for invoices to be forwarded to the relevant case manager. The supplier will be asked to quote the name of the service group, the number of the order and the place where the work was done or goods delivered.
- 9.5. Invoices for payment by the Council must not be drafted by officers of the Council on behalf of others except in any case or category of cases previously agreed by the **Section 151 Officer**.
- 9.6. No amendments, changes or avoidance of the system laid down for the processing of invoices for payment must be undertaken without the approval of the **Section 151 Officer**.

- 9.7. Invoices will only be accepted on which details are written in ink, typewritten, printed or generated by computer. No payment is to be made against a faxed or photocopied invoice unless the prior approval of the **Section 151 Officer** or her/his appointed representative has first been sought.
- 9.8. All amendments to an account will be made in ink and signed or initialled in her/his own name by the officer making the amendment and the reasons if not self-evident will be briefly stated on the account. No amendments will be made to the amount of VAT payable.

### Invoices – Self Employed Status

- 9.9. To comply with Inland Revenue requirements **Senior Officers** are required to formally consider the employment status of individuals employed on a 'self employed consultant or sub contract' basis. Advice should be sought from the relevant **Senior Officer** in the case of any doubt as payment via the payroll system may be required.

### Payment Request Forms

- 9.10. In some circumstances a payment request form is completed to generate a payment e.g. Disabled Facility Grants at South Hams where the payment is made to a contractor from an invoice addressed to the claimant.
- 9.11. The principles of the certification and authorisation paragraphs below will apply to payment requests submitted to the Head of Finance either electronically or manually.

### Receiving/Certification

- 9.12. The **Senior Officer** issuing an order will be responsible for the examination, verification and certification of the relevant account on the original document. An attachment may be used for coding purposes.
- 9.13. The 'receiving' (in the electronic ordering system or creditors system) or certification of an invoice on behalf of a **Senior Officer**, by an officer authorised by her/him and who is not the 'authorising officer,' will imply:
- That the goods have been received, examined and approved as to quality and quantity, or that services rendered or work done has been performed satisfactorily;
  - That they conform to the order;
  - That the price is in accordance with the quotation, contract or current market rate, whichever is applicable, or is otherwise reasonable;
  - That all trade and cash discounts, other proper allowances and other credits due have been deducted;
  - That the expenditure has been properly incurred, has been duly authorised and is within the estimates;
  - That costing allocations are correct;
  - That the account has not been previously passed for payment and has now been recorded as paid on the copy order or other authorisation;
  - That appropriate entries have been made in any inventories, goods received or stores records which are required to be kept;
  - That the invoice is arithmetically correct and that it complies with VAT regulations; and

- That any commitments pertaining to the original order have been identified and cancelled.
- 9.14. A list of officers authorised to receive or certify accounts will be sent by each **Senior Officer** to the **Section 151 Officer**. All amendments to the list will be notified to the **Section 151 Officer** in writing. The **Section 151 Officer** will be responsible for arranging the appropriate access to the electronic ordering system or creditors system for service officers.
- 9.15. Every account will be signed in manuscript in the certifying officer's own name, in situations where the electronic ordering system or creditors system has not been used.

## Authorisation

- 9.16. The authorisation of accounts will be made by the **Senior Officers** concerned, or by an officer authorised by her/him, either in writing or electronically using the electronic ordering system or creditors system, or the **Section 151 Officer**.
- 9.17. The names of officers with the authority to authorise invoices will be sent by each **Senior Officer** to the **Section 151 Officer**. The **Section 151 Officer** will be notified of any changes in writing/email. The **Section 151 Officer** will be responsible for arranging the appropriate access to the electronic ordering system for relevant officers.
- 9.18. Every invoice will be signed in manuscript in the authorising officer's own name, in situations where the electronic ordering system has not been used.
- 9.19. Depending whether manual or electronic ordering is used, the officer authorising the payment will be confirming the following:
- That the order or account has been properly checked and raised/certified by an officer authorised to do so;

- That the order or account relates to necessary and valid expenditure, which conform to the needs of the particular service; and
- That the items are coded to the correct financial code. The electronic ordering system will alert the authorising officer if there is a shortfall in the cost code being used, and this should only be overridden if the officer is certain that funds are available in related cost codes.

## Separation of Duties

- 9.20. The duties of ordering and receiving goods, works and services and of certifying or authorising the relevant accounts for payment will not be performed by the same officer, subject to the **Section 151 Officer** being informed if such a separation of duties in any individual instance is impracticable.

## Payment

- 9.21. All payments are to be made to the correct person, for the correct amount and properly recorded, with evidence of the transaction and payment stored for a period in accordance with statutory and Council requirements
- 9.22. At **South Hams** accounts for payment will be submitted, appropriately certified and authorised to the **Section 151 Officer** within 14 days of receipt by the relevant service and **West Devon** authorised on the creditors system. For both Councils, they must be paid within 30 days of receipt unless they are formally in dispute. Exceptions are where different terms are agreed with the supplier, and for small and medium businesses to be paid in line with any target set by the **Hub Committee** (West Devon), or the **Executive** (South Hams (as appropriate)).

- 9.23. The **Section 151 Officer** will examine as far as she/he considers necessary all accounts passed to her/him for payment and she/he will be entitled to make all such enquiries and to receive such information and explanations as she/he may require to satisfy her/himself that the accounts are in order.
- 9.24. Payments are not to be made on copy or faxed invoices except where that invoice has been approved by one of the signatories to the Council's bank account following the appropriate checks.
- 9.25. The **Section 151 Officer** will be responsible for carrying out such checks of the arithmetic accuracy of accounts submitted for payment, as she/he deems necessary.
- 9.26. Creditors will be paid by BACS whenever possible with a remittance advice forwarded within 24 hours of payment. All bank details to enable payment will be held on the Creditor's individual file records and amended by Corporate Finance staff only on receipt of official notification in writing from the creditor, duly verified.
- 9.27. Cheques must only be returned to the officer requesting payment in exceptional circumstances, and an appropriate record kept by the Head of Finance of the distribution.
- 9.28. Each **Senior Officer** will as soon as possible after 31st March in each year, and in any case not later than a date to be specified by the **Section 151 Officer**, notify the **Section 151 Officer** of all outstanding items of expenditure relating to and incurred in the previous financial year which have not been passed to her/him for payment. When such items of expenditure are subsequently certified for payment they shall be identified accordingly.
- 9.29. Payment for goods and services not yet received should only occur in exceptional circumstances and with the prior approval of an

authorising officer. A record of the payment should be made on the order and checks should be carried out to ensure that delivery subsequently takes place.

- 9.30. All paid invoices and certificates will be retained by the **Section 151 Officer** for a minimum period of six financial years after the year to which they relate.
- 9.31. Payments must not be raised for internal transactions of the Council, even between departments without the prior approval of the **Section 151 Officer**.

## Returned Cheques

- 9.32. The instigating section and Head of Finance are to be informed of any cheques returned in order that appropriate action may be taken to update records etc.

## Value Added Tax (VAT)

- 9.33. It is the responsibility of all officers receiving Goods Receipts Notes ('GRN') to ensure that the relevant VAT invoice is forthcoming, in accordance with the guidance issued by the Council's VAT officer on behalf of the **Section 151 Officer**.
- 9.34. All invoices received from VAT registered suppliers, which contain elements of VAT must be valid tax invoices. In cases where payment is required with the order the VAT should be coded to the VAT suspense account.
- 9.35. VAT should not be added to any charge invoiced by a supplier without evidence that the supplier is registered for VAT. No amendments will be made to the amount of VAT payable. If the VAT status of the supplier is thought to be incorrect, the matter should be referred to the Head of Finance for further investigation.

## Credit/Purchase Cards

- 9.36. Corporate credit/purchase cards may be issued for buying work related goods or services and shall only be issued to and used by officers/Members approved by the **Section 151 Officer**.
- 9.37. Officers/Members issued with a corporate credit/purchase card shall ensure that it is held securely at all times and shall immediately report its loss or theft to the **Section 151 Officer** /Internal Audit whereupon the issuing company shall immediately be notified by telephone with confirmation in writing.
- 9.38. Officers issued with a corporate credit/purchase card shall not lend or disclose the details of the card to other officers unless they have received due authority to do so from the appropriate **Senior Officers** and only in emergency cases. Great care should be taken where a purchase is made using the Internet, i.e. only reputable and secure 'https' web sites should be used.
- 9.39. Cardholders must sign the Council's Cardholder Responsibilities and Guideline for Operatives' form to confirm that they have read and understood the guidance.
- 9.40. Where an employee leaves the Council's employment, or is suspended from duty for any reason, the appropriate **Senior Officer** shall ensure that the credit card is immediately surrendered. The **Section 151 Officer** will take immediate steps to cancel the card and destroy it to prevent further use.
- 9.41. The card issuer's statement must promptly be reconciled to receipts and then be submitted to the **Section 151 Officer** before payment is due. Payment to the card issuer must be authorised by the relevant **Senior Officer** or the **Section 151 Officer**.

- 9.42. Should an unauthorised transaction be noted, the employee shall immediately notify the **Section 151 Officer** who will investigate the irregularity.

## Financial Year End

- 9.43. **Senior Officer** shall notify the **Section 151 Officer** of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the **Section 151 Officer**.

## Loans, Leases and Rental Agreements

- 9.44. **Senior Officers** shall ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the **Section 151 Officer**. All loans, leases and rental agreements must be in a form approved by the Council's Solicitor. This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

## 10. EXTERNAL FUNDING

### Why is this important?

External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide 'seamless' service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery provide additional resources to enable the authority to deliver services to the local community. However, in some instances although the scope for external funding has increased such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

### Risks:

- Statutory requirements are not complied with;
- Funds are acquired in respect of policies that have not been approved by the Council;
- The Council signs up to long term agreements without securing match funding; and
- Unforeseen risks could cause additional expenditure / staff time needed to manage funded projects.

## Responsibilities

10.1. The responsible **Senior Officer** must:

- Complete a project mandate including risk assessment and consult all stakeholders before the project commences to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
- Make the **Section 151 Officer** aware of any prospective funding arrangements, prior to entering into an agreement and ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.
- The relevant **Senior Officer** must seek the relevant approvals, including from Members/Member bodies where appropriate, and ensure that reports provide detailed information on future costs to the Council in managing the funding.
- With the officer appointed to manage the project, ensure that the funding bodies grant conditions/requirements are met; that the project progresses in accordance with the agreed project plan; that all expenditure is properly incurred and recorded and that all claims for funds are made by the due date.
- With the **Section 151 Officer**, ensure that audit requirements are met.

10.2. The **Section 151 Officer** must:

- Review proposals in detail to ensure that they are viable and ensure all funding requirements are considered and future revenue or capital budgets reflect these requirements
- Ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts, and that the audit requirements with regard to the external funding are met.



## 11. FRAUD, CORRUPTION AND BRIBERY – PREVENTION

### Why is it this important?

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

### Risks

- There may be a loss of assets and reputation if the Council allows fraud, corruption or bribery to be perpetrated against it.

## Responsibilities

- 11.1. It is the responsibility of all Members and staff act with integrity and lead by example.
- 11.2. The **Section 151 Officer, Monitoring Officer and Internal Auditor** shall:
  - Develop and maintain an Anti-Fraud, Corruption and Bribery Policy and Strategy and supporting Response Plan;
  - Develop and maintain an Anti-Money Laundering Policy and supporting procedures;
  - Regularly update the Anti-Fraud, Corruption and Bribery Policy and Strategy Anti-Money Laundering Policy and present them to the **Audit and Governance Committee** for recommendation of approval; and
  - Promote adequate and effective internal control arrangements (see separate FPR).
- 11.3. The **Monitoring Officer** shall:
  - Ensure whistle blowing procedures are in place, promoted and operate effectively;
  - Promote high standards of conduct amongst Members and officers; and
  - Maintain a register of interests in which any hospitality or gifts accepted must be recorded.
- 11.4. **Senior Officers** shall ensure that:
  - All suspected irregularities are reported to the **Head of Corporate Services, or Section 151 Officer or internal auditor** in line with the Policy and Response Plan.
  - Where financial impropriety is discovered, the **Section 151 Officer** and the **Monitoring Officer** are informed and where sufficient evidence exists to believe that a criminal offence may have been committed, the Police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
  - All staff are aware of and contribute, when appropriate, to the corporate register of interests held by the **Monitoring Officer**. Managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt.

## 12. GRANTS, SUBSIDIES, CLAIM FORMS AND STATISTICAL RETURNS

### Why is this important?

Grants and subsidies are a significant source of finance to the Council. As such it is essential that the Council receives all that is due to it and on time. Statistical returns often have a significant financial impact upon the authority in respect of the allocation of future grant funding streams.

### Risks:

- Potential income from grants may not be received or received late, the Council thereby having to meet any shortfall in income;
- Grant claim forms may be incorrectly completed; and
- The Council could be criticised by external audit for failing to claim and/or record grant income correctly.

### Responsibilities

- 12.1. The **Section 151 Officer**, in association with the relevant **Senior Officers**, shall be responsible for ensuring that all forms relating to subsidies, grants and claims submitted to Government Departments or other grant paying bodies are completed on behalf of the Council.
- 12.2. The **Section 151 Officer** or relevant **Senior Officer** shall nominate specific officers to complete various subsidy, grant and claim forms and it shall be their duty to deal with the forms expeditiously using the most accurate information available.

### Grants Conditions

- 12.3. The **Section 151 Officer** or relevant **Senior Officer** shall ensure that the conditions of any subsidy or grant are met, including the submission of claims on a timely basis as required by the terms of the grant paying body. Great care shall be taken in the preparation and submission of grant claims and statistical returns in order to ensure their accuracy.

### Receipts and Payments

- 12.4. Any payment by or income due to the Council arising from a submitted subsidy, grant or claim form shall be made known to the **Section 151 Officer** and amounts recorded for accounting purposes to the financial codes set up for the purpose.

### Audit Requirements of the Grant Paying Body

- 12.5. The **Section 151 Officer** or relevant **Senior Officers** shall give early consideration to the audit requirements of the grant paying body and make the necessary arrangements for auditing to ensure that relevant deadlines are met.
- 12.6. Copies of subsidy, grant and claim forms, together with adequate supporting working papers shall be prepared and retained and are to be made available for inspection by internal or external auditors.

## 13. INCOME

### Why is this important?

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly, and all VAT correctly accounted for. Receivable income should be collected at the earliest opportunity and in advance of any consequential supply of goods or services, as this improves the Council's cashflow and also avoids the time and cost of administering debts.

### Risks

- Income collected could be lost or stolen;
- Income may not be collected or may be incorrect, i.e. the incorrect rate or tariff is charged;
- Money owed to the Council may not be adequately pursued; and
- Financial and accounting records may not be correctly updated.

## Responsibilities

13.1. The **Section 151 Officer** must:

- Agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- Approve the form of all books of accounts, and all official receipt forms or books, licences, tickets and all documents or vouchers representing receipts for money or money's worth. They shall be ordered, controlled and issued by her/him, and all new stock and issues will be properly recorded by the **Section 151 Officer** and acknowledged by the recipient (unless by prior arrangement and approval e.g. car parking tickets).
- Ensure officers collecting income shall not be the only officer involved in the reconciliation of that income to the amounts due.
- Review and update a Money Laundering Avoidance Policy for the Council.

## Charges for Services

13.2. **Senior Officers** must establish an appropriately approved charging policy for the supply of goods or services, with the appropriate member approval if required, including the appropriate charging of VAT, with advice from the **Section 151 Officer**.

13.3. They must ensure that the **Section 151 Officer** is notified promptly of all monies due to the Council under contracts, leases, tenancy agreements, agreements for the sale of property and any other agreements involving the receipt of money by the Council, and the **Section 151 Officer** will have the right to inspect any documents or other evidence in this connection as she/he may decide.

13.4. With the exception of those fixed nationally or delegated to officers, no new charges for services, or a revision of charges, will be made except upon a report prepared jointly by the relevant **Senior Officer** concerned and the **Section 151 Officer** to the appropriate member body.

## Cash Collection and Banking

13.5. **Senior Officers** must ensure that all monies received on behalf of the Council shall without delay (within one working day unless circumstances prevent) are banked in the Council's name in compliance with the Accounts and Audit Regulations. The responsibility for identifying amounts due and the responsibility for collection, should be separated as far as is practicable.

13.6. Where possible income shall be collected in advance of providing goods or services having due regard to accounting and VAT implications as advised by the **Section 151 Officer**.

13.7. Cash collected or held on behalf of the Council is to be fully accounted for and an official receipt issued. The official receipt number or other appropriate reference number is to be recorded on all cheques and postal orders received on behalf of the Council. Copy receipts, tickets and other records of income for the appropriate period to hold securely.

13.8. No deduction may be made from income save to the extent that the **Section 151 Officer** may specifically authorise

13.9. Every department or establishment which receives cash and cheques through the post must arrange for the post to be opened by at least two officers who will record and witness all remittances received.

13.10. Third party cheques will not be accepted in payment of accounts due to the Council. No change shall be given for any cheque payments.

13.11. Income shall be recorded and banked daily following reconciliation or at such intervals as the **Section 151 Officer** may decide. In any event banking shall be made at least once per week or before the relevant insurance limit is exceeded. This rule also applies to any rent and other cash collectors.

13.12. All officers paying in must complete a paying in slip in duplicate in a form approved by the **Section 151 Officer**.

13.13. Where a cheque is accepted, together with cash, in settlement of a debt, the detail must be noted on the copy of the cheque list which accompanies the paying in slip.

13.14. All collecting officers must maintain an "unders and overs" record for any discrepancies. [Table 11](#) sets out the financial limit and approval requirements.

## Personal Cheques

13.15. Personal cheques shall not be cashed nor money loaned out of cash held on behalf of the Council, including income or change floats.

## Change Floats

13.16. The **Section 151 Officer** may advance a fixed imprest to an officer of the Council for use as a change float. Each imprest shall be of such amount as the **Section 151 Officer** may determine in consultation with the relevant **Senior Officer**.

13.17. Following certification of receipt, officers holding change floats take personal responsibility for the custody of cash until such time as another authorised officer certifies take over of responsibility.

13.18. No income is to be used as a change float. Cash income or change floats are not to be used as petty cash in any circumstances (see also FPR Petty Cash (Imprest Accounts)).

- 13.19. Every officer holding a change float shall certify to the Head of Finance the amount of the float held at 31st March each year.
- 13.20. Change floats shall be available for inspection by internal audit officers at any time.

## Security

- 13.21. It is the responsibility of the receiving officers and their managers to ensure that all income and floats are locked away to safeguard against loss or theft, and to ensure the security of cash handling, in line with the requirements of the Council's insurers.
- 13.22. When remittances are passed to a second officer or cashier, a receipt must be obtained from the person to whom they are handed. At least two employees shall be present when post is opened to ensure that money received by post is properly identified recorded and witnessed.

## Raising Invoices (Sundry Debtors)

- 13.23. The control and recovery of debts is the responsibility of the **Section 151 Officer**.
- 13.24. The relevant **Senior Officers** will furnish such particulars of charges for work done, goods supplied or services rendered on behalf of the Council and of other amounts accruing due, as the **Section 151 Officer** may require and so ensure prompt recording of all funds receivable by the Council.
- 13.25. The responsible officer must ensure that invoices are raised in respect of work done, goods supplied or services rendered on behalf of the Council within 10 working days of the work having been done/ goods supplied or services rendered.

- 13.26. It is the responsibility of all officers raising invoices to ensure that the VAT is appropriately accounted for in an invoice, in accordance with the guidance issued by the Council's VAT officer on behalf of the **Section 151 Officer**.
- 13.27. Invoices must not be raised for internal transactions of the Council, even between departments without the prior approval of the **Section 151 Officer**.

## Recovery

- 13.28. Accounts raised are to be pursued by the designated officer within defined timescales including referral to collection agencies, the Council's Solicitor or Court as appropriate and depending on the type of debt.
- 13.29. The Council's Corporate Debt Policy applies to the collection and enforcement of debts.
- 13.30. **Senior Officers** will ensure that all necessary documentation required to support legal action in pursuit of debt, will be provided promptly and in the form required.

## Bad and Doubtful Debts

- 13.31. **Table 12** sets out the financial limits and approval requirements for writing-off bad or doubtful debts.
- 13.32. The total amounts of debt written off by the **Section 151 Officer** under delegated powers will be reported to these bodies annually or more frequently if appropriate,
- 13.33. Appropriate accounting entries shall be made only following the receipt of write-off approval, with the charge made to the budget to cost centre.

## Cancellations

- 13.34. Invoices should only be cancelled in circumstances where the income no longer falls due, such as an error or change in circumstances on the original.
- 13.35. Invoices that have been raised cannot be cancelled without the authorisation of the relevant **Senior Officer** or her/his appointed deputy and the **Section 151 Officer** or her/his appointed deputy.

## Financial Year End

- 13.36. The **Section 151 Officer** is to be informed of any outstanding income relating to the previous financial year as soon as possible after the 31st March, and not later than 30th April. This includes outstanding income data recorded on independent billing and collection systems (both manual and computerised) held within and outside the finance function.

## 14. INSURANCE

### Why is this important?

Many services and activities of the Council are not without inherent risk of death, injury or financial loss to staff, Members of the public or external organisations. The Council needs to assess and log these risks and then decide how to cover them, i.e. take out insurance with an external provider or cover the risk itself by making payments from Council funds as and when claims are made. These procedures should be read in conjunction with the Council's Risk Management Strategy.

### Risks:

- The Council may be unable to meet large claims made against it, i.e. death or injury;
- The Council may be over insured, i.e. paying out higher premiums than it needs to; and
- The Council may not be aware of all risks and has not, therefore, taken steps to reduce them or their effect.

## Responsibilities

14.1. The **Section 151 Officer** shall;

- Effect all insurance cover and negotiate all claims in consultation with other officers where necessary;
- Ensure that all appropriate employees of the Council shall be included in appropriate fidelity guarantee insurance whilst carrying out duties directly connected with their employment as a Council officer; and
- Annually, or at such period as she/he may consider necessary, review all insurances in consultation with other **Senior Officers** as appropriate.

14.2. **Senior Officers** shall:

- Give prompt notification of all new risks, property, equipment or vehicles that require to be insured and of any alterations affecting existing insurances either to the **Section 151 Officer** or using a process approved by him/her to inform the Council's insurers;
- Ensure that all conditions of the Council's insurance policies that relate to their area of responsibility are adhered to.
- Immediately notify the **Section 151 Officer** or their nominated officer in writing of any loss, liability or damage or any event likely to lead to a claim in connection with their service groups together with full supporting details, papers or subsequent explanation as required.
- To ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

- Consult the **Section 151 Officer** and the **Monitoring Officer** regarding the terms of any indemnity that the Council is requested to give.

## Inspections

- 14.3. Each **Senior Officer** shall keep suitable records to ensure that the inspection of engineering plant under her/his control normally carried out by an insurance company is carried out by that company or nominated contractor within the periods prescribed by the Health and Safety at Work or other legislation.
- 14.4. In the event of failure by the Insurance Company or nominated contractor to carry out inspections within the prescribed periods, the **Section 151 Officer** shall be notified immediately.

## Claims

- 14.5. Any claim made against the Council for expenses or damages incurred, which may reasonably be expected to be covered by insurance should immediately be referred to the **Section 151 Officer**.
- 14.6. Policy premiums and any excess required to be paid in the claims process will be charged to the relevant service, as such premiums and excesses fall due.
- 14.7. Council employees or anyone covered by the Council's insurances must not admit liability or make any offer to pay compensation which may prejudice the assessment of liability in respect of any insurance claim.
- 14.8. It is the responsibility of the relevant **Senior Officer** to ensure that appropriate insurance arrangements are made when undertaking work for third parties, in conjunction with the **Section 151 Officer** or her/his nominated representative.



## 15. INTELLECTUAL PROPERTY

### Why is this important?

Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment then, as a general rule, they belong to the employer not to the employee. Various Acts of Parliament cover different types of intellectual property.

### Risk

- The Council may not benefit from activities undertaken within the Council which may give rise to items that may be patentable e.g. software development

## Responsibilities

- 15.1. In the event that the Council decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the Council's approved intellectual property procedures.

### Section 151 Officer

- 15.2. To develop and disseminate good practice and work with **Senior Officer** to ensure that maximum benefit for the Council is derived from development of intellectual property.

## Heads of Service

- 15.3. To ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

## 16. INVENTORIES

### Why is this important?

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An inventory is a prerequisite for sound asset management.

### Risks:

- Holders of equipment and furniture may be unaware that items have been lost or stolen without a record of all such items being on hand; and
- The Council's insurers may reject claims to replace lost or stolen items if the Council cannot demonstrate that it maintains adequate inventory records.

## Responsibilities

- 16.1. Inventories shall be kept in a form approved by the **Section 151 Officer**. These rules do not override any other statutory or regulatory reasons for maintaining an inventory.
- 16.2. **Table 13** sets out the financial limits and requirements for inventories.
- 16.3. An inventory of all ICT equipment will be held by the ICT Section.
- 16.4. Each **Senior Officer** shall:
  - Nominate the officers who are responsible for compiling and maintaining the inventories of assets.
  - Arrange for the inventory to be checked at least annually with the physical assets and shall certify the inventory to that effect. The **Section 151 Officer** shall be advised of deficiencies revealed by these checks.
- 16.5. The original copy of an inventory that is to be re-written, for whatever reason, is to be retained until Internal Audit advise otherwise. Similarly, any input documents used for amending entries held in a computerised inventory system are to be held for inspection by Internal Audit, if requested.

## Council Property

- 16.6. The **Section 151 Officer** or her/his representatives may at all reasonable times have access to the property of the Council and may make such checks and tests as she/he deems reasonable and necessary.
- 16.7. The Council's property shall not be removed unless in accordance with the ordinary course of the Council's business or as directed by the **Senior Officers** concerned. All property belonging to the Council and recorded on an inventory shall be marked as Council property.

## 17. PARTNERSHIPS including SHARED SERVICES

### Why is this important?

Partnerships will play a key role in delivering services and community strategies and in helping to promote and improve the well-being of the area.

The Council is working in partnership with other Councils, public agencies, private companies, community groups and voluntary organisations, to bring together the contributions of the various stakeholders to deliver a shared vision of services based on user wishes.

The Council will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations.

### Risks:

- The objective of a proposed partnership may not be achieved;
- A partnership arrangement may cost the Council more than an existing or singularly administered equivalent, or the quality of service may decline, or both; and
- Important issues and problems are not addressed as roles and responsibilities were not clearly defined at the outset.

## Responsibilities

17.1. The main reasons for entering into a partnership are:

- To generate efficiencies and cost savings;
- The desire to find new ways to share risk;
- The ability to access new resources;
- To provide new and better ways of delivering services;
- To forge new relationships.

17.2. A partner is defined as either:

- An organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
- A body whose nature or status gives it a right or obligation to support the project.

### Members:

17.3. The Council may enter into any joint arrangements including with one or more other local authorities.

17.4. The **Hub Committee** (West Devon), and the **Executive** (South Hams) (as appropriate) is responsible for approving frameworks for partnerships within the scope of their functions.

17.5. For **West Devon**, the **Overview and Scrutiny Committee** shall be responsible for the monitoring of partnership arrangements in accordance with the Council's **Partnership Policy**.

17.6. The **Section 151 Officer** shall:

- Give advice on effective controls and ensure that accounting arrangements are satisfactory.
- With the relevant **Senior Officer** be guided by the checklist in the Council's approved Partnership Policy and Guidance, and the key elements of funding a project. This will include:
  - A scheme appraisal for financial viability in both the current and future years;
  - Risk appraisal and management;
  - Resourcing, including taxation issues;
  - Audit, security and control requirements; and
  - Carry-forward arrangements.
- With the **Monitoring Officer** must seek to ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. The overall corporate governance arrangements and legal issues must also be considered when arranging contracts with external bodies. All the risks should have been fully appraised before agreements are entered into with external bodies.

17.7. The **Senior Officer** shall:

- Ensure that any partnership that the Council enters into represents value for money i.e. the benefits outweigh the costs including officer time. The value for money should be continuously monitored on an ongoing basis.
- Ensure that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies;

- Adhere to the Council's approved Partnership Policy and Guidance, having regard to governance, risk management, information sharing, the Council's partnership register, and an annual evaluation of achievements and value for money;
- Maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the **Section 151 Officer**;
- Ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council;
- Ensure that an agreement exists in respect of each partnership and arrangements are properly documented and reviewed by the Council's Solicitor; and
- Provide appropriate information to the **Section 151 Officer** to enable a note to be entered into the Council's statement of accounts concerning material items.

17.8. **Partners** must:

- If appropriate, and especially where this Council takes the lead, be aware of their responsibilities under the authority's Financial Procedure Rules, Contract Procedure Rules, and Partnership Policy unless separate governance arrangements, including the administration of financial matters, are adopted by each partner;
- Ensure that risk management processes are in place to identify, assess and monitor all known risks;
- Ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
- Agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences; and

- Communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

## Shared Services

17.9. The **Section 151 Officer** will ensure that a framework exists for the recharging of costs incurred by one partner Council on behalf of the other, having regard to the:

- legal requirement that tax payers of one council are not subsidising the costs of the others;
- Principle accepted by Members that partner Councils do not incur excessive costs in establishing the value of recharge due, although the recharge must be transparent and supportable to ensure its acceptability to the Councils' external auditors.

17.10. **Senior Officers** must ensure that:

- Their managers are aware that they are responsible for the recharging of costs incurred and must consider budget implications of using employees of the shared Council before deciding where a shared resource is deployed. In each case focus needs to be on who will benefit from the expenditure (and therefore who should bear the cost of the work);
- Budgets must not be used to fund another authority's costs even where they have a budget shortfall;
- All recharges must be transparent and robust with a clear audit trail and a clear basis for recharge; and
- Should tasks be undertaken by an officer in one Authority on behalf of both, clear parameters need to be set to ensure that there is no duplication.

17.11. The lead officer must check the VAT and insurance implications of any proposed new shared services working arrangements with Head of Finance well before they are due to start.

17.12. Officers must always be thinking about shared services and whether any of their work needs to be recharged (on a regular or ad hoc basis).

## 18. PAYMENTS TO EMPLOYEES AND MEMBERS (PAYROLL)

### Why is this important?

Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the full Council.

### Risks:

- Employees may be paid incorrectly;
- Payments may be made to fictitious employees; and
- Action could be taken against the Council by external agencies for failing to abide by statutory requirements in the employment and remuneration of employees.

## Responsibilities

- 18.1. The payment of all salaries, wages, gratuities, compensation and other emoluments to employees or to former employees shall be made by the **Head of Paid Service through the Head of HR**, including those powers set out in the **Scheme of Delegation**. These officers are responsible for advising on areas such as income tax, national insurance and pension contributions.
- 18.2. The **Head of HR** will:
- Ensure that adequate and effective systems and procedures are operated, so that:
    - payments are only authorised to bona fide employees;
    - payments are only made where there is a valid entitlement;
    - conditions and contracts of employment are correctly applied;
    - employees' names listed on the payroll are checked at regular intervals;
    - to verify accuracy and completeness with **Senior Officers**.
  - Control, make accurate and timely payment and account for national insurance, income tax and pension and the maintenance of related records;
  - With the **Section 151 Officer**, frequently reconcile payroll expenditure against approved budgets;
  - Ensure that checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy; and

- Notify the **Head of Paid Service** and the **Section 151 Officer** as soon as possible of changes in remuneration, other than normal increments and pay awards and agreements of general application.

## Senior Officers

18.3. Each **Senior Officer** shall:

- Ensure appointments are made in accordance with the rules of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available;
- Notify the **Head of HR** as soon as possible and in such form as the Head of HR may prescribe of:
  - appointments, resignations, dismissals, suspensions from duties and transfers;
  - absences from duty for sickness or other reasons apart from approved leave;
  - changes in rate of remuneration (other than normal increments); and
  - information necessary to maintain records of service for superannuation, income tax, national insurance and the like; and
  - such other information as may be required by the Head of HR in connection with the calculation and payment of salaries, wages, compensation and other emoluments to the employee.

- Ensure the payment of salaries and wages at the proper time such documents as are required for data processing are to be submitted in accordance with a timetable.
- To ensure that the **Head of HR** and **Section 151 Officer** are notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

## Appointment

- 18.4. Appointment of employees will be made in accordance with the establishment and rates of remuneration approved by the Council.
- 18.5. The **Head of HR** (and any officer who may be appointed to carry out duties in connection with remuneration or establishment) will be consulted in connection with any proposal to seek approval from the **Senior Leadership Team / HR Panel** for any appointment outside the approved establishment and rates of remuneration.
- 18.6. In applying scales of salaries and wages, and in relation to other remunerations the **Senior Officers** will consult with the **Head of HR**.
- 18.7. Upon the appointment of any member of staff, each **Senior Officer** will provide the **Head of HR** with the relevant payroll starter letters and forms, plus information necessary to maintain records of service, pensions, income tax and national insurance liability etc may prescribe on a timely basis.
- 18.8. The **Head of HR** will maintain personal files for all new and existing employees and will complete pension documentation as required, in accordance with the Local Government Pension Scheme.

## Appointment – Self Employed Status

- 18.9. To ensure that payroll transactions are processed only through the payroll system, **Senior Officers** should give formal consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis by completing the HMRC employment status checklist.
- 18.10. The Inland Revenue applies a tight definition for employee status, and the **Section 151 Officer** and the **Head of HR** must be advised of all appointments.

## Time and Other Amendment Records

- 18.11. All time records and other amendments to payroll data shall be in a form approved by the **Head of HR**.
- 18.12. All time records and other amendments will be certified by or on behalf of the **Senior Officer** concerned. A list of officers authorised to sign such documents will be sent to the **Head of HR** together with specimen signatures.
- 18.13. All amendments to the authorised signatory list will be notified to the **Head of HR**. Documents will be signed in manuscript in the authorised officer's own name.
- 18.14. All time records and other amendment pay sheets will be signed by the employee making the claim.
- 18.15. Electronic mailing or facsimiles are not a suitable media to notify the **Head of Corporate Services** of time or other amendments that result in payment or deductions from pay, other than in urgent cases when followed up with a signed original document.

18.16. Retention of documents must comply with statutory Inland Revenue, DwP and Pension requirements.

18.17. Each **Senior Officer** will be responsible for keeping adequate records of annual leave, sickness or other absences of employees within her/his service group.

## Payment

- 18.18. Payments will be calculated by the **Head of HR** in accordance with the information provided, the relevant Conditions of Service, and statutory payroll legislation.
- 18.19. Payment will be by BACS for all employees. Bank details must be provided by employees in writing.
- 18.20. Pay advices will be despatched to the relevant department where a designated officer will be responsible for their distribution. Any undelivered pay advices must be returned to the **Head of HR** not payroll officers (contributes to separation of duties in a small team).
- 18.21. Payment of salaries and wages in advance will not be made except in the case of persons leaving the service of the Council before the day on which their salary or wage would normally be paid or at the discretion of the **Head of HR**.

## Absence

- 18.22. Managers or their authorised officers are responsible for ensuring records of all absences including holidays, sickness, unpaid and other leave are maintained and monitored, and for notifying the **Head of HR** of the same. In addition, for periods of unpaid and unauthorised leave, immediate written notification to the relevant **Senior Officer** is required.



## Leavers

18.23. The relevant **Senior Officer** will notify the **Head of HR** immediately by completion of a Leaver's Form, of all resignations, dismissals, redundancies or retirements. On receipt of the Leaver's Form, the **Head of HR** will calculate and initiate the final payment, and where applicable, forward the necessary pension documentation, to the administering Authority.

## Pay Awards

18.24. The **Head of HR** will be authorised to implement any nationally agreed salary or wage award and will report to the appropriate member body on the financial implications of any pay award affecting employees of the Council.

## Verification

18.25. The names and grades of all employees listed on the payroll shall be annually checked and signed as correct by the appropriate **Senior Officer** to verify the accuracy of the payroll records.

## Members Allowances

18.26. The **Monitoring Officer** will advise the **Section 151 Officer** promptly of the Members' allowances agreed by the Council in the Scheme of Member Allowances. Payments made to Members will be through the payroll and will be subject to the same financial control requirements as those made to officers.

## Staffing

18.27. The Head of Paid Service is responsible for providing overall management to staff. He/she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

18.28. The Head of Paid Service and **Section 151 Officer** shall ensure:

- That the budget provision exists for all existing and new employees; and
- The staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

18.29. **Senior Officers** shall:

- Monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff;
- Ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided; and
- Ensure that the **Section 151 Officer** is immediately informed if the staffing budget is likely to be materially over- or under-spent.

## 19. PAYMENTS OF HOUSING AND COUNCIL TAX BENEFITS

### Why is this important?

The Council grants thousands of people millions of pounds in benefits to assist them in paying their rent and/or Council Tax bills. The Housing Benefit scheme is complex, requires people to declare both personal and financial details and is, as a result, open to error and abuse. This being the case the assessment, calculation and payment of claimants needs to be carefully controlled.

### Risks:

- Benefit could be paid to fraudulent claimants;
- Personal domestic and financial details relating to a claimant could be disclosed without authority to do so; and
- Benefit entitlement could be incorrectly calculated.

## Responsibilities

- 19.1. The **Head of Housing, Benefits and Revenues** shall be responsible for the procedures, assessment and payment of benefit. S/he shall ensure that periodic checks on the calculations and the entitlement for benefit in selected cases are carried out.

## Personal Data/Declaration of Interest

- 19.2. All records and files of personal information relating to claims and the calculation of entitlement to benefit are to be held under arrangements that will prevent access by unauthorised persons.

- 19.3. Any information gained in the assessment and payment of benefit shall not be divulged by any member of staff to persons not authorised to receive that information. Any person seeking information on behalf of another must provide satisfactory evidence that they are authorised to do so within the confines of the Data Protection Act.
- 19.4. Any members of staff with a personal interest in a benefit claim shall notify their manager in writing and have no part in the assessment or payment of that claim.

## Payment – BACs

- 19.5. Benefit payment will be made by BACS whenever possible. All bank details to enable payment will be amended by benefits staff only on receipt of official notification in writing from the claimant. For landlord payment to companies, written details of bank account changes will be subsequently verified direct with the company.

## Payment – Cheques

- 19.6. All cheques in payment of benefit shall be crossed and opening of those cheques will not be permitted. Alternative arrangements will be made by the relevant **Senior Officer** to allow claimants to cash cheques with the appropriate identification.
- 19.7. All benefit cheques returned to the Council, whether by hand or by post, shall be passed immediately to the Cashier and cancelled. The Benefits team and accountants are, however, to be promptly notified that any such cheques have been returned.

## 20. PETTY CASH (IMPREST ACCOUNTS)

### Why is this important?

Public money should be spent with demonstrable probity and in accordance with the Council's policies, even in respect of low value purchases. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements.

### Risks:

- Cash may be stolen, lost or borrowed without due authority; and
- Expenditure may be poorly controlled with little comparison of costs.

## Responsibilities

- 20.1. The **Section 151 Officer** may advance a fixed imprest to an officer of the Council for petty cash expenditure. Each imprest shall be of such amount as the **Section 151 Officer** may determine in consultation with the **Senior Officer**. A centralised imprest should be used wherever this is practical, and the principles of these rules apply equally to it.
- 20.2. Following certification of receipt, officers holding petty cash take personal responsibility for the custody of cash until such time as another authorised officer formally takes over responsibility for the money.

## Expenditure

- 20.3. Petty cash items shall be limited to minor non-recurring items of expenditure and shall not exceed in the case of each individual item, the sum prescribed by the **Section 151 Officer** of £30. This amount may only be exceeded with the prior agreement of the **Section 151 Officer** or their nominated Deputy.
- 20.4. None of the following items of expenditure shall be paid out of petty cash:
  - Travelling and subsistence expenses of officers, including car park and ferry/bridge crossings;
  - Postages, except where a small supply of stamps is held for a specific purpose agreed by the **Section 151 Officer**; and
  - Stationery.
- 20.5. No personal cheques are to be encashed via petty cash, nor personal loans made.
- 20.6. Where petty cash disbursements are made for goods that include VAT, a VAT invoice or receipt must be obtained.
- 20.7. Any claim for petty cash shall be recorded on an official petty cash voucher. The voucher is to be signed by the officer making the claim and attached to a suppliers payment receipt.
- 20.8. The holder of the petty cash imprest shall check the claim to ensure that the item is for work use, the amount claimed matches the receipt and that it is correctly coded for both financial management and VAT purposes.

## Reimbursement

- 20.9. Petty cash imprests shall be reconciled and balanced (vouchers to cash balances) on a regular basis (monthly is recommended) or when handed to another officer to administer. Every officer holding a petty cash imprest shall certify to the Head of Finance the amount of the imprest as at 31 March each year.
- 20.10. Receipts and vouchers for petty cash disbursements shall be forwarded to the Head of Finance with the claim for reimbursement. A claim for reimbursement must also be made as close to the 31st March annually as is practical.
- 20.11. The claim shall be certified as correct by the **Senior Officer** or such person nominated by her/him for that purpose.

## General

- 20.12. No income is to be paid into petty cash.
- 20.13. Cash income or change floats are not to be used as petty cash in any circumstances.
- 20.14. Floats and vouchers shall be held securely and access restricted to authorised officers.
- 20.15. The Finance team must be advised of any significant variances, above £30, identified by the reconciliation of the petty cash float.
- 20.16. On leaving the Council's employment or otherwise ceasing to hold an imprest advance, an employee shall account to Corporate Finance for the amount advanced to her/him. Under no circumstances should the petty cash be banked as income, instead it should be coded to the relevant petty cash code supplied by Corporate Finance. On change of custody of the float it should be counted by both officers and a signed record of the balance held.

- 20.17. Cash balances and vouchers shall be available for inspection by internal audit officers at any time.
- 20.18. The officer responsible will provide the **Section 151 Officer** with a certificate of the value of the account held at 31st March each year.

## Centralised Imprest – Petty Cash Advances

- 20.19. Advances of cash up to £30 may be made with the prior authorisation of an authorised signatory upon completion of a 'Cash Advances' form. The name of the person to whom the advance is to be issued and that of the issuing officer together with the date of issue and the amount shall be recorded on the form.
- 20.20. Receipts shall be kept in respect of purchases made using the cash advance. These, together with any residual balance shall be paid back within 2 working days of the original advance being issued. The balance of any residual cash plus the value of the receipts shall agree to the amount originally issued.
- 20.21. The Cashier shall check the receipts and ensure that a coding slip is completed to ensure that the FMS system is updated with the expenditure incurred.

## 21. RETENTION OF DOCUMENTS

### Why is this important?

Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources.

A complete and accurate audit trail is the key mechanism underpinning the control environment.

### Risks:

- The External Auditor may not be able to provide an adequate assurance that the Councils accounts present a true and fair view;
- Statutory obligations concerning the retention of key documents may not be met, e.g. VAT, PAYE;
- Court action could fail due to the loss of prime documents; and
- Performance statistics cannot be verified.

## Responsibilities

- 21.1. In conjunction with the **Section 151 Officer**, the **Monitoring Officer** shall create, maintain and make available a Records Management Policy and Records Retention Policy to all staff.
- 21.2. **Senior Officers** shall ensure that their staff retain adequate records in line with statutory requirements and internal policies to provide a management and audit trail. This shall include making staff aware of and follow guidance set out in the Records Management Policy and Records Retention Policy.
- 21.3. It is the responsibility of all officers and Members to ensure the security of any retained documents in line with the Data Protection Act and these Rules.

## 22. RISK MANAGEMENT, INTERNAL CONTROL, GOVERNANCE

### Why is this important?

All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

### Risks:

- The Council may be unable to meet large claims made against it, i.e. death or injury;
- The Council may be over insured, i.e. paying out higher premiums than it needs to; and
- The Council may not be aware of all risks.

## Responsibilities

### Risk Management

- 22.1. It is the overall responsibility of the Council to oversee the Council's Risk Management Policy, and to promote a culture of risk management awareness throughout the Council.
- 22.2. The Council will be assisted in this by the **Audit and Governance Committee** who will monitor the effectiveness of the Council's risk management process on a regular basis.
- 22.3. On a six-monthly basis the Head of Paid Service will provide update reports to the **Audit and Governance Committee**.
- 22.4. The Senior Leadership Team will comprehensively review the Corporate Risks on a quarterly basis.
- 22.5. As part of the System of Internal Control **Senior Officers** will set the operational objectives for their service each year linked to corporate objectives; identify the risks to achieving those objectives and the controls to mitigate these risks. In addition, the risks deriving from the 'Blueprint' objectives must also be established and recorded in the Council's risk registers.
- 22.6. **Senior Officers** shall:
  - Identify and quantify risks and potential liabilities;
  - Ensure awareness among all levels of staff with regards to the control of risk;
  - Ensure that all significant risks and potential liabilities are addressed;

- Ensure that the appropriate decisions are taken on the acceptable level of retained risk; and
  - Regularly review the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis.
- 22.7. Managers are responsible for managing the day to day risks.
- 22.8. The Head of Strategy and Projects will maintain the Council's risk register. And will ensure that it reflects the risks identified by **Senior Officers**.
- 22.9. **Senior Officers** are also responsible for identifying significant changes in risk for their service and must ensure that the Head of Strategy and Projects is advised on a timely basis.
- 22.10. The **Senior Officers** will drive the implementation and embedding of risk management, and contribute to the maintaining of the Council's risk registers.
- 22.11. Internal Audit will review the risk management process on an annual basis and report the results to the **Audit and Governance Committee** in addition to normal reporting lines.
- 22.12. The risk management framework links with the Council's System of Internal Control and Code of Corporate Governance, all of which form part of the assurance streams that enable the Council to publish an annual governance statement as required by the Accounts and Audit Regulations

## System of Internal Control

- 22.13. The Council is responsible for maintaining a System of Internal Control – setting of objectives, identification of risk and controls to mitigate the risks.
- 22.14. The Council will also be responsible for conducting a review at least once a year of the effectiveness of internal control and shall prepare a statement (the Annual Governance Statement), in accordance with proper practices, for publication with the Council's published annual accounts.
- 22.15. The **Audit and Governance Committee** will act as the nominated member body to examine the draft statement and supporting evidence and approve the Annual Governance Statement on behalf of the Council with the Statement of Accounts.
- 22.16. **Senior Officers** are to manage system processes to ensure that established controls are being adhered to and to evaluate their effectiveness in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- 22.17. The **Section 151 Officer** will advise on the systems of control devised by managers and co-ordinate the management group with responsibility for drafting the statement, evaluating assurances and supporting evidence in respect of:
- Performance Management;
  - Internal Audit;
  - External Audit;
  - Senior Officers;
  - Monitoring Officer;
  - Statutory Officers Group; and
  - Corporate Governance.

## Systems Changes – Direct or Indirect Financial Nature

- 22.18. The **Section 151 Officer** shall be informed of the creation, amendment or removal of systems of a financial nature or where decisions arising from the use any system have a financial consequence.
- 22.19. The requirements set out in the Council's [Data Quality Strategy](#) shall also be adhered

## Corporate Governance

- 22.20. The Council is responsible for approving the Council's [Code of Corporate Governance](#).
- 22.21. The principle of the Code will be openness, integrity and accountability and will cover the areas required by CIPFA/Solace, which at the date of these Financial Procedure Rules include:
- Purpose of the Council and outcomes for the community;
  - Members and officers with clearly defined functions and roles;
  - Upholding high standards of conduct and behaviour;
  - Informed decision making, effective scrutiny, and risk management;
  - Developing the capability of Members and officers; and
  - Engaging with local people and other stakeholders.
- 22.22. Direct responsibility for the monitoring of compliance with the principles and elements of corporate governance and the requirements of the Code are placed with the Council's **Section 151 Officer, Monitoring Officer** and **Internal Audit**.

22.23. These officers, through **Internal Audit**, will therefore:

- Test the code annually and the results of the monitoring and testing will be reported to both the **Audit and Governance Committee** as required by the Constitution.
- Prepare a statement, in accordance with proper practices, for publication with the Council's published annual accounts.

## Performance Management/Data Quality

22.24. The **Section 151 Officer** shall:

- Advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- Contribute to the development of corporate and service targets and objectives and performance information.
- Ensure that systems are in place to measure activity and collect accurate financial information for use in performance indicators.

22.25. **Senior Officers** shall:

- Contribute to the development of performance plans and the Financial Strategy in line with statutory requirements;
- Contribute to the development of corporate and service targets and objectives and performance information; and
- Ensure that robust systems exist for the collection and monitoring of performance information.



## Business Continuity

- 22.26. The Civil Contingencies Act 2004 requires the Council as a Category 1 responder to put in place business continuity arrangements to ensure that in the event of an emergency it can continue to exercise both its civil protection functions and perform its ordinary functions.
- 22.27. The Council has identified business continuity as a strategic risk.
- 22.28. In addition business continuity will require a separate but similar risk management strategy and process. A separate Business Continuity Planning Group must meet with operational links between it and the Statutory Officers Group.

## 23. SECURITY

### Why is this important?

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations.

### Risks:

- Cash and other assets could be lost, stolen or misused; and
- Claims against the Council's insurers may be invalidated.

## Responsibilities

### 23.1. Each **Senior Officer**:

- Is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under her/his control;
- Shall consult the **Section 151 Officer** in any case where security is thought to be defective or where it is considered that special security arrangements may be needed;
- Must ensure that attractive and portable items are to be identified with security markings as belonging to the Council and recorded;
- Must ensure that cash holdings shall be kept to a minimum and at a level agreed with the **Section 151 Officer**. They shall not exceed insurance cover;
- To ensure that no Council asset is subject to personal use by an employee without proper authority; and
- shall ensure that staff leaving the authority hand back any keys or assets held by them prior to their departure. Door entry systems combinations and safe combinations etc. shall be changed on the day of departure.

23.2. All staff are to ensure that all windows, cabinets, safes and drawers are locked in any location wherever cash or keys are held out-of-hours.

23.3. Employees of the Council responsible for collecting, holding and the paying-in of official cash are to ensure that it is held under secure arrangements at all times.

## Safes

- 23.4. Members of staff who are authorised to gain access to any Council safe must not allow the keys or combination access codes to pass from their control or to be available to unauthorised persons at any time.
- 23.5. The loss of any such keys must be reported to the **Section 151 Officer** immediately. The combination of any Council safe must not be disclosed to another person without the express authorisation of the **Senior Officer** or relevant manager. The combination of a safe must be changed immediately when a member of staff, who is authorised to open that safe, leaves the employment of the Council.
- 23.6. All keys held for any official purpose by an authorised member of staff shall be held under proper and secure arrangements and not passed or be available to any unauthorised person. (This regulation includes card keys and door entry codes issued to members of staff).

## Postal Franking Machines

- 23.7. Postal franking machines must also be securely held, and officers responsible will keep proper records of usage and certify the balance of impressions held in the machine at the 31st March each year. The certificate is to be forwarded to the **Section 151 Officer** promptly. Stocks of postage stamps shall also be held securely.

## ICT Software and Hardware

- 23.8. Security of computer software, hardware and related vulnerable equipment are covered by a separate [Council ICT Security Policy](#) which is the responsibility of the **Head of ICT**, and all staff should make themselves aware of the requirements on them with regard to safeguarding the Council's computer systems.

## Data – Electronic/Paper Based

- 23.9. All **Senior Officers** shall ensure that their employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, including the requirements of the Data Protection Act, whether held in manual or computerised records.

## 24. STOCKS AND STORES

### Why is this important?

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date stock record, assets register and inventory is a prerequisite for sound asset management.

### Risks:

- Stocks and stores could be lost or stolen; and
- Stocks and stores may be held at unreasonably high and uneconomic levels.

## Responsibilities

- 24.1. Each **Senior Officer** shall make arrangements for the care and custody of stocks and stores in their service. She/he shall ensure that stocks are maintained at reasonable levels and are subject to a regular independent physical check (being a minimum of once a year). All discrepancies should be investigated and pursued to a satisfactory conclusion.
- 24.2. Designated officers are to maintain accurate records of all receipts and issues in a form agreed by the **Section 151 Officer**. All requests for stores and materials must be made to the officer responsible for the control and issuing of those stores and materials.
- 24.3. The relevant **Senior Officers** will arrange to investigate and remove from the Council's records (i.e. write-off) discrepancies as necessary, and to obtain the relevant approvals for write off and disposal of redundant stocks and equipment in line with the limits below

## Stock Control and Issues

- 24.4. All stocks will be recorded in a stock control record in a format agreed by **Senior Officers** in association with the **Section 151 Officer**.
- 24.5. Stock items are only to be issued to persons authorised to receive those materials. Requisition notes or equivalent documents approved by the **Section 151 Officer** are to be used bearing the signature of the appropriate authorised receiving officer.

## Stock Takes

- 24.6. **Senior Officers** shall arrange for stock takes to be carried out at a frequency agreed with the **Section 151 Officer** but at least once in every financial year, at financial year end. Where continuous stocktaking arrangements are operating, this will not apply.
- 24.7. All discrepancies should be investigated and pursued to a satisfactory conclusion. Stock taking sheets must clearly show surpluses and deficiencies and should be retained with all related system documentation.
- 24.8. Random stock checks may also be carried out by Internal Audit.
- 24.9. Whenever a storekeeper or person in charge of stores hands over, leaves or ceases to have custody of the stores, **Senior Officers** shall ensure that a prior check is made of the stores concerned and that a handing over certificate is signed by the outgoing and incoming officers, i.e. agreement of volumes, numbers etc. as at the handover date.

## Stock Certificates

- 24.10. **Senior Officers** or their nominated Deputy shall certify the quantities and values of stocks at cost price held by her/him at 31st March each year and forward this with a summary of the stock control system to the **Section 151 Officer**.
- 24.11. Where appropriate, the **Section 151 Officer** shall arrange for stock control systems to be reconciled to the Council's accounts regularly at an appropriate frequency, and annually at 31st March as a minimum.

## Surpluses, Deficiencies and Write Offs

- 24.12. Any significant surpluses or deficiencies revealed in any items of stock at any stocktaking shall be reported immediately to the **Senior Officer** or her/his Deputy and write offs arranged with the **Section 151 Officer**.
- 24.13. [Table 14](#) sets out the financial limits and approval requirements:

## 25. TAXATION

### Why is this important?

Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is, therefore, very important for all officers to be aware of their role.

### Risk:

- Risk that the statutory rules on taxation are broken, with the potential for the Council to incur penalties in addition to the amounts due.

## Responsibilities

- 25.1. The **Head of HR** will ensure:
- Completion of all HMRC returns regarding PAYE in line with the statutory deadlines;
  - That all payroll related taxable transactions are identified properly carried out and accounted for within stipulated timescales;
  - Records are maintained in accordance with instructions; and
  - Up-to-date guidance on PAYE issues is made available to the Council's managers and employees.
- 25.2. The **Section 151 Officer** will arrange for:
- A monthly return of VAT inputs and outputs to Her Majesty's Revenue and Customs (HMRC) in line with statutory deadlines;
  - A regular calculation to establish the Council's position against the HMRC's VAT de minimis requirements;
  - Details regarding the construction industry tax deduction scheme to be sent to the HMRC as required by the guidelines; and
  - Up-to-date guidance on VAT issues to be made available to managers and relevant Council employees.
- 25.3. **Senior Officers** will ensure that:
- The correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations;
  - Where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements; and
  - All persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are employed by a recognised staff agency.
- 25.4. If, in exceptional circumstances, a **Senior Officer** considers it beneficial to recruit a self employed individual, checks must be carried out on their employment status using the Council's or HMRC's checklist. The completed checklist must be sent to the **Head of HR** before any payment of an invoice is generated. Under no circumstances should a payment be generated through a payment request form i.e. not supported by an invoice.

## 26. TRAVEL AND SUBSISTENCE

### Why is this important?

In the course of their duties officers and Members may be required to work away from their normal place of work, attend seminars, training days, etc. The officer/Member should be reimbursed for their travel and associated costs at agreed rates and in accordance with agreed procedures. In so doing the officer receives what is due to them and the Council has an acceptable record of what is claimed and by whom.

### Risks:

- Fraudulent claims may be made, i.e. fictitious journeys, embellished claims, incorrect rates etc.
- Claims could be paid twice or at the wrong rates; and
- Financial and accounting records are not correctly updated.

## Responsibilities

### Head of HR

- 26.1. All claims for payment of travelling and subsistence shall be in a form approved by the **Head of HR**, and will in normal circumstances be made through salaries in accordance with the Council's approved [Travel and Subsistence Policy](#)

### Claim Completion and Certification

- 26.2. Claims for travel and subsistence shall only be made where journeys were authorised and expenses were properly and necessarily incurred. All claims shall be completed fully to the satisfaction of the **Head of HR** and in accordance with the Council's approved [Travel and Subsistence Policy](#).
- 26.3. All claims for travelling and subsistence shall be signed by the claimant and authorised by or on behalf of the appropriate **Senior Officer**.
- 26.4. A list of officers authorised to sign claims shall be sent to the **Head of HR**. All amendments to the list shall be notified to the **Head of HR** in writing. The claims shall be signed in manuscript in the authorised officer's own name. Claimants may not authorise their own claim.
- 26.5. The certificate by or on behalf of the **Senior Officer** shall mean that the journeys were authorised and that the manager is satisfied that expenditure was necessarily incurred on travel and subsistence for which the proper allowances have been claimed, ensuring that cost-effective use of travel arrangements is achieved.
- 26.6. Petty cash must not be used for any travel or subsistence related expenses by officers or Members.

## Receipts

- 26.7. If a receipt is not attached an explanation of the circumstances may be called for by Internal Audit. In any event, where no receipt is supplied, the expense claimed must be treated as a taxable item.
- 26.8. In addition, a VAT receipt for petrol must be attached to cover the VAT element claimed for car mileage. This is a requirement of HM Revenue and Customs, if the Council is to reclaim the VAT paid to the employee. As a result, if no VAT receipt is supplied, the Council cannot pay the VAT element to employees.
- 26.9. Credit card slips are not acceptable in lieu of other forms of receipt.

## Timeliness of Claim

- 26.10. All claims for payment to employees of car allowances (including leased cars), subsistence allowances, travel and incidental expenses must be submitted with all relevant receipts on a monthly basis in accordance with the Council's approved Travel and Subsistence Policy.

## Motor Insurance, Driving Licences and Vehicle Roadworthiness

- 26.11. In accordance with the [Travel and Subsistence Policy](#), all employees undertaking official business travel shall ensure they hold an appropriate driving licence for the class of vehicle being used and that the vehicle is taxed, has a valid MOT certificate where appropriate and is covered by an adequate Motor Insurance Policy which includes clauses covering Business Usage. Payroll will annually request officers to provide their driving licence, MOT certificate and insurance certificate for inspection by their line manager.

## Council Members

- 26.12. Members' signed travel claims will be certified by the **Head of Democratic Services** or a duly authorised officer on her/his behalf and must be submitted on a monthly basis to the **Head of HR** in line with the approved Scheme of Members' Allowances.



## 27. TREASURY MANAGEMENT

### Why is this important?

Many millions of pounds pass through the Council's accounts each year. This led to the establishment of Codes of Practice for Treasury Management. These aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's financial position.

### Risks:

- Money invested by the Council could be lost giving rise to the Council facing serious financial difficulty and/or failure to achieve its objectives;
- Funds could be misused by a member of staff for their own ends, resulting in a loss to the Council;
- Money could be borrowed or lent by the Council at less than advantageous interest rates thereby incurring higher than necessary expenditure or foregoing investment income; and
- The Council could fail to repay money borrowed on time thereby having penalties invoked against it.

### Responsibilities

- 27.1. The Council has adopted the **Revised Code of Practice for Treasury Management in Local Authorities** (published by CIPFA) and these rules should be adhered to as a matter of principle.
- 27.2. This will be the responsibility of the **Section 151 Officer** and include presentation to Members of a strategy and related policies setting out the approach to managing the risk of the Treasury Management activities.
- 27.3. The **Section 151 Officer** will also ensure that the borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's **Treasury Management Policy Statement and Strategy** and the **Council's Investment Strategy**. The Strategy would take account of any proposed borrowing under the Prudential Code.

### Cash Position

- 27.4. The **Section 151 Officer** shall arrange for a nominated officer to assess the cash position each working day to determine the funds to be invested, recalled or borrowed as necessary. The nominated officer shall prepare a Daily Cash Position Statement which is to be signed by an authorised officer on the day of preparation.
- 27.5. The **Section 151 Officer** shall be authorised to invest or utilise such surplus monies of the Council as may seem to her/him proper and in the Council's interest, within the approved Council Policy.

### Investments

- 27.6. All investments of money under its control shall be made in the name of the Council, or in the name of nominees approved by the Council.
- 27.7. All securities in the name of the Council and the title deeds of all property in its ownership shall be held in the custody of the Council's Solicitor. The **Section 151 Officer** will act as registrar of stocks, bonds and mortgages and maintain records of all borrowing by the Council.

## Borrowing

- 27.8. All borrowing shall be made in the name of the Council.
- 27.9. The **Section 151 Officer** shall:
- Negotiate all loans of money to the Council (including overdrafts) within the Council's overall borrowing powers;
  - Be the Council's registrar of stocks, bonds and mortgages;
  - Maintain a record of all borrowing of money by the Council;
  - Borrow at the most advantageous rates and terms possible; and
  - Ensure that the Council's aggregate credit limit is monitored and at no time exceeded.
- 27.10. The **Section 151 Officer** shall prepare a report prior to the commencement of each financial year for the Council to consider and then set the borrowing limits for the ensuing year.
- 27.11. **Table 15** sets out the financial limits and approval requirements for borrowing.

## General including Monitoring

- 27.12. **Senior Officers** must ensure that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Council, following consultation with the **Section 151 Officer**.
- 27.13. It is the responsibility of relevant **Senior Officer** to ensure that loans are only made to third parties where specific member approval is obtained, such as loans to social, cultural and sporting organisations etc.

- 27.14. A detailed weekly statement of lending (or borrowing) transactions including the closing balances lent (borrowed) shall be prepared by a nominated officer and presented to the **Section 151 Officer** or Senior Finance Specialist.
- 27.15. The **Section 151 Officer** shall report at least three times a year on treasury management activities to the **Executive at South Hams** (Strategy, Monitoring and Annual Reports), and the function may be scrutinised by the **Audit and Governance Committee**.
- 27.16. For **West Devon**, the Strategy and mid year Monitoring Report will be taken to the **Hub Committee** and an annual report to the **Audit and Governance Committee** and **full Council**.
- 27.17. Interests must not be acquired in companies, joint ventures or other enterprises without the approval of the full Council, following consultation with the **Section 151 Officer**

## Trust Funds

- 27.18. All trust funds shall wherever possible be in the name of the Council.
- 27.19. All officers acting as trustees by virtue of their official position shall deposit all securities, etc. relating to the trust with the **Section 151 Officer**, or **Monitoring Officer** as appropriate, unless the deed otherwise provides.
- 27.20. It is the responsibility of **Senior Officers** to arrange, where funds are held on behalf of third parties, for their secure administration, and to maintain written records of all transactions as approved by the **Section 151 Officer**.
- 27.21. **Senior Officers** must also ensure that trust funds are operated within any relevant legislation including the expectations of the Charity Commission, and the specific requirements for each trust.

## 28. WORK FOR THIRD PARTIES

### Why is this important?

Current legislation enables the Council to provide a range of services to other bodies, but within certain parameters. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be put in place to ensure that any risks associated with this work is minimised and that such work is within the Council's legal powers.

### Risks:

- Internal resources are tied up in providing external users a service with a resulting detrimental effect on the internal service provision; and
- The Council could be held liable for uninsured actions of its staff.

## Responsibilities

### Approval

- 28.1. The Hub Committee (West Devon), and the Executive (South Hams) are responsible for approving the contractual arrangements for any work for third parties or external bodies.

### Legality

- 28.2. The relevant Senior Officer must ensure that any work carried out for third parties is not outside the Council's powers by formally seeking the opinion of the Council's Monitoring Officer before such an arrangement is entered into.

### Financial Matters

- 28.3. The Section 151 Officer shall issue further guidance on the financial aspects of providing third parties with services and in the maintenance of a contracts register.
- 28.4. The relevant Senior Officer must ensure that:
- Proposals are costed properly in accordance with the guidance provided by the Section 151 Officer;
  - No contract is subsidised by the Council;
  - Appropriate insurance arrangements are made;
  - The Council is not put at risk from any bad debts;
  - Wherever possible, payment is received in advance of the provision of the service;

- The Section 151 Officer is provided with the appropriate information to enable a note to be entered into the statement of accounts; and
- Information held or assets owned by the Council is/are not used to the detriment of the Council.

## Contracts

28.5. The relevant Senior Officer must ensure that:

- Contracts are drawn up using guidance and advice provided by the Council's Solicitor and Section 151 Officer and that the formal approvals process is adhered to;
- All contracts are properly documented and that the documentation is kept up to date; and
- A register is maintained of all contracts entered into with third parties in accordance with the procedures specified in the Contract procedure Rules, including providing the Monitoring Officer with the original.

## Service Provision

28.6. The relevant Senior Officer shall also ensure that:

- The service has the appropriate expertise to undertake the contract; and
- The delivery of the contract will not adversely impact upon the services provided for the Council.

# OFFICER EMPLOYMENT PROCEDURE RULES

## Introduction

These Officer Employment Procedure Rules apply to the employment, management and dismissal of Council officers.

### 1. Appointments on merit

- 1.1. Every appointment of a person as an officer shall be made on merit subject to the qualifications set out in section 7(2) of the Local Government and Housing Act 1989.

### 2. Transparency requirement

- 2.1. The Council will require any candidate for appointment as an officer to state in writing whether they are related to or the partner of any existing councillor or officer of the Council.
- 2.2. No candidate who is related to a Councillor or an officer will be appointed without the authority of the Head of Paid Service or an officer nominated by the Head of Paid Service.
- 2.3. Any candidate who fails to disclose such a relationship can be disqualified for the appointment and, if appointed, will be liable to dismissal without notice.

- 2.4. For the purposes of this Officer Employment Procedure Rule, “related” shall mean the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.

### 3. Seeking support for appointment

- 3.1. Subject to Officer Employment Procedure Rule 3.3, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillors for any appointment with the Council. The content of this Procedure Rule will be included in any recruitment information.
- 3.2. Subject to Officer Employment Procedure Rule 3.3, Councillors must not seek support for any person for any appointment with the Council.
- 3.3. Nothing in Officer Employment Procedure Rules 3.1 or 3.2 will prevent a Councillor from giving a written reference for a candidate for submission with an application for appointment.

### 4. Other appointments

- 4.1. The appointment of officers (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.
- 4.2. The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group

## 5. Recruitment of Head of Paid Service and Directors

- 5.1. Where the Council proposes to appoint a Head of Paid Service and/or Director, and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will draw up a statement specifying:
- (a) the duties of the officer concerned, and
  - (b) any qualifications or qualities to be sought in the person to be appointed;
  - (c) the terms and conditions; and
  - (d) the remuneration package.
- 5.2. Whether the post is to be advertised internally only or externally the Council will:
- (a) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of such persons who are qualified to apply for it; and
  - (b) make arrangements for a copy of the statement referred to in Office Employment Procedure Rule 5.1 to be sent to any person on request.

## 6. Role of the Statutory Officers Joint Committee

- 6.1. The Statutory Officers Joint Committee is not a standing committee of the Council. Instead, a Statutory Officers Joint Committee will be formed of six Councillors (three from the Council including at least one member of the Executive and three from West Devon Borough Council). whenever appointments, recommendations of appointments or disciplinary decisions are needed. Members of the Statutory Officers Joint Committee will be nominated by group leaders on a politically proportionate basis.

- 6.2. For any appointment, the Statutory Officers Joint Committee will decide on the appointment process but the final appointment decision or recommendation to Council shall be that of the Joint Committee.
- 6.3. Appointment of a Head of Paid Service, Monitoring Officer or Section 151 Officer on an interim basis will follow the same process as that for a permanent appointment.

## 7. Appointment of Head of Paid Service, Monitoring Officer, Section 151 Officer

- 7.1. Full Council will approve the appointment of the Head of Paid Service, the Monitoring Officer and the Section 151 Officer following the recommendation of such an appointment by the Statutory Officers Joint Committee (which included among its membership is at least one member of the Executive). No offer of appointment is to be made until:
- (a) the Statutory Officers Joint Committee has informed the Proper Officer of the name of the person to whom the Statutory Officers Joint Committee wishes to recommend to full Council and any other particulars which the Statutory Officers Joint Committee considers are relevant to the appointment;
  - (b) the Proper Officer has notified every member of the Executive of:
    - (i) the name of the person whom the Statutory Officers Joint Committee wishes to recommend;
    - (ii) any other particulars relevant to the appointment which the Statutory Officers Joint Committee has notified to the Proper Officer; and
    - (iii) the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Executive to the Proper Officer; and

- (c) either:
  - (i) the Leader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Proper Officer that neither the Leader of the Council nor any other member of the Executive has any objection to the making of the offer;
  - (ii) the Proper Officer has notified the Statutory Officers Joint Committee that no objection was received by the Proper Officer within that period from the Leader of the Council; or
  - (iii) where the Leader of the Council has objected to the making of the offer, the Statutory Officers Joint Committee is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded; and
- (d) the Statutory Officers Joint Committee has made a recommendation to full Council.

## 8. Appointment of Directors

- 8.1. The Head of Paid Service will appoint any Directors (unless the Director will also be the Head of Paid Service, the Monitoring Officer or Section 151 Officer).

- 8.2. An offer of employment as a Director shall not be made until:
  - (a) the Head of Paid Service has informed the Proper Officer of the name of the person to whom the Head of Paid Service wishes to make the offer and any other particulars which the Head of Paid Service considers are relevant to the appointment;
  - (b) the Proper Officer has notified every member of the Executive of:
    - (i) the name of the person to whom the Head of Paid Service wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the Head of Paid Service has notified to the Proper Officer; and
    - (iii) the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Executive to the Proper Officer; and
  - (c) either:
    - (i) the Leader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Proper Officer that neither they nor any other member of the Executive has any objection to the making of the offer;
    - (ii) the Proper Officer has notified the Head of Paid Service that no objection was received by the Proper Officer within that period from the Leader of the Council; or
    - (iii) where the Leader of the Council has objected to the making of the offer, the Head of Paid Service is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded

## 9. Other appointments

### 9.1. Officers below Director level

The appointment of officers below Director level (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee.

### 9.2. Assistants to Political Groups

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group and in line with legislative requirements.

## 10. Disciplinary action and Dismissal of Head of Paid Service, Monitoring Officer, Section 151 Officer

### 10.1. For the purposes of this Officer Employment Procedure Rule 10:

- (a) **“the 2011 Act”** means the Localism Act 2011;
- (b) **“disciplinary action”** in relation to a member of staff of a local authority means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff’s personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract;
- (c) **“independent person”** means a person appointed under section 28(7) of the 2011 Act;

- (d) **“local government elector”** means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
- (e) **“relevant independent person”** means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate; and
- (f) **“relevant meeting”** means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer.

10.2. The Statutory Officers Joint Committee will hear the case against the Head of Paid Service, Monitoring Officer and Section 151 Officer concerned and in the case of dismissal make a recommendation to the full Council. The hearing will be conducted in accordance with the Council’s Disciplinary Procedure.

10.3. The Head of Paid Service, Monitoring Officer and Section 151 Officer may not be dismissed by the Council or subject to disciplinary action falling short of dismissal unless the procedure set out in the following paragraphs is complied with.

- (a) No disciplinary action may be taken in respect of the Head of Paid Service, Monitoring Officer and Section 151 Officer unless an investigation has been undertaken in respect of the allegations made. Accordingly, the Statutory Officers Joint Committee may instruct the Proper Officer to appoint a suitably qualified or experienced person to conduct such investigation and report to the Statutory Officers Joint Committee on their findings.



- (b) The Council must invite relevant independent persons to be considered for appointment to the Statutory Officers Joint Committee, with a view to appointing at least two such persons to the Statutory Officers Joint Committee.
- (c) Subject to paragraph (d), the Council must appoint to the Statutory Officers Joint Committee such relevant independent persons who have accepted an invitation issued in accordance with paragraph (b) in the following priority order:
  - (i) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (ii) any other relevant independent person who has been appointed by the Council;
  - (iii) a relevant independent person who has been appointed by another authority or authorities.
- (d) The Council is not required to appoint more than two relevant independent persons in accordance with paragraph (b), but may do so.
- (e) The Council must appoint the Statutory Officers Joint Committee at least 20 working days before the Council is due to meet to consider any recommendation to dismiss or for disciplinary action falling short of dismissal.
- (f) Before the taking of a vote on whether or not to approve a dismissal of or the taking of disciplinary action falling short of dismissal against the Head of Paid Service, Monitoring Officer and Section 151 Officer the Council must take into account, in particular:
  - (i) any advice, views or recommendations of the Statutory Officers Joint Committee;
  - (ii) the conclusions of any investigation into the allegations; and
  - (iii) any representations from the relevant officer.
- (g) Notice of the dismissal of the Head of Paid Service, Monitoring Officer, Chief Officer or Section 151 Officer must not be given by the until:
  - (i) the Statutory Officers Joint Committee has notified the Proper Officer of the name of the person who the Statutory Officers Joint Committee wishes to recommend to the full Council should be dismissed and any other particulars which the Statutory Officers Joint Committee considers are relevant to the proposed dismissal;
  - (ii) the Proper Officer has notified every Member of the Executive of:
    - (aa) the name of the person who the Statutory Officers Joint Committee wishes to recommend should be dismissed;
    - (ab) any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
    - (ac) the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Executive to the Proper Officer; and

(iii) either:

- (aa) the Leader of the Council has, within the period specified in the notice under sub-paragraph (f)(ii), notified the Statutory Officers Joint Committee that neither the Leader of the Council nor any other Member of the Executive has any objection to the dismissal; and
- (ab) the Proper Officer has notified the Statutory Officers Joint Committee that no objection was received by the Proper Officer within that period from the Leader of the Council; or
- (ac) where the Leader of the Council has objected, the Statutory Officers Joint Committee is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.

And

(iv) full Council has accepted the Statutory Officers Joint Committee's recommendation.

10.4. Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Statutory Officers Joint Committee must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

## **11. Disciplinary action and Dismissal of Directors**

- 11.1. In the case of disciplinary action or dismissal of a Director, the Head of Paid Service will hear the case against the Director concerned and subject to Officer Employment Rule 11.2 being complied with make the final decision. The hearing will be conducted in accordance with the Council's Disciplinary Procedure.
- 11.2. Officer Employment Procedures Rule 10.2 to 10.4 will apply to the taking of disciplinary action or dismissal of a Director with the necessary changes and to reflect that the Head of Paid Service is the decision-maker.

## **12. Dismissal and management of all other officers**

- 12.1. The dismissal and management of employees (except the Head of Paid Services, Monitoring Officer and Section 151 Officer) including disciplinary action will be carried out by properly authorised officers of the Council in line with the Recruitment and Selection Policy, other employment policies and procedures agreed by the Council and in compliance with statutory obligations.
- 12.2. Councillors will not be involved in disciplinary action or the dismissal of any officer other than the Head of Paid Service, Section 151 Officer and the Monitoring Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

# CHAPTER 6 – CODES AND PROTOCOLS

## Chapter 6(a) – Councillors’ Code of Conduct

*“The role of councillor across all tiers of local government is a vital part of our country’s system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.*

*As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.*

*Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.*

*This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public’s trust in local government.”*

**Extract from the Local Government Association  
Model Councillor Code of Conduct**

## Introduction

All councils are required to have a local Councillor Code of Conduct. This code of conduct has been adopted by South Hams District Council (the Council) as its’ Code of Conduct and is based on the Local Government Association (LGA) Model Councillor Code of Conduct.

## Definitions

For the purposes of this Code of Conduct:

- **“Councillor”** means a member or co-opted member of a local authority or a directly elected mayor.
- **“Co-opted member”** is “a person who is not a member of the authority but who
  - (a) is a member of any committee or sub-committee of the authority, or;
  - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority; and
  - (c) who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.
- **“Director”** includes a member of the committee of management of an industrial and provident society.

- **“Disclosable pecuniary interest”** means an interest of yourself, or of your partner if you are aware of your partner’s interest, within the descriptions set out in [Table 1 in Appendix B](#).
- **“Other Registerable Interest”** means an interest of yourself within the descriptions set out in [Table 2 in Appendix B](#).
- **“Partner”** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.
- **“Local authority”** includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.
- **“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.
- **“Sensitive interest”** is as an interest which, if disclosed, could lead to you, or a person connected with you, being subject to violence or intimidation.

## Purpose of the Code of Conduct

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, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct.

The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## General principles of councillor conduct

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 (Appendix A).

Building on these principles, the following general principles have been developed specifically for the role of councillor.

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.

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.

## Application of the Code of Conduct

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.

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;
- 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;

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; and
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## General Conduct

### 1. Respect

#### As a councillor:

- 1.1. **I treat other councillors and members of the public with respect.**
- 1.2. **I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

**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.

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 local authority, 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 local authority employees, where concerns should be raised in line with the Council's councillor-officer protocol.

## 2. Bullying, harassment and discrimination

### As a councillor:

- 2.1. **I do not bully any person.**
- 2.2. **I do not harass any person.**
- 2.3. **I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service 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 a 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.

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.

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.

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.

## 3. Impartiality of officers of the Council

### As a councillor:

- 3.1. **I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

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.

## 4. Confidentiality and access to information

### As a councillor:

#### 4.1. I do not disclose information:

- (a) given to me in confidence by anyone; or
- (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:
    - reasonable and in the public interest; and
    - made in good faith and in compliance with the reasonable requirements of the Council; and
    - I have consulted the Monitoring Officer prior to its release.

#### 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.

#### 4.3. I do not prevent anyone from getting information that they are entitled to by law.

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. Disrepute

### As a councillor:

#### 5.1. I do not bring my role or local authority into disrepute.

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 the Council and may lower the public's confidence in you or the Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.

You are able to hold the local authority 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.

## 6. Use of position

### As a councillor:

#### 6.1. I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the Council 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.

## 7. Use of local authority resources and facilities

### As a councillor:

#### 7.1. I do not misuse council resources.

#### 7.2. I will, when using the Council's resources or authorising their use by others:

- (a) act in accordance with the Council's requirements; and
- (b) 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 local authority or of the office to which I have been elected or appointed

You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a councillor. Examples might 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.

## 8. Complying with the Code of Conduct

### As a Councillor:

#### 8.1. I undertake Code of Conduct training provided by the Council.

#### 8.2. I cooperate with any Code of Conduct investigation and/or determination.

#### 8.3. I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

#### 8.4. I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

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 local authority 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.



## Protecting your reputation and the reputation of the local authority

### 9. Interests

#### As a councillor:

#### 9.1. I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the Council.

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.

You should note that failure to register or disclose a disclosable pecuniary interest is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

### 10. Gifts and hospitality

#### As a councillor:

10.1. **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 local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

10.2. **I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £100 within 28 days of its receipt.**

10.3. **I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

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 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 declaring interests

### Registering interests

1. Within 28 days of becoming a member 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](#). You should also register details of your other personal interests which fall within the categories set out in [Table 2](#).
2. 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.
3. 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 they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which *directly relates* to one of your Disclosable Pecuniary Interests, 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. 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

5. Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests, 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

6. Where a matter arises at a meeting which *directly relates* to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) 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 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.
7. Where a matter arises at a meeting which *affects*:
  - 7.1. your own financial interest or well-being;
  - 7.2. a financial interest or well-being of a friend, relative, close associate; or
  - 7.3. a body included in those you need to disclose under Disclosable Pecuniary Interests 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

8. Where a matter *affects* your financial interest or well-being:
- 8.1. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - 8.2. 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 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.
9. Where you have a personal interest in any business of the Council and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

## 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. Any unpaid directorship.

Subject	Description
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 him/her in carrying out his/her duties as a councillor, or towards his/her 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 his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (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 –  (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land and Property	Any beneficial interest in land which is within the area of the council.  'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income

Subject	Description
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge) –</p> <ul style="list-style-type: none"> <li>(a) the landlord is the council; and</li> <li>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director of or has a beneficial interest in the securities of.</li> </ul>
Securities	<p>Any beneficial interest in securities* of a body where –</p> <ul style="list-style-type: none"> <li>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</li> <li>(b) either – <ul style="list-style-type: none"> <li>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>(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 his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ul> </li> </ul>

**Table 2 – Other Registerable Interests**

You have a personal interest in any business of your authority where it relates to or is

likely to affect:

- (a) any body of which you are in general control or management and to which you are nominated or appointed by the Council: or
- (b) any body:
  - (i) exercising functions of a public nature;
  - (ii) any body directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

# COUNCILLOR COMPLAINT PROCESS

## Introduction

The Localism Act 2011 requires the Council to: adopt its own Code of Conduct for Councillors and Co-opted members; and agree procedures for dealing with alleged breaches of that Code of Conduct. The Code of Conduct sets out the general standards of behaviour that are expected of Councillors and also the arrangements for the registration and declaration of financial and other interests.

Parish and Town Councils within the Council's area are also required to adopt their own Code of Conduct. The Localism Act 2011 requires any complaints about breaches of those Codes by Parish or Town Councillors to be dealt with under the Council's arrangements.

## 1. Making a complaint

- 1.1. Complaints should be made in writing to the Monitoring Officer, using the online complaint form or a form provided by the Monitoring Officer if possible.
- 1.2. For a complaint to be considered it must also:
  - (a) identify the Councillor(s) complained about;
  - (b) identify the provisions of the code of conduct said to have been breached;
  - (c) provide sufficient information for an initial assessment of the complaint to be made; and
  - (d) be clear about what remedy is being sought.
- 1.3. Anonymous complaints will not be considered.

- 1.4. In the interests of fairness and natural justice, the Councillor who is the subject of the complaint will normally be told who has complained about them and the details of the complaint. There may be occasions where the complainant requests that their identity is withheld. Such a request will only be agreed in exceptional circumstances.

## 2. Who will deal with the complaint?

- 2.1. The Initial Assessment of any complaint under Stage 1 will be dealt with by the Monitoring Officer or by a person authorised by the Monitoring Officer in consultation with members of the Audit and Governance (Assessment) Panel.
- 2.2. Any investigation under Stage 2, will be conducted by the Monitoring Officer or a person appointed by the Monitoring Officer ("the Investigating Officer").
- 2.3. The Council's Audit and Governance (Hearing) Sub-Committee will consider the Investigating Officer's report.
- 2.4. The Independent Person will be able to attend any meetings held under Stage 2 of the process.

## 3. How will any complaint be dealt with?

### 3.1. Stage 1 – Initial Assessment

The Monitoring Officer or the person authorised by the Monitoring Officer will consider the complaint and in particular will consider whether:

- (a) the complaint is about the conduct of a councillor or lay or co-opted member of the Council or a town or parish council within the Council's area;

- (b) the Councillor was a councillor at the time of the incident giving rise to the complaint;
- (c) the Councillor was a councillor at the time of the complaint; and
- (d) the matters giving rise to the complaint would, if proven, be capable of breaching the Code of the relevant local authority.

3.2. If the complaint:

- (a) fails one or more of those tests, no further action will be taken.
- (b) shows a clear and obvious breach that can be resolved amicably, the Monitoring Officer after consultation with the Independent Person, may seek to resolve the complaint; or
- (c) if the Monitoring Officer or the person authorised by the Monitoring Officer in consultation with the Independent Person is satisfied that it would be disproportionate to investigate the complaint, no further action will be taken.

In all cases, the Monitoring Officer's decision will be final.

3.3. Unless the complaint is about a failure to disclose a Disclosable Pecuniary Interest or other criminal behaviour (see paragraph 3.8 below), if the complaint satisfies the tests in paragraphs 3.1 and is not otherwise dealt with in accordance with paragraph 3.2, the Monitoring Officer or the person authorised by the Monitoring Officer will prepare a report and consult with members of the Audit and Governance (Assessment) Panel. The Councillor, and if they are a Town or Parish Councillor, the relevant Town or Parish Clerk, will be informed of the receipt of the complaint.

3.4. When considering the report and assessing the complaint the Monitoring Officer and the Audit and Governance (Assessment) Panel will have regard to the criteria set out in Appendix A and any relevant guidance issued by the Local Government Association on the assessment of councillor complaints.

3.5. The Monitoring Officer in consultation with the members of the Audit and Governance (Assessment) Panel may:

- (a) reject the complaint or to decide to take no action – in which case the Monitoring Officer will give their reasons for doing so;
- (b) seek an informal resolution (including, for example, an apology, or mediation); or
- (c) require the complaint to be investigated.

3.6. A copy of the complaint and a summary of the Monitoring Officer's Assessment will be sent to the Councillor and to the complainant by the Monitoring Officer or the person authorised by the Monitoring Officer.

**NOTE:** There will be a strong presumption towards an assessment being treated as being exempt from disclosure to the wider public. This is because the assessment is considering possibly unfounded and potentially damaging complaints about councillors, which it would not be appropriate to make public because of the risk of reputational damage or the risk of prejudicing any future investigation.

3.7. The decision of the Monitoring Officer will be final and there will not be any review or appeal.

3.8. A complaint that involves an allegation of a breach of a Disclosable Pecuniary Interest will be referred to the Police and will not at that stage be subject to any further investigation by the Council. Where a complaint involves allegations in addition to one relating to a Disclosable Pecuniary Interest, those additional allegations will not usually be investigated following the completion of any police investigation.

### 3.9. Stage 2 – Investigation and hearing

The Investigating Officer will examine any available evidence of the alleged breach. They will usually interview the complainant, the Councillor and, if appropriate any witnesses. The Investigating Officer will prepare a report setting out:

- (a) the agreed facts;
- (b) any facts which are not agreed and the conflicting evidence; and
- (c) their conclusion on whether or not there has been a breach of the Code of Conduct.

3.10. The Investigating Officer's report will be circulated with the agenda as an exempt item. Having resolved to exclude the press and public from the meeting, the Audit and Governance (Hearing) Sub-Committee will consider whether the press and public should continue to be excluded further from all or any part of the hearing. Before making its decision the Sub-Committee may ask the Investigating Officer and the Councillor complained about (if present) for their views.

**NOTE:** To promote public confidence and ensure fairness and transparency, the hearing will normally be held in public. However, the Sub-Committee may resolve to exclude the public and press for any part of the hearing where confidential or exempt information is considered and will usually do so when coming to its decision (see [Appendix B](#)).

3.11. The Audit and Governance (Hearing) Sub-Committee will reach a view on disputed facts and decide whether or not to accept the conclusion of the Investigating Officer on the alleged breach of the Code of Conduct. The Sub-Committee may:

- (a) dismiss the complaint;
- (b) refer the complaint to the Monitoring Officer to seek an informal resolution;
- (c) hold a hearing of the Sub-Committee (which depending on the circumstances may or may not be held on the same day as the initial consideration of the Investigating Officer's report).

3.12. The hearing will be to make a final decision on whether or not a Councillor has breached the Code of Conduct and, if so, to decide whether any sanction should be imposed.

3.13. The Sub-Committee may decide:

- (a) to take no further action;
- (b) to seek an informal resolution between the complainant and the subject Councillor (if agreed by both parties);
- (c) to censure the Councillor;
- (d) to request the Councillor to give an unequivocal apology;
- (e) to instruct the Monitoring Officer to request the Councillor to attend training;
- (f) to refer the matter to the full Council (in the case of a Town and Parish Councillor refer the matter to the relevant Town or Parish Council).

## 4. Is there a right of appeal?

4.1. There is no right of appeal against the decision of the Audit and Governance (Hearing) Sub-Committee.



## **5. How will the Decision be publicised?**

- 5.1. A summary of complaint, the Audit and Governance (Hearing) Sub-Committee's conclusions and reasons shall be sent to the Councillor and in the case of a Town and Parish Councillor to the clerk of the relevant Town or Parish Council, and unless the Sub-Committee agrees otherwise due to exceptional circumstances, be published on the Council's website.

## **6. How long will it take to deal with a complaint?**

- 6.1. The Monitoring Officer will aim to complete their initial assessment of any complaint within 20 working days, with the copy of the complaint and a summary of the Monitoring Officer's Assessment being sent to the Councillor and to the complainant within 5 working days.
- 6.2. Where a complaint is to be investigated, the Monitoring Officer will agree a reasonable and realistic target date by which the investigation should aim to be completed with the Audit and Governance (Assessment) Panel. Most investigations will be capable of being carried out, and a report on the investigation completed, within a maximum of six months of the original complaint being referred for an investigation.

## APPENDIX A – Assessment Criteria

### 1. Initial Tests

- 1.1. The complaint is about the conduct of a Councillor or lay or co-opted member of a council within the Council's area;
- 1.2. The Councillor was a councillor at the time of the incident giving rise to the complaint;
- 1.3. The Councillor was a councillor at the time of the complaint; and
- 1.4. The matters giving rise to the complaint would, if proven, be capable of breaching the Code of the relevant local authority.

### 2. Sufficiency of information

Has the complainant provided sufficient information to allow the Sub-Committee assessing the complaint to understand the issues complained about? If insufficient information is provided, the Sub-Committee will not normally proceed with assessment of the complaint.

### 3. Seriousness of the Complaint and proportionality

- 3.1. Does the complaint appear, on the available information, to be trivial, vexatious, malicious, politically motivated or 'tit for tat'?
- 3.2. Other than in particularly serious cases a complaint will not generally be referred for investigation if the Councillor has offered an apology, or if the view is taken that the complaint can reasonably be addressed by other means.

- 3.3. Given the public interest in financial and other resources being used efficiently referral for investigation is generally reserved for more serious complaints where alternative options for resolution are not considered by the Sub-Committee to be appropriate. A complaint may be regarded as serious in its own right or when considered in conjunction with a serious of incidents/complaints.

### 4. Length of Time Elapsed

Except in exceptional circumstances a complaint will not be referred for investigation when it is made more than 20 working days from the date upon which the event giving rise to the complaint took place.

### 5. Multiple Complaints

A single event may give rise to similar complaints from a number of complainants. These will generally be treated as a single complaint with multiple complainants.

## APPENDIX B – Guidance on the exclusion of the press and public at hearings

### 1. Initial Considerations

The purpose of publicity in the determination of complaints that a Councillor has breached the code of conduct is to:

- (a) promote the public interest;
- (b) maintain public confidence in local government;
- (c) maintain proper standards of conduct; and
- (d) is consistent with the proper discharge of the Council's functions in accordance with the Human Rights Act 1998 which provide for a public hearing.

### 2. Presumption in favour of openness

Given the purpose of publicity, there is a presumption that the Audit and Governance (Hearings) Sub-Committee will proceed with the hearing in public.

### 3. Exceptional circumstances

The Sub-Committee may however override the presumption in favour of openness if it is satisfied that there are exceptional circumstances which outweigh the public interest in the hearing being open to the public before excluding the press and public and proceeding in private for all or part of the hearing. Common examples of exceptional circumstances include the following (the list is not exhaustive):

- (a) health;
- (b) sexual allegations;
- (c) vulnerable third parties;
- (d) public order;
- (e) the protection of the private life of the parties requires; or
- (f) where the complainant is an employee of the authority to which the councillor complained about is a member.

### 4. Announcement of decision

Even if the whole or part of a hearing has been held in the absence of the press and public, the Sub-Committee will normally announce its decision in public. If necessary, there may be a public and a private record of the decision made

# COUNCILLOR AND OFFICER PROTOCOL

## Introduction

The conduct of both Councillors and officers is governed by the Codes of Conduct. The purpose of this Protocol is to guide Councillors and Officers of the Council in their relations with one another in such a way that ensures that the Council runs smoothly

### 1. General principles

- 1.1. The relationship between Councillors and Officers is based on the following principles:
  - (a) the Council is a democratically-elected local authority delivering a range of services to the people of the South Hams;
  - (b) the Council is a single entity;
  - (c) the separate functions of the Council are part of the Council as a corporate body;
  - (d) in everything they do, Councillors and officers of the Council must act within the law and comply with relevant codes of conduct;
  - (e) dealings between Councillors and officers are based on mutual trust and respect;
  - (f) the relationship must exist on a professional basis only so that the ability of an officer to deal impartially with Councillors or political groups cannot be questioned;
  - (g) officers should not approach Councillors on matters to do with employment matters except as agreed by the Head of Paid Service.

- 1.2. Officers and Councillors each have their own roles to play in the work of the Council and care should be taken to avoid one encroaching upon the other.

### 1.3. The role of Councillors

- (a) To provide the political direction and leadership of the Council. Councillors are accountable through the ballot box for their actions as Councillors.
- (b) To see that services are delivered by officers in accordance with the policies and plans approved by the Council.
- (c) To receive appropriate professional advice from officers and to have that advice recorded, so that all Councillors are fully aware of the implications of their decisions and have the assurance that their decisions comply with the law.
- (d) To make reasonable comment and ask questions about the Council's decisions and performance both at formal meetings and informally.

### 1.4. The role of Officers

- (a) To serve the whole Council as a single corporate body while recognising the differences between the Council's functions.
- (b) To provide wherever practicable, support to all Councillors in their representational role and act to uphold the rights of Councillors in law and under this Constitution.
- (c) To take decisions within their area of responsibility which have been delegated and/or nominated to them but recognising that, where functions have not been delegated/nominated to officers, it is the right of Councillors to take the final decisions in the light of officers' advice.

- (d) To provide factual, honest and objective advice. The advice and the actions officers take should be politically neutral and should serve the interests of the Council as a whole. Officers do not give advice on party political matters.

## **2. Officer advice to Councillors and Party Groups**

- 2.1. For the proper functioning of the Council as a whole, officers will normally be permitted to share information freely between them.
- 2.2. Where the information has been given based on party political confidentiality:
  - (a) officers will respect that confidentiality unless they believe that any action appears to be in conflict with the law, or would amount to an abuse of the processes of the Council and in those circumstances may share that information with other officers where they believe it to be necessary to check the legality, financial probity or procedural regularity of any action disclosed by that information.
  - (b) The request for party political confidentiality will be honoured by any officers with whom the information is shared.
- 2.3. Where party political confidentiality has been requested, officers may invite those Councillors requesting confidentiality to agree to the information being shared with the other political groups on the grounds that it would assist the more effective functioning of the Council; however, in the absence of any such agreement to waive confidentially, officers will continue to respect it.

- 2.4. Where there is a change in the controlling party, officers will act in relation to the new controlling party and opposition parties in the same way as they did for the old and will continue to respect any continuing party political confidentiality.
- 2.5. Officers are not required to attend political party group meetings. They will only do so by invitation, with the express authority of the Chief Executive or Chief Officer. The Chief Executive, and the Chief Officers will have the right to nominate other officers to attend at their sole discretion.
- 2.6. Where it is possible that persons other than Councillors will be present at a political party group meeting to which an officer has been invited, the Chief Executive, Executive Director and/or Corporate Director will be informed before the meeting, and they will take this into account in arriving at their decision.

## **3. Support services to Councillors and Party Groups**

Support services and resources must only be used on Council business and should never be used in connection with any political or campaigning activity or for private purposes.

## **4. Councillors' access to information and to Council documents**

- 4.1. Councillors have various statutory and common law rights to access information. Councillors may ask the Head of Paid Service or other officers nominated by them for such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Councillor. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.

- 4.2. A Councillor does not have a right to “a roving commission” to examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This question must initially be decided by Officer holding the document in question. In the event of dispute, the matter shall be decided by the Head of Paid Service.
- 4.3. In addition to the above, a Councillor may request information under the Freedom of Information Act 2000, and various other legislative provisions including the Local Government Acts of 1972 and 2000 provide a statutory right of access to documents. Any document that is in the Council’s possession and contains material relating to any business to be considered at a meeting of the Council, a Committee or Sub-Committee is to be open to inspection by any Councillor. However, there is no right of inspection where it appears to the Head of Paid Service that a document discloses certain classes of exempt information as set out in Access to Information Procedure Rules.
- 4.4. The Code of Conduct limits the ability of a Councillor to disclose confidential information. Further information of rights of access can be found in the Access to Information Procedure Rules – Part 2 of the Constitution.

## 5. Correspondence

- 5.1. Openness and transparency should underpin the work of the Council. Accordingly, blind copies ie correspondence where some of the intended recipients are deliberately hidden from others, should not be sent.
- 5.2. Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Councillor. It may be appropriate in certain circumstances (eg, representations to a Government Minister) for a letter to appear in the name of a Councillor, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

## 6. Involvement of Ward Councillors

Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors representing the Ward or Wards affected shall normally, 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, all the Ward Councillors shall normally be notified at the outset of the exercise.

# PROTOCOL FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING APPLICATIONS

## Introduction

Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of Councillors of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the interests of the whole District.

Public confidence in the planning system is essential and planning system can only function effectively if there is trust among those involved. There must be trust between Councillors and Officers and between the public and the Council. The Committee on Standards in Public Life recommends that each local authority's practices and procedures should be set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system

This Protocol sets out practices and procedures that Councillors, whether or not they are on Development Management Committee, and Officers shall follow when involved in planning applications. The guidance applies equally to the preparation of development plans and other planning policy and the enforcement of planning control.

## 1. General

- 1.1. Deciding planning applications is a formal administrative process involving rules of procedure, rights of appeal and an expectation that decision makers will act reasonably and fairly. Procedural unfairness can leave planning decisions vulnerable to legal challenge in the High Court.
- 1.2. This Protocol applies to every Councillor irrespective of whether or not they are a member of the Development Management Committee and to all Officers. It supports the Councillors' Code of Conduct.

## 2. Pre-determination

- 2.1. Since any planning application must be decided on its merits, taking into account all material planning considerations, Councillors who are members of the Development Management Committee must not make up their minds on a planning application before they all have all the relevant information. Decisions can only be taken after full consideration of the officer's report and information and discussion at the Development Management Committee meeting.
- 2.2. This does not mean that Councillors on the Development Management Committee cannot hold strong views about an application. However, if a Councillor fully commits themselves to a particular view on a planning application, such that their mind is no longer open to the consideration of the merits of the case, that Councillor should not take part in the debate or vote on an application.

### 3. Pre-application discussions

- 3.1. All Councillors have an important part to play in community engagement. Councillors who take part in pre-application discussions either with applicants or objectors need to be aware of the:
- (a) need to remain impartial;
  - (b) danger of giving inconsistent or inappropriate advice particularly when not all the facts are known so advice should be limited to matters of process;
  - (c) need for an officer to be present during any such discussions where practicable; and
  - (d) the fact that they are not negotiators.
- 3.2. On the basis of “no surprises” where potential issues are brought to Councillors’ attention during any pre-application discussion at which it was not practicable for an Officer to be present they should alert Officers to the issue as soon as possible and not leave it to the Development Management Committee meeting.
- 3.3. The Council has adopted a [Pre-application Advice Policy](#).

### 4. Lobbying of Councillors

- 4.1. Lobbying, whether by applicants, objectors or those in support of an application, is a normal part of the political process and can take the form of meetings, both private and public, formal presentations or correspondence. It is an essential part of the process that local concerns can be expressed. However, care must be taken to ensure that lobbying does not call into question the integrity and fairness of the planning process or an individual Councillor.

- 4.2. When lobbied, members of the Development Management Committee should take care about expressing an opinion which could be taken as an indication that they have already made up their mind on the issue and are no longer open to consideration of the merits of the application. Instead they should give procedural advice including suggesting that contact is made with the Planning Officer.
- 4.3. If members of the Development Management Committee do express an opinion, care should be taken to state that this is a preliminary view only and the final decision will be reached when all the facts are available at the Development Management Committee meeting.
- 4.4. Any written or electronic correspondence received should be passed by the Councillor who is main addressee (if the e-mail is addressed to all Councillors of the Development Management Committee, this will be the Chairman of the Development Management Committee) immediately to the Planning Officer for recording on the file and for communication to all Development Management Committee members.
- 4.5. Members of the Development Management Committee should take care when attending meetings in connection with development proposals or submitted planning applications unless such meetings have been arranged as Councillor briefings as part of the formal process. Councillors should take advice from the Monitoring Officer before deciding whether to attend meetings that appear to have been organised for lobbying purposes.
- 4.6. Members of the Development Management Committee should consider whether any contact with an applicant, objector or landowner is significant, and if so, disclose such contact prior to any decision being taken on the application. This should be formally recorded in the record of the Development Management Committee meeting.



## 5. Lobbying by Councillors

- 5.1. Ward Councillors have an important role to play as representatives of their communities and to bring local information to the decision-making process. Ward Councillors may therefore become involved in discussions with Officers about individual applications. However, they should remember that it is very easy to create the impression that they are using their position to influence the progress of the application. Any discussions with Officers should be seen to be open and transparent. Officers should make a note on the file of any such discussions.
- 5.2. Ward Councillors who are not members of the Development Management Committee can make representations on planning applications in their Ward and may attend meetings of the Development Management Committee and, with the Chairman of Development Management Committee's agreement, can address the Development Management Committee on such applications in accordance with the protocol on public speaking at Development Management Committee meetings. Any representations or address should relate to the planning merits of a planning application. This will not apply if the Councillor is also a Parish/Town Councillor and the Parish/Town Council is the Applicant.
- 5.3. When making representations on behalf of their constituents, Councillors should make it clear that it is their constituents' views and not their own that are being expressed. Also, Councillors should ensure that any representations on behalf of constituents are expressed in such a way that no individual or group feels that they have been unfairly represented.
- 5.4. Councillors should avoid lobbying Development Management Committee Councillors and exerting of undue pressure on planning officers for a particular recommendation.

## 6. Membership of another local authority

- 6.1. A Councillor who is also a Councillor of another tier of local government should have regard to the guidance on interests in this Code. If in doubt about the nature of their interest, Councillors are recommended to seek further advice from the Monitoring Officer.
- 6.2. Councillors of the Development Management Committee who are also Councillors of another tier of local government should adopt the practice of making it clear, when they participate in a debate on development proposals at a Parish/Town meeting, that the views they express are based upon information before them at that time, and might change in the light of further information at the Council's Development Management Committee Meeting.

## 7. Political group meetings

As a decision on a planning application cannot be made before the Development Management Committee meeting when all available information will be available and has been considered, any political group meeting prior to the meeting of the Development Management Committee should not be used to decide how Councillors should vote. Also, the **Ombudsman** takes the view that the use of political whips at group meetings in this way may be considered as maladministration.

## 8. Scheme of delegation

- 8.1. The detail of the delegations to officers is set out in the **Scheme of Delegation**.

## **8.2. Applications by the Council or in respect of Council-owned land**

Applications submitted by the Council or made by any person in respect of Council-owned land will be decided by the Development Management Committee.

## **8.3. Applications by Councillors and Officers**

While it is perfectly legitimate for any Councillor or Officer to submit a planning application, it can easily give rise to suspicions of impropriety unless handled properly. Accordingly:

- (a) all applications falling within paragraph \* of the Officer Scheme of Delegation will be reported to and decided by the Development Management Committee.
- (b) while any application from a Councillor or Officer should usually be identified as part of the registration process, Councillors and Officers are encouraged to draw the fact that such an application has been submitted to the attention to both the Head of Development Management (or any other Officer nominated by them) in writing and also the relevant Planning Officer within 21 days of the date of the application being submitted to help ensure its identification.
- (c) where an application is submitted by someone other than a Councillor, but in relation to land or a building in which the Councillor has a registered legal interest (which for the purpose of this code means a legal interest registered at HM Land Registry in the name of the Councillor), the Councillor is also encouraged to provide such notification as identified above. This is in addition to any duty the Councillor may have regarding the disclosure of any interest including any Disclosable Pecuniary Interest for the purposes of the Councillor Code of Conduct.

- (d) any Councillor or Officer who submits a planning application must not take part in or seek to influence the decision-making process relating to that application.
- (e) any Councillor or Officer who acts as an agent for people pursuing a planning matter with the Council must not take part in the decision-making process for that proposal, nor seek in any way to influence it.

## **9. Decision-making**

### **9.1. The legal framework**

The Town and Country Planning Act 1990 requires the Council to have regard to the provisions of the development plan, so far as material to the application and to any other material consideration. Also, the application is to be decided in accordance with provisions of the development plan unless material considerations suggest otherwise.

### **9.2. Reports to the Development Management Committee**

- (a) All planning applications that are to be decided by the Development Management Committee will be the subject of a written report from the Planning Officer. The report should aim to be as accurate as possible and include a summary of the substance of representations received, the relevant policies, identify any other material considerations, contain an appraisal of the application and give a recommendation. Where the recommendation is contrary to policy or is a departure from the development plan, the report will identify this and provide reasoned justification.
- (b) Officers may report additional information received after the publication of the Development Management Committee report at the meeting.

### 9.3. Determination of applications contrary to Officer's advice

- (a) Although decisions should be based on any written report prepared by the Planning Officer, Councillors are not obliged to accept and follow the professional advice given by Officers. Nevertheless, when Councillors are minded to decide an application contrary to the Planning Officer's recommendation, they should ensure that they have sound and convincing planning-based reasons for doing so, with evidence to support those reasons whether they are reasons to refuse an application, or to grant planning permission as a departure from the development plan.
- (b) The mover of the motion must set out their reasons as part of the motion and if seconded; it may be appropriate for the Development Management Committee to adjourn for a few minutes to allow Officers to consider the reasons. Where officers have doubts about the validity of the reasons given, then consideration should normally be given to the deferral of the application to the next meeting so that the reasons may be considered and tested further.
- (c) Before a vote is taken or consideration is given to deferral, the Chairman of the Development Management Committee should ensure that the Officers are given the opportunity to explain the likely implications of any subsequent decision.
- (d) When Councillors determine an application contrary to the Planning Officer's recommendation, the minute will state the reasons for the decision and if those reasons are to be based on development plan policies, identify the relevant policies and state in what way the application supports or infringes those policies. A copy of the minute will be placed on the planning application file.

### 10. Site visits

- 10.1. It is the responsibility of each Councillor to familiarize himself/herself with the location of any proposed development. This might well include seeking to view the site from areas that are accessible to the public. In no circumstance should a Councillor enter onto private land without the permission of the owner and occupier.
- 10.2. Exceptionally, where the impact of the proposed development is difficult to visualise both from the submitted plans and other supporting material a committee site visit may be agreed. The site visit will be carried out in accordance with arrangements that will ensure that it is conducted fairly and without risk of bias or predetermination. Site visits are about observing the site and getting a better understanding of the issues. They are not an opportunity for lobbying by the Applicant or objectors.
- 10.3. Site visits may be attended by all members of the Development Management Committee, Ward Members, the Applicant/Agent and a representative of the Town or Parish Council. The Planning Officer and a Democratic Services Officer will also attend. Objectors and supporters will not be invited to a site visit.
- 10.4. On arrival the Chairman will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Planning Officer, will then explain the application as it relates to the site and relevant viewpoints. Following any questions from the members of the Development Management Committee to the Planning Officer, or clarification on matters that are relevant to the site inspection, the Chairman will end the site visit.

- 10.5. The role of the Applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The Applicant shall not participate in any discussions on site, but may be asked to provide information.
- 10.6. Ideally, it is desirable that all members of the Development Management Committee should have attended the site visit. This will avoid giving the impression that Councillors voting on a planning application without having attended the visit to the particular site have not taken the opportunity to be fully informed about the application. It is accepted however that attendance at a site visit may not always be possible. Accordingly, the Planning Officer should report information gained from the site visit to the Development Management Committee, so that all Councillors have the same information.

## 11. Interests

- 11.1. It is a fundamental principle that those who have a significant interest in the outcome of a particular planning application or enforcement matter should not make decisions in relation to that application or matter. This applies to both Councillors and Officers.
- 11.2. The [Code of Conduct for Councillors](#) provides guidance as to Disclosable Pecuniary Interests and Other Registrable Interests that may affect a Councillor's ability to take part in the decision-making process. Councillors should declare and register those interests as required by the Code of Conduct for Councillors. Councillors with a Disclosable Pecuniary Interest in a planning application or enforcement matter should not take part in any discussions about the application or matter and leave the room during any discussions.
- 11.3. However, Councillors may have other interests which may influence their decision which will not amount to interests for the purposes of the Code. To maintain the integrity of the planning system, Councillors should be careful to ensure that such interests do not unduly influence their decisions. Interests can arise from:
- (a) ward concerns;
  - (b) membership of other Committees of the Council;
  - (c) membership of a County, Town or Parish Council;
  - (d) membership of other public or community bodies;
  - (e) membership of voluntary associations and trusts (including where appointed by the Council);
  - (f) a connection with a particular policy initiative of the Council;
  - (g) membership of clubs, societies and groups; and
  - (h) hobbies and other leisure interests.
- 11.4. Such interests do not mean that a member of Development Management Committee is automatically prevented from taking part in the decision-making process. The Councillor should however think whether the interest is significant enough that it would lead a fair-minded and informed observer to conclude that there was a real possibility that the Councillor was biased or was likely to have pre-determined the planning application.
- 11.5. Officers who discover that they have an interest in a planning matter should, cease to act and report the interest to their immediate manager who will reallocate the matter to an Officer without an interest in it. The Officer having an interest will not take part in any part of the decision-making process in respect of that application.

- 11.6. Councillors and Officers who are unsure whether to declare an interest should seek advice from the Monitoring Officer, before the Development Management Committee meeting. In the case of Councillors, the final decision whether to make a declaration and/or to withdraw from the meeting will always be one for them.

## 12. Councillor training

- 12.1. Town and Country Planning is a specialised field and both the Local Government Association and the Royal Town Planning Institute (RTPI) place particular emphasis on the need for Councillors to have an adequate knowledge of the planning process. Councillors have a responsibility to ensure that they understand the fundamental principles and keep up-to-date with developments.
- 12.2. The Council will provide training that all members of the Development Management Committee must undertake before taking part in any Development Management Committee meetings.
- 12.3. Training will be arranged for Councillors when there is a change in the composition of the Development Management Committee or when there are material changes in legislation, policy guidance or practice.

## 13. Officers' professional obligations

Many Planning Officers are Chartered Town Planners and are bound by the Code of Professional Conduct of the RTPI which imposes certain professional obligations including conflicts of interest and continuing training. Breaches of that Code may be subject to disciplinary action by the RTPI.

## 14. Breach of this Protocol

- 14.1. Failure to follow this Protocol without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual Councillors and Officers.
- 14.2. Breaches of this Code may also be breaches of the Council's Code of Conduct for Councillors. If anybody wishes to make an allegation that a Councillor has breached this Protocol, such allegation should be made to the Monitoring Officer.

# CHAPTER 7 – COUNCILLORS’ ALLOWANCE SCHEME

## COUNCILLORS’ ALLOWANCES SCHEME

The Council, in exercise of the powers conferred by the Local Authorities (Members’ Allowances) (England) Regulations 2003, hereby makes the following scheme:-

This scheme may be cited as the South Hams District Council Scheme of Members’ Allowances, and shall have effect from 1 April 2021

### 1. Basic Allowance

Subject to paragraph 9, for the period 1 April 2021 to 31 March 2022, a Basic Allowance of £5,492 per annum shall be paid to each Councillor. This is intended to recognise the time commitment of Members to Council and constituency duties and costs relating to the use of the Members’ home, postage, stationery and minor office equipment.

### 2. Special Responsibility Allowances

(a) For each year a Special Responsibility Allowance shall be paid to those Councillors who hold the special responsibilities in relation to the authority that are specified opposite:-

Responsibility	Amount per annum
Leader of the Council	£16,476
Deputy Leader of the Council, Chair of Development Management Committee	£8,238 each
Other members of the Executive	£5,492 each
Vice Chairman of Development Management Committee	£2,746
Chairman of the Overview and Scrutiny Panel	£5,492
Vice Chairman of the Overview and Scrutiny Panel	£2,746
Chairman of the Audit Committee	£4,119
Chairman of the Licensing Committee	£2,746
Chairman of Salcombe Harbour Board (to be paid from Board Finances)	£2,746
Minority Groups allowance	(£10,984) / 31 x number in each group
Independent Persons	£500 each

(b) Allowances for Chairman and Vice-Chairman of the Council

Responsibility	Amount per annum
Chairman of the Council	£5,492
Vice Chairman of the Council	£1,486

(c) Subject to paragraph 9, the amount of each such allowance shall be the amount specified against that special responsibility in sub-paragraph (a) above. Where a Councillor is entitled to more than one Special Responsibility Allowance, only one such Allowance, equivalent to the higher entitlement, shall be paid.

### 3. Travelling Allowances

Those duties as set out at Schedule 1 will attract the payment of a travelling allowance at the following rates:-

- (a) The rate of travel by public transport shall not normally exceed the cheapest fare available, subject to the Senior Specialist – Democratic Services exercising discretion in the case of special visits or where business needs to be transacted on the journey.
- (b) The rates of travel by a Member’s motor cycle shall be 24 pence per mile.
- (c) The rates of travel by a Member’s motor vehicle (other than a motor cycle) shall be 45 pence per mile.
- (d) A supplement of 5 pence per mile for each passenger carried will also be paid.
- (e) The actual amount incurred on any tolls, ferries or parking fees, including overnight garaging shall be reimbursed.
- (f) The rates of travel by a Member’s bicycle shall be 20 pence per mile.

(g) The rate of travel by taxi-cab shall not exceed:-

- (i) in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid; and
  - (ii) in any other case, the amount of the fare for travel by appropriate public transport.
- (h) The rate of travel by a hired motor vehicle other than a taxi-cab shall not exceed the rate which would have been applicable had the vehicle belonged to the Member, provided that the rate may be increased at the Senior Specialist – Democratic Services discretion (as in (a) above) to an amount not exceeding the actual cost of hiring.
- (i) 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.

In addition, Co-opted Members on the Salcombe Harbour Board and the Independent Persons are entitled to claim their travel expenses.

### 4. Subsistence Allowances

- (a) Subsistence allowances may be claimed to meet the costs of meals, refreshments, accommodation etc, in connection with the performance of an approved duty as specified at [Schedule 1](#). The rates shall not exceed:-
- (i) in the case of an absence, not involving an absence overnight, from the usual place of residence:-
    - (A) of more than 4 hours, £5.00 for breakfast;
    - (B) of more than 4 hours, £5.00 for lunch;
    - (C) of more than 4 hours, including the period 3:00 p.m. to 6:00 p.m., £2.94 for tea;

- (D) of more than 4 hours, ending after 7:00 p.m.,  
£5.00 for an evening meal;

provided that, for meetings such as Council, Committee or other Council body meetings, meals or refreshments may be provided by the Council, including on occasions where the absence from the residence may not exceed 4 hours.

Where such meals are provided or paid for separately by the Council, the appropriate subsistence allowance shall not be paid to a Member, unless the Member has specifically indicated that he or she is unable or does not wish to take the meal provided by the Council, or otherwise where other unforeseen commitments prohibit the taking of the meal.

- (ii) in the case of an absence overnight from the usual place of residence, £79.82, 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, £91.04.
- (b) The actual reasonable costs of meals taken on trains may be reimbursed. (This would replace the subsistence allowance for the appropriate meal period).

## 5. Dependants' Carers' Allowance

A Councillor may claim a Carers' allowance in accordance with the provisions specified at [Appendix A](#).

## 6. Renunciation

A Councillor may by notice in writing given to the Senior Specialist – Democratic Services elect to forego any part of his entitlement to an allowance under this scheme.

## 7. Part-Year Entitlements

- (a) The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- (b) If an amendment to this scheme changes the amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:-
- (i) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
- (ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year, the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year (ie a pro-rata calculation will be made).
- (c) Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.



- (d) Where this scheme is amended as mentioned in sub-paragraph (b), and the term of office of a period Councillor does not subsist throughout the period mentioned in sub-paragraph (b)(i), the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a Councillor subsists bears to the number of days in that period.
- (e) Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- (f) Where a Councillor has been appointed on a temporary basis to a position which attracts a special responsibility allowance, that Councillor's entitlement shall, following a 3 month period in that position, be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year. Payment to the Councillor previously entitled to the special responsibility allowance shall, at the same point, cease.
- (g) Where this scheme is amended as mentioned in sub-paragraph (b), and a Councillor has during part, but does not have throughout the whole, or any period mentioned in sub-paragraph (b)(i) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period

(ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## 8. Claims and Payments

- (a) No payment will be made of any travel and subsistence claim received by Democratic Services more than three months after the meeting for which the claim is made, unless authorised by the Senior Specialist – Democratic Services in exceptional circumstances. Members are encouraged to submit a claim every month with any such claims being accompanied by receipts.
- (b) Payments shall be made on a monthly basis along with payments for the basic and any special responsibility allowances. Such payments will be made direct to the bank or building society account of the Member's choice.
- (c) Where a payment under this scheme in respect of a basic allowance or a special responsibility allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 8, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

## 9. Suspension

If a Member is suspended or partially suspended from his responsibilities or duties as member of an authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the proportion of the basic allowance, any special responsibility allowance and travelling and subsistence allowance payable to him/her in respect of the period for which he is suspended or partially suspended may be withheld by the authority.

## SCHEDULE 1 – Approved Duties

There is specified as an approved duty for the purpose of the payment of travelling and subsistence allowances, attendance at:-

- (a) meetings of the Council, its Committees, the Executive and Overview & Scrutiny Panel, subject, in each case of attendance at any bodies of which a Councillor is not a Member, to the prior invitation of the relevant Chairman;
- (b) meetings of other bodies to which the authority makes appointments, or of any committee or sub-committee of such a body;
- (c) any other meeting the holding of which is authorised by the authority, or a committee, group of the authority, or a joint committee of the authority and one or more other authorities, or a sub-committee of such a joint committee, provided that:-
  - (i) where the authority is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited, or
  - (ii) if the authority is not so divided, it is a meeting to which the authority is a member;

- (d) the following types of meetings, provided that where the authority is divided into two or more political groups, Members of at least two such groups have been invited:-
  - (i) briefing and other meetings relating to activities of the Council or matters affecting the District;
  - (ii) meetings relating to future change in local government;
- (e) the opening of tenders in accordance with Standing Orders by the relevant nominated Members;
- (f) a meeting of any association of authorities of which the authority is a member.
- (g) a meeting of any town or parish council within their electoral ward, and of which they are not already a member.

In addition, Members may claim travelling and subsistence allowances for meetings or events not otherwise provided for in this scheme when asked in writing to attend by a member of the Senior Management Team, when such attendance is in the interests of the Council or in pursuance of its policies.

Duties excluded by these provisions are those in respect of which the Member receives remuneration otherwise than under this scheme.

## APPENDIX A – Dependants’ Carers’ Allowance

An allowance in line with the current National Living Wage may be claimed when a carer for a dependent has been engaged to enable a councillor to carry out an approved duty (as specified in Schedule 1).

A carer will be any responsible person who does not normally live with the councillor as part of that councillor’s family.

An allowance will be payable if the dependent being cared for:-

- is a child under the age of 14
- is an elderly person; or
- has a recognised physical or mental disability

who normally lives with the councillor as part of that councillor’s family and should not be left unsupervised.

For meetings or duties within the Council’s boundaries, the allowance will be paid (at

the current National Living Wage hourly rate) for the duration of the meeting or otherwise approved duty plus an allowance for up to one hour’s total travelling time before and after the meeting.

The level of allowance will be adjusted automatically in line with any adjustments made to the National Living Wage.

# RECORD OF CHANGES

Revision / Edit Date	Approved by	Documents affected	Nature of change
20.05.22	Monitoring Officer	Chapter 2 – Responsibility for Functions	<ul style="list-style-type: none"> <li>Table 5 paragraph 5.115 the words “for consideration by the Development Management Committee” inserted.</li> </ul>
14.07.22	Council	Chapter 1 – Introduction	Reference made to Principles of Decision-Making
14.07.22	Council	Chapter 2 – Responsibility for Functions	New document replacing Parts 3(a) and 3(b)
14.07.22	Council	Chapter 3 – Meeting Procedure Rules	<p>The principal changes are:</p> <ul style="list-style-type: none"> <li>amendment to Council Procedure Rule 1.2 to comply with the legal requirement that the executive arrangements must make provision for the term of office of the Leader.</li> <li>Council Procedure Rule 15.3(a) has been corrected.</li> <li>provision made to regularise the attendance of non-members of the Executive or a Committee to attend meetings of the Executive or a Committee via Teams (Committee Procedure Rule 4(c); Executive Procedure Rule 6.5).</li> <li>the addition of a Procedure Rule and further appendix setting out the Council’s rules for the filming and recording of meetings and the use of social media during meetings (Council Procedure Rule 23 and Appendix F);</li> <li>Executive Procedure Rule 6 amended to clarify that all members of the Executive are entitled to notice of meetings of Executive Committees and to attend, whether they are members of the committee or not. The Rule also makes provisions about informal meetings of the Executive.</li> <li>For consistency with Council Procedure Rule 1.2 for the purposes of Questions by Councillors (Appendix B) and Notices of Motion, the reference to meetings of the full Council do not include the Annual Meeting of the Council (Appendix B paragraph B1 and Appendix C paragraph C1).</li> <li>Clarification that any notices of motion that are not moved and seconded due to the time limit imposed by CPR 8.3(b) expiring, lapse and must be submitted again if they are to be considered at a future meeting of the Council unless postponed with the Chairman’s consent (Council Procedure Rule Appendix C Paragraph C8).</li> <li>Clarification that all members of the Executive are entitled to notice of meetings of Executive Committees and to attend, whether they are members of the committee or not (Executive Procedure Rule 6). The Rule also makes provision about informal meetings of the Executive.</li> <li>Amendments are made so that requests for items and the reasons for them are considered by the Overview and Scrutiny Committee (Scrutiny Procedure Rules 6.1(a) and (b)).</li> <li>Minor corrections to cross-references.</li> </ul>

Revision / Edit Date	Approved by	Documents affected	Nature of change
14.07.22	Council	Chapter – 4 Access to Information Procedure Rules	<ul style="list-style-type: none"> <li>Replaced</li> </ul>
14.07.22	Council	Chapter – 5 Other Procedure Rules	<ul style="list-style-type: none"> <li>Budget and Policy Framework Procedure Rules; Contract Procedure Rules; Financial Procedure Rules and Section 151 Officer's guidance and Officer Employment Procedure Rules replaced.</li> </ul>
14.07.22	Council	Chapter 6 – Codes and Protocols	<ul style="list-style-type: none"> <li>Councillor Complaints Process added; Councillor and Officer Protocol and Protocol for Councillors and Officers in Planning Procedures replaced.</li> </ul>
14.07.22	Council	Appendix 1 – Definitions	<ul style="list-style-type: none"> <li>Added</li> </ul>
14.07.22	Council	All	<ul style="list-style-type: none"> <li>Changes to financial thresholds increased throughout.</li> </ul>
15.07.22	Monitoring Officer	Section 151 Officer's Guidance	<ul style="list-style-type: none"> <li>Introductory note added to explain guidance reflects shared officer arrangements with West Devon Borough Council.</li> </ul>
11.11.22	Monitoring Officer	Chapter 2 – Responsibility for Functions	<ul style="list-style-type: none"> <li>Table 1 paragraph 1.16 (Waste Partnership Board) deleted.</li> <li>Table 5 insert new paragraph after paragraph 109 as paragraph 109A "To seal any document that must be sealed or which in the opinion of the Head of Legal Services should be sealed."</li> <li>Minor typographical corrections</li> </ul>
11.11.22	Monitoring Officer	Section 151 Officer's Guidance	Table 15 the words "other than the acquisition of land or buildings" deleted

Revision / Edit Date	Approved by	Documents affected	Nature of change
11.11.22	Monitoring Officer	Appendix 1 – Definitions	Definition of Corporate Property Officer added “The officer who is the Head of Assets”.
27.02.23	Monitoring Officer	Chapter 2 – Table 6 – Conditions on exercise of delegated powers	Add new paragraph 6.20 “Sealing of Documents. The affixing of the Council’s seal to a document shall be witnessed by a single authorised officer.”
27.04.23	Monitoring Officer	Chapter 3 – Meeting Procedure Rules	In Council Procedure Rule 1.2 “(iii) ceases to be a councillor” deleted to reflect legal requirement.

# APPENDIX 1 – DEFINITIONS

Term	Definition
<b>Budget</b>	The includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax and decisions relating to the control of the Council's borrowing requirement, the control of the capital expenditure and the setting of virement limits.
<b>Budget and Policy Framework</b>	The plans and strategies, which have to be adopted by the Council and within which the Cabinet have to operate.
<b>Call-in</b>	The process by which the Scrutiny Committee consider whether a decision is properly taken or is the right decision.
<b>Capital Expenditure</b>	Spending, usually on major assets like a building, where the benefit of the asset lasts for more than one year.
<b>Casting or Second Vote</b>	A vote made by the Mayor, or Chair of a committee to decide a matter when there is a tied vote.
<b>Chair/Vice Chair</b>	The person (man or woman) who chairs a body of the Council, e.g. committee etc./the deputy to the Chair. The Chair of the full Council civic head of the Council.
<b>Chief Executive</b>	The most senior officer, with overall responsibility for the management and operation of the Council. Also known as the Head of Paid Service.
<b>Code of Practice</b>	A set of rules, usually of expected behaviour.

Term	Definition
<b>Committee</b>	A formal decision-making body consisting of elected councillors.
<b>Constitution</b>	A document setting out how the Council operates, how decisions are made and all the procedures that have to be followed.
<b>Co-opted Member</b>	A non-voting, non-councillor appointed to serve on a committee in an advisory capacity.
<b>Corporate Policy Officer</b>	The officer who is the Head of Assets
<b>Council</b>	This can be used either: As the term used for the organisation; or in respect of the meeting of all of the councillors.
<b>Councillor</b>	An elected member of the Council and representative of the local community.
<b>Code of Conduct for Councillors</b>	Agreed Code of Conduct governing how councillors must conduct themselves whilst carrying out Council business or acting as a representative of the Council.
<b>Councillors' Allowance Scheme</b>	The scheme of payments made to councillors.
<b>Council Tax</b>	The money raised by the Council from residents of South Hams.

Term	Definition
<b>Deputy Chief Executive</b>	This is not a statutory position. The Deputy Chief Executive performs such functions as are delegated to him/her by the Chief Executive or the Council
<b>Director</b>	A Senior Officer responsible for a collection of services.
<b>Disclosable Pecuniary Interest (DPI)</b>	A category of interest established under the Localism Act 2011 and subsequent regulations. It is a criminal offence for a Councillor to fail to register a DPI or to take part in decision making on matters affected by a Councillor's DPIs.
<b>Excluded Matter</b>	For the purposes of the <a href="#">Overview and Scrutiny Procedure Rules</a> this means any matter: <ul style="list-style-type: none"> <li>(a) outside those functions set out in the Local Government Act 2000;</li> <li>(b) relating to a licensing or planning decision;</li> <li>(c) relating to an individual body where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman); or</li> <li>(d) which is vexatious, discriminatory or not reasonable to be included on the Overview and Scrutiny Committee agenda.</li> </ul>
<b>Executive</b>	The councillors who together with the Leader form the Cabinet, each usually having a specific responsibility for a number of services provided by the Council.
<b>Exempt Information</b>	Information falling into one of 7 categories which usually cannot be publicly disclosed – see the <a href="#">Access to Information Procedure Rules</a> in Chapter 3 of the Constitution.

Term	Definition
<b>Group Leader</b>	In respect of any political group means the person whom the group has identified as its leader by notice in writing to the Chief Executive.
<b>Key Decision</b>	A decision which is likely either to incur significant expenditure/make significant savings (over £500,000 for income or £1,000,000 for <a href="#">Capital Expenditure</a> ) or to have a significant impact on those living or working in 2 or more Wards.
<b>Laws</b>	Acts of Parliament or Regulations.
<b>Leader of the Council</b>	The Leader shall be a councillor elected to that office by a simple majority of the Council, usually at the first meeting for the Council following District Council elections.
<b>Local Government and Social Care Ombudsman</b>	Appointed nationally to look into complaints by the public about the way they have been treated by or the service they have received from councils.
<b>Minutes</b>	The formal record of the proceedings of a meeting.
<b>Monitoring Officer</b>	The officer appointed under the Local Government and Housing Act 1989 to oversee the legality of the Council's actions and the ethical behaviour of councillors and employees. This is a statutory proper officer role.
<b>Officer</b>	A paid employee of the Council.



Term	Definition
<b>Overview and Scrutiny</b>	A <b>committee</b> of the Council with responsibility for scrutinising decisions made in the name of the Council, making reports and recommendations on policy and the discharge of functions and considering matters which affect the well-being of the residents.
<b>Parish Meeting</b>	A meeting at which every local government elector has a vote. Every parish must have a Parish Meeting which must meet at least annually. Parish Meetings discuss local affairs and have power to exercise certain limited functions. They are not Parish Councils.
<b>Petitions</b>	A formal written request, signed by more than one person, appealing to the Council in respect of a particular cause or question.
<b>Policy</b>	A plan of action or approach to an issue.
<b>Policy Framework</b>	The policy framework means the key policies and strategies which must be decided and followed by the Council.
<b>Policy Review</b>	An examination of Policy in relation to a Council function. To establish whether a policy reflects the Council's current obligations, both in law and in relation to the decision-making process. Where no policy exists a review may examine all aspects and formulate a policy for the future decision-making processes.
<b>Proper Officer</b>	A senior officer of the Council who is given a set of responsibilities by statute.

Term	Definition
<b>Protocols</b>	Codes of Practice which set out how, for example, various elements of the Council are expected to interact with each other.
<b>Quorum</b>	The minimum number of people who have to be present before a meeting can take place.
<b>Regulatory</b>	The functions of the Council which “regulate” e.g. licensing, planning etc.
<b>Responsibility for Functions</b>	<b>Chapter Two</b> of the Constitution sets out which committee, councillor or officer is responsible for particular functions of the Council.
<b>Section 151 Officer</b>	The officer responsible for the administration of the financial affairs of the Council. Also known as the Chief Finance Officer.
<b>Summons</b>	The term used to inform date, time and place of a meeting and specify business to be considered.
<b>Statutory</b>	The process of interpreting and applying legislation.
<b>Terms of Reference</b>	A written definition setting out the responsibilities and boundaries of a committee.
<b>Town Council/ Parish Council/Parish Meeting</b>	A corporate body (in the same way in which the Council is a corporate body) having precepting powers in its area, and empowerment by statute to undertake certain functions.
<b>Virement</b>	Moving funds from one area of expenditure to another within a financial year.
<b>Ward</b>	An area of South Hams for which elections are conducted.



South Hams  
District Council