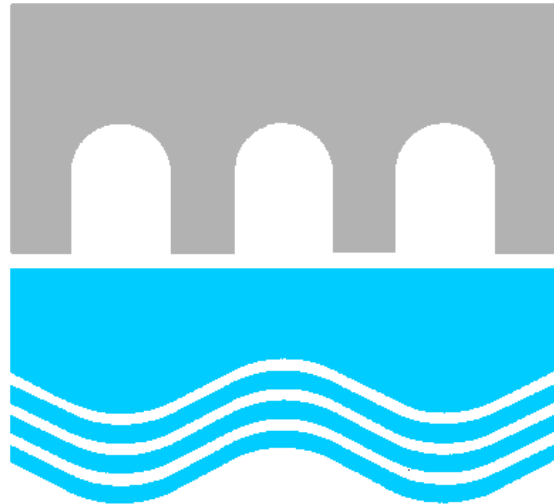

**TORRIDGE
DISTRICT
COUNCIL**



CONSTITUTION

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PART 1

Summary and Explanation

Torrige District Council occupies an area of 380 square miles in the north of the County of Devon bordering North Devon District Council to the East, the County of Cornwall to the South West, and West Devon Borough Council to the South East. It is named after the River that flows through the District reaching the sea at Bideford. The Office for National Statistics estimates that Torrige has a total population of 68,267, with a recorded 32,992 households on the Council Tax Register in 2020.

In accordance with the provisions of the Local Government Act 2000, the Council reviewed the four models available for alternative democratic delivery in line with the Government Guidance and carried out an extensive and wide-ranging consultation. The consultation reflected all four alternatives available without bias, and the outcome was a clear preference for the fourth option, a non-executive form of Constitution with a modernised Committee structure involving a eight main committees.

Climate Change

Torrige District Council has taken action to reduce its own carbon footprint and the wider collaborative activities that we are involved with in at the current time.

Torrige has declared a Climate Emergency and has committed to making the Council carbon neutral by 2030 as part of a Devon-Wide Carbon Reduction Plan.

GDPR/Data Protection

For GDPR/Data Protection matters please visit The Torrige District Council Website at www.torrige.gov.uk/article/11553/Data-Controller-and-Data-Protection-Officer or email dpo@torridge.gov.uk

The Council has established the **Community & Resources Committee** as its main decision making committee. This Committee acts as a parent to a number of sub-groups.

In addition, the Council operates the following committees: -

- Overview & Scrutiny Committees (one internal and one external)
- Audit & Governance Committee
- Plans Committee
- Licensing Committee
- Standards Committee
- Joint Crematorium Committee
- Joint Planning Policy Committee
- Harbour Board
- Property & Major Projects Working Group
- Climate Change Working Group

Overview & Scrutiny Committees

The Council has appointed two Overview & Scrutiny Committees, an Internal Overview & Scrutiny Committee and an External Overview & Scrutiny Committee.

The Internal Overview & Scrutiny Committee has the power to review the policies of the Council and its objectives, and is entitled to '*call in*' decisions made by the Community & Resources Committee which are not yet implemented. They can also recommend that the Community & Resources Committee reconsider such a decision. Issues that remain unresolved will be referred to the Full Council for determination.

The External Overview & Scrutiny Committee has the same terms of reference as the Internal Overview & Scrutiny Committee, but scrutinises the performance of external public sector bodies operating within Torridge.

The Council remains committed to its current policy of involving the community in its decision making process and includes community representation on both Overview & Scrutiny Committees.

Audit & Governance Committee

The Council has appointed an Audit & Governance Committee. Amongst other things, this Committee monitors and reviews the Council's risk management framework and provides independent scrutiny of the Council's financial and non-financial performance.

Plans Committee

The Council's planning function is supported by the Plans Committee responsible for the regulatory responsibilities of the Council including development control and enforcement.

Licensing Committee

The Council's licensing function is supported by a Licensing Committee who meet every 6 weeks, to carry out the functions of the Council as Licensing Authority.

Standards Committee

The Council operates a robust and effective complaints procedure and there is an opportunity to complain to the Standards Committee, where appropriate.

Joint Crematorium Committee

This Committee operates jointly with North Devon Council and manages the operation of the North Devon Crematorium in Barnstaple.

Joint Planning Policy Committee

This Committee operates jointly with North Devon Council to review and update the North Devon & Torrridge Local Plan 2011 – 2031.

All of the Council's committees carry out their business in public except where the items to be discussed are confidential under the provisions of the Local Government Act 1972.

Harbour Board

To receive reports from the Operational Services Manager on issues affecting the management of Bideford Harbour and to consider such issues and make recommendations as appropriate to the Community and Resources Committee.

To establish and maintain strong links with Harbour users, the community and other stakeholders.

To uphold the principles of governance set out in the Department for Transport's "Modern Ports – a UK Policy" and "Opportunities for Ports in Local Authority Ownership" and comply with the local and national Harbour Acts and other relevant legislation.

To participate in reviews of Council policy so far as it affects Bideford Harbour.

Property & Major Projects Working Group

The Property and Major Projects Working Group was established by Community and Resources Committee as a forum for discussing the Council's current and proposed major projects, and for resolving day-to-day issues arising from those projects (within the parameters of the approved project) so as not to impede progress.

Climate Change Working Group

The Torrridge Climate Emergency Working Group provides strategic direction and oversight in order to achieve Torrridge District Council's target of carbon neutrality by 2030. The Climate Change Working Group makes recommendations to the Council's Community and Resources Committee.

For details of Torrridge District Council's Committees including Agendas and Minutes please visit <https://democracy.torrridge.gov.uk/ieDocHome.aspx?bcr=1>

PART 2

Articles

Article 1 - The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

This Constitution, including all its annexes and appendices, is the Constitution of Torridge District Council.

1.3 Purpose

The purpose of the Constitution is to:

- a) Enable the Council to provide clear leadership to the community in partnership with its citizens, business and other organisations;
- b) Support the active involvement of the community in the process of local authority decision-making;
- c) Enable decisions to be taken efficiently and effectively;
- d) Help Members represent their constituents effectively;
- e) Create a powerful and effective means of holding decision makers to public account;
- f) Ensure that no one member or officer exercising delegated authority will review or scrutinise a decision in which they were directly involved;
- g) Ensure that those responsible for decision making are clearly identifiable to local people and that the decision makers explain the reasons for the decisions;
- h) Provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

Article 2 - Members of the Council

Composition

The Council will comprise 36 members, otherwise called Councillors. One or more Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

Eligibility

Only registered voters of the district or those living or working within Torridge will be eligible to hold the office of Councillor according to prevailing statutory provisions.

2.1 Election and Terms of Councillors

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

2.2 Key Roles of Members

- a) Collectively be the policy-makers for the Council and carry out a number of strategic and corporate decision making functions;
- b) Act as leaders of their communities and represent their communities and bring their views into the Council's decision making process, i.e. become the advocate of and for their communities which includes responsibility for the whole area and are collectively "*The Council*";
- c) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- d) Balance different interests identified within the ward and represent the ward as a whole;
- e) Be involved in decision making;
- f) Be available to represent the Council on other bodies;
- g) Maintain the highest standards of conduct and ethics.

2.3 Rights and Duties of Members

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

Members will not make public, information that is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than to a Member or Officer entitled to know it.

For these purposes, “*confidential*” and “*exempt*” information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

2.4 **Conduct**

Councillors will at all times observe the Members Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.5 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members Allowances Scheme set out in Part 6 of this Constitution.

2.6 **Non-Elected/Independent Members**

Non-Elected/Independent Members will be co-opted on to the Overview and Scrutiny Committees, and Audit Committee. Independent Persons will be appointed by the Council to assist the Standards Committee, The Head of Legal & Governance & Monitoring Officer, and individual Councillors. The term of office of each Non-Elected Member shall be 4 years from appointment. Such Members wishing to continue may be considered for further terms.

Article 3 - Citizens and the Council

3.1 Citizens Rights

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

a) Voting and Petitions

Citizens on the electoral roll for the area have the right to vote in the elections of members, and to sign a petition to request a referendum for an elected mayor form of Constitution

b) Petition Scheme

In accordance with the Local Democracy, Economic Development and Construction Act 2009, the Council has adopted a Petition Scheme in which Citizens are encouraged to participate in order for the Council to actively engage the local community and raise awareness of local issues.

The Petition Scheme sets out the way in which Citizens can collect and submit petitions and the way in which these will be considered and responded to by the Council.

The operation of this scheme is set out in Part 8 of this Constitution.

c) Information

Citizens have the right to:

- (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) see reports and background papers except where confidential or exempt information is likely to be disclosed, and any records of decisions made by the Council; and
- (iii) inspect the Council's accounts and make their views known to the external auditor in accordance with the Accounts and Audit Regulations 2003.

d) Community Call for Action

The Council has adopted section 21A of the Local Government Act 2000 which provides an avenue for any Councillor to refer a matter which affects the local area (whether or not the matter is the responsibility of the Council) to the relevant Overview & Scrutiny Committee. The relevant Overview & Scrutiny Committee can then report and make recommendations on such matters.

Citizens have the right to contact any Councillor to raise a matter that they believe should be put before the relevant Overview & Scrutiny Committee under the Community Call for Action powers.

In deciding whether or not to refer a matter brought to him/her to the relevant Overview & Scrutiny Committee, the Member shall have regard to the Council's adopted policy and procedure for dealing with Community Calls for Action which includes advice on dealing with the matter informally before referring it to the relevant Overview & Scrutiny Committee.

e) Participation:

Citizens have the right to contribute to investigations by the Overview & Scrutiny Committees and to approach Councillors in order to suggest items for discussion by Committees and Full Council. Citizens also have the right to participate at Full Council and certain Committees and Working Groups.

f) Complaints:

Citizens have the right to complain to:

- (i) the Council itself, under its Complaints Scheme;
- (ii) the Ombudsman, after the Council's complaints process has been exhausted;

3.2 Citizens' Responsibilities

Citizens must not be violent, abusive or threatening to Members or Officers, and must not wilfully harm property owned by the Council, Members or Officers.

Article 4 - Full Council

4.1 Functions of the Council

Only the Council will have the following functions:

- a) adopting and changing the Constitution;
 - b) approving or adopting the Policy Framework and the Budget;
 - c) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them (the appointment of individuals may be delegated by the Council);
 - d) appointing representatives to outside bodies (which may be delegated by the Council);
 - e) adopting an allowances scheme under Article 2;
 - f) confirming the appointment of the Chief Executive and other Chief Officers as defined within Article 11;
 - g) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
 - h) all other matters which by law must be reserved to Council;
- and
- i) Approving Lead Members.

4.2 Council Meetings

There will be two types of Council meetings that will be conducted in accordance with the Council Procedure Rules in Part 4 of the Constitution which are:-

- (i) Full Council Meetings; and
- (ii) Committee Meetings

4.3 Definitions

For the purpose of this Article 4, the following words have the following meaning:

“Policy Framework” means the following Policies, Plans and Strategies:-

- Sustainable Community Strategy
- Crime & Disorder Reduction Strategy
- Emergency Planning Strategy
- Strategic Plan

“Budget” includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limits.

Article 5 - Chairing the Council

5.1 The Role and function of the Chair

The Council will elect the Chair annually. The Chair of Council and in his/her absence, the Vice Chair, will have the following roles and functions:

a) Ceremonial Role

The Chair of Council will represent Torridge District Council as the Civic Head of the District at informal and formal gatherings and at official functions. The Chair is the figurehead of the District Council and of its community and will be responsible for the hospitality functions of the District.

b) Presiding Role

- (i) To uphold and promote the purposes of The Constitution and to interpret the Constitution upon advice from The Head of Legal and Governance & Monitoring Officer or Legal Officer;
- (ii) To preside over the meetings of the Council so that its business can be carried out efficiently and with full regard to the rights of Councillors and the interests of the community;
- (iii) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and a place at which members are able to hold other members and committee Chairs to account;
- (iv) To promote public involvement in the Council's activities;
- (v) To attend such civic and ceremonial functions as he/she and the Council deem appropriate.

Article 6 – Overview and Scrutiny Committees

6.1 Terms of Reference

The Council will appoint two Overview & Scrutiny Committees (an Internal and an External Overview & Scrutiny Committee) to discharge the functions conferred by Sections 21 & 21A of the Local Government Act 2000. The terms of reference, functions and responsibilities of each Overview & Scrutiny Committee are set out in Part 3 but the general role of the Committees are as follows:-

- a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- b) make reports and/or recommendations to the Full Council and/or any committees in connection with the discharge of any functions;
- c) consider any matter affecting the area or its inhabitants;
- d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Council and/or any committees of the Council;
- e) hear any matter brought to it as a Community Call for Action under powers adopted under section 21A Local Government Act 2000 and make any necessary reports or recommendations on the same; and
- f) review matters previously decided by the Council's established Committees under the Referral Procedure set out in Article 12.6 and Part 4 of this Constitution.

6.2 Specific functions

The External Overview & Scrutiny Committee is also appointed to act as the Crime and Disorder Scrutiny Committee appointed under section 19 of the Police & Justice Act 2006

6.3 Proceedings of the Overview & Scrutiny Committees

The Overview & Scrutiny Committees will conduct their proceedings in accordance with the Overview & Scrutiny Committee Rules of Procedure set out in Part 4 of this Constitution and the Council's Voting Scheme set out in Part 8 of this Constitution.

6.4 Membership

Each Overview and Scrutiny Committee will have a maximum of 3 Non-elected Members appointed. The appointment of the Non-Elected Members will be a function for Full Council and the term of office shall be 4 years from appointment. The termination of an appointment prior to that date will be a matter for Full Council. At the end of the 4 year terms, each Member may re-apply to be appointed for a further term with no restriction on the number of terms that may be served.

Article 7 – Our Committees

7.1 Council Committees

The Council will appoint the Committees shown in Part 3 of this Constitution to include their Terms of Reference, Areas of Responsibility for Functions, and their ability to discharge the functions described.

7.2 Appointment of Sub-Groups

The Council's Committees may appoint Sub-Committees for particular functions or may appoint Working Groups in order to undertake particular tasks.

7.3 Members Serving on Licensing, Plans and/or Standards Committees

Members sitting on Licensing, Plans Committees and/or The Standards Committee will receive appropriate training to take part in that Committee's work. The decision as to whether a Member is competent to sit on the Committee lies with the Group Leader.

7.4 Members Serving on Audit Committee

Members serving on the Audit Committee will receive training on issues to be dealt with by that Committee.

7.5 Reports to Community & Resources Committee

No reports may be presented to the Council's Community & Resources Committee unless that item has first been considered by the Leadership Team provided that urgent items may be presented with the consent of the Chair of the Committee and the Chief Executive.

7.6 Leadership Team

The Leadership Team shall consist of:

- a) the Leader and Deputy Leader of the Council;
- b) the Chair and Vice Chair of Community & Resources Committee;
- c) the Chair of the Audit Committee;
- d) Lead Members;
- e) Group Leaders; and
- f) such other persons as the Council may consider necessary to ensure political inclusiveness.

Article 8 - The Standards Committee

8.1 Establishment

The Council will establish a Standards Committee.

8.2 Composition

Standards Committees do not have to comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

8.3 Membership

- a) The Standards Committee will be composed of not more than Nine (9) members comprising:
 - (i) Seven (7) elected Members;
 - (ii) Two (2) Town/Parish Council Representatives, wholly or mainly in the Council's area.
- b) Additionally, the Council shall appoint up to Two (2) Independent Persons to assist the Standards Committee, The Head of Legal and Governance and Monitoring Officer, and individual Councillors in accordance with the Localism Act 2011.
- c) All Non-Elected Members wishing to sit on the Standards Committee will be subject to a selection process carried out by the Chief Executive.
- d) All Elected Members wishing to sit on the Standards Committee will be subject to a selection process carried out by the Group Leader.
- d) The quorum shall be Five (5)

8.4 Voting rights

The Town/Parish representatives shall not be entitled to vote at Standards Committee meetings but shall be able to take part in the discussions.

The Independent Persons will be invited to attend meetings of the Standards Committee and take part in the discussions, but shall not be entitled to vote.

8.5 The Role of the Standards Committee

The Standards Committee will have the following roles and functions:

1. Promote and maintain high standards of conduct by the Members and co-opted Members of the Council;

2. Assist Members and Co-Opted Members of the Council to observe the Members' Code of Conduct;
3. Advise Full Council on the adoption or revision of the Members' Code of Conduct;
4. Monitor the operation of the Members' Code of Conduct;
5. Advise, train or arrange training for Members and Co-Opted Members on matters relating to the Members' Code of Conduct;
6. Grant dispensations to District Council Members and Co-Opted Members from the requirements relating to interests set out in the Members' Code of Conduct;
7. Deal with any reports relating to Member complaints received by The Head of Legal & Governance & Monitoring Officer;
8. Provide the same functions (other than the grant of dispensations) in relation to Parish Councils and Members of the Parish Councils as in relation to Torrridge District Council and Members of Torrridge District Council;

Powers to Impose Sanctions

1. The standards Committee shall have the following powers when dealing with and deciding upon a complaint:-
 - (a) To issue a censure to a Councillor;
 - (b) To request that a Councillor issue a written apology;
 - (c) To recommend that a Councillor undergo appropriate training;
 - (d) To recommend to the relevant Group Leader and to Full Council and/or a Parish/Town Council that other action be taken against a Councillor;
 - (e) Publication of the findings of the Standards Committee including media statements or press releases, publication on the Council's website and inclusion of details in the Members Bulletin;
 - (f) Report the findings of the Standards Committee to Full Council;
 - (g) Recommend to the Councillor's Group Leader (or in the case of non-aligned Councillors, recommend directly to Full Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - (h) Recommend to Full Council that the Councillor be removed from their role as Lead Member if applicable;
 - (i) Recommend to Full Council that the Councillor be removed from all outside bodies to which they have been appointed or nominated by Full Council;
 - (j) Recommend to Full Council the withdrawal of certain facilities provided to the Councillor by the Council as may be reasonable in the circumstances;
 - (k) Recommend to Full Council that the Councillor be excluded from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Full Council, Committee and Sub-Committee meetings or put in place such restrictions on access to staff as may be reasonable in the circumstances;

- (l) Recommend to Full Council the suspension, withdrawal or reduction of a Councillor's Voluntary Grant Budget for a period of time following the finding of breach.

Article 9 – Consultative Groups

The Council will from time to time appoint consultative groups to ensure that issues of concern may be raised with the Council. Such groups may consist of members of the public, Parish/Town Councils or any other bodies or persons considered appropriate.

Article 10 - Joint Arrangements

10.1 Arrangements to Promote Well-Being

The Council, in order to promote the economic, social or environmental well-being of its area may:

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

10.2 Joint arrangements

The Council may establish joint arrangements with one or more Local Authorities and/or their Executives to exercise functions (which are not executive functions – in executive forms of their constitutions) in any of the participating authorities, or advise the Council. (Such arrangements may involve the appointment of a Joint Committee with these other Local Authorities).

Details of any joint arrangements including any delegations to Joint Committees will be found in Part 3 of this Constitution.

10.3 Access to information

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

10.4 Delegation to and from other Local Authorities

The Council may delegate functions to another Local Authority or, in certain circumstances, the executive of another Local Authority.

The decision whether or not to accept such a delegation from another Local Authority or whether to delegate any function to another Local Authority shall be reserved to Full Council

10.5 Contracting Out

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

Article 11 – Officers

11.1 Management Structure

a) **General**

Full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

b) **Chief Officers**

Full Council will engage persons for the following posts, who will be designated Chief Officers:

Post	Functions and Areas of Responsibility
<u>Chief Executive</u>	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Provision of professional advice to all parties in the decision making process. Together, with The Head of Legal and Governance & Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions. Representing the Council on Partnership and external bodies (as required by statute or by the Council).
<u>Chief Officers Head of Legal and Governance & Monitoring Officer; The Finance Manager and S151 Officer;</u>	Financial Services Legal Services Corporate Services Internal Audit IT Property and Procurement Revenues and Benefits Operational services Culture and leisure Health & Safety Safeguarding Economic Development Planning

11.2 Designation of Posts

- a) The Council will formally designate the posts of the following Statutory Officers:-

- (i) Chief Executive;
 - (ii) Head of Legal & Governance & Monitoring Officer; and
 - (iii) Chief Financial Officer and Deputy Chief Financial Officer.
- b) The posts referred to at 11.2 a) will have the functions described in Articles 11.4 to 11.6 below.

11.3 **Structure**

The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

11.4 **Functions of the Chief Executive**

The Chief Executive will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of Officers.

The Chief Executive will not be the Head of Legal and Governance & Monitoring Officer or the Finance Manager & Section 151 Officer.

11.5 **Functions of the Head of Legal and Governance and Monitoring Officer or his/her deputy**

a) **Maintaining The Constitution**

The Head of Legal and Governance & Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for Members, the Council staff and public.

b) **Ensuring lawfulness and fairness of decision making**

The Head of Legal and Governance and Monitoring Officer will, after consulting with the Chief Executive and The Finance Manager & Section 151 Officer where necessary, report to the Full Council if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.

Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

c) **Supporting the Standards Committee**

The Head of Legal and Governance & Monitoring Officer will support the work of the Standards Committee in all its designated roles.

d) **Receiving reports**

The Head of Legal and Governance & Monitoring Officer will receive and act on reports made by an external organisation or tribunal insofar as

those reports relate to matters within the remit of the Head of Legal and Governance & Monitoring Officer.

e) **Conducting Investigations**

The Head of Legal and Governance & Monitoring Officer will conduct investigations into complaints relating to breaches of the Code of Conduct and will determine those complaints or refer them to the Standards Committee.

f) **Proper Officer for Access of Information**

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

g) **Providing Advice**

The Head of Legal and Governance & Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, and probity to all Councillors.

The Head of Legal and Governance & Monitoring Officer will be active in promoting and ensuring high standards of conduct and compliance with the Constitution. He/she will bring any matters causing him/her concern to the attention of the relevant Chair and/or the Chief Executive and any other relevant officer or Councillor at the earliest opportunity.

h) **Restrictions on Posts**

The Head of Legal and Governance & Monitoring Officer will not be the Finance Manager & S151 Officer or the Chief Executive.

11.6 **Functions of the Finance Manager and Section 151 Officer or his/her Deputy**

a) **Ensuring lawfulness and financial prudence of decision making**

After consulting with the Chief Executive and The Head of Legal and Governance & Monitoring Officer, the Finance Manager and S151 Officer will report to Full Council and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

b) **Administration of Financial Affairs**

The Finance Manager and S151 Officer will have responsibility for the administration of the financial affairs of the Council.

c) **Contribution to Corporate Management**

The Finance Manager and S151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

d) **Providing Advice**

The Finance Manager and S151 Officer will, in relation to material financial considerations, provide advice on the scope of powers and authorities to take decisions, maladministration, financial impropriety, and probity, to all Councillors and will support and advise Councillors and Officers in their respective roles.

e) **Provide Financial Information**

The Finance Manager and S151 Officer will provide financial information to the media, members of the public and to the community and to Managers/budget holders to enable them to effectively manage designated budgets.

11.7 **Duty to provide sufficient resources to The Head of Legal and Governance & Monitoring Officer and The Finance Manager and S151 Officer**

The Council will provide The Head of Legal and Governance & Monitoring Officer and The Finance Manager and S151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow these duties to be performed.

11.8 **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Member /Officer Relations as set out in Part 5 of this Constitution.

11.9 **Employment**

The recruitment, selection and dismissal of Chief Officers will comply with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.

11.10 **Disciplinary Action**

No disciplinary action in respect of The Chief Executive, The Head of Legal & Governance and Monitoring Officer, or the Finance Manager & Section 151 Officer may be taken by the Council or any of its Committees other than in accordance with the procedure set out in Part 4 Chapter 7 of this Constitution.

Article 12 - Decision Making

12.1 Responsibility for Decision Making

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

12.2 Principles of Decision Making

The decisions of the Council will be made in accordance with the Nolan Principles and in accordance with the following specific principles:

- a) respect for Human Rights, equality and diversity;
- b) presumption of openness;
- c) impartiality, (i.e. the decision will be based only on relevant considerations, free of predetermination and bias);
- d) proportionality, (i.e. the action will be proportionate to the desired outcome);
- e) clarity of aims and desired outcomes; and
- f) due consultation and taking professional advice from Officers.

12.3 Forms of Decision Making

a) Decisions by Full Council

Decisions relating to the functions listed in Article 4.1 will be made by Full Council and may not be delegated save where provision for delegation has been made in the Constitution.

Subject to Article 15.1, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

b) Decisions by the Overview & Scrutiny Committees

The Overview & Scrutiny Committees will follow the Overview & Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter and those Non-Elected/Co-Opted Members of the Overview & Scrutiny Committees will comply with the Council's Voting Scheme in force from time to time.

c) **Decisions by other Committees established by the Council**

Subject to Article 7 other Council committees and Sub-Committees will follow those parts of the Council Procedural Rules set out in Part 4 of this Constitution as apply to them.

d) **Decisions by Officers**

Decisions of the Council shall be taken by Full Council or one of the established Committees of the Council save as provided for within the Scheme of Officer Delegation contained at Part 3 of this Constitution which sets out the basis on which officers may make decisions on behalf of the Council.

e) **Decisions by Members**

Save as provided for in the Scheme of Member Delegation contained at Part 3 of this Constitution, members shall not, other than when sitting in Full Council or on one of the established Committees of the Council, make decisions on behalf of the Council.

f) **Urgency Procedure**

Where a decision which would, under the terms of Part 3 of this Constitution, ordinarily falls to be made by the Community & Resources Committee, but is so urgent that it should be made before the next available Community & Resources Committee, the decision may be made by The Chief Executive using the following procedure.

- 1) A Report shall be prepared by the Officer requesting the decision ("Officer") and submitted to The Chief Executive. The Officer will ensure that any relevant Ward Members and Lead Members are notified on the proposed decision before submission to The Chief Executive and that their comments are incorporated into the report so far as possible under the time scales;
- 2) The Report must detail the reasons for the urgency. For clarity, if the reason for the Urgency Report is that an Officer has not had chance to complete a normal Committee Report because of holiday, work commitments or other such reasons, this is not likely to be treated as an Urgent decision under this procedure;
- 3) The Chief Executive will consider the matter and will specify any further consultation that is necessary.
- 4) Once satisfied, the Chief Executive will consult with the Leader/Deputy Leader and Chair/Vice Chair of the Community & Resources Committee who will, if satisfied, endorse the Report with their signatures.

- 5) If the Chief Executive is satisfied that the matter is urgent and that the decision as proposed in the Report should be taken, The Chief Executive will take the appropriate decision.
- 6) The Officer will ensure that a Full Report on the matter, explaining the reason for urgency, is prepared and presented to the next appropriate Committee.
- 7) The Officer will also ensure that a copy of the decision is given to the Head of Legal and Governance & Monitoring Officer for record purposes.

12.4 **Decision making by Council Bodies acting as Tribunals**

The Council or an Officer acting as a Tribunal or in a Quasi-Judicial manner or determining/considering (other than for the purpose of giving advice) the civil rights and obligations or the criminal responsibility of any person will ensure they follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

12.5 **Voting by Non-Elected/Co-Opted Members**

Where the composition of any of the Council's Committees includes any Non-Elected or Co-Opted member (which for these purposes means a Member of that Committee who is not a Member of this Council), then the Council's Voting Scheme shall apply to that Non-Elected or Co-Opted member. The Council's Voting Scheme is set out at Part 8 of this Constitution.

12.6 **Referral Procedure**

Under the Council's Rules of Procedure, set out at Part 4 of this Constitution, procedural rule A5.2 refers to "*Motions which can be moved without Notice*" and gives Full Council the power to refer a decision of the Community & Resources Committee to the appropriate Overview & Scrutiny Committee for an independent determination of the matter in question ("*The Referral Procedure*").

The Referral Procedure shall operate as follows:-

- a) Full Council may, in accordance with Procedural Rule A5.2, refer a minute recording a decision taken by the Community & Resources Committee of the Council to the appropriate Overview & Scrutiny Committee for review;
- b) At the first meeting of the relevant Overview & Scrutiny Committee following the Full Council referral, the Overview & Scrutiny Committee shall consider the decision referred to it by Full Council and shall make such recommendations as it sees fit;

- c) The Overview & Scrutiny Committee shall present its recommendations to the next available Full Council for a decision to be made;
- c) Upon receiving the recommendations of the Overview & Scrutiny Committee, Full Council shall make a decision on the issue and shall not be entitled to refer the same issue back to either the Community & Resources Committee that made the original decision, either of the Council's Overview & Scrutiny Committees or any other Committee.

Article 13 - Finance, Contracts and Legal Matters

13.1 Financial Management

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

13.2 Contracts

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

13.3 Legal Proceedings

The Head of Legal and Governance & Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where The Head of Legal and Governance & Monitoring Officer considers that such action is necessary to protect the Council's interests.

13.4 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council it will be signed by the Chief Executive or such other person authorised by him/her unless any enactment otherwise authorises or requires or the Council has given the requisite authority to some other person.

13.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Executive. A decision of the Council or of any part of it will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents, which in the opinion of the Chief Executive or The Head of Legal and Governance and Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by The Head of Legal and Governance and Monitoring Officer (or in his/her absence, the Chief Executive).

Article 14 - Review and Revision of The Constitution

14.1 Duty to monitor and review the Constitution

The Head of Legal and Governance and Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given effect.

14.2 Protocol for Monitoring and Review of The Constitution

A key role for The Head of Legal and Governance & Monitoring Officer is to be aware of the strengths and weaknesses of The Constitution and to make recommendations for ways it could be improved and enhanced in order better to achieve the purposes of the Constitution. He/she may:

- c) record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders;
- d) receive recommendations made by the Standards Committee; and
- e) compare practices in this Council with those adopted by other Local Authorities, or national examples of best practice.

14.3 Changes to the Constitution

Only Full Council may approve changes to The Constitution, after the consideration of a proposal submitted by The Head of Legal and Governance & Monitoring Officer.

Any proposed change to one of the other three models of Local Government will take place only after appropriate consultation with local electors and other interested persons in the area, and any change to a mayoral style of executive will take place only after a binding referendum.

Article 15 - Suspension, Interpretation and Publication of the Constitution

15.1 Suspension of The Constitution

a) Limit to Suspension

The Articles of the Constitution may not be suspended. The Rules specified in Article 15.1(c) below may be suspended by the Full Council to the extent permitted within the Rules and the Law.

b) Procedure to Suspend

Notice to suspend the Council's rules may be moved without notice.

c) Rules capable of Suspension

The Council's Procedure Rules excluding Procedure Rule A18 and the further Rules referred to therein.

15.2 Interpretation

This Constitution shall be interpreted by the Chief Executive, and The Head of Legal and Governance & Monitoring Officer. Such interpretation will have regard to the purposes of the Constitution contained in Article 1

15.3 Ruling

The Chair for the time being of any meeting of the Council or Committee shall give rulings on any matters relating to this Constitution in respect of the conduct of proceedings. The Chair will receive any advice given by The Head of Legal and Governance & Monitoring Officer or the Chief Executive and in the event that neither of those officers are present at the meeting, the Chair may adjourn to seek further advice. Such ruling shall be final and not open to challenge.

15.4 Publication

- a) The Head of Legal and Governance & Monitoring Officer will ensure that a copy of the Constitution is available to each Member of the Council and at the same time that each individual Member's Declaration of Acceptance of Office on the member being first elected to the Council.
- b) The Head of Legal and Governance Monitoring Officer will ensure that copies are available for inspection at the Council's office, and published on the Council's website
- c) The Head of Legal and Governance & Monitoring Officer will ensure that the Constitution is made available within the area and is updated as necessary by publication on the Council's website

Description of Arrangements

The following parts of this Constitution constitute the alternative arrangements adopted by Torridge District Council:-

- Article 6 - Overview & Scrutiny Committees
- Article 7 - Community & Resources Committee and Other Committees

The terms of reference of the Council's Committee structure are detailed in part 3 of this Constitution and the Council Procedure Rules applicable to the procedures to be adopted by those Committees are detailed in Part 4 of this Constitution.

PART 3

Responsibility for Functions

Full Council may exercise all of the functions exercisable by a District Council.

Full Council may also, where permitted by law and authorised by this Constitution, delegate the exercise of any of its functions to its established Committees, Officers and Members. (See Article 4 of Part 2 of the Constitution).

This Part of the Constitution sets out the extent of the delegations made by Full Council.

PART 3 - Chapter 1

Delegations to Committees

Full Council has delegated elements of its responsibilities to the Community & Resources Committee as set out in the following table. The table shows the Terms of Reference, Functions, Responsibilities and Composition of the Committee.

This Chapter also includes tables containing the same information in respect of the other established Committees of the Council.

Principles applicable to all Committees within this Chapter

The Committees referred to in this Chapter will:-

- a) have regard to all relevant factors, including the following in their operation and when reaching decisions:-
 - (i) **Diversity and Equality**

The requirement for equal access to all services for all people, regardless of the presence of any protected characteristics as defined within the Equality Act 2010.
 - (ii) **Sustainability**

Taking actions that meet the needs of the present without compromising the needs of the future, including taking steps to address The Climate Change Emergency.
 - (iii) **Risk Management**

The requirement to take account of the likelihood and impact of potential occurrences.
- b) have access to a library of Council Policies and the necessary officer support.

COMMUNITY & RESOURCES COMMITTEE

Terms of Reference and Function

The Council's Community and Resources Committee shall take decisions relating to:-

1. The formulation (but not the adoption or approval) of:-
 - a) the Policy Framework;
 - b) the budget; and
 - c) the Council's objectives and priorities.
2. The control and management of resources including land, finance and staff to further the Council's objectives.
3. Ensuring compliance with the Council's budget including the Revenue and Capital budgets and the management of the Council's assets.
4. Overall responsibility for the performance framework of the Council.
5. The adoption and approval of strategies and policies not forming part of the Policy Framework apart from those policies for which delegated power is given to the Chief Executive to approve under Part 3 Chapter 2.
6. The setting of fees and charges in relation to any of the Council's functions with the exception of any such fees and charges that must be determined by full Council.

Responsibility

The Council's Community and Resources Committee shall be responsible for managing and/or making decisions relating to any function, duty or power of the Council which is not delegated to an Officer, Member or Committee, or reserved for decision by Full Council under this Constitution or by law.

Composition

1. The number of seats shall be Twelve (12) councillors.
2. The quorum shall be Seven (7).

OVERVIEW & SCRUTINY COMMITTEES

Statement of Purpose

The Council's Overview & Scrutiny Committees have been appointed to discharge the functions conferred by Section 21 and 21A of the Local Government Act 2000, the Police & Justice Act 2006 and the Crime and Disorder Act 1998 in relation to the work of Full Council, Council's established Committees and other external bodies.

The Council has appointed two Overview & Scrutiny Committees: an Internal Overview & Scrutiny Committee and an External Overview & Scrutiny Committee. As a guide:-

Internal Overview & Scrutiny Committee

The Internal Overview & Scrutiny Committee will exercise its functions in respect of the Council's policies, decisions, performance framework and actions with an "*inward facing*" emphasis.

External Overview & Scrutiny Committee

The External Overview & Scrutiny Committee will exercise its functions in respect of the performance of partners and external Public Sector bodies and Council services with an "*outward facing*" emphasis on the area of Torridge and its inhabitants.

The Council's Overview & Scrutiny Committees will conduct their functions in accordance with the following principles:-

- a) provide a "*critical friend*" challenge to decision makers and external bodies and agencies;
- b) reflect the voice and concerns of the public and the community;
- c) take the lead and own the scrutiny process on behalf of the public; and
- d) endeavour to make an impact to improve the delivery of public services.

Terms of Reference, Function and Responsibilities – Applicable to Both Overview & Scrutiny Committees

The following Terms of Reference, functions and responsibilities shall apply equally to both The Internal and External Overview and Scrutiny Committees. Either of the Council's Overview & Scrutiny Committees shall:-

- a) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Council and/or any committees of the Council in accordance with the Overview and Scrutiny Procedure Rules and to recommend that either the decision be reconsidered or that the decision be exercised/implemented by the Council;
- b) hear any matter brought to it as a Community Call for Action under powers adopted under section 21A Local Government Act 2000 and make any necessary reports and/or recommendations on the same;
- c) make reports and/or recommendations to Full Council and/or any Committees in connection with the discharge of any of their functions;
- d) assist the Council and its Community & Resources Committee in the development of its Budget and Policy framework by in-depth analysis of policy issues;
- e) question Members of the Council's Committees and in particular, as appropriate, the Chairperson, Vice Chairperson and Chief Officer regarding their views on issues and proposals affecting the District;
- f) make recommendations to the Council's Committees and/or Full Council arising from the outcome of the scrutiny process;
- g) question and gather evidence from any person (with their consent); and
- h) call officers to account under the relevant Petition Scheme from time to time in force and contained at Part 7, Chapter 1 of the Constitution.

Finance

The Overview & Scrutiny Committees may exercise overall responsibility for any budgets made available to them.

Annual Report

Each Overview & Scrutiny Committee will report annually to Full Council on its workings, and make recommendations for future work programmes and amended working methods as necessary.

Officers

The Overview & Scrutiny Committees may exercise overall responsibility for the work programme of the Officers employed to support their work

Internal Overview & Scrutiny Committee - Terms of Reference, Function and Responsibilities

The following Terms of Reference, functions and responsibilities shall apply to the Council's Internal Overview & Scrutiny Committee only. The Council's Internal Overview & Scrutiny Committee shall:-

- a) review and/or scrutinise decisions made, or actions taken in connection with the discharge of any of the Council's functions including decisions taken by the Community & Resources Committee or by an Officer;
- b) review matters previously decided by the Community and Resources Committee of the Council and matters referred to it by Full Council under the Referral Procedure set out in Part 4 Chapter 4 of this Constitution;
- c) exercise any of its functions in respect of decisions relating to the overall resource of the Council, both land and finance;
- d) monitor the overall budget of the Council and ensure compliance with that budget (both revenue and capital) and the Council's assets, including arrangements for audit and review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- e) monitor compliance with the Council's overall policy framework;
- f) monitor the efficient administration of the Council's trading responsibilities;
- g) question members of the Community & Resources Committee and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or project
- h) consider Ombudsman reports as relevant to the Community & Resources Committee.

External Overview & Scrutiny Committee - Terms of Reference, Function and Responsibilities

The following terms of reference, functions and responsibilities shall apply to the Council's External Overview and Scrutiny Committee only. The Council's External Overview & Scrutiny Committee shall:-

- a) consider any matter affecting the area or its inhabitants;
- b) conduct research and reviews in relation to matters which are not the responsibility of the Council but which affect the Council's area or its inhabitants and submit reports and/or recommendations to the Council, its Committees or other relevant organisations;
- c) conduct research of the community and other consultation in the analysis of policy issues and possible options;

- d) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- f) review and scrutinise the performance of other public bodies and bodies with whom the Council works in the area and invite reports from them by requesting them to address the External Overview & Scrutiny Committee and local people about their activities and performance;
- g) act as Crime & Disorder Scrutiny Committee under section 19 of the Police & Justice Act 2006, ie, to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions

Composition of both Internal and External Overview & Scrutiny Committees

1. The Council's Overview & Scrutiny Committees shall be made up of up to twelve (12) Members.
2. Membership of the Council's Overview & Scrutiny Committee shall be made up as follows:-
 - a) Nine (9) District Councillors; and
 - b) Up to three (3) Non-Elected Representatives.
3. The quorum shall be six (6).
4. Non-Elected Representatives are entitled to vote at Committee meetings in accordance with the Council's adopted Voting Scheme.

AUDIT & GOVERNANCE COMMITTEE

Statement of Purpose

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

Terms of Reference, Function and Responsibilities

The Council's Audit & Governance Committee shall be responsible for:-

1. Audit Activity

- a) To consider the Finance Manager and S151 Officer's Annual Report and opinion, and receive a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements;
- b) To consider summaries of specific internal audit reports as requested;
- c) To consider reports dealing with the management and performance of the providers of internal audit services;
- d) To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale;
- e) To consider the external auditor's annual letter, other relevant reports, and the report to those charged with governance;
- f) To consider specific reports as agreed with the external auditor;
- g) To comment on the scope and depth of external audit work and to ensure it gives value for money;
- h) To liaise with Public Sector Audit Appointments Limited over the appointment of the council's external auditor;
- i) To commission work from internal and external audit.

2. Regulatory Framework

- a) To maintain an overview of the Council's Constitution in respect of Contract Procedure Rules, Financial Procedure Rules and Codes of Conduct and Behaviour;
- b) To review any issue referred to it by the Chief Executive or the Head of Legal and Governance and Monitoring Officer, or any Council body;
- c) To monitor the effective development and operation of risk management and corporate governance in the council;
- d) To monitor council policies on "*Raising Concerns at Work*", the Anti-Fraud and Anti-Corruption Strategy and the Council's complaints process;
- e) To approve and adopt the Council's Annual Governance Statement or Statement on Internal Control;
- f) consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice;
- g) To consider the Council's compliance with its own and other published standards and controls.

3. **Accounts**

- a) To review and approve the Annual Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council;
- b) To consider the external auditor's report to those charged with governance on issues arising from the audit of accounts.

Composition & Administration

Composition

1. The Council's Audit & Governance Committee shall be made up of seven (7) Members.
2. Membership of the Council's Audit & Governance Committee shall be made up as follows:-
 - a) Six (6) District Councillors; and
 - b) One (1) Independent/Non-Elected Representative.
3. The quorum shall be Four (4)

Administration

The Council's Audit & Governance Committee and its members shall:-

- a) Be independent of the Council's scrutiny function and Overview and Scrutiny Committees;
- b) Have clear reporting lines and rights of access to other committees/functions, for example Scrutiny and Service Committees, corporate risk management and other strategic groups.
- c) Meet regularly, and have a clear policy on those items to be considered in private and those to be considered in public;
- c) Meet privately and separately with the External Auditor and Finance manager and S151 Officer;
- d) Include as regular attendees, The Finance Manager and S151 Officer, and appointed external auditor. Other attendees may include The Head of Legal and Governance & Monitoring Officer and Chief Executive. These Officers should also have access to the committee, or chair, as required;
- e) Have the right to call any other Officers or agencies as required;
- g) Be properly trained to fulfil their role.

PLANS COMMITTEE

Terms of Reference, Function and Responsibility

The Council's Plans Committee shall:-

1. Be responsible for making decisions in respect of the Council's regulatory responsibilities in connection with the Council's Planning function to include decisions on:-
 - a) development control;
 - b) enforcement obligations; and
 - c) the Council's tree preservation system.
2. Provide assistance to constituents where appropriate, by advising them to seek pre-application advice and/or guidance from the Council's Development Control and Policy Sections.
3. Discuss and clarify with Officers what is "good" development for the District.
4. Where applications are in the District's interests but against the Local Plan, the Plans Committee shall discuss these applications as "test cases" and have informed discussion at the Plans Committee meetings.

Decision Making by and Public Participation at Plans Committee

1. All decisions of the Plans Committee will be made having due regard to the Local Development Framework and supporting policies which together form the Council's Local Plan unless there are any overriding considerations.
2. Members of the public will be allowed to speak at a Plans Committee Meeting for a maximum time of three minutes per person and subject to the approved Guide to Public Participation and Code of Conduct which can be found at Part 5 of the Constitution.
3. The final determination of every application by the Plans Committee shall be subject to a recorded vote whereby the names for and against the Motion or abstaining from voting will be recorded and entered into the minutes

Composition of the Plans Committee

1. The Council's Plans Committee shall be made up of up to nine (9) qualified Members.
2. The quorum shall be six (6).

LICENSING COMMITTEE

Terms of Reference, Function and Responsibility

The Council's Licensing Committee shall:-

1. Carry out the functions of the Council as Licensing Authority so far as required or permitted by the Licensing Act 2003 in accordance with sections 6, 7, 9 and 10 of that Act and Regulations thereunder.
2. Carry out the functions of the Council as Licensing Authority under the Gambling Act 2005.
3. Be responsible for the following licensing and associated issues (excluding the fixing of fees and charges and other financial issues which fall to the Council's Community and Resources Committee):-
 - a) Hackney Carriage and Private Hire Vehicles, Drivers and Operators
 - b) Boats and Boatmen;
 - c) Street Collections;
 - d) House to House Collections;
 - e) Animal Welfare;
 - f) Sex Establishments;
 - g) Scrap Metal Dealers & Motor Salvage Operators and;
 - h) such other licensing and associated issues that are not dealt with by any other Committee.

Composition

1. The Council's Licensing Committee shall be made up of up to ten (10) qualified Members.
2. The quorum shall be Six (6).
3. The functions of the Council's Licensing Committee may be discharged by up to three (3) Members sitting on a sub-committee subject to approval at Annual Council.
4. Membership of the Council's Licensing Committee shall be cross-party and non-political.

STANDARDS COMMITTEE

Terms of Reference, Function and Responsibility

The Council's Standards Committee shall:-

1. Promote and maintain high standards of conduct by the Members and Co-Opted Members of the Council;
2. Assist Members and co-opted Members of the Council to observe the Members' Code of Conduct;
3. Advise full Council on the adoption or revision of the Members' Code of Conduct;
4. Monitor the operation of the Members' Code of Conduct;
5. Advise, train or arrange training for members and co-opted Members on matters relating to the Members' Code of Conduct;
6. Grant dispensations to District Council Members and Co-Opted Members from requirements relating to interests set out in the Members' Code of Conduct;
7. Deal with any reports relating to complaints from The Head of Legal and Governance & Monitoring Officer;
8. Provide the same functions (other than the grant of dispensations) in relation to Parish Councils and Members of the Parish Councils as in relation to Torridge District Council and Members of Torridge District Council;

Powers to Impose Sanctions

1. The Standards Committee shall have the following powers when dealing with and deciding upon a complaint:-
 - a) To issue a censure to a Member;
 - b) To request that a Member issue a written apology;
 - c) To recommend that a Member undergo appropriate training;
 - d) To recommend to the relevant Group Leader and to Full Council and/or a Parish/Town Council that other action be taken against a Member;
 - e) Publication of the findings of the Standards Committee including media statements or press releases, publication on the Council's website and inclusion of details in the Members Bulletin;
 - f) Report the findings of the Standards Committee to Full Council;
 - g) Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend directly to Full Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - h) Recommend to Full Council that the Member be removed from their role as Lead Member if applicable;
 - i) Recommend to Full Council that the Member be removed from all outside bodies to which they have been appointed or nominated by Full Council;

- j) Recommend to Full Council the withdrawal of certain facilities provided to the Councillor by the Council as may be reasonable in the circumstances;
- k) Recommend to Full Council that the Councillor be excluded from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Full Council, committee and sub-committee meetings or put in place such restrictions on access to staff as may be reasonable in the circumstances;
- l) Recommend to Full Council the suspension, withdrawal or reduction of a Councillor's Voluntary Grant Budget for a period of time following the finding of breach.

Composition

1. The Council's Standards Committee shall be made up of up to nine (9) members.
2. Membership of the Council's Standards Committee shall be made up as follows:-
 - a) Seven (7) District Councillors; and
 - b) Two (2) Town/Parish Representatives:
3. The quorum shall be Five (5)
4. The Council shall appoint up to three (3) Independent Persons to assist the Standards Committee, The Head of Legal and Governance & Monitoring Officer, and individual Councillors in accordance with the Localism Act 2011.
5. The functions of the Council's Standards Committee may be discharged by sub-committees appointed by the Standards Committee.
6. The Town/Parish representatives shall not be entitled to vote at Standards Committee meetings but shall be able to take part in the discussions.
7. The Independent Persons will be invited to attend meetings of the Standards Committee and take part in the discussions, but shall not be entitled to vote.

JOINT PLANNING POLICY COMMITTEE

Terms of Reference of the Joint Planning Policy Committee

1. Each of the Partner Authorities shall appoint seven members (being elected members of that Partner Authority) as its nominated members of the Joint Committee. The members appointed shall have full voting rights. The members appointed must include:
 - 1.1 the Leader of each Partner Authority; and
 - 1.2 Lead Members for Economy, Environment, Climate, Planning, Housing and Community or such other members from TDC as TDC shall consider appropriate with the equivalent or such other members from NDDC as NDDC shall consider appropriate.
2. Each Partner Authority may nominate one or more substitute members to attend any meeting in place of an appointed member from that Partner Authority and notification being given to the Lead Authority responsible for governance and secretarial Support Services, before the start of the meeting. The member appointed as a substitute shall have full voting rights where the member for whom they are substituting does not attend. If all of a Partner Authority's nominated members attend a meeting of the Joint Committee, any named substitute may also attend as an observer but shall not be entitled to vote.
3. Each member of the Joint Committee shall comply with the Code of Conduct of their Partner Authority when acting as a member of the Joint Committee.
4. Each of the Partner Authorities may remove any of its nominated members or substitute members of the Joint Committee and appoint a different member or substitute to the Joint Committee by giving written notice to the Lead Authority for governance and secretarial Support Services.
5. Each Partner Authority shall have seven votes. These shall be exercised by the nominated members who are elected members of the Partner Authority. In the absence of a Partner Authority's nominated member, a vote may be exercised by the named substitute who is an elected member of the Partner Authority.
6. Each member of the Joint Committee shall serve upon the Joint Committee for as long as he or she is appointed to the Joint Committee by the relevant Partner Authority but a member shall cease to be a member of the Joint Committee if he or she ceases to be a member of the Partner Authority appointing him or her as a member of the Joint Committee.
7. Any casual vacancies howsoever arising shall be filled by the Partner Authority from which the vacancy arises by notice in writing sent to the Lead Authority for governance and secretarial Support Services.
8. Meetings of the Joint Committee shall be held at the offices of the member appointed as chairperson, unless otherwise agreed by the Joint Committee.

9. The Partner Authority hosting the first meeting shall appoint one of its nominated members as chairperson and that member shall remain chairperson until the first meeting taking place after the elapse of one year from the time of his or her appointment unless he or she ceases to be a member of the Joint Committee. On the expiry of the first chairperson's term of office as chairperson, the Partner Authority which did not appoint the first chairperson shall appoint one of its nominated members as chairperson for a period of one year from the time of his or her appointment. The same procedure shall be followed for the appointment of chairperson in subsequent years.
10. The Partner Authority which has not appointed the chairperson of the Joint Committee in any year shall appoint one of its nominated members as vice chairperson.
11. The Joint Committee shall meet once every quarter unless otherwise determined by the Joint Committee.
12. The Lead Authority for governance and secretarial Support Services may call additional meetings by providing at least five clear days' notice to members of the Joint Committee, for the purposes of resolving urgent matters arising between the bi-monthly meetings of the Joint Committee. The Lead Authority for governance and secretarial Support Services must call a meeting of the Joint Committee if at least five members of the Joint Committee from each Partner Authority requests it or if the Chief Executive of both Partner Authorities requests it.
13. Meetings shall be notified to members of the Joint Committee by the Lead Authority for governance and secretarial Support Services.
14. The Lead Authority for governance and secretarial Support Services shall publish the agenda for each meeting of the Joint Committee no later than five clear Working Days before the date of the relevant meeting.
15. The Lead Authority for governance and secretarial Support Services shall send, electronically, to all members and relevant officers of each Partner Authority, the agenda for each meeting of the Joint Committee no later than five clear Working Days before the date of the relevant meeting.
16. The Lead Authority for governance and secretarial Support Services shall arrange for written minutes to be taken of each meeting of the Joint Committee and shall arrange for an officer to present them to the Joint Committee at its next meeting for approval as a correct record. If the Joint Committee confirms that the minutes contain an accurate record of the previous meeting, those minutes shall be signed by the chairperson and vice chairperson.
17. Meetings of the Joint Committee will commence at 10.00am unless otherwise agreed by the Joint Committee. Meetings of the Joint Committee shall end no later than 1.00pm unless otherwise agreed by the Joint Committee.
18. A meeting of the Joint Committee shall require a quorum of seven members with a minimum of three members, who are entitled to attend and vote, coming from one Partner Authority with the remainder, to make the meeting at least quorate, from the other Partner Authority. If there is a quorum of members

present but neither the chair nor the vice-chair is present, the members present shall designate one member to preside as chair for that meeting.

19. Subject to the provisions of any enactment, all questions coming or arising before the Joint Committee shall be decided by a majority of the Partner Authority members of the Joint Committee immediately present and voting thereon. Subject to the provisions of any enactment, in the case of an equality of votes the chairperson shall have a second or casting vote but, before exercising this, the chairperson shall consider whether it is appropriate to defer the matter to the next meeting of the Joint Committee.
20. Any member of the Joint Committee may request the Joint Committee to record the votes of individual members of the Joint Committee on a matter for decision.
21. A member, when speaking, shall address the chairperson. If two or more members wish to speak, the chairperson shall call on one to speak. While a member is speaking all other members shall remain silent.
22. A member shall direct his/her speech to the question under discussion or to a personal explanation or to a point of order.
23. Only one amendment to a proposal may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of, providing the chairperson may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Joint Committee's business.
24. If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion, as amended, shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.
25. The order of business shall be indicated in the agenda for the meeting.
26. When a motion is under debate by the Joint Committee no other motion shall be moved except the following:
 - 26.1 to amend the motion;
 - 26.2 to adjourn the meeting;
 - 26.3 to adjourn the debate;
 - 26.4 to proceed to the next business;
 - 26.5 that the question may now be put;
 - 26.6 that a member shall not be further heard;
 - 26.7 by the chairperson, that a member leave the meeting;
 - 26.8 a motion under section 100(A)(4) of the Local Government Act 1972 to exclude the public; or
 - 26.9 to postpone consideration on an item.
27. A member may move without comment at the conclusion of a speech of another member, "That the Committee proceed to the next business", "That

the question may now be put”, “That the debate is now adjourned”, or “That the Committee now adjourn”, on the seconding of which the chair shall proceed as follows:

- 27.1 on a motion to proceed to next business: unless in his/her opinion the matter before the meeting has been insufficiently discussed to put to the vote, the motion to proceed to next business;
- 27.2 on a motion that the question may now be put: unless in his/her opinion the matter before the meeting has been insufficiently discussed he/she shall first put to the vote the motion that the question may now be put; or
- 27.3 on a motion to adjourn the debate or meeting: if in his/her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion put the adjournment motion to the vote.

The ruling of the chair shall not be open for discussion.

- 28. Any member of the Partner Authorities who is not a member of the Joint Committee is entitled to attend the Joint Committee and make representations in respect of Non-Restricted and Restricted Items by leave of the chairperson (but shall not be entitled to vote or take part in the consideration or discussion of any business), and comments will be recorded only on the direction of the chairperson.
- 29. The following elected representatives are entitled to attend the Joint Committee and make representations in respect of Non-Restricted Items to the Joint Committee by leave of the chairperson (but shall not be entitled to vote or take part in the consideration or discussion of any business) and comments will be recorded only on the direction of the chairperson:
 - 29.1 Members of parish councils within the districts of the Partner Authorities;
 - 29.2 Members of Devon County Council; and
 - 29.3 Members of Parliament for the residents of the Partner Authorities.
- 30. Meetings of the Joint Committee will be open to the public except to the extent that they are excluded under paragraph 32.
- 31. Members of the public wishing to address the Joint Committee (or a sub-committee of the Joint Committee) on Non-Restricted Items contained within the agenda for the meeting shall be given the opportunity to do so subject to:
 - 31.1 the opportunity being extended to one or more person(s) at the discretion of the chairperson to speak in support of each agenda item and one or more person(s) at the discretion of the chairperson to speak against each agenda item when called to do so by the chairperson;
 - 31.2 an indication of the desire to speak on the agenda item being made by the person in writing not less than two days before the scheduled Committee Meeting. The written request must be sent by e-mail to memberservices@northdevon.gov.uk or such other address as provided by the Lead Authority for governance and secretarial support;
 - 31.3 each person addressing the Joint Committee or sub-committee of the Joint Committee being limited to three minutes' speech;

- 31.4 in the event of the person having registered to speak on an agenda item not wishing to take up their right to speak on the agenda item because it was deferred, that person will automatically be given the right to speak on the agenda item at the next meeting of the Joint Committee or sub-committee of the Joint Committee; and
- 31.5 the chairperson of the meeting having discretion to rule that a person wishing to address the meeting shall not be heard if, in the chairperson's view, that issue or the organisation or the person wishing to make the representation on that issue has received an adequate hearing.
32. In accordance with the requirements of the 1972 Act, the public or press must be excluded from a meeting by resolution of the Joint Committee during an item of business if that item includes:
 - 32.1 confidential information, as defined in section 100A(3) of the 1972 Act; or
 - 32.2 exempt information, as defined in section 100I of the 1972 Act.
33. The Joint Committee may delegate a function to an officer.
34. The Joint Committee may appoint such task teams or working groups as they consider appropriate in order to consider and report to the Joint Committee on specific matters.
35. Any contractual arrangements that relate to an Agreed Function will be undertaken by one of the Partner Authorities and that Partner Authority shall apply its own financial regulations and contract procedure rules to such an arrangement. The Partnership Leader of the Partner Authority that is incurring the expenditure will normally determine which of the Partner Authority's financial regulations and contract procedure rules will apply and, in the event of any dispute or uncertainty, the matter should be referred to the Chief Executives for determination.
36. The Lead Authority responsible for governance and secretarial Support Services shall provide administrative support services to the Joint Committee on such terms as may be agreed from time to time between the Partner Authorities. The Partner Authorities shall make available committee officers to provide administrative services at the meetings of the Joint Committee as appropriate and in consideration of where the meetings are being held.
37. The Lead Authority for legal Support Services shall provide the Joint Committee with legal advice and support on such terms as may be agreed from time to time between the Partner Authorities.
38. The Lead Authority for financial Support Services shall provide the Joint Committee with financial advice and support on such terms as may be agreed from time to time between the Partner Authorities.

Functions

The Joint Committee shall be responsible for and shall have delegated to it the following functions of the Partner Authorities:

The preparation, review and/or approval of:

- Development Plan Documents;
- Supplementary Planning Documents;
- Joint documents that supplement/complement the Development Plan Documents (Namely, Local Development Schemes, Statements of Community Involvement, Authority Monitoring Reports and Infrastructure Funding Statements);
- The outcomes from policy performance monitoring and the need to undertake any resultant actions, on such matters as the maintenance of housing delivery rates and a joint five year land supply to required levels;
- Proposals for delivery of key infrastructure (e.g. flood defences, link road improvements, health infrastructure) where there are clear cross boundary implications; and
- Responses to consultations from the government, other authorities, external agencies and other bodies, including transportation related consultations, where they would have a significant impact on the delivery of the Local Plan or on the Districts' environment.

The consideration and noting of associated evidence documents (for example, Sustainability Appraisals and Habitat Regulations Assessments)

Such other functions related to the above listed Agreed Functions which it is agreed between the Partner Authorities should be included as an Agreed Function.

The delegated powers referred to above shall be limited to the preparation of agreed Development Plan Documents but shall not include the final adoption of such Development Plan Documents which shall be reserved to the respective Partner Authorities and referred back as a recommendation by the Joint Committee for a decision as to adoption by the respective Partner Authorities. The Joint Committee shall take account any reservations or objections subsequently received from either Partner Authority before referring the Development Plan Documents back for adoption.

HARBOUR BOARD

Terms of Reference for Bideford Harbour Board Working Group

Purposes

To receive reports from the Operational Services Manager on issues affecting the management of Bideford Harbour and to consider such issues and make recommendations as appropriate to the Community and Resources Committee.

To establish and maintain strong links with Harbour users, the community and other stakeholders.

To uphold the principles of governance set out in the Department for Transport's "Modern Ports – a UK Policy" and "Opportunities for Ports in Local Authority Ownership" and comply with the local and national Harbour Acts and other relevant legislation.

To participate in reviews of Council policy so far as it affects Bideford Harbour.

Membership

The working group shall consist of:-

6 Members of Torridge District Council including the Chair of the Community and Resources Committee

3 Members who shall not be Members of Torridge District Council but whom, because of particular expertise or interest, the Council considers should be members of the Working Group.

Initial appointments of independent members shall be for a period of 6 months and may be extended to four years, subject to review. Subsequent appointment of independent members shall be for a period of 4 years.

Chairman

The Chair of the Working Group shall be the Chair of the Community and Resources Committee. The Working Group shall appoint a Vice Chair as part of the business of the first meeting and from time to time thereafter. If the Chair and Vice-Chairman are not present at a meeting, the Working Group shall appoint a Chair to act at that meeting from amongst those present.

Meetings

The Working Group shall meet at least once every three months, or at such other times as may be necessary.

Meetings of the Working Group shall be open for public attendance unless exempt or potentially exempt information, within the meaning of the Local Government Act 1972 Schedule 12A is likely to be discussed, in which case, Members may vote to exclude the press and public from that part of the meeting at which such information is being disclosed or discussed.

Members of the public may speak at meetings of the Working Group only at the absolute discretion of the Chair.

Voting

All members of the Working Group shall have voting rights and the Chair shall have the casting vote. All procedures, so far as they are not affected by this document, shall be in accordance with the Council's constitution.

Quorum

The quorum for a meeting of the Working Group shall be 3 of whom 2 must be members of the Council.

Support

The Working Group will be supported by officers from Torridge District Council including the Harbour Manager and the Operational Services Manager.

Other attendees

The Working Group may invite others to participate in discussions at a meeting where the Working Group considers it appropriate to do so.

PROPERTY AND MAJOR PROJECTS WORKING GROUP

Terms of Reference and Function

The Property and Major Projects Working Group was established by Community and Resources Committee as a forum for discussing the Council's current and proposed major projects, and for resolving day-to-day issues arising from those projects (within the parameters of the approved project) so as not to impede progress.

The Property and Major Projects Working Group shall:-

1. Monitor and receive updates in relation to current major projects;
2. Provide guidance in relation to matters arising from current projects which may impede progress, such guidance to be exercised within the parameters of the formal approval for the project.
3. Consider proposals for new major projects while in the formative stages to assist officers in determining the approach to be taken in relation to those proposals.

Composition

1. The number of seats shall be four (4) Members comprising:
 - a. The Leader of the Council (Chair);
 - b. The Deputy Leader of the Council (Vice Chair);
 - c. The Chair of Community & Resources Committee;
 - d. Another Member appointed annually by Full Council

In the event that the Leader or Deputy Leader of the Council is also the Chair of the Community & Resources Committee, the Chair of the Audit & Governance Committee shall take their place on the Property and Major Projects Working Group.

2. The quorum shall be two (2).

COUNCILLOR CLIMATE CHANGE WORKING GROUP

Terms of Reference and Function

The Torridge District Council Climate Emergency Working Group will provide strong strategic direction and oversight in order to achieve Torridge District Council's target of carbon neutrality by 2030.

2. Responsibilities

The Working Group will:

- Enable and establish collaborative working across the Council and engagement with individuals, community groups, parish and town councils, businesses and other partners in the district.
- Investigate steps that may be taken by the Council and by Torridge residents and businesses to work towards the Council's commitment to achieving net-zero carbon status by 2030 and towards protecting and enhancing biodiversity.
- Oversee the Carbon and Biodiversity Plan for TDC, ensuring that actions are realistic, measurable and deliverable. Provide input into the development of the plan and strategic direction and oversight of its delivery, once adopted, making recommendations to Full Council, Community & Resources Committee and other strategic and governance committees and groups, as necessary.
- Identify support needed from Central Government in terms of funding, additional powers and policy changes which are needed to achieve the Council's climate and ecological objectives.
- Monitor funding opportunities making recommendations through governance structures where necessary or support Officers to undertake bids/projects.
- To identify, support and champion climate and ecological progress across the Council whilst providing an appropriate level of critical challenge for the organisation.
- To identify, promote and participate in partnership opportunities that will progress TDC's stated Carbon and biodiversity goals.
- To promote and champion the actions, progress and achievements of the Council in meeting its carbon neutrality, environmental and economic development aims.
- Through governance structures to report on activities, outcomes, risks and resource demands, and action direction out of these governance arrangements.
- To provide support and oversight of actions, initiatives and opportunities coming out of Devon County Council's declaration of climate emergency made in February 2019.
- To support and champion Torridge's high-quality environment, air, land, water, food products and renewable energy resources.
- To identify appropriate income generating opportunities which will tie in with the council's climate objectives.

3. Composition & Quoracy

The quorum level shall be 2.

Membership is a minimum of 4 Members which are appointed at the AGM and will include Lead Member for Climate. Membership can be expanded on agreement of the group. External representatives can also be invited to join the group subject to approval of the Chair, to offer specialist advice or support. Officers will attend to support the Working Group, as necessary. Members can nominate substitutions at meetings if necessary.

The Climate Change Working Group shall have no decision-making powers other than the power to make recommendations to the Council's Community and Resources Committee

PART 3 – Chapter 2

Delegations to Officers

A: INTERPRETATION AND GENERAL

1. For the avoidance of doubt unless the context otherwise requires the following words and expressions have the following meaning:
 - a) **“the Constitution”** shall be deemed to be the Torridge District Council Constitution as adopted from time to time including the published Rules of Procedure, Financial Procedure Rules, Contract Procedure Rules and all delegations;
 - b) **“the Planning Acts”** shall mean the Town and Country Planning Act 1990, the Town and Country Planning Act 2008, the Town and Country Planning (Listed Building and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 the Caravan Sites and Control of Development Act 1960 (and in respect of them all any amendments as may be made from time to time) and any regulations and orders made pursuant to the same including in particular, but without prejudice to the generality of the foregoing the General Permitted Development Order 1995, the Hedgerow Regulations 1997, Town and Country Planning (Control of Advertisements) Regulations 1992 and the Town and Country Planning General Regulations 1992 (including in respect of them any amendments as may be made from time to time);
 - c) Policies of the Council shall be deemed to be such policies as adopted from time to time and as amended from time to time including the Financial Procedure Rules and the Contract Procedure Rules,
 - d) Legislation shall be deemed to include reference to any amendment, extension, application or re-enactment of it and includes any subordinate laws for the time being in force made under it and all orders, regulations, notices, codes of practice and guidance made under it.
 - e) A formal caution shall include reference to a simple and conditional caution.
2. Where a power is delegated to more than one Officer then all Officers to whom the power is delegated shall be able to exercise that power.
3. In the absence of the Head of Legal and Governance & Monitoring Officer or the Finance Manager and S151 Officer, any officer duly appointed by them to act as their deputy may exercise any powers or duties delegated to them in their capacity as Head of Legal and Governance & Monitoring Officer or Finance Manager and S151 Officer (as the case may be), or any role or responsibility allocated to them within any part of the Constitution.
4. Any post specifically referred to below shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.

5. All Delegated Powers shall be exercised and be subject to the content of all relevant policies adopted by the Council from time to time. In the event of any conflict between these Delegated Powers and any such Policy, the Policy shall prevail.
6. In the absence of the Chief Executive, powers delegated to the Chief Executive under the Scheme of Delegation shall be exercisable by the Head of Legal and Governance & Monitoring Officer and the Finance Manager and S151 Officer.

B: DELEGATIONS

B1 ALL OFFICERS

1. To act as a witness;
 - a) on behalf of the Council in any proceeding in which the Council is directly involved;
 - b) where so directed by a court, tribunal or other formal inquiry with power so to do; or
 - c) in any other circumstance with the prior written approval of the Head of Legal & Governance and Monitoring Officer.

B2 CHIEF EXECUTIVE

Policies

1. To adopt and approve policies made by the Council which relate to the operational requirements of the Council, its equipment or staff and to implement all policies adopted by the Council.

Establishment

2. To consider, amend and revise the manpower establishment **provided** any such amendments or revision is in accordance with any approved establishment plan and budgetary framework of the Council (as may be amended from time to time).
3. To appoint temporary staff or authorise the appointment of external resources to undertake work normally undertaken by a Service subject to the costs thereof not exceeding the available budget of that Service.
4. To act as the Chief Executive for the purposes of the Local Government and Housing Act 1989.
5. To consider and determine pursuant to Part V of the Local Government Discretionary Payments Regulations 1996 (or any statutory provision replacing or re-enacting the same) including any amendments thereto:
 - a) the amount of any injury allowance payable to an Officer; and
 - b) any time period(s) associated therewith or to any death benefit payments referred to in those provisions.
6. To consider and approve or refuse (with or without modification) any application by the Chief Executive, the Head of Communities and Place, the Head of Legal and Governance & Monitoring Officer and Finance Manager & S151 Officer, to carry forward annual leave from one leave year to the next provided that any such approval or refusal shall be in accordance with any approved Council policies as have been adopted and relate to the same.

7. To recruit, select and appoint any Officer of Head of Legal and Governance & Monitoring Officer or Senior Management Team level or below provided that such appointment is in accordance with Council policies and all relevant legislation.
8. With the exception of any matter which directly relates to the Chief Executive, in relation to an Officer to hear, consider and determine:
 - a) any grievance and / or harassment matter;
 - b) any disciplinary matter provided the Officer is of Head of Legal and Governance & Monitoring Officer or Senior Management Team level or below; and
 - c) any appeal in relation to a decision resulting from a grievance, harassment and / or disciplinary matter other a decision taken by the Chief Executive, Committee or a Sub-Committee;

including in all cases, power:

- (i) to authorise such action as the Chief Executive deems appropriate in relation to any determination that is made (whether formal or informal) including the suspension and / or dismissal of any Officer of Head of Legal and Governance & Monitoring Officer or Senior Management Team level or below, provided that this shall be in accordance with all relevant legislation, and
- (ii) to nominate any other Officer to exercise on his/her behalf all or any the powers contained in this delegation.

Notwithstanding anything contained in this provision 8, the Chief Executive shall have the power to suspend any Officer pending an investigation in relation to that Officer provided that such suspension shall be in accordance with the Council policies and all relevant legislation.

9. To arrange for, and where appropriate undertake, an investigation into any disciplinary matter relating to the Head of Legal and Governance & Monitoring Officer, Senior Management Team or any other Officer exercising the role of Head of Legal & Governance and Monitoring Officer or Finance Manager and S151 Officer where the disciplinary action relates to their performance of such a role.
10. Power to consider and approve or refuse requests to fill staff vacancies and authorise any other Officer to exercise such a power.
11. To authorise and sign identity cards on behalf of any Officer within their Service Area as may be necessary for the proper performance of their duties.
12. To authorise officers and/or other persons to undertake those matters identified within the identity cards and to issue and sign the same where in the opinion of the Chief Executive this is necessary for the proper performance of their duties.
13. To consider and refuse or approve (with or without modification):
 - a) essential telephone user payments;
 - b) applications for car loans; and
 - c) applications under the Cycle to work scheme adopted by the Council,

provided that if the Council has approved policies (as amended from time to time) relating to the same, then any approval that is given shall be in accordance with such policies.

14. To determine a reasonable charge for sale of documents or copies of documents which are not subject to any statutory scales.

General

15. To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the Chief Executive within the Constitution whether specifically identified in the delegated powers to Officers or otherwise.
16. For the purposes of any budget or manpower resource within the control of the Chief Executives, the power to exercise all those delegated powers as are delegated to the Head of Legal and Governance & Monitoring Officer or Senior Management Team.
17. To exercise all the powers referred or delegated to any other Officer.
18. In consultation with either the Leader or person presiding at a meeting, to consider whether television and sound recordings, broadcastings or other reporting of all or any part of a meeting is disruptive to the extent that it should cease, each case being considered on its merits.
19. In consultation with either the Leader and/or any other Member that the Chief Executive at his/her discretion deems appropriate, to respond to consultation papers.
20. To attest the Council seal and sign any document necessary to give effect to:
 - a) a resolution of the Council (as the case may be); and/or
 - b) the exercise of a power or function delegated by the Council, (as the case may be),

provided that any such attestation or signing accords with the provisions of Article 13 of the Constitution (as may be amended from time to time).

21. To act as "Proper Officer" for all functions detailed in:
 - a) Local Government Act 1972;
 - b) Local Authorities (Referendum) (Petitions and Directions) (England) Regulations 2000; and
 - c) the Constitution not otherwise specifically delegated to another Officer, including the power:
 - (i) to consider and nominate in writing any other Officer to act as a proper officer where this is permitted by law; and
 - (ii) in consultation with the Human Resources and Communications Manager to negotiate and approve variations to an Officers terms and conditions of employment, in order to facilitate the same **provided** that any such appointment or variations do not exceed any budget allocated for such a purpose.
22. For the purpose of surveillance operations to which the Regulation of Investigatory Powers Act 2000 apply (or any statutory provision modifying, replacing or re-enacting the same), the power:

- a) to provisionally authorise a surveillance operation; and
- b) to further delegate the power to provisionally authorise surveillance operations to other Officers

provided that such provisional authorisation is only given in accordance with the Council's adopted Policy.

- 23. To authorise the making of an application under the Crime and Disorder Act of Anti-Social Behaviour Orders in consultation with the Head of Legal and Governance & Monitoring Officer.
- 24. In consultation with the Head of Legal & Governance, the power to authorise the giving of an authorisation under section 30 of the Anti Social Behaviour Act 2003.
- 25. In consultation with the Leader, to consider and approve or refuse (with or without modification) any Policy document produced for the purposes of the Planning Acts which in the opinion of the Chief Executive is of a minor nature **provided** that any amendment shall be reported to the next available meeting of the Full Council.
- 26. Power to appoint and authorise officers to act under section 29(5)(a) and (b) of the Regulation of Investigatory Powers Act 2000.
- 27. Power to provisionally authorise covert surveillance and the use of covert human intelligence sources under the Regulation of Investigatory Powers Act 2000 provided the same is in accordance with the above legislation, any guidance and Codes of Practice and the Council's adopted policy.

28. **Ombudsman Complaints**

Power to authorise complaint/ombudsman compensation for up to £2,000, subject to prior consultation with the Leader or Deputy Leader.

Members

- 29. To receive Group nominations for relevant Committees and Sub-Committees subject to Council being notified of the Group appointments.
- 30. For the purposes of Members' Approved Duties, to consider and determine Members' claims for travelling allowances including the power to consider and determine whether to authorise meetings for such purposes:
 - a) with Government Departments or their representatives;
 - b) other Government Bodies or their representatives, and
 - c) meetings involving Group Leaders, including meetings with external organisations.
- 31. To receive and consider notices and questions submitted by Members pursuant to the Constitution.
- 32. To approve, in conjunction with the relevant Committee Chair and the Leader, any urgent decisions required under the procedure outlined in the Constitution.

Human Resources

33. To deliver advice and guidance to officers in relation to terms and conditions of employment.
34. To interpret Employment Policies, custom and practice and implement processes and/or decisions based on either the Policy or the custom and practice of the Council.
35. To act on the advice of medical practitioners with regard to retiring employees on grounds of ill health.
36. To negotiate revised terms and conditions of employment with recognised trades unions.
37. To develop Employment Policies and negotiate with recognised trades unions prior to adoption by Council.
38. To purchase procurement of Personnel consultants/training providers as necessary within the Financial Procedure Rules and Contract Procedure Rules.
39. To apply Employment Legislation/EC Directives as appropriate which may impact on staff terms and conditions, including pay.
40. To implement procedures in relation to training and development activities.
41. To act as the lead counter signatory for the Council and nominate other counter signatories for the Council in respect of the Disclosure and Barring Service.
42. To negotiate Compromise Agreements as appropriate, with the final agreement to be signed off by the Head of Legal and Governance & Monitoring Officer.
43. To seek external employment advice within budget as necessary.
44. To place job adverts in appropriate publications.
45. To approve relocation expenses as appropriate.
46. To approve interview expenses.
47. To advise the Council and act on behalf of the Council on all matters relating to the recruitment and termination of employees.
48. To execute the agreements for the engagement of Officers.

Establishment

49. In consultation with The Human Resources and Communications Manager to negotiate and approve variations to an Officers terms and conditions of employment for the purposes of appointing one or more Deputy Monitoring Officers, subject to any such variations not exceeding any budget allocated for such a purpose.

Legislation

Animal Boarding Establishments Act 1963
Animal Welfare Act 2006
Animals Act 1971
Anti Social Behaviour Act 2003
Anti Social Behaviour, Crime and Policing Act 2014
Bovine and Bovine Products (Trade) Regulations 1998
Building Act 1984
Caravan Sites and Control of Development Act 1960
Caravan Sites Act 1968
Cinemas Act 1985
Civil Contingencies Act 2004
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Control of Pollution Act 1974
Crime and Disorder Act 1998
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Deregulation Act 2015
Environment Act 1995
Environmental Protection Act 1990
European Union (Withdrawal Agreement) Act 2020 relating to retained EU regulations
European Union (Withdrawal) Act 2018 as amended
Food and Environmental Protection Act 1985
Food Safety Act 1990 (as amended)
Gambling Act 2005
Health Act 2006
Health and Safety at Work etc Act 1974
House to House Collections Act 1939
Hypnotism Act 1952
Landlord and Tenant Act 1985
Licensing Act 2003
Live Music Act 2012
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Local Government Act 1972 – Part XI
Mobile Homes Act 1983
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Offices Shops and Railway Premises Act 1963
Pet Animals Act 1951 (as amended)
Police Act 1997
Police Factories etc (Miscellaneous Provisions) Act 1916
Police Reform and Social Responsibility Act 2011
Policing and Crime Act 2009
Pollution Prevention and Control Act 1999
Prevention of Damage by Pests Act 1949
Protection of Freedoms Act 2012
Public Health (Control of Disease) Act 1984
Public Health Act 1936
Public Health Act 1961
Public Health Acts Amendment Act 1907
Refuse Disposal (Amenity) Act 1978
Regulation of Investigatory Powers Act 2000

Regulatory Reform (Housing Assistance) (England and Wales) Order 2002
Regulatory Reform Order 2002 Paragraphs 1 to 12 and Schedules 1 to 6
Riding Establishments Act 1964
Riding Establishments Act 1970
Road Safety Act 2006
Riding Establishments Act 1964 and 1971
Safeguarding Vulnerable Groups Act 2006
Scrap Metal Dealers Act 2013
Sunday Trading Act 1994
The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) (Amendment) Regulations 2000
The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) (Amendment) Regulations 2016
The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1993
The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998
Theatres Act 1968
Town and Police Clauses Act 1889
Town Police Clauses Act 1847
Transport Act 1985
Vehicles (Crime) Act 2001
Water Industry Act 1991
Water Industry Act 1991
Zoo Licensing Act 1981

B3 FINANCE MANAGER AND S151 OFFICER

General

1. To act as the officer appointed under Section 151 of the Local Government Act 1972 and to maintain and enforce the Financial Procedure Rules and Contract Procedure Rules.
2. For the purposes of any budget or establishment resource within the control of the Finance Manager and S151 Officer, the power to exercise all those delegated powers as are delegated to the Head of Legal & Governance (Monitoring Officer) and Monitoring Office or Senior Management Team.
3. To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the Finance Manager and S151 Officer within the Constitution whether specifically identified in the delegated powers to Officers or otherwise.
4. In respect of any proceedings and in consultation with the Head of Legal and Governance & Monitoring Officer, to consider and determine whether the Council should lodge a formal offer with the Court the amount of any such offer and whether, and upon what grounds, it may be appropriate for such amount to be varied.

Financial

5. In consultation with the Head of Legal and Governance & Monitoring Officer, to consider and determine whether to authorise:

- a) the instigation of bankruptcy proceedings against an individual(s); and/or
 - b) the winding up of an organisation.
6. To write off Council Tax debts, National Non-Domestic Rates, sundry debts and overpayments of Housing Benefits to the limits set out in the Financial Procedure Rules.
 7. In consultation with the member(s) in whose ward the debtor is located and/or the debt originated, to write off Council Tax debts, National Non-Domestic Rates, sundry debts and overpayments of Housing Benefits.

Accountancy

8. To be responsible for the preparation of the Council's Statement of Accounts in accordance with proper practices.
9. To implement annual awards affecting wages, salaries and conditions of service.
10. The investment and re-investment of Council monies provided the same is undertaken in accordance with the Financial Procedure Rules and any other relevant Policies as may be adopted by the Council in respect of the same (as amended from time to time).
11. To borrow and raise loans on behalf of the Council provided the same is undertaken in accordance with the Financial Procedure Rules and any other relevant policies as may be adopted by the Council in respect of the same (as amended from time to time).
12. To make a determination on the amount of useable capital receipts to be used to finance capital expenditure or for such other purpose as allowed by Regulations made under the Local Government Act 2003 as amended by the Local Government and Public Involvement in Health Act 2007:
13. To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the Head of Communities & Place within the Constitution whether specifically identified in the Delegated Powers to Officers or otherwise.
14. To plan and manage the Council's cash flow requirements within approved borrowing limits and in accordance with the Council's policies on treasury management and to manage the budgets of the Council in accordance with accepted practice and professional guidance.
15. To consider and determine whether the Council should opt to tax any property for the purposes of VAT to preserve the interests of the Council and manage and account for the VAT implications of the Council's activities.
16. To authorise payments of precepts to precepting bodies within the area of the Council.
17. To authorise payment of levies properly issued on the Council by levying bodies.
18. To monitor and administer ongoing requirements for insurance provision in the light of changing services and assets, ensuring provision of adequate cover directly or via contractors' cover.

19. To liaise with the Council's insurers and their properly nominated representatives in respect of any claims brought against the Council under any of the Council's insurance policies and to undertake those activities necessary, in conjunction with the insurers and/or their representatives to resolve or settle those claims, including the signature of any documents incidental to the resolution or resettlement of any claim.
20. To advance duly authorised loans to third parties.
21. To take action to recover loan repayments due to the Council.
22. To declare Interest rates under the Housing Act 1985 or any statute replacing it and other interest rates appropriate to a class of loan.

Exchequer

23. To administer the provision of car loans and associated financial procedures in accordance with the Council's car loan scheme.
24. Administer the processing of authorised instructions and make payments in respect of payroll costs and allowances to staff and Members.
25. Process authorised instruction and make payment in respect of supplies of goods services etc., and refunds of sums due to customers.

Audit

26. The maintenance of an effective internal audit function
27. To provide an independent and objective opinion on the internal control environment put in place by the Council in accordance with the Accounts and Audit Regulations 2011 and the relevant CIPFA guidance.
28. Authority to enter any Council premises at all reasonable times, to have access to all records, assets, personnel and documents relating to financial and other transactions of the Council and require any Council employee to produce such documentation or property under their control for the purpose of carrying out the Audit function
29. To conduct an independent investigation into any referrals of suggested or potential irregularities and to take such steps as are necessary by way of investigation and report.
30. To provide an annual audit opinion on the effectiveness of the Council's system of internal control.
31. To provide an independent and objective Annual Audit opinion on the effectiveness of the Council's internal control environment in accordance with the Accounts and Audit Regulations 2011 and the relevant CIPFA guidance.
32. To report to all senior management, the Chief Executive and the Audit Governance Committee on all aspects of risk management, control and governance processes and to deliver an audit opinion on those matters.

B4 HEAD OF LEGAL & GOVERNANCE & MONITORING OFFICER

General

1. For the purposes of any budget or establishment resource within the control of the Head of Legal and Governance & Monitoring Officer, the power to exercise all those delegated powers as are delegated to the Head of Legal and Governance & Monitoring Officer or Senior Management Team.
2. To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to The Head of Governance and Monitoring Officer within the Constitution whether specifically identified in the delegated powers to Officers or otherwise.
3. Power to deal with, consider and determine complaints regarding the conduct of District and Parish Councillors, including the power to make recommendations to Committees and Full Council, the power to consult with an Independent Person and the power to refer a complaint to the Standards Committee.
4. To authorise in writing any Officer:
 - a) to act as a witness; or
 - b) to represent the Council;

in any actual or potential legal proceedings whether instigated by or on behalf of the Council or otherwise, in relation to any matter in which the Council is, has been, or may become involved, whether directly or indirectly.
5. To act as the qualified person for the purposed of the Freedom of Information Act 2000 and any instrument made thereunder.
6. To act as the Council's Data Protection Officer under the Data Protection Act 1998.

Dispensations

7. Following consultation with the Chair and/or Vice Chair of the Standards Committee and an Independent Person, to determine requests for dispensations under section 33 of the Localism Act 2011, if the requests are justified by reference to one of the following conditions:
 - a) that so many members of the decision-making body have an interest preventing participation that it would "*impede*" the transaction of the business'; or
 - b) that without the dispensation, the representation of different political groups on the decision-making body would be so upset as to alter the outcome of any vote on the matter.

In consultation with the Senior Management Team and/or Chief Executive as the Head of Legal and Governance & Monitoring Officer deems appropriate, to instruct and use Counsel and other external professionals / experts / advisors in respect of any legal issues relating to the Council provided the same is in accordance with the Financial and Contract Procedure Rules.
8. To instigate, prosecute, defend, and appear in any legal proceedings (including tribunals, hearings and inquiries) on behalf of the Council, together with the

undertaking of such preliminary or further work in relation to the same as the Head of Legal & Governance and Monitoring Officer deems appropriate, including in particular but without prejudice to the generality of the foregoing, proceedings in relation to:

- a) prosecutions,
- b) injunctions,
- c) possessions,
- d) appeals; and
- e) complaints

subject to the Head of Legal and Governance & Monitoring Officer applying any Council policy or other guidance in deciding whether to commence or defend an action.

9. To prepare, issue and serve any Notices, Orders, Requisitions or other documents arising from or relating to the carrying out of any function of the Council (including the power to withdraw, vary or revoke the same (as the case may be)) which by virtue of any primary and/or secondary legislation the Council is empowered to issue and serve.
10. To take such further action as the Head of Legal and Governance & Monitoring Officer at his/her absolute discretion deems necessary for the purposes of implementing, enforcing in respect of breaches of, or regulating any decisions, Notices, Orders, Requisitions or other documents (including any conditions relating thereto) issued by or on behalf of the Council, including authority to authorise direct action, **provided** any costs in respect of the same can be met from existing budget provision.
11. To consider applications for, any representations received (within any time period specified in respect of the same, or if none, then prior to the date when a determination is made) in respect of, and determine whether to grant or refuse (with or without modification) a road closure pursuant to the Town Police Clauses Act 1847, **provided** that where any objection is received within the representation period as identified above then such power shall only be exercised after consultation with the Member(s) within whose ward(s) the road closure lies.
12. To make and determine whether or not to confirm (with or without modification) a Tree Preservation Order pursuant to the Town and Country Planning Act 1990.
13. To consider and determine whether to vary and/or revoke a Tree Preservation Order pursuant to the Town and Country Planning Act 1990.
14. To make, and where no objections have been received, determine whether or not to confirm any bylaw for which the Council has the statutory power to issue, **provided** that where an objection has been received in respect of the matters herein, then determination by the Head of Legal and Governance & Monitoring Officer can still be made, but only if:
 - a) in the opinion of the Head of Legal and Governance & Monitoring Officer there is an urgent need for a decision; and
 - b) there is prior consultation as to the reason for the urgency with Chair of the Committee (or Vice-Chair if the Chair is unavailable) that incorporates the function directly affected by the proposed decision.
15. To attest the Council seal and sign any document necessary to give effect to:
 - a) a resolution of the Council (as the case may be); and/or

- b) the exercise of a power or function delegated by the Council, (as the case may be), **provided** that any such attestation or signing accords with the provisions of Article 13 of the Constitution (as may be amended from time to time).
16. Power to amend and update the Council's Corporate Policy and Procedures document on the Regulation of Investigatory powers Act 2000.
 17. To act as the Senior Responsible Officer under the Regulation of Investigatory Powers Act 2000.
 18. Power to authorise covert surveillance and the use of covert human intelligence sources under the Regulation of Investigatory Powers Act 2000 provided the same is in accordance with the above legislation, any relevant guidance and Code of Practice and the Council's adopted policy.
 19. Power to amend, update and vary the Council's Freedom of Information Act 2000 publication schedule and charging policy.
 20. The power to review a decision as to whether an asset is an asset of community value.

Ombudsman Complaints

21. Power to authorise complaint/ombudsman compensation for up to £2,000, subject to prior consultation with the Leader or Deputy Leader.

Housing

22. To appoint Authorised Officers, Authorised Persons, Enforcement Officers and Inspectors of the Council necessary for the discharge of the functions, powers and duties contained or referred to in the legislation specified below.
23. To authorise all duly appointed Authorised Officers, Authorised Persons, Enforcement Officers and Inspectors to carry out inspections and to exercise powers of entry and other powers necessary for the effective discharge of the said functions, powers and duties, on being satisfied on matters upon which the Council is obliged to be satisfied and that all statutory requirements are fulfilled.
24. To take whatever action s/he deems appropriate, including the power of entry, taking such action as may be permitted or required, service of Notices, issuing, granting, varying, revoking, cancelling, refusing, and suspending of consents, permits, authorisations, approvals, licences and registrations and carrying out works in default and issue requests and service of requisitions for information in respect of all functions, powers and duties specified under the following legislation.

Legislation

Title of Act	Relevant Part
Building Act 1984	Sections 59, 76, 79, 95, 96, 97 and 99
Deregulation Act 2015	
Energy Act 2011	
Environmental Protection Act 1990	Sections. 79, 80 and 81 Schedule 3, para 2

Home Energy Conservation Act 1995	
Housing Grants Construction and Regeneration Act 1996	Chapters I, II, III and IV
Regulatory Reform Order 2002	
Housing Act 1985	
Housing Act 1996	
Housing Act 2004	Parts 1 to 6
Housing and Planning Act 2016	
Housing and Regeneration Act 2008	Parts 1 to 3 and Schedules
Homelessness Act 2002	
Landlord and Tenant Act 1985	Sections 4, 5, 6 and 34
Law of Property Act 1925	Part 3
Local Government (Miscellaneous Provisions) Act 1976	Sections 15, 16 and 33
Local Government (Miscellaneous Provisions) Act 1982	Sections 17 and 29
Prevention of Damage by Pests Act 1949	Sections 4, 5 and 22
Public Health Act 1936	
Public Health Act 1961	
Smoke and Carbon Monoxide Alarm (England) Regulations 2015	

25. To manage and administer the giving of grants under the Housing Grants, Construction and Regeneration Act 1996, the Regulatory Reform (Housing assistance) (England and Wales) Order 2002 and the Council's policies made thereunder.
26. To approve such grants up to the maximum values specified within the Council's policy from time to time.
27. To serve such Notices and take such action as the Head of Legal and Governance shall deem appropriate to enforce the provisions of the Housing Act 2004, to take such legal action as s/he shall deem appropriate.
28. To manage and administer a licensing system for Houses in Multiple Occupation as required by Part 2 of the Housing Act 2004, including the power:
 - a) to approve or refuse applications for licences subject to such conditions as the Head of Legal and Governance shall deem appropriate;
 - b) to revoke or vary any licence granted; and
 - c) to take such action, including the service of Notices or the instigation of legal proceedings, to enforce the provisions of the licence and/or the Housing Act 2004.
29. To investigate any allegations of illegal eviction and to take such action as s/he shall deem appropriate.

Revenues and Benefits

30. To administer, operate and collect the Council Tax and National Non-Domestic rates schemes, including the granting of exemptions, discounts, disabled banding reductions in accordance with current legislation and guidelines.
31. To administer and implement the Housing Benefit and Council Tax benefit schemes, including the exercise of any discretion on behalf of the Council in respect of the same, all in accordance with relevant primary and secondary legislation applicable at the time and such Council policies and strategies as may be in place from time to time.
32. To represent the Council at meetings called to discuss the potential bankruptcy of an individual third party or the liquidation of a company/limited partnership etc.
33. To approve or refuse applications for mandatory rate relief under Section 43(6) of the Local Government Finance Act 1988 (as may be amended or re-enacted from time to time), subject to details of approvals being reported to the appropriate Area Committee for information only.
34. To approve or refuse claims for a reduction in Council Tax due as a consequence of the statutory provisions of the Local Government Finance Act 1992 (or as may be amended or re-enacted from time to time).
35. To determine rate relief applications from district wide organisations under the statutory provisions of the Local Government Finance Act 1988, and the Local Government and Rating Act 1997 and to determine rate relief applications under the Rating (Former Agricultural Premises and Rural Shops) Act 2001.
36. To represent the Council in the Magistrates Court on all applications associated with debt recovery to include Liability Orders and Committal proceedings in respect of Council tax and Non Domestic Rates.
37. To administer the Discretionary Housing Payment Scheme and to make decisions in respect of applications.
38. To administer formal cautions for offences relating to housing benefit and council tax benefit fraud.
39. To offer administrative penalties as an alternative to prosecution for housing benefit and council tax fraud cases.
40. To instigate, defend, attend at, represent and take further action as deemed appropriate in respect of housing benefit and/or council tax benefit appeal.
41. To select and appoint bailiffs for recovery of debt in accordance with the Financial and Contract Procedure Rules.
42. To sign, issue and serve completion notices under section 17 Local Government Act 1992 or any statutory amendment or re-enactment thereof.
43. To administer the invoicing of customers and recovery of sums due.
44. To authorise writing-off customer invoices, subject to the amount to be written off in respect of one customer not exceeding the limits set under the Financial Procedure Rules.

45. To take any applicable recovery action in respect of outstanding sums due to the Council including, subject to approval of the Head of Legal and Governance & Monitoring Officer, appearing in the County Court before a District Judge.
46. The power to agree valuations and arrangements for payment for the purposes of the clawback agreement contained within the contract/transfer of the Council Housing stock to Westward Housing subject to consultation with the Asset Management Working Group or any replacement thereof.
47. Subject to consultation with the Leader/Deputy Leader the power to take a decision as to whether an asset is an asset of community value and a decision on whether compensation is payable and the amount of any compensation so payable under relevant legislation.
48. Power to authorise covert surveillance and the use of covert human intelligence sources under the Regulation of Investigatory Powers Act 2000 provided the same is in accordance with the above legislation, any relevant guidance and Code of Practice and the Council's adopted policy.
49. To consider and determine all matters arising under Part VI and Part VII of the Housing Act 1996 including in particular, but without prejudice to the generality of the foregoing the determination:
 - a) as to whether a person is a qualifying tenant;
 - b) under any housing allocation scheme adopted by the Council from time to time;
 - c) as to whether a person should be removed from the Housing Waiting list;
 - d) of allocations (including nominations) of residential properties to persons; and
 - e) of homelessness applications, reviews and other determinations to be made in relation to persons purporting to be homeless.
50. To negotiate private sector leasing schemes with private landlords to prepare such documentation as may be necessary to give effect to those agreed schemes.
51. The power to execute on behalf of the Council agreements relating to occupation of Council homeless accommodation
52. The power to award grants and loans for the purpose of preventing homelessness and for providing local welfare support up to and including a value of £3,000 subject to the same being within budget and being in compliance with adopted policies.
53. The power to award grants and loans for the purpose of preventing homelessness and for providing local welfare support for a value of between £3,000 and up to and including a value of £5,000 subject to the same being within budget and in compliance with adopted policies and subject also to prior consultation with the Finance Manager and S151 Officer and the appropriate Lead Member.
54. To consider and accept or refuse offers of re-purchase and determine applications for consent pursuant to covenants imposed on right to buy sales under the Housing Act 1985 (as amended).
55. To consider and determine applications for postponement of the council's discount charge on properties purchased under the right to buy scheme contained in the Housing Act 1985 (as amended).

56. To administer and implement the Council Tax Support Scheme and The Exceptional Hardship Policy adopted from time to time by the Council including the power to approve or refuse claims and make decisions and consider appeals as required or allowed by the Scheme and Policy, in accordance with the relevant primary and secondary legislation applicable at the time.
57. The power to review a decision as to whether compensation is payable and amount of any compensation so payable under relevant legislation.
58. Consultation with the Lead Members for Revenues and Benefits to make amendments to the Council Tax Reduction Policy to take account of typographical issues and further changes in Law, Government Guidance or Policy.

B5 HEAD OF COMMUNITIES AND PLACE

Corporate Property and Procurement

1. To carry out the Council's statutory functions as Street Naming and Numbering Authority in accordance with section 19 of the Public Health Act 1925 and sections 21, 64 and 65 of the Town Improvement Clauses Act 1847.
2. To authorise assignments of Leases where such assignments, under the terms of the existing Lease, might not be unreasonably withheld.
3. To refuse applications to purchase Council land and/or buildings if the application is contrary to an adopted Council policy.
4. To agree the change of use of shops owned by the Council (subject always to compliance with planning legislation) where for the purposes of good management such a change is justified.
5. To determine applications and set charges for temporary access over Council land and to determine applications for temporary licences for use of Council land.
6. To determine applications for Wayleave Agreements, licences and Easements across Council land.
7. To acquire areas of land where the consideration is less than £3,000 and provided a budget exists for the purchase.
8. To issue and renew annual Licences.
9. To set charges for new and existing Licences.
10. To dispose of land, whether on a freehold or leasehold interest, up to a value of £5,000 consideration or £1,000 per annum rental except where in the opinion of the Finance Manager and S151 Officer the land is considered to be of significance to the Council's land holding portfolio or appears to be a key piece of land in relation to any adjoining development potential.
11. To consider and determine all rent reviews and lease renewals.
12. To refer rent reviews to third party determination if no agreement is made.
13. To serve such Notices as are necessary to be served under Landlord and Tenant legislation or otherwise in accordance with the property management function.

14. To undertake the roles in relation to asset management as may be identified in the Asset Management Plan (as may be amended from time to time).
15. To accept surrenders of interests in Council owned land and or buildings.
16. For the avoidance of doubt, the above powers shall be exercisable by the Finance Manager and S151 Officer in respect of land even if delegated power in respect of that land has been given to another officer.
17. To carry out the Council's functions as Land Drainage Authority in accordance with the Land Drainage Act 1991 and subsequent amendments.
18. To carry out the Council's functions as Maritime District Council in accordance with the Coast Protection Act 1949 and subsequent amendments.
19. To manage and administer the Council's procurement systems.
20. To manage and administer the Caddsdow Business Park including:-
 - a) Instructing the Head of Legal and Governance & Monitoring Officer to prepare tenancy agreements in respect of the same;
 - b) Taking such action to regain possession of any part of the Council's Property Estate as shall be deemed appropriate by Thee Estates Manager in consultation with the Head of Legal and Governance & Monitoring Officer;
 - c) Authorising assignments of leases where such assignments, under the terms of the existing lease, might not be unreasonably withheld;
 - d) Serving such Notices as are necessary to be served under Landlord and Tenant legislation or otherwise in accordance with the property management function above; and
 - e) To accept surrenders of interests in Council owned land and or buildings

Development Control

21. Subject to provision 35 below, to consider and determine any application submitted under the Planning Acts including:-
 - a) Applications for Planning Permission (Outline and Full) and for approval of Reserved Matters;
 - b) Applications for Advertisement Consent;
 - c) Applications for Listed Building Consent;
 - d) Applications for Conservation Area Consent;
 - e) Consultations by Devon County Council on County matters;
 - f) Applications and consultations by Statutory Consultees or their successors;
 - g) Applications for a grant of planning permission subject to a new time limit;
 - h) Applications for a non-material change to a planning permission;
 - i) Applications for Certificates of Lawful Use or Development; and
 - j) Applications to vary or revoke Planning Obligations or section 52/106 Agreements.
22. The exceptions to provision 34 above, which will be determined by the Plans Committee, are as follows:

- a) Applications made by or relating to land owned by Torridge District Council;
- b) Applications made by or relating to land owned by Members, Officers or any immediate family members of any Members or Officers which are recommended for approval;
- c) Applications in respect of which the Head of Communities and Place receives within 28 days of notification of receipt of the application being first sent to Members a written representation from the Ward Member or a Member of the Plans Committee which in the opinion of the Head of Communities and Place contains planning reasons indicating why the matter should be determined by Committee. Ward Members do not need to provide reasons for referring a matter to Plans Committee ;
- d) Upon the Head of Communities and Place, Chief Executive or Leader of the Council exercising a discretion to refer the matter to the Plans Committee;

Note: For the purpose of provision 35(b) above, “*immediate family*” includes all or any of an Officer or a Member’s:-

- (i) spouse or partner;
- (ii) brother or sister;
- (iii) son or daughter;
- (iv) mother or father; or
- (v) grandparents

23. Applications for non-material changes to planning permissions shall be determined by the Head of Communities and Place subject to prior consultation with the Chair and/or Vice Chair of Plans Committee.

24. To exercise and determine all functions of the Council arising from the Planning Acts or any Regulations made pursuant to them (as revoked and replaced or modified from time to time) which in the opinion of the Head of Communities and Place can reasonably be regarded as ancillary to the process of determining applications made pursuant to the Planning Acts, including in particular (but without prejudice to the generality of the foregoing):

- a) the determination of whether an environmental impact assessment is required in relation to an application;
- b) the determination of any scoping or screening opinion in relation to environmental impact assessments;
- c) whether and what additional information is required in respect of an application;
- d) whether any matters which would normally be reserved matters should be required as part of an outline application;
- e) to determine when to place an application (whether previously deferred by any Committee or otherwise) on an agenda;
- f) to determine whether to refer an application to the Secretary of State as a departure from the Development Plan;
- g) to determine whether or not to decline to determine an application submitted within two years of a previous submission dismissed on appeal;
- h) to seek the securing of the withdrawal of applications outstanding for a period in excess of one calendar year;
- i) to refuse requests for deferment by any party if the Head of Communities and Place is satisfied that there is sufficient information available for the matter to be determined;
- j) to approve requests for deferment of an application; and
- k) to determine sign and issue decision notices.

25. To consider and determine any matter arising in respect of the Council's planning function (including the power to issue and serve any approval, consent, Notice or other document relating to the same), including in particular, but without prejudice to the generality of the foregoing:
- a) the approval or refusal (with or without modification) of footpath diversions/extinguishments;
 - b) consultation responses to Forestry Authority matters;
 - c) whether to issue a Building Preservation Notice;
 - d) whether to make a direction for the purposes of Article 4 of the Town and Country Planning General Permitted Development Order 1995;
 - e) the exercise of all the Council's powers in relation to the Hedgerow Regulations 1997 (as may be amended from time to time);
 - f) determinations in respect of telecommunication applications pursuant to the Town and Country Planning General Permitted Development Order 1995 (as amended from time to time);
 - g) determinations in respect of agricultural and forestry buildings and operations Town and Country Planning General Permitted Development Order 1995 (as amended from time to time);
 - h) the making of recommendations to a neighbouring planning authority when consulted on an application;
 - i) the determination of circular 18/84 applications;
 - j) whether to require and the content of a planning obligation for the purposes of an application under the Planning Acts;
 - k) whether to approve an application for variation or revocation of a planning obligation;
 - l) whether to approve demolitions pursuant to the Town and Country Planning General Permitted Development Order 1995 (as amended from time to time);
 - m) whether to exercise such rights of entry as are available to Officers or others as the Head of Communities and Place may authorise so far as is permitted by the Planning Acts;
 - n) the determination of whether or not to grant consent for overhead lines;
 - o) the determination of the appropriate course of action, and to undertake all actions relating to, any appeal arising under the Planning Acts or otherwise in connection with Council's planning functions;
 - p) to determine whether or not to issue notices, and arrange for the removal or obliteration of illegal advertisements, placards or posters (so far as permissible by law), including power to designate Officers as "*authorised Officers*" for such purposes.
26. To investigate and determine whether or not to issue and serve any Notice which in the opinion of the Head of Communities and Place is appropriate in order to regulate planning breaches (including conditions attached to any permissions or consents) pursuant to the Planning Acts, including in particular but without prejudice to the generality of the foregoing:
- a) Requisitions for Information and Planning Contravention Notices;
 - b) Enforcement Notices (including those relating to listed buildings and conservation areas);
 - c) Breach of Condition Notices;
 - d) section 215 Notices;
 - e) repairs notices pursuant to the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended from time to time);
 - f) Stop Notices; and
 - g) notices relating to Tree Preservation Orders,

27. To authorise the instigation of prosecution proceedings or such other action as in the opinion of the Head of Communities and Place is appropriate in order to regulate planning breaches pursuant to the Planning Acts, including in particular but without prejudice to the generality of the foregoing:
 - a) non-compliance with any Notices issued pursuant to provision 29 above;
 - b) unauthorised advertisements;
 - c) unauthorised works to listed buildings; and
 - d) unauthorised works to trees.
28. To respond to notifications from the Forestry Commission in respect of Woodland Grant Schemes and similar programmes and applications for tree felling licences.
29. Determination of applications for consent under an order under Section 198 of the Town and Country Planning Act 1990 to the cutting down, topping, lopping or felling of trees.
30. Granting of permission for the erection of temporary direction signs by motoring organisations.
31. Determination of what constitutes a County matter.
32. Serving of Notices under Sections 3 and 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in respect of works for the preservation of listed buildings.
33. To determine whether to make a Tree Preservation Order.
34. Responding to notifications from the Caravan and Camping Club, or other certified organisations, under the provisions of the Control and Development of Caravan Site Acts 1960 in respect of (5 Caravan) Certified Sites.
35. Collection of Planning fees in accordance with the relevant Regulations and Government Guidance.
36. Determination of applications for conservation grants to assist the enhancement/restoration of Listed Buildings, Conservation Areas or other buildings and areas of importance in accordance with approved initiatives.
37. Responding to consultations by Devon County Council relating to public footpaths.
38. Determination of applications for a Certificate of Appropriate Alternative Development under Section 17 of the Land Compensation Act 1961.
39. To accept and agree amendments to submitted applications.

Community Planning

40. To prepare Planning Policy documents to meet the requirements of the Planning and Compulsory Purchase Act 2004 including:
 - a) The preparation and consultation on draft local development schemes or amendments to such schemes;
 - b) The identification, scoping and progression of evidence gathering requirements;
 - c) The agreement of briefs or project specifications for detailed study once the project is included in the approved work programme;

- d) The preparation of draft options reports, Development Plan documents and Supplementary Planning Documents and other Planning Policy Guidance as required for consultation and to undertake the appropriate consultation necessary to commission strategic environmental assessment, sustainability appraisal and other similar exercises as appropriate on relevant local development documents and other supporting policy documents;
 - e) The preparation for public examination, including the engagement of specialist advice as required; and
 - f) The printing and publishing of adopted Local Development Documents.
41. Subject to the limits imposed by the Council's Financial Procedure Rules and in consultation with the Chair of the Council's Community and Resources Committee to negotiate and authorise the release of funds from the Affordable Housing Capital Fund to enable the delivery of approved affordable housing schemes across the District.

Building Control

42. To consider, determine and issue all Decisions and Notices arising under the Building Act 1984 and any building regulations insofar as they relate to the function of Building Control.
43. To serve such Notices or take such action as is considered appropriate under the Highways Act 1980 in so far as such provisions relate to public safety or the condition of buildings or land.
44. To relax or dispense with Building Regulations approvals and to sign and issue such decisions.
45. To withdraw Building Regulation approvals not exercised within three years. To refer to the Magistrates' Court, Notices under Section 77 of the Building Act 1984 requiring dangerous buildings to be made safe, and to take, or instruct emergency action under the provisions of Section 78 of the Building Act 1984.
46. To carry out, or instruct contractors to carry out, works in default of a Court Order obtained pursuant to Section 77 of the Building Act 1984.
47. To instruct the Head of Legal and Governance & Monitoring Officer to institute proceedings for infringement of the Building Act 1984, Highways Act 1980 or any Regulations made thereunder.
48. To serve Notice requiring removal or alteration of work not conforming with the Building Regulations (Section 36 of the Building Act 1984).
49. To issue Demolition Notices in respect of works falling within Section 80 of the Building Act 1984 and to sign and issue such Notices.
50. To issue Notices under Sections 24, 71 and 72 of the Building Act 1984, requiring adequate entrances, exits and means of escape in case of fire in appropriate buildings.
51. To serve Notices under Section 79 of the Building Act 1984 relating to ruinous and dilapidated buildings.
52. To appoint Consulting Engineers in accordance with the Financial Procedure Rules and Contract Procedure Rules.

53. To set Building Regulation fees, in consultation with the Finance Manager and S151 Officer.
54. To serve requisitions for information under s16 Local Government (Miscellaneous Provisions) Act 1976 and to instruct the Head of Legal and Governance & Monitoring Officer to prosecute for any non-compliance with the same.
55. To exercise all rights of entry on to land or buildings given to the Council under any legislation for the purposes of exercising any functions under the Building Act 1984, the Highways Act 1980 and any regulation made under either.

Waste

56. The power to manage, administer and operate a waste collection service in order to carry out the functions of the Council as Waste Collection Authority under the Environmental Protection Act 1990, the functions or powers of the Council under the Refuse Disposal (Amenity) Act 1978, Public Health Act 1961 and the Civic Amenities Act 1967 and any other such legislation giving powers to or imposing duties on the Council to collect waste or refuse.
57. The power to manage, administer and operate a litter collection service in order to carry out the duties and powers under the Environmental Protection Act 1990 and any other such legislation giving powers to or imposing duties on the Council to collect litter.
58. Without prejudice to the generality of the above, the power:-
 - a) to determine whether a place at which waste is situated is so isolated as to make the cost of collection unreasonably high;
 - b) to set charges for the collection of waste where permitted by legislation;
 - c) to determine whether to collect industrial waste or other waste which the Council has the discretion to collect under any legislation;
 - d) to dispose of any waste collected in accordance with legislation;
 - e) to require the use of specific receptacles for storage and collection of waste;
 - f) to prepare a waste collection plan in accordance with legislation;
 - g) to serve Litter Clearing Notices; and
 - h) to serve all notices, including Fixed Penalty Notices, and make all such determinations as permitted by the legislation referred to in provision 40 and 41 above.

Abandoned Vehicles

59. To exercise all powers and duties given to the Council to remove and dispose of abandoned and other vehicles under the Refuse Disposal (Amenity) Act 1978: Road Traffic Regulation Act 1984 and the Clean Neighbourhoods and Environment Act 2005.

Road Traffic and Car Parking

60. The power to manage, administer and operate the Council off-street car parks in accordance with the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004 and any other relevant legislation.
61. The power, in consultation with the appointed Lead Member with responsibility for Parking or the appropriate Committee Chairperson, to decide whether to

waive the requirement to pay for parking in any parking place where an organised event is taking place.

62. Without prejudice to the generality of provisions 44 and 45 above:
- a) the power to issue Penalty Charge Notices;
 - b) the power to deal with representations and Appeals;
 - c) the power to commence proceedings for recovery of sums due;
 - d) the power to prosecute for breaches of the Off-Street Parking Places Order;
 - e) the power to carry out any works to the Off-street Parking Places as are considered necessary provided such works are within existing budgets and comply with all relevant Council Rules; and
 - f) the power to request information under the Road Traffic Regulation Act 1984.

Streets

63. The power to serve such Notices and take such other action as are deemed appropriate under the Anti Social Behaviour Act 2003 and the Clean Neighbourhoods and Environment Act 2005, including the power to serve fixed penalty notices.
64. The power to appoint authorised officers under the Anti-Social Behaviour, Crime and Policing Act 2014 following consultation with the Lead Member.
65. To serve Community Protection Notices pursuant to the Anti-Social Behaviour, Crime and Policing Act 2014.
66. To issue Fixed Penalty Notices for non-compliance with Public Spaces Protection Orders and Community Protection Notices pursuant to the Anti-Social Behaviour, Crime and Policing Act 2014.
67. Authority to establish the local threshold and procedures for the purposes of the Community Trigger, consistent with those established by the Safer North Devon Partnership or any equivalent successor body, pursuant to the Anti-Social Behaviour, Crime and Policing Act 2014.

Harbour Undertaking

68. The power to manage, operate and administer the Council's harbour undertaking in accordance with all Local and National Legislation and guidance.
69. Without prejudice to the generality of the above, the power:-
- a) to admit ships and boats to the harbour;
 - b) to levy such charges as the Council shall deem appropriate;
 - c) to enforce the provisions of Local and National Legislation and Byelaws with regard to the use of the harbour;
 - d) where the Head of Communities and Place deems it appropriate, to liaise with the Maritime and Coastguard Agency and all other Statutory Bodies with regard to management of the harbour and the vessels using the same; and

- e) to manage and operate a pilotage service within the Taw Torridge estuary.

within the scope of policies and procedures agreed by the Harbour Board.

Economic Development

- 70. To enter into and manage contracts with external suppliers, service providers and professional consultants provided that the Contract Procedure Rules and the Financial Procedure Rules are complied with.
- 71. Agree Councillor Community Grant awards and Town and Parish awards under the Devon County Council scheme in accordance with the Grant schemes criteria in consultation with the Leader.
- 72. To dispose of plant and equipment used within the Service Area provided that the Financial and Contract Procedure Rules are complied with.

Culture and Leisure Services

- 73. To manage the Council's leisure and arts facilities.
- 74. To agree or refuse requests for the holding of events on Council leisure facilities and to instruct the Head of Legal and Governance & Monitoring Officer to prepare temporary event licences for such purposes.
- 75. To undertake initiatives and promotions seeking to encourage the use of the Council's leisure facilities or the promotion of sport, arts, culture and leisure within the Council's District provided such promotions and initiatives fall within existing budgets.

REGULATORY

- 76. To appoint Authorised Officers, Authorised Persons, Enforcement Officers and Inspectors of the Council necessary for the discharge of the functions, powers and duties contained or referred to in the legislation specified below.
- 77. To authorise all duly appointed Authorised Officers, Authorised Persons, Enforcement Officers and Inspectors to carry out inspections and to exercise powers of entry and other powers necessary for the effective discharge of the said functions, powers and duties, on being satisfied on matters upon which the Council is obliged to be satisfied and that all statutory requirements are fulfilled.
- 78. To take whatever action s/he deems appropriate, including the power of entry, taking such action as may be permitted or required, service of Notices, issuing, granting, refusing, varying, cancelling, suspending and revoking of consents, permits, authorisations, approvals, licences and registrations and carrying out works in default and issue requests and service of requisitions for information in respect of all functions, powers and duties specified under the following legislation.
- 79. To consider representations in relation to "*minded to*" notices and to review "*Deferred Action*" Notices.
- 80. To consider and determine whether to issue a formal Caution in relation to any criminal matter for which the Head of Communities and Place has an express or implied delegated power.

81. For the avoidance of doubt where provided for by the legislation specified below the Head of Communities and Place and any other Officer(s) appointed by him/her shall be appointed as an authorised officer and/or Inspector for the purposes of that legislation.
82. To manage and administer the Northam Burrows Country Park.
83. Where the Head of Communities and Place considers it appropriate and after consultation with the Head of Legal and Governance & Monitoring Officer to prosecute any offences under the said legislation.
84. Power to authorise covert surveillance and the use of covert human intelligence sources under the Regulation of Investigatory Powers Act 2000 provided the same is in accordance with the above legislation, any relevant guidance and Code of Practice and the Council's adopted policy.
85. In the absence of the Chief Executive, the Head of Communities and Place and Finance Manager and S151 may exercise the power to execute the Exclusive Right of Burials.

B6 SENIOR MANAGEMENT TEAM

General

1. The responsibility for:-
 - a) ensuring that any duty placed on the Head of Legal and Governance & Monitoring Officer or the Senior Management Team in any policy adopted by the Council is implemented in respect of their Service Area and the functions undertaken by it;
 - b) for the accountability and control of staff and security, custody and control of all other resources including plant, buildings, materials, cash and stores appertaining to their Service Area; and
 - c) the day-to-day management of the Service Area of the Head of Legal and Governance & Monitoring Officer or the Senior Management Team and its personnel in accordance with any approved Council policies as have been adopted, and relate to the same.
2. To generate reports relating to the functions undertaken by the Service Area of the Head of Legal and Governance & Monitoring Officer or Senior Management Team, in consultation with such other units / Officers as the Head of Legal and Governance & Monitoring Officer or Senior Management Team deems appropriate and ensuring compliance with any Council policies in this regard.
3. The power for the Head of Legal and Governance & Monitoring Officer or Senior Management Team, to act on behalf of any Service Area and the Council, including the exercise of any powers delegated to them, when instructed to do so in connection with any matter for which that Service Area has power, including engaging in correspondence, negotiations or any other action that is necessary to fulfil that instruction.
4. To investigate and resolve complaints (whether made through the formal Council complaint procedure or otherwise) relating to the functions of the Service Area, provided that:

- a) details of the complaint and any resolution are recorded on a central record in accordance with the Council's complaints procedure;
 - b) where a resolution of a complaint outside of the Council's formal complaint procedure (as amended from time to time) involves the payment or waiving of money then the same can be met without any increase to Service Area's existing budget and the prior consent of the Finance Manager and S151 Officer is secured; and
 - c) where a complaint is received using the Council's complaint's procedure (as amended from time to time), then all relevant provisions contained therein are complied with.
5. To undertake any roles, actions, or measures, including power to consider and determine any matter, allocated to the Head of Legal and Governance & Monitoring Officer or Senior Management Team within the Constitution whether specifically identified in the delegated powers to Officers or otherwise.
 6. To consider and determine whether to issue a formal Caution in respect of any matter for which the Senior Management Team has a delegated power to consider, authorise or approve the taking of criminal proceedings (or an alternative to the instigation of such proceedings), provided that prior to any such determination full regard must be had to any guidance that may be issued for the benefit of Crown Prosecutors in relation to the same, and that in the event of any doubt the Senior Management Team consults with the Head of Legal and Governance & Monitoring Officer.
 7. The responsibility for the monitoring, storage, archiving and destruction of Council documentation resulting from or held by their Service Area provided the same is in accordance with Council policies.

Financial

8. To authorise the ordering of goods and services and payment in respect of the same in relation to the functions administered by the Service Area, **provided** the same does not exceed overall budgetary provisions for the Service Area and is in accordance with any policies adopted by the Council relating to the same.
9. Provided that it is in accordance with the Financial Procedure Rules, authorise instructions for:-
 - a) the raising of customer accounts;
 - b) to cancel customer accounts; and
 - c) to make recommendations to the Finance Manager and S151 Officer regarding the write off of customer accounts in respect of any functions of the Service Area.

Establishment

10. To authorise any other Officer within the Service Area of the Head of Legal and Governance & Monitoring Officer or the Senior Management Team to discharge a power delegated to the Head of Legal and Governance & Monitoring Officer or the Senior Management Team on his/her behalf, subject to such authorisations being in writing and registered with the Head of Legal and Governance & Monitoring Officer **unless** it is specifically stated that the power may not be delegated.

11. To authorise Officers and any other persons (including inspectors appointed on behalf of the Council) to carry out inspections and to exercise powers of entry for any purpose which in the opinion of the Head of Legal and Governance & Monitoring Officer or the Senior Management Team is reasonably necessary for the performance of a delegated or referred power or duty.

PART 3 – Chapter 3

Member Delegations

A: INTERPRETATION AND GENERAL

1. For the avoidance of doubt unless the context otherwise requires the following words and expressions have the following meaning:
 - a) **“the Constitution”** shall be deemed to be the Torridge District Council Constitution as adopted from time to time including all Delegated Powers.
 - b) **“Delegated Powers”** shall be deemed to be the delegations made to Member’s as referred to in this part of the Constitution;
 - c) **“Policies of the Council”** shall be deemed to be such policies as adopted from time to time and as amended from time to time;
 - d) Legislation shall be deemed to include reference to any amendments, replacement or re-enactments and any Regulations or orders made thereunder.
2. All Delegated Powers shall be exercised and be subject to the content of all relevant Policies of the Council. In the event of any conflict between these Delegated Powers and Policies of the Council, then the policy shall prevail.

B: MEMBER DELEGATIONS

Under Section 236 of the Local Government and Public Involvement in Health Act 2007, the Council awards the following Delegated Powers subject to the proviso that the Delegated Power may only be exercised to the extent that the subject matter of the Delegated Power relates to the ward that the Member represents.

1. The power to award community grants to organisations based within a Member’s Ward, subject to:-
 - a) the awarding of the grant complying with the Policies of the Council and specifically, the Council’s adopted policy relating to Councillor Community Grants and to any other relevant Council policy; and
 - b) the decision to award such grant being recorded in writing and forwarded to the The Head of Legal and Governance Monitoring Officer immediately upon the decision being made

PROVIDED THAT this Delegated Power shall not be exercised by a Member to award a community grant to an organisation in which he/she has a disclosable pecuniary interest a registerable interest or a prejudicial interest as defined within the current Code of Conduct adopted by the Council.

PART 4 - Chapter 1

Rules of Procedure

There are various aspects of the Council's business that require rules governing the procedure applied to ensure that decisions taken are lawful and transparent.

This Part of the Constitution sets out the Rules of Procedure that apply to Council meetings (both Full Council and Committee meetings), the conduct of Councillors and Officers, the entering into of contracts and financial arrangements and other matters.

Meetings of the Council

This Chapter sets out the rules of procedure to be followed at meetings of Full Council and Council's Committees.

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A1 Annual Meeting of the Full Council

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

The Annual Meeting will:

- a) elect a person to preside if the Chair and vice Chair are not present;
- b) elect the Chair of Council, who shall not, during his/her period of office be proposed as Chair or Vice Chair of any of the Council's committees;
- c) elect the Vice Chair of Council who shall not, during his/her period of office be Chair or Vice Chair of any of the Council's committees;
- d) approve the minutes of the last meeting;
- e) receive any announcements from the Chair and/or The Chief Executive;
- f) elect the Leader of the Council who must not be the Chair or Vice Chair of Council;
- g) elect the Deputy Leader of the Council who must not be the Chair or Vice Chair of Council;
- h) confirm the size of committees and their terms of reference for the ensuing municipal year, including at least one Overview & Scrutiny Committee, a Standards Committee and such other committees as the Council considers appropriate;
- i) agree the numbers of seats on each of the committees allocated to each of the political groups (or non-aligned Councillors);
- j) agree (or delegate to Group Leaders to agree) the members serving on Committee;
- k) select the Chair and Vice Chair of all Committees;
- l) agree the Scheme of Delegation as set out in Part 3 of this Constitution;
- m) confirm appointments to those committees and outside bodies except where appointment to those bodies has been delegated by the Council
- n) Approve Lead Members;

A2 Extraordinary Meetings of the Full Council

An Extraordinary Meeting may be called by:

- a) the Full Council by resolution;
- b) the Chair of Council;
- c) the Head of Legal and Governance and Monitoring Officer;
- d) on receipt of a requisition signed by five members presented to The Chief Executive. Such a requisition shall state the precise nature of the business to be discussed and any resolution in the exact terms in which it is to appear on the agenda. No other business shall be transacted at that meeting.

A3 Meetings of the Full Council

A3.1 Location

Meetings of the Council shall be held in the Town Hall, Bideford, or at such other place as may from time to time be determined by the Council.

A3.2 Times

The Annual Meeting and other meetings of the Council shall be held at 6.30 pm on Mondays, or at such other times and on such days as the Council shall from time to time determine. When any meeting of the Council has continued until 9.30pm in the evening, and its business then remains unfinished, it shall stand adjourned until 6.30 pm in the evening on the Wednesday following, unless a majority of the Members present determine to continue the meeting or to adjourn to some other day and time.

A3.3 Proper Officer

The Proper Officer for the purpose of the application of the Twelfth Schedule of the Local Government Act 1972 (which relates to the meetings of Local Authorities) is the Council's Chief Executive and in the event of his/her absence the Head of Legal & Governance & Monitoring Officer.

A3.4 Notice and Summons to Meetings

The Proper Officer will give notice to the public in accordance with the Access to Information Rules. At least five clear days before a meeting, the proper officer will send a summons signed by him or her by post or by email to every member of the Council or leave it at their usual place of residence. The summons will specify the business to be transacted and will be accompanied by such reports as are available. Members have a constitutional right to defer a decision on reports tabled on the day where it is felt inadequate time has been allowed for consideration. (The decision to defer will be taken by majority vote).

A3.5 Quorum

The quorum for a meeting of the Full Council shall be one half of the total number of seats on the Council.

A3.6 Order of Business

Declarations of Interest – any declarations of interest will be declared, together with the nature of the interest, before the relevant agenda item is debated or as soon as the interest is apparent.

Full Council meetings will:

- a) in the absence of the Chair or Vice Chair elect a person to preside at the meeting;

- b) approve the minutes of the last Council meeting and deal with any business from that meeting;
- c) allow a period of 15 minutes for public participation;
- d) receive any correspondence or communications or any other business especially brought forward by the Chair of Council or the Chief Executive
- e) answer written questions asked under Procedural Rule A9;
- f) receive and consider reports from the Chairs of the Council Committees and from Lead Members and appointed representatives on outside bodies;
- g) receive reports;
- h) consider Notices of Motion;
- i) receive petitions in accordance with the Council's Petition Scheme;
- j) in the autumn of each year approve a programme of meetings for the following municipal year;
- k) from time to time hold public debates into issues of importance to the area, and
- l) receive presentations from local organisations at the invitation of the Chair

A3.7 Public Questions

If a question has been submitted to the Council at least five days in advance of the Full Council meeting in accordance with the Public Participation Scheme, a response will be provided to the member of the public immediately.

A4 Committee Meetings

Committee meetings of the Council will take place in accordance with a programme decided at an autumn meeting of the Full Council. A cancellation of a meeting, or additional meetings may be called as and when appropriate as agreed by the Proper Officer and the Chair of Committee.

A4.1 Time and Place of Meetings

The time and place of meetings will be determined by the Proper Officer and notified in the summons.

A4.2 Notice and Summons to Meetings

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Proper Officer will send a summons signed by him or her by post or email to every member of the Council and Committees or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available. Members have a constitutional right to defer a decision on reports tabled on the day where it is felt inadequate time has been allowed for consideration. The decision to defer will be taken by majority vote.

A4.3 Quorum

The quorum of the Council's Community & Resources Committee will be seven and the quorum for the other Committees will be as set out in Part 3 of the Constitution. During any meeting if the Chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Unless a meeting is agreed by the majority present, the remaining business will be considered at the time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next meeting.

A4.4 Duration of Meeting

Unless the majority of members present vote for the meeting to continue, any meeting that has lasted for 3 hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next meeting.

A4.5 Substitution Scheme

Any Member of the Council may act as a substitute for another Member at any meeting of a committee (or other body constituted by the Council or its committees), subject to the following rules:

- a) Overview & Scrutiny Committee members may not substitute on the Community & Resources Committee.
- b) Community & Resources Committee members may not substitute on any Overview & Scrutiny Committee.
- c) Substitution can take place on to the Standards Committee provided the substitute Member has undertaken the appropriate training.
- d) Audit and Governance members may not substitute on any Overview & Scrutiny Committee.
- e) A Member may act as a substitute at a meeting of any outside body to which the Council nominates or appoints Members (provided that the rules of that body so permit). In such a case the substitute need not be a member of the same political group as the member being replaced provided the substitution is agreed and notified by the political group to which the member being replaced belongs.
- f) In the case of all substitutions, responsibility to appoint a substitute falls in the first instance to the absent Member. If the absent Member is unable to or fails to appoint a substitute, responsibility for appointing a substitute then falls to the absent Member's political group leader.
- g) A substitute may only act when an appointed Member of the Council, committee or one of the bodies named above is not in attendance at the start of the meeting and the substitution shall last for that meeting only, not substitute midway through.
- h) A substitute member will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties

exercisable (for example a Chair's responsibility) by the person they are substituting.

i) Before the start of any meeting at which a substitute is acting, the absent Member or their group leader shall notify the Committee Clerk of the substitution or, in the case of an outside body, shall arrange to conform with that body's requirements.

j) At the start of any meeting at which a substitution has been arranged in accordance with these rules, the Committee Clerk shall announce that the named substitute is acting to serve as a substitute for the named absent member.

k) If the absent Member is subsequently able to attend a meeting for which a substitute is acting, but arrives after the meeting has opened and the announcement has been made in paragraph i) above, he shall be treated as a non-member of the committee for that meeting only.

A4.6 Order of Business

Declarations of Interest – any declarations of interest will be declared, together with the nature of that interest before the relevant agenda item is debated, or as soon as the interest is apparent.

Committee Meetings will:

- a) in the absence of the Chair and Vice Chair elect a person to preside at the meeting;
- b) receive apologies for absence and details of any substitutions;
- c) approve and sign the minutes of the last meeting;
- d) consider motions;
- e) receive any announcements at the discretion of the Chair;
- f) deal with any business from the last meeting;
- g) receive any reports under the Urgency Procedure;
- h) receive relevant reports and recommendations and receive questions and answers on any of these reports, including reports of the Overview & Scrutiny Committees and make any decisions or recommendations thereon as the Committee, at its discretion, may decide;
- i) consider any other business specified in the summons to the meeting;
- j) move to receive Part II Agenda items in the absence of the public and press

A5 Motions – Committee Meetings and Full Council

A5.1 Motions for which notice is required

Except for motions which can be moved without notice under A5.2, written notice of every motion, signed by at least one Member, must be delivered to the Chief Executive at least five clear days before the date of the meeting. These will be entered in a book open to public inspection. Notices of Motion must be no longer than 200 words to be accepted for inclusion on the Agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member(s) giving notice states, in writing, that he/she/they propose to move it to a meeting or withdraw it.

Motions must be about matters for which the Council has a responsibility or which affect the District.

A5.2 Motions which can be moved without Notice

- a) to appoint a Chair of a meeting at which the motion is moved;
- b) in relation to the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer an item of business to an appropriate body, individual or Committee - with clear guidance in the action required from referral;
- e) the reception and adoption of the reports of committees or officers and any consequent resolutions permitted under the Rules of Procedure;
- f) to implement the Referral Procedure contained at Article 12.6 of Part 2 of this Constitution in order to refer to the appropriate Overview & Scrutiny Committee for further consideration a minute recording a decision taken by any Committee with the exception of decisions made under the Town and Country Planning Act and Licensing Act or any subordinate legislations under those Acts;
- g) to withdraw a motion (subject to Rule A6.8);
- h) to proceed to the next item of business;
- i) that the question be now put;
- j) to adjourn a debate;
- k) to adjourn a meeting;
- l) to suspend a particular Council Procedure Rule (subject to restrictions in A18);
- m) to exclude the public and press in accordance with the Access to Information Rules;
- n) to not hear further a member named under Section A16.3 or to exclude them from the meeting under Section A16.4;
- o) the requirement for a ballot or recorded vote under Section A12.4 and A12.5;
- p) that the meeting continue beyond three hours in duration;
- q) to appoint a committee or member arising from an item on the summons for the meeting (Full Council only);
- r) to give the consent of the Council where its consent is required by this Constitution or the law (Full Council only).

A6 Rules of Debate – Full Council

All motions proposed must be restricted to the business under discussion. No other matter may be introduced.

A6.1 Proposing and Seconding of Motions

A Member who has proposed a motion and explained its purpose must then defer to the Chair in order to establish whether the motion has a seconder. Only one motion may be moved at any one time. The Proposer and Secunder will each

have up to three minutes each to speak to explain the Notice of Motion. A five minute discussion time will be allowed (at the discretion of the Chair) prior to going to the vote.

Where the motion is one for which written notice has been given under A5.1 above, once the motion has been moved and seconded under this rule a vote shall be taken on whether the motion shall be referred to the appropriate committee, subject to Article 7 of the Constitution, with a five minute discussion time (at the Chair's discretion). The only additional discussion will be to allow for an alteration to the motion or a withdrawal of the motion under rules A6.7 and A6.8 respectively.

For the sake of clarity, no amendments under rule A6.6 will be permitted.

If a motion for which written notice has been given under A5.1 is not seconded under this rule, or if the vote to refer the motion to the appropriate committee is lost, the notice shall lapse and the motion shall not be moved without further written notice.

A6.2 Right to require motions and amendments in writing

Unless notice of the motion has already been given, the Chair shall require it to be written down and handed to him/her before it is discussed.

A6.3 Secunder's speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

A6.4 Content and length of speeches

Speeches must be directed to the motion under discussion or to a personal explanation or point of order. No speech by the mover of a motion may exceed 3 minutes without the consent of the Chair. No speech by the seconder of the motion or any other speaker may exceed 3 minutes without the consent of the Chair

A6.5 When a member may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- a) to speak once on an amendment moved by another member;
- b) to move a further amendment if the motion has been amended since he/she last spoke;
- c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried)
- d) in exercise of a right of reply;
- e) on a point of order; and
- f) by way of personal explanation

A6.6 Amendments to motions

- a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words

as long as the effect of (ii) to (iv) is not to negate the motion.

- b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- c) If an amendment is not carried, other amendments to the original motion may be moved.
- d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- e) After an amendment has been carried, the Chair will read out the amended motion before allowing any further speeches or amendments or if there are none, put it to the vote.

A6.7 Alteration of motion

- a) A member may not alter a motion of which he/she has given notice without the consent of the meeting. The meeting's consent will be signified without discussion.
- b) A member may not alter a motion which he/she has moved without notice without the consent of the seconder. The meeting's consent will be signified without discussion.
- c) Only alterations which could be made as an amendment may be made.

A6.8 Withdrawal of motion

A member may only withdraw a motion, which he/she has moved with the consent of the seconder and the withdrawal is put to the vote. Members may only speak on the withdrawal of the motion after the mover has asked permission to withdraw it.

A6.9 Right of reply

- a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- c) The mover of the amendment has no right of reply to the debate on his or her amendment.

A6.10 Motions, which may be moved during debate

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

- a) to withdraw a motion (in accordance with Rule A6.8);
- b) to amend a motion;
- c) the meeting continue beyond three hours in duration;
- d) to exclude the public and press in accordance with the Access to Information Rules; and
- e) to not hear further a member named under Rule A16.3 or to exclude them from the meeting under Rule A16.4.

A6.11 Closure motions

- a) A member may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the motion be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- b) If a motion to proceed to the next business is seconded and the Chair thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- c) If a motion that the motion be now put is seconded and the Chair thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural

motion to the vote without giving the mover of the original motion the right of reply.

A6.12 Point of Order

A member may raise a point of order at any time. The Chair will hear the point immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or the point of law and the way in which he/she considers it relevant. The ruling of the Chair on the matter will be final.

A6.13 Personal Explanation

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

A7 Rules of Debate – Committee Meetings

A7.1 Proposing and Seconding of Motions

A Member who has proposed a motion and explained its purpose must then defer to the Chair in order to establish whether the motion has a seconder. Only one motion may be moved at any one time.

A7.2 Right to require motions and amendments in writing

Unless notice of the motion has already been given, the Chair shall require it to be written down and handed to him/her before it is discussed.

A7.3 Amendments to motions

a) An amendment to a motion must be relevant to the motion and will either be:

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words

as long as the effect of (ii) to (iv) is not to negate the motion.

b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

c) If an amendment is not carried, other amendments to the original motion may be moved.

- d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- e) After an amendment has been carried, the Chair will read out the amended motion before allowing any further speeches or amendments, or if there are none, put it to the vote.

A7.4 Alteration of motion

- a) A member may not alter a motion of which he/she has given notice without the consent of the meeting. The meetings consent will be signified without discussion.
- b) A member may not alter a motion, which he/she has moved without notice without the consent of the seconder. The meetings consent will be signified without discussion.
- c) Only alterations, which could be made as an amendment may be made.

A7.5 Withdrawal of motion

A member may only withdraw a motion, which he/she has moved with the consent of the seconder and the withdrawal is put to the vote. Members may only speak on the withdrawal of the motion after the mover has asked permission to withdraw it.

A7.6 Motions which may be moved during debate

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

- a) to withdraw a motion (in accordance with A6.8);
- b) to amend a motion;
- c) that the meeting continue beyond 3 hours in duration;
- d) to exclude the public and press in accordance with the Access to Information Rules; and
- e) to not hear further a member named under Rule A16.3 and A16.4

A7.7 Closure motions

- a) A member may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.

- b) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will put the motion to the vote.
- c) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote.

A7.8 Point of order

A member may raise a point of order at any time. The Chair will hear the point immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or point of law and the way in which he/she considers it relevant. The ruling of the Chair on the matter will be final.

A7.9 Personal explanation

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

A8 Oral questions by members

A8.1 On reports to committees

A member of the Council may ask the Chair of a committee an oral question without notice upon an item of the report to a committee when that agenda item is being received or under consideration by the committee.

A8.2 Time Limits

Time shall be limited as follows:

- a) The questioner - two minutes
- b) The respondent - five minutes

A8.3 Response

An answer may take the form of:

- a) a direct oral answer;
- b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or

- c) where the reply cannot be given orally, a written answer circulated to the questioner within 5 working days, or before Full Council, whichever is the sooner.

A9 Written questions by Members

A9.1 Questions on notice at Full Council

Subject to Rule A9.3, a member of the Council may ask:

- a) the Chair; or
- b) the Chair of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects the district.

A9.2 Questions on notice at committees

Subject to Rule A9.3, a member of the Council may ask the committee a question on any matter in relation to which the Council has powers or duties or which affect the district and which falls within the terms of reference of that committee.

A9.3 Notice of questions

A member may only ask a question under Rule A9.1 or A9.2 if either:

- a) they have given at least one clear working days' notice in writing of the question to Chief Executive; or
- b) the question relates to urgent matters and they have the consent of the Chair to whom the question is to be put and the content of the question is given to the Chief Executive and/or Democratic Services on the day of the meeting

Questions received and written answers (see A8.3(c)) shall be printed in order of their receipt and circulated amongst Members at the commencement of the meeting and no discussion shall be allowed upon the question or on the answer.

Written questions are to receive a written response.

A9.4 Supplementary question

A member asking a question under Rule A9.1 or A9.2 may ask one supplementary question without notice of the member to whom the first question was addressed. The supplementary question must arise directly out of the original question or the reply.

A9.5 Time Limits

Time shall be limited as follows:

- a) The questioner – one minute supplementary;
- b) The respondent - two minutes supplementary.

A9.6 Response

An answer may take the form of:

- a) a written answer provided for the meeting;
- b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- c) where the reply cannot conveniently be provided for the meeting, a written answer circulated to the questioner within 5 working days.

A10 Proposals to change the Constitution

Any motion to add to, vary or revoke the Constitution (including Rules of Procedure) will, when proposed and seconded, stand adjourned without discussion to the next meeting of the Community & Resources Committee and Full Council.

A11 Petitions

- a) A Petition may be presented at Full Council by any member of the Council but its presentation shall not be accompanied by any further speech, nor shall there be any debate in respect of the Petition until it has been considered by the Committee concerned, to whom, after its presentation it shall stand referred;
- b) Petitions may be presented at Full Council in accordance with the Council's Petition Scheme, set out at Part 7 of this Constitution.

A12 Voting

A12.1 Majority

Unless otherwise resolved, any matter will be decided by a simple majority of those entitled and choosing to vote and present in the room at the time the question is put.

A12.2 Chair's Casting Vote

If there are an equal number of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise his/her casting vote.

A12.3 Show of Hands

Unless a ballot or recorded vote is demanded under Procedural Rules, the vote will be signified by the holding up hands.

A12.4 Ballots

The vote will take place by ballot if a majority of the Members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

A12.5 Recorded Vote

If five Members present at the meeting demand it, the names for and against the Motion or amendment or abstaining from voting will be recorded and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

A.12.6 Right to Require Individual Vote to be Recorded

Where any Member requests it immediately after a vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the Motion or abstained from voting.

A12.7 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.

A12.8 Voting on Budget Decisions

1. Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.
2. In paragraph 1—
 - (a) “*budget decision*” means a meeting of the authority at which it -
 - (i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992(6); or
 - (ii) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting;
 - (b) references to a vote are references to a vote on any decision related to the

making of the calculation or the issuing of the precept as the case maybe.

A13 Minutes

A13.1 Signing the Minutes

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. Only the accuracy of the Minutes may be discussed.

A13.2 No requirement to sign Minutes of Meeting at Extraordinary Meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under Paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary meeting) then the next following meeting will be treated as a suitable meeting for the purposes of signing of minutes.

A13.3 Form of Minutes

Minutes will contain all motions and amendments in the exact form and order the Chair put them, together with the numbers voting for, against or abstaining. The names of the proposer and seconder be routinely recorded in the Minutes together with the number voting for, against and abstaining.

A14 Record of Attendance

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. Any Member leaving any meeting before it has concluded and not intending to return must inform the Chair of his/her departure for recording in the minutes.

A15 Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule – A17 (Disturbance by Public).

A16 Members' Conduct

A16.1 Mobile phones and pagers

All mobile phones and pagers must be switched off or silenced whilst a meeting is in progress.

A16.2 Speaking at Full Council

A member wishing to speak (except on a point of order, or a point of personal explanation) shall so indicate to the Chair from a seated position and shall not rise unless called by the Chair. When a Member speaks at Full Council they must stand

and address the meeting through the Chair. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

A16.3 Chair Standing

When the Chair stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

A16.4 Member not to be heard further

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

A16.5 Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the Chair may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

A16.6 General disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

A17 Disturbance by Public

A17.1 Removal of member of the public

If a member of the public interrupt's proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

A17.2 Clearance of part of meeting room

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

A18 Suspension of Council Procedure Rules

All of these Council Rules of Procedure, except Rule A10 (Proposal to change the Constitution), Rule A12 (Voting), Rule A13.2 (No requirement to sign Minutes of Meeting at Extraordinary Meetings) and Rule A5 (Motions), may be suspended by motion on notice or without notice of at least one half of the whole number of members of the Council are present.

Suspension can only be for the duration of the agenda item under discussion.

A19. Attendance by Members at Committees and other meetings

A member may attend any meeting of a Committee or any other meeting arranged or attended by members, even if he/she is not a member of that Committee or meeting group. He/she may not vote, but accepted protocol allows that he/she be allowed to speak at the meeting, (see. A.8), after giving notice to the Chair but the Chair has a residual discretion in the matter.

An observing Member is not included in a resolution to exclude the public under the provisions of Section 100(a) of the Local Government Act 1972.

An observing Member who has an interest as defined in Rule A20 (below) must leave the meeting whilst that matter is being discussed.

A20 Declarations of Interest

A20.1 Members

- a) Members are required to disclose any specific interests as specified in the Members' Code of Conduct in the Register of Interests maintained by The Head of Legal and Governance and Monitoring Officer on a six monthly basis and are required to make a nil return in the event that he/she has no interests to declare. If there is a change to the Member's circumstances, the entry in the Register of Interests must be updated within 28 days.
- b) A Member having a personal, prejudicial or disclosable pecuniary interest in a matter to be discussed at any meeting must declare it and the nature of this interest, even if he/she has made a declaration in the Register of Interests and in previous meetings. In the case of a prejudicial or disclosable pecuniary interest he/she must leave the meeting while the matter is discussed unless a dispensation has been issued allowing the Member to take part in the decision making process. Any dispensations so allowed must also be declared by the Member.

Observing Members must leave the meeting in accordance with A19 above.

- c) A Member who is known to have a personal, prejudicial or disclosable pecuniary interest in any matter being discussed by Full Council or in Committee, but has not declared it, may be challenged by the appropriate Chair or any other Councillor. The Chair shall have discretion to defer the item if he/she believes the item cannot reasonably be determined free of conflict of interest affecting a member or member's position at the meeting. The Chair shall report the matter to The Head of Legal and Governance & Monitoring Officer at the earliest opportunity.

- d) For the avoidance of doubt, it is not sufficient for a member to state that they have an interest, they must declare exactly the nature of that interest, e.g. the ownership of property which must be specified or the membership of a specified organisation or relationship to a specified individual

A20.2 Officers

Any Officer must inform the Chief Executive in writing if he/she has a financial or personal interest in any contract or any other matter in which the Council is a party whether or not the matter is to be discussed at any meeting. The Chief Executive will record this in a register open to Members' inspection. An officer attending a meeting must disclose that interest at the meeting where the appropriate item is to be discussed even though the Chief Executive has been informed previously.

The Code of Conduct and Additional Employment Regulations for staff is shown at Part 5 of this Constitution.

PART 4 - Chapter 2

Access to Information Procedure

1. Access to Information relating to Meetings

- a) These rules apply to all meetings of the council, whether Full Council, the Community & Resources Committees, the Overview & Scrutiny Committees, or Regulatory Committees and does not restrict any more specific rights to information contained elsewhere in the Constitution or the law.
- b) The Council will give at least five clear days notice of any meetings by posting details of the meetings at the reception area of the Council Offices.
- c) The Council will make copies of the agenda and reports available for public inspection at the Council Offices at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out the designated officer will make all such report available to the public as soon as it is completed and sent to the Members) will be open to inspection for the time the item was added to the agenda.
- d) The Council will supply copies of:-
 - (i) any agenda and reports which are open to public inspection;
 - (ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
 - (iii) if the Chief Executive or Head of Legal and Governance & Monitoring Officer thinks fit, copies of any other documents supplied to any person on payment of a charge for postages, copying and any other costs.

2. Access to Minutes etc after Meetings

- a) For six years after a meeting the Council will make available copies of:
 - (i) The minutes of the meeting, excluding any part of the meeting, which was not open to the public or which disclose exempt or confidential information;
 - (ii) A summary of all proceedings not open to the public where the minutes open to public inspection would not provide a reasonably fair and coherent record;
 - (iii) The agenda for the meeting; and
 - (iv) Reports relating to items discussed in the open part of the meeting

- b) The officer, who is the author of the report, will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:-
 - (i) disclose any facts or matters on which the report or an important part of the report is based; and
 - (ii) which has been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined)
- c) 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

3. Public Inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

4. Summary of Public Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents will be available to the public at the Council Offices, Riverbank House, Bideford, Devon, EX39 2QG.

5. Exclusion of Access by the Public to Meetings

If the Public is to be excluded the reason for exclusion will be stipulated in the Committee Report, for one of the following reasons:-

- a) **Confidential Information - requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

- b) **Exempt Information - discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed and it is in the public interest to exclude the press and public.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Chapter 2 (5).

c) **Meaning of Confidential information**

Confidential information includes 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.

d) **Meaning of Exempt information**

Exempt information means information falling within the following categories (subject to any condition).

Information falling within any of the following categories is not exempt by virtue of being within that category if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning (General Regulations) Act 1992.

Categories of Exempt Information applicable to All Council Business

1. Information relating to any individual;
2. Information which is likely to reveal the identity of an individual;
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information);
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;
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
6. Information which reveals that the authority proposes:-
 - (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.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Categories of Exempt Information applicable to the Business carried on by the Council's Standards Committee or Sub-Committees thereof

1. Information which is subject to any obligation of confidentiality;
2. Information which relates in any way to matters concerning national security.

e) **Exclusion of Access by the Public to Reports**

If the Chief Executive or Head of Legal and Governance & Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with this Rule 5, 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.

PART 4 - Chapter 3

Budget & Policy Framework Procedure Rules

Framework for Decision-making

The Full Council will be responsible for the adoption of its budget and policy framework as set out in Article 4, Part 2 of this Constitution. Once a budget or a policy framework is in place, it will be the responsibility of the Community & Resources Committee to implement it.

Process for developing the framework

- a) The Community & Resources Committee will undertake a review of the Council's financial resources, having regard to the priorities of the Corporate and Community Plans and will establish the budgetary and policy framework for the following year in a report to Full Council by **February** with proposals for the next Council year's budget.
- b) When the Community & Resources Committee publishes the framework for the following year, it will identify strategic policy or resource issues on which it wishes to request studies by the Overview & Scrutiny Committees.
- c) Within the overall programme, the Community & Resources Committee may identify a study it wishes to request the Overview & Scrutiny Committees to undertake on issues the Committee wish to make recommendations to Full Council as part of the policy framework.
- d) Policy studies undertaken by the Overview & Scrutiny Committees will engage as widely as possible with citizens and stakeholders in the community and use a variety of methods to gauge public views. The results will be presented to the Community & Resources Committee, who will then draw on them in developing their proposal to Full Council.

Virement

The amounts approved by the Council in the annual estimates shall not be diverted to other purposes except as set out in paragraphs 4.12 and 4.13 of the Financial Procedure Rules as shown at Part 4 Chapter 5.

In year Changes to Policy Framework

- a) The responsibility for agreeing the budget and policy framework lies with Full Council, and decisions by the Community & Resources Committee or officers with delegated authority must be in line with it.

- b) No changes to any policy and strategy, which make up the policy framework may be made by a Committee or Officer with delegated authority except changes:
 - (i) which result in the closure or discontinuance of a service or part of a service to meet a budgetary constraint;

 - (ii) which are necessary to ensure compliance with the law, Ministerial direction or Government guidance; or

 - (iii) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultations, but where the existing policy document is silent on the matter under consideration

PART 4 - Chapter 4

Overview & Scrutiny Committee Procedure Rules

Arrangements for Scrutiny of the Council

The Council will establish two Overview & Scrutiny Committees as detailed in Part 2 Article 6 and Part 3 of this Constitution and will appoint such Members to it as it considers appropriate from time to time. Each Overview & Scrutiny Committee will consist of 12 members and up to a maximum of three independent voting non-elected representatives who will be allowed to serve on the Overview & Scrutiny Committee subject to there being sufficient independent representatives willing to serve. The Chief Executive, the Leader and Chair of the relevant Overview & Scrutiny Committee will interview each independent applicant.

The Terms of Reference of the Overview & Scrutiny Committees will be as set out in Part 3 of this Constitution and in order to meet their terms of reference, the Overview & Scrutiny Committees will:-

- a) approve an annual Scrutiny work programme and ensure that its time is effectively and efficiently utilised;
- b) receive requests from the Community & Resources Committee and/or Full Council for reports on specific issues;
- c) develop and maintain a system to ensure that referrals to the Community & Resources Committee, either by way of report or for reconsideration, are managed efficiently and do not exceed the limitations imposed in this Constitution;
- d) decide at the request of the Community & Resources Committees the priority of referrals made in the events of reports to Full Council exceeding the limitations set out in this Constitution, or if the volume of such reports creates difficulty for the management of Committee business, or jeopardises the efficient running of Council business;
- e) be responsible for the following issues in respect of the Community & Resources Committee:-
 - (i) Monitoring the service performance against the targets and standards contained in the relevant Business Plans or other documents; and
 - (ii) Assisting the Community & Resources Committee and the Council in developing new policies;
- f) review matters previously decided by a Committee of the Council and referred to it by Full Council under the Referral Procedure set out in Article 12.6 of this Constitution

Meetings of the Overview & Scrutiny Committees

- a) There shall be at least seven ordinary meetings of each Overview & Scrutiny Committee in each year within the programme cycle. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview & Scrutiny Committee meeting may be called by the Chair of the relevant Overview & Scrutiny Committee or by any five Members of the Committee, giving appropriate notice to the Chief Executive.
- b) No Members of the Council's Community & Resources Committee may be a member of an Overview & Scrutiny Committee during the same Council year.
- c) The general requirements for Committees apply to the arrangement and meeting of the Overview & Scrutiny Committees but the Overview & Scrutiny Committees may adopt informal or probing procedures as circumstances indicate.
- d) The Chairs and Vice Chairs of the Overview & Scrutiny Committees will be elected at the Annual Meeting of Full Council.
- e) Any Member of the Overview & Scrutiny Committees may refer to the Committee any matter which is relevant to the functions of the Committee and any Member of the Council may refer to the Committee any local government matter, within the meaning of section 21A of the Local Government Act 2000, relevant to the functions of the Committee, provided that the referral complies with any policy or guidance adopted by the Council.

Powers of the Overview & Scrutiny Committee

- a) The Overview & Scrutiny Committees may require other Committee Members and Officers of the Council to attend a meeting and to answer questions. They may also request but cannot compel other persons and outside bodies to attend its meetings to answer questions on issues that it considers affect the Council or the Community within the District.
- b) The Overview & Scrutiny Committees will monitor the implementation of the adopted Policy Framework and may recommend to the Community & Resources Committee or to Full Council new policy initiatives for consideration.
- c) The Overview & Scrutiny Committees may not discharge any functions other than those functions delegated to them by Full Council and contained in the Constitution.
- d) The non-elected representatives of the Overview & Scrutiny Committees can vote on any issue, which falls to be decided by the Overview & Scrutiny Committee in accordance with the Council's Voting Scheme at Part 8 of the Constitution.

Call in of Community & Resources Committee Decision

- a) When a decision is made by the Community & Resources Committee, that decision shall be published including, including the name of the Member that has called the decision in, together with the reason for the call-in (if a reason has been given) where possible, by electronic means, and shall be available at the main offices of the Council, normally within two days of being made. Copies of these records will be made available within the timescale to the Chair and Members of the relevant Overview & Scrutiny Committee.
- b) That notice will bear the date of publication and will specify that the decision will come into force on the expiry of five working days after the publication of the decision unless the relevant Overview & Scrutiny Committee objects to it and calls it in.
- (c) During that period the Chief Executive shall call-in a decision for scrutiny by the relevant Overview & Scrutiny Committee if so requested by either:-
 - (i) the Chair of the relevant Overview & Scrutiny Committee: or
 - (ii) any three members of the relevant Overview & Scrutiny Committee: or
 - (iii) any four members of the Council

and shall then notify the Community & Resources Committee of the call in. He/she shall call a meeting of the Committee as soon as possible on such date as he/she may determine in consultation with the Chair of the relevant Overview & Scrutiny Committee. The names of the Members that have called the decision in, together with the reasons for the Call-in will be published.

- d) If, having considered the decision, the relevant Overview & Scrutiny Committee remains concerned about it, then it may refer the decision back to the Community & Resources Committee for reconsideration, setting out in writing the nature of its concerns, or refer the matter to the Full Council. If the matter is referred back to the Community & Resources Committee that Committee shall reconsider the matter as soon as possible, amending the decision or not, before adopting a final decision. The final decision adopted shall not be called in again on the same grounds as an earlier call in of the matter.
- e) If, following an objection to the decision, the Overview & Scrutiny Committee does not refer the matter back to the Community & Resources Committee, the decision shall take effect on the date of the Overview & Scrutiny meeting or the expiry of a further five working day period whichever is the earlier.
- f) In cases where the Community & Resources Committee changes its decision in line with Overview & Scrutiny Committee recommendations, the decision is then deemed to be made and will be implemented. Where there remains a difference between the Community & Resources Committee and the Overview & Scrutiny Committee, the matter will stand deferred to the next meeting of the Full Council where the matter will be determined in accordance with the Constitution rules.

Exceptions

The decisions called in must be key decisions, which will have an impact on the policy framework or adopted strategies, which is contrary to the intention of the Council.

Procedure at Overview & Scrutiny Meetings

- a) Subject to the overall Council procedure rules, the Overview & Scrutiny Committee shall consider the following business:-
 - (i) Minutes of the last meeting;
 - (ii) Declarations of interest;
 - (iii) Consideration of any matter referred to the Committee for decision in relation to call in of a decision;
 - (iv) Responses of the Community & Resources Committee to reports of the Overview & Scrutiny Committee;
 - (v) The Business otherwise set out on the agenda for the meeting.

- b) Where the Overview & Scrutiny Committee conducts investigations (e.g. with a view to policy development) the Committee may ask people to attend to give evidence to the meeting and the meeting will then be conducted in accordance with the following principles:
 - (i) that the investigation be conducted fairly and that all Members of the Committee be given the opportunity to ask questions of attendees, to contribute, and to speak;
 - (ii) that those assisting the Committee by giving evidence, be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation and analysis.



Financial Procedure Rules

The Constitution: Part IV: Chapter 5

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New Rules are shown in italics

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What are the Financial Procedure Rules?

- 1.1 The Financial Procedure Rules provide the framework for managing the Authority’s financial affairs. These Financial Procedure Rules are for use within Torridge District Council and by anyone acting for it.

Why are they important?

- 1.2 The Financial Procedure Rules are part of a wider set of operational and managerial arrangements that aim to demonstrate to members of the public who pay for Council services, that the Council is carefully managed through control of its finances and financial affairs.
- 1.3 If followed on a day to day basis the Financial Procedure Rules offer protection to the Council and hence the public from poor decision making, theft, fraud and material error. However, they also offer significant protection to each employee and member that follows them. Provided that officers and members can demonstrate that they have acted in accordance with the Financial Procedure Rules they are unlikely to face undue criticism and can defend themselves against accusation of impropriety.

To whom do they apply?

- 1.4 The Financial Procedure Rules apply to every member and officer of the authority and anyone acting on its behalf.
- 1.5 All members and staff 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.
- 1.6 Operational Managers are responsible for ensuring that all staff in their sections are aware of the existence and content of the authority’s Financial Procedure Rules and other internal regulatory documents and that they comply with them.

What happens if the Financial Procedure Rules are breached?

- 1.7 The *Section 151 Officer* is responsible for reporting, where appropriate, breaches of the Financial Procedure Rules to the Audit & Governance Committee. The Internal Audit section will investigate suspected breaches of the Financial Procedure Rules and prepare a report for the *Chief Executive*) and the relevant Operational Manager / Member of SMT

Are the Financial Procedure Rules reviewed and when?

- 1.8 *The Section 151 Officer is responsible for maintaining a continuous review of the Financial Procedure Rules. Any changes to the financial procedures rules which change the delegated powers of officers will be submitted to the Audit & Governance Committee for consideration with formal approval at Full Council. The Section 151 officer will have delegated powers to amend the financial procedures for “general housekeeping purposes”; e.g. HMRC guidance regarding the consideration of IR35 status, post descriptions, etc.*

How are the Financial Procedure Rules laid out?

- 1.9 The Financial Procedure Rules are set out in sections that correspond to who should read them, i.e. it is important that the contents of the first section is read by all members of staff and councillors whilst latter sections are aimed at generic or named posts.
- 1.10 The headings within each section generally correspond to well-defined systems of financial control. An initial introduction within each section sets the scene and explains why the section appears in the Financial Procedure Rules. This is then re-enforced by explaining in more detail some of the risks of failing to follow the Rules.

Who can give me advice and guidance?

- 1.11 The *Section 151 Officer* is responsible for issuing advice and guidance where required. If you have any queries, comments or concerns on the content of the Financial Procedure Rules, please contact the Section 151 Officer.
- 1.12 Queries should be directed to the Section 151 Officer **well in advance of any deadline date where possible**.

Who's Who

- 1.13 Some senior officers are referred to by specific titles used in legislation and this list clarifies who's who and where necessary who the deputies are.

Chief Executive: Chief Executive

This post is required under Section 4 of the Local Government and Housing Act 1989.

Section 151 officer: *Finance Manager (S151)*

This post is required under Section 151 of the Local Government Act 1972 and referred to as the Section 151 Officer (SFO) within the Constitution.

Deputy Section 151 Officer:

This post can take decisions of the Section 151 Officer in their absence.

Monitoring Officer: *Head of Legal & Governance & Monitoring Officer*

Senior Management Team: shall mean the group of officers comprising the *Chief Executive, Head of Legal & Governance & Monitoring Officer, Finance Manager (S151), Head of Communities & Place*.

Can the Financial Procedure Rules be waived?

- 2.1 Both officers and members must follow the Financial Procedure Rules in their day to day work. From time to time, however, it may not always be possible or practicable to do so.
- 2.2 The question of waiving the Financial Procedure Rules usually arises when time is short, for example emergency repair works may be required following a spell of very bad weather. If a formal contract tendering process were to be adopted this could delay completion of the works and could give rise to a health and safety risk, significant additional costs at a later stage or even loss of Government grant income.
- 2.3 The Financial Procedure Rules, therefore, allow for officers and members to work in a manner that is responsive to the 'real world'. This section sets out how decisions to move away from the Rules shall be taken, the procedure to be followed and the records to be maintained. **Officers and members must not interpret this section as an opportunity to waive the Financial Procedure Rules carte blanche. The waiving of the Financial Procedure Rules will not be an excuse for poor planning and control. Waivers shall be the exception rather than the rule and alternative courses of action should always be taken within the spirit of the Financial Procedure Rules.**

What are the underpinning principles?

- 2.4 Where officers consider that the Financial Procedure Rules cannot be followed then reasoned, considered and sensible solutions to everyday problems that may arise shall be applied.
- 2.5 If the answer to one or more of the following questions is 'Yes' the waiving of the Financial Procedure Rules may be considered: If the Financial Procedure Rules were to be followed to the letter.....
- **Life or Death** – Is there a significant chance that the life or health of officers, members or the public will be put at real risk?
 - **Increased Costs/Loss of Income** - Will the Council incur significant avoidable costs or lose significant income (significant shall be taken to mean material in the sense that it is either material to the project, the service or the Council)?
 - **Limited Markets** – Would the Council be wasting its time obtaining quotations as supply of the product or service is demonstrably restricted to one or few businesses (or a select list is recommended by Central Government)?
 - **Embarrassment** – Would the Council be criticised for failing to act promptly?

Who's Who for Waivers?

The Officer

In the context of this section the officer is taken to be the individual faced with a problem that may require that the Financial Procedure Rules be waived.

The Manager In the context of this section the manager shall be taken to be the officer's direct line manager who endorses the request to waive the Financial Procedure Rules.

Legal Services Manager

The Legal and Democratic team is not responsible for the management or the operation of any of the Council's services or systems. This is to ensure that the Legal and Democratic team can give independent and unbiased advice to managers. In the context of this section the Legal and Democratic team's role is to ensure that the Financial Procedure Rules of the Council are followed. If this is not possible then management is made aware of and safeguard the Council against any significant financial or non-financial risks that are likely to arise. **Management not the Legal and Democratic team are responsible for any final decisions taken.**

Section 151 Officer In the context of this section the Section 151 Officer (or their deputy) and the *Chief Executive* have the authority to approve or reject the waiver requests.

The Procedure for Waiving the Financial Procedure Rules

The Officer and their Manager

- 2.6 Where an officer considers that they have reason to request that the content of the Financial Procedure Rules be waived, they shall first inform and obtain the written approval of their Operational Manager / Member of SMT using a pro-forma Financial Procedure Rules waiver form. At the meeting between the officer and their Operational Manager / Member of SMT, the circumstances surrounding the request must be discussed. A proposal as to the course of action to be taken will then be agreed and recorded on the waiver form.
- 2.7 The officer and Operational Manager / Member of SMT will have to satisfy the Legal and Democratic team that:
- At least one of the basic principles as set out in '2.5' above has been met;
 - They have been provided with adequate evidence in support of the request;
 - That the officer and their manager have had due regard to the risks to the Council of the action that they propose (in terms of the likelihood of occurrence and the impact);
 - A decision to waive the Financial Procedure Rules would be in the best interests of the Council.
- 2.8 The officer concerned and their Operational Manager / Member of SMT, if necessary, may then approach the Legal and Democratic team whereupon they will be asked to provide the full background. They will be asked what action they propose should be taken.

The Legal and Democratic team

- 2.9 The Legal and Democratic team will record these details and may request evidence in support of any claims made, e.g. copies of documents, discussions with third parties, inspection etc.

- 2.10 In order to satisfy themselves that the waiver is in the best interests of the Council, it may not be possible for the Legal and Democratic team to immediately respond to a request although every effort will be made to do so.
- 2.11 The Legal & Democratic team will then give their opinion verbally and record their opinion on the waiver form. The Legal & Democratic team will evaluate the proposal and may recommend that further action is taken before the waiver is approved. Should the Legal & Democratic team consider that any action or inaction by an officer or their line manager has given rise to the need to now consider waiving the Financial Procedure Rules, e.g. it was left too late to tender the Legal & Democratic team will record this on their record of advice given. The Legal & Democratic team will, however, take into consideration the circumstances surrounding the request.

The Section 151 Officer / *Chief Executive*

- 2.12 Once the view of the Legal & Democratic team has been obtained, the form should be forwarded to the Section 151 Officer or *Chief Executive* who may sign the 'Financial Procedure Rules Waiver Form' unless it involves revenue spending over £75,000 or capital spending over £125,000. Such decisions must be referred back to the Community & Resources Committee as must any decision which may have a significant effect on communities, i.e. those affecting over 2000 residents or more than two wards.
- 2.13 No officer shall approve a Financial Procedure Rules waiver initiated by them, i.e. a higher authority must approve it.
- 2.14 If a decision requires referral to Community & Resources Committee but is urgently required, the Urgency procedure may be used by completing the last section of the Waiver form. The Urgency decision will be subsequently reported to Community & Resources.

Record Keeping

- 2.15 The Legal & Democratic team will maintain a record of all advice given and requests to waive the Financial Procedure Rules and of the outcome. This record will be reviewed annually so as to ensure that the Financial Procedure Rules remain up to date, clear and in-line with operational and practical issues.

The record of all waivers will be reported annually to the Audit & Governance Committee.

- 2.16 Where relatively minor waivers are requested the Section 151 Officer may advise the officer to proceed subject to the Legal & Democratic team logging the advice for scrutiny as in 2.14.

3 SUMMARY OF FINANCIAL LIMITS

The following tables summarises the limits quoted in these Rules.

Item Value ex VAT	Budget Changes (Virements) – Limits for GENERAL FUND	Page
Below £2,000	No virements required.	39
£2,001 - £10,000	Virements within a service budget between £2,001 and £10,000 may be approved by the Operational Manager and confirmed in writing via the appropriate accountant. No form is required.	39
£10,001 - £30,000	Between £10,001 and £30,000 a virement form is required which is to be agreed by the relevant Operational Manager / Member of SMT and authorised by the Section 151 Officer or Chief Executive.	40
£30,001 to £100,000	The prior approval of the Community & Resources Committee is required upon receipt of a report from the Section 151 Officer and relevant Operational Manager	40
Greater than £100,000	The prior approval of Full Council is required upon receipt of a report from Senior Management	

Total Value ex VAT	Quotations / Tendering for Goods and Services (see Contract Procedure Rules)	Short listing	Page
Up to £10,000	A minimum of one Quotation, but good practice to seek most favourable prices and terms.	Operational Manager/Other Designated Officer	16
£10,001 - £50,000	A minimum of three written Quotations. Wherever practical the Council's E-Procurement portal (Pro Contract) should be used to solicit quotations.	Operational Manager/Other Designated Officer	16
£50,001–Government Procurement Agreement (GPA) Threshold	Invitation to Tender and use of e-procurement	Operational Manager/Other Designated Officer in consultation with the Major Projects	16
£50,001 – GPA Threshold	All purchases made via a local authority purchasing and distribution consortium are deemed to comply with these Contract Procedure Rules and no waiver is required e.g. Devon Procurement Services. However, purchases above the GPA Threshold must be let under GPA Procedure rules unless the consortium has satisfied this requirement already.	N/a	16
Above GPA Threshold	GPA Procedure or, where this does not apply, Invitation to Tender by advertisement	Operational Manager/Other	16

3 SUMMARY OF FINANCIAL LIMITS

		Designated Officer in consultation with the Buyer	
All values. Collaborative Contracts	The Section 151 Officer must be consulted prior to commencing any procurement process using collaborative contracts. The terms and conditions of Contract applicable to any collaborative Contract, including the requirement to undertake competition between providers, must be fully complied with.		17
All values. ICT	All system developments and purchases of computer equipment or software must be approved by the Strategy, Performance & ICT Manager and awarded in line with these Rules. NB This is not the same as the Contract Procedure rules see page 17	Operational Manager/Other Designated Officer in conjunction with the Council's designated Strategy, Performance & ICT Manager	17
Item Value ex VAT	Authorisation of Payments		Page
Above £30,000	<i>Any payment greater than £30,000 must be electronically authorised by the Section 151 Officer, Chief Executive, or Monitoring Officer. There is one exception to this: Treasury Management payments, which are bound by Financial Procedure Rule 7.3</i>		28
Item Value ex VAT	Purchase Cards		Page
Up to £1,500	<i>The maximum value of a single purchase is £1,500 except for nominated officers who may in exceptional circumstances purchase up to the value of £5,000.</i>		31

3 SUMMARY OF FINANCIAL LIMITS

Item Value ex VAT	Income – Banking	Page
Weekly according to insurance limit	All monies received on behalf of the Council shall be banked on a weekly basis	32

Item Value ex VAT	Income – Unders and Overs	Page
Over £20	<i>Any under or over-banking of more than £20 shall be reported to the Major Project & Estates Manager.</i>	32

Item Value ex VAT	Write off – bad and doubtful debts	Page
Up to £5,000	The Section 151 Officer can approve the excusal of debts up to and including £5,000 and may delegate this to nominated officers where a procedure has been agreed.	33
Above £5,001	Community & Resources Committee to consider the report of the Section 151 Officer.	33
Above £5,001 where debts are subject to formal insolvency proceedings	The Section 151 Officer can additionally write off debts for confirmed bankrupts and where debt relief orders have been granted, those dismissed or remitted by a court, and any irrecoverable balances remaining where Individual Voluntary Arrangements and Company Voluntary Arrangements have been proposed and agreed with a professional insolvency practitioner.	33

Item Value ex VAT	Disposals – Land and Buildings	Page
Up to £10,000	<i>The decision to agree to the disposal by sale of small areas of land whose market value does not exceed £10,000 where such disposal does not prejudice the Council's existing land holding or any future development proposals may be made by the Estates Manager, having regard to the requirements of the Council's Asset Management Plan and Community Asset Transfer Policy.</i>	48
Above £10,000	Requires the prior approval of the Community & Resources Committee	48

Item Value ex VAT	Disposals – Vehicles, Plant and Equipment	Page
Up to £500	Operational Manager approval is required. A second officer shall witness the disposal at a local level and a record of the disposal maintained	49
£501 to £5,000	Operational Manager approval required. Sealed bids are to be sought for any item valued up to £5,000 and it shall be the responsibility of the Section 151 Officer and the relevant Operational Manager or their nominated deputy, to obtain the best possible price. The Council's EBay account may be used or other appropriate method e.g. part exchange.	49

3 SUMMARY OF FINANCIAL LIMITS

Item Value ex VAT	Emergency Payments	Page
Up to £20,000	In the event of an emergency the Chief Executive, Section 151 Officer, Nominated Silver Officer will ensure where possible the Financial Procedure Rules are applied, however in the event that he /she should need to incur expenditure relevant to the emergency he /she may do so without reference to Members and subject to a maximum of £20,000. All expenditure incurred will subsequently be reported to Community & Resources Committee	56

4.1 Risk Management, Governance and Internal Control

Why is this important?

Delivering the Council's objectives and many of its services and activities is not without inherent risk, including death or injury to staff or the public and financial loss to the Council. The Council needs to identify and log these risks and then decide how to address them, i.e. through the implementation and maintenance of controls. This Section 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 achieve its objectives and/or realise opportunities if it is unaware of its risks.

Responsibilities and Key Controls

Risk Management

- 4.1.1 The Council will seek to embed good practice in managing its risks in accordance with the Council's Risk Management Strategy. Procedures will ensure each service; each significant partnership and each major project is assessed and an operational risk register developed and maintained. The Risk Registers will reflect those current risks that cannot be adequately controlled or moderated. Corporate risks will be recorded on the Corporate Risk Register and log.
- 4.1.2 Operational Managers and project officers will be responsible for maintaining their operational risk registers for their service(s), major project(s) and significant partnership(s) during the year, ensuring they reflect current risks and ensuring all identified actions to address significant risks are implemented in a timely manner.
- 4.1.3 Each service risk register is to be reviewed annually by the Operational Manager / Member of SMT at a time appropriate to the development of the annual business plan, to ensure each risk is adequately controlled relative to the risk posed. Reallocating resources, implementing new controls and removing unnecessary controls as required to make most efficient use of the available resource. Such changes to be discussed and agreed with Internal Audit if they affect a control identified on the service's annual Assurance Statement. Any risk that is considered adequately controlled will drop off the risk register but will still be recorded on risk log.
- 4.1.4 The corporate risk register will be reviewed and maintained by the Risk Management Group and reported to Senior Management Team periodically during the year, and at each meeting of the Audit & Governance Committee.

Internal Control

- 4.1.5 The Council is responsible for maintaining a System of Internal Control – setting of objectives, identification of risk and implementing controls to mitigate the risks.
- 4.1.6 The Council will also be responsible for conducting a review at least once a year of the

effectiveness of the system of internal control and shall prepare a Governance Statement, in accordance with proper practices, for reporting alongside the Council's published annual accounts.

4.1.7 The Audit & Governance Committee will act as the nominated member body to examine and approve the draft statement and supporting evidence.

4.1.8 Operational Managers 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.

Corporate Governance

4.1.9 Audit & Governance Committee is responsible for approving the Council's Local Code of Corporate Governance.

4.1.10 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:

- focussing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area;
- members and officers working together to achieve a common purpose with clearly defined functions and roles;
- promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;
- taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
- developing the capacity and capability of members and officers to be effective; and
- engaging with local people and other stakeholders to ensure robust public accountability

4.1.11 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 *Chief Executive, Section 151 Officer, Head of Legal & Governance & Monitoring Officer* and the Senior Management Team.

4.1.12 The Legal & Democratic team will also test the code annually and the results of the monitoring and testing will be reported to the Audit and Governance Committee.

Business Continuity

4.1.13 The Civil Contingencies Act 2004 requires the Authority to maintain plans to ensure that they can continue to run their essential services, in the event of an emergency.

4.1.14 Operational Managers shall be responsible for preparing and maintaining an emergency plan for their departments.

4.1.15 The Senior Management Team shall sign off the final plan.

4.1.16 Operational Managers / SMT shall ensure that plans are regularly reviewed and tested.

4.1.17 The outcome of all exercises shall be recorded and signed by the Public Health & Housing Manager and Operational Manager / Member of SMT.

4.1.18 The Operational Manager shall keep a hard copy and an electronic copy of the plan.

4.1.19 All staff shall be aware of their departmental plan, and what procedures to follow

Money Laundering

4.1.20 The Council does not accept cash payments with the exception of the toll road on the Burrows.

4.2 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 and Key Controls

4.2.1 Operational Managers are responsible, in consultation with the Section 151 Officer, for the security of all buildings, stocks, stores, furniture, equipment, cash, etc., under their control.

4.2.2 Maximum limits for cash holdings shall be agreed with the Section 151 Officer and shall not be exceeded without his / her permission.

4.2.3 Keys to offices, filing cabinets, etc., are to be carried by the person responsible. Any losses must be reported to the Section 151 Officer immediately. All office keys must be signed for and held securely by Officers.

4.2.4 Operational Managers shall keep records of all assets and Council keys held by their staff and shall keep this up to date.

4.2.5 Operational Managers 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 where considered necessary or appropriate.

4.2.6 Operational Managers shall promptly notify the Section 151 Officer of any property whose custody has been temporarily accepted on behalf of the Council.

4.2.7 All valuables held on behalf of a Third Party (e.g. jewellery, watches, documents of title, etc.) shall be deposited with the Section 151 Officer.

Data Protection

4.2.8 The Data Protection Officer¹ is responsible for putting a framework of guidance and training in place to ensure compliance with the Data Protection legislation.

4.2.9 Operational Managers are responsible for the security and privacy of the information held within their service and during transit.

4.2.10 All Officers will be required to comply with the requirements of the ICT Handbook and the Code of Conduct for Local Government Employees.

Safes

4.2.11 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. The loss of any such keys must be reported to Internal Audit immediately.

4.2.12 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

4.2.13 Postal franking machines must be securely held

¹ The Data Protection Officer (DPO) is the Monitoring Officer

4.3 Audit

Why is this important?

About Internal Audit

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

The Accounts and Audit Regulations 2015 state that “a relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.

The District Council has outsourced its internal audit function to the Devon Audit Partnership (DAP). A Senior Manager from DAP fulfills the role of Internal Audit Manager for the Council.

About External Audit

External auditors are appointed by Public Sector Audit Appointments Limited (PSAA) . PSAA is an independent company limited by guarantee incorporated by the Local Government Association in August 2014. The Secretary of State for Communities and Local Government delegated statutory functions (from the Audit Commission Act 1998) to PSAA by way of a letter of delegation issued under powers contained in the Local Audit and Accountability Act 2014.

The company is responsible for appointing auditors to local government, police and local NHS bodies, for setting audit fees and for making arrangements for the certification of housing benefit subsidy claims. Before 1 April 2015, these responsibilities were discharged by the Audit Commission.

External Auditors are required under the Audit Commission Act 1998 to be satisfied that proper arrangements have been made by the Council for securing value for money in its use of resources. This work includes providing a certificate on the Council’s published accounts and an annual letter to members outlining their 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 proper accounting systems and an adequate and effective internal audit service.

Responsibilities and Key Controls

Internal Audit**Authority**

- 4.3.1 In accordance with the Accounts and Audit Regulations 2015 the Council shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper practices in relation to internal control. The accounting and financial operations of the Council shall be subject to annual internal audits under the independent control and direction of the *Devon Audit Partnership*.
- 4.3.2 *The Devon Audit Partnership* and the Section 151 Officer or their authorised representatives shall have authority to:
- Enter any Council premises at all reasonable times
 - Have access to all records, assets, personnel and documents relating to financial and other transactions of the Council
 - Require and receive such information and explanations as he / she considers necessary concerning any matter under examination including those of partner organisations
 - 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

Responsibilities, Objectives and Professional Skills

- 4.3.3 Internal Audit (Devon Audit Partnership) will follow professional standards and guidelines issued by the Chartered Institute of Public Finance and Accountancy and prepare annual audit plans as a basis of their work. The audit plans shall be based on a risk assessment of all Council operations, resources, services and responsibilities in relation to other bodies.
- 4.3.4 Internal Audit (Devon Audit Partnership) shall be independent of all financial systems operating within the Council. It shall have no corporate operational responsibilities except those required to operate the internal audit service.
- 4.3.5 Internal Audit (Devon Audit Partnership) shall have the right of reporting on any aspect of financial or other related matters and to deliver an audit opinion on those matters.
- 4.3.6 Chief Officers and Operational Managers are to consider and promptly respond to recommendations set out in Internal Audit (Devon Audit Partnership) reports and to ensure that any agreed actions arising from the recommendations are carried out in a timely and efficient fashion.
- 4.3.7 Internal Audit (Devon Audit Partnership) will report on its activities to the Audit & Governance Committee on at least an annual basis, such a report to include progress against the audit plan, arrangements for and results of quality assurance and performance management processes and the adequacy of management response to internal audit advice and agreed actions.

- 4.3.8 Internal Audit (Devon Audit Partnership) may also, where resources exist, provide an independent and objective consultancy service specifically to help management improve the organisation's internal control environment.
- 4.3.9 The Internal Audit Manager (Devon Audit Partnership) shall provide an annual Audit Opinion and a review of the effectiveness of the Councils system of internal control for consideration alongside the management review required **by rule 4.1.6** as part of the preparation of the Annual Governance Statement.

Systems- Direct or Indirect Financial Nature

- 4.3.10 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 of any system that has a financial consequence. The requirements set out in the **Council's Data Quality Policy** shall also be adhered to.

Irregularities

- 4.3.11 *The Internal Audit Manager (Devon Audit Partnership)* will ensure that effective procedures are in place to promptly investigate any fraud or irregularity and that the Audit Plan includes sufficient resources for such investigations, or sufficient flexibility in the Plan to enable adequate resources to be used as a priority over other calls on audit time.
- 4.3.12 In the case of **any suggested or potential irregularity** in the exercise of the Council's functions the officer concerned **shall immediately** notify the Internal Audit Manager (Devon Audit Partnership) who shall take such steps as are considered necessary by way of investigation and report.
- 4.3.13 In accordance with the Council's 'Corporate Anti Fraud and Corruption Policy', whenever a matter arises which involves, or is thought to involve, irregularities concerning income, expenditure, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Council, the, Operational Manager / Member of SMT, or individual officer concerned shall **immediately** notify the Internal Audit Manager (Devon Audit Partnership) in order that he /she may conduct an independent investigation.
- 4.3.14 Further guidance is outlined in the Employees Guide on Fraud, Corruption and Probity, which may be obtained from Internal Audit or Human Resources or accessed via the authority's intranet.

Direct Access to the *Chief Executive*, Senior Management Team and Audit & Governance Committee

- 4.3.15 Internal Audit Staff (Devon Audit Partnership) shall have the right of direct access to, and freedom to report to (without editing), all senior management including the *Chief Executive*, Senior Management Team and Audit & Governance Committee.

External Audit

- 4.3.16 The Section 151 Officer shall ensure that there is effective liaison between external and internal audit.
- 4.3.17 The Section 151 Officer will work with the external auditor and advise the Council, Audit & Governance Committee and management on their responsibilities in relation to external audit.
- 4.3.18 Senior Management Team 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 as required by the Audit Commission Act.

4.4 Retention of Financial 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.

Risks:

- The External Auditor may not be able to provide an adequate assurance that the Council's 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 and Key Controls

- 4.4.1 Documents such as application forms, invoices, letters and others constitute prime records and as such must be accorded due protection in order to maintain an audit trail from source to output. Original copies of invoices are not retained, scanned copies are available.
- 4.4.2 A document retention schedule will be maintained by the Monitoring Officer in order to clarify which documents must be retained and for how long. This is available on the Authority's intranet.
- 4.4.3 Operational Managers shall ensure that their staff maintain adequate records, provide a management trail and follow the guidance set out in the document retention schedule.

4.5 Travelling 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 and Key Controls

4.5.1 All claims for payment of car allowances, mileage, subsistence allowances, travelling and incidental expenses, including training mileage and subsistence shall be submitted, via iTrent payroll system certified by the appropriate line manager. Claims should be made each month and certified by line managers no later than the 12th of month for reimbursement. All claims will in normal circumstances be made through salaries and wages.

Claim Completion and Certification

4.5.2 Where an officer travels direct from or to home, without having first visited their normal place of work, then normal mileage from home to work should be deducted in calculating the car allowance payable.

4.5.3 All employee training should be documented by their appraisal record and / or a specific training application request signed by their Operational Manager / Member of SMT and approved by the Human Resources Manager. Subsequent claims submitted for training expenses shall be included on the monthly claim.

4.5.4 All claims for removal costs shall be reviewed and certified by the Human Resources Manager or an authorised officer/s within the Human Resources team.

4.5.5 Because of Income Tax implications no benefits in kind or other ex-gratia / other payments are to be made to staff without consulting the Human Resources Manager in conjunction with the *Section 151 Officer*.

Receipts

4.5.6 All claims for subsistence whether ever practical must be supported by receipts. On occasions receipts may not be available e.g. contactless payments on the London Underground. If a receipt is not attached an explanation of the circumstances may be called for by the *Section 151 Officer*.

Timeliness of Claim

4.5.7 Officers claims submitted more than 2 months in arrear will only be paid in exceptional circumstances with the express approval of the *Section 151 Officer*.

Insurance and Other Driver Requirements

4.5.8 Officers claiming mileage shall be insured for business use (i.e. not just Social, Domestic and Pleasure) and have included and maintained in their policy of insurance a clause indemnifying the Council against all third party claims, including those concerning passengers, arising out of the use of the vehicle on official business.

4.5.9 Officers using their cars for business purposes shall ensure that their cars have a valid road fund licence and MOT certificate (if over three years old).

4.5.10 It is the responsibility of the relevant Operational Manager / Member of SMTs / Manager to verify on an annual basis that the appropriate insurance, MOT and road fund licence requirements discussed above are met, and evidence such checks.

Council Members

- 4.5.11 Payment of Member's Basic and Special Responsibility Allowances will be paid automatically as a set monthly amount. Members must submit fully completed claims for Travelling, Subsistence and Conference Allowances on an approved form supplied by the Section 151 Officer. Claims should be submitted for each calendar month and be received by the 12th of the month.
- 4.5.12 Members shall submit their mileage claims, on a form supplied by the Section 151 Officer, at the end of each month. Where no claim has been made for two months the member will be required to renounce their claim in writing, otherwise any claim in respect of duties performed more than two months previously should be referred to the *Chief Executive* for approval.
- 4.5.13 Attendance at meetings shall be certified by Democratic Services Officers who shall verify such claims.
- 4.5.14 Members are required to notify the Section 151 Officer of any information required for income tax and national insurance purposes, in such form as the Section 151 Officer may prescribe.

5.1 Ordering Goods, Work and Services

Why is this important?

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

Risks:

- The incorrect volume, number or quality of goods and services may be received;
- The Council may be committed to spending on goods 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 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 and Key Controls

5.1.1 *Expenditure should only be authorised where the costs fall within the budget managers' overall approved annual budgets unless:*

- *It is in connection with meeting statutory demand led pressures; e.g. additional temporary accommodation costs arising from increased number of people presenting themselves as homeless.*
- *It relates to Health & Safety*
- *The Council is legally obliged to make the payment*
- *The costs are to be recharged to a third party*
- *The additional expenditure has been previously approved by Community and Resources Committee*

Any overspends in excess of £5,000 will be reported to Internal Overview and Scrutiny as part the Quarterly Budgeting Reporting process

5.1.2 No goods or services shall be ordered for private use and therefore official orders, either in whole or in part, are not to be used to obtain goods or services for private use.

5.1.3 Official orders must be issued for all work, goods or services to be supplied to the Council except for:

- supplies of public utility services (e.g. water, gas, electricity & telephones);
- periodical payments (e.g. rent and rates);
- petty cash and purchase-card purchases;
- Temporary Treasury deposits
- grant payments; and
- any other exceptions approved by the Section 151 Officer.

5 SECTIONS APPLICABLE TO ADMINISTRATIVE DUTIES

5.1.4 Every officer issuing or requesting an official order shall ensure that value for money for the Council is obtained in respect of each transaction.

5.1.5 In setting up new suppliers the Council's *internal control procedures are to be followed.*

Quotation Requirements and Best Value

5.1.6 Below is a summary of quotation requirements for goods and services. Orders are not to be split into smaller orders solely to avoid the value limits and procedures laid down in this section.

5.1.7 For non-standard, individual, one-off purchases of less than £10,000 the budget holders are responsible for ensuring all of their purchases provide best value for the Council, using their professional judgement² to ascertain how to achieve this. However budget holders must use the suppliers selected by the procurement team for standard supplies.

Total Value ex VAT	Quotations / Tendering for Goods and Services (see Contract Procedure Rules)	Short listing
<i>Up to £10,000</i>	<i>No formal mechanism, but officers to retain evidence that best value has been obtained.</i>	<i>N/a</i>
<i>£10,001 - £50,000</i>	<i>A minimum of three written Quotations.</i>	<i>Operational Manager/Other Designated Officer</i>
<i>50,001–GPA Threshold</i>	<i>Invitation to Tender and use of e-procurement</i>	<i>Operational Manager/Other Designated Officer in consultation with the Major Projects & Estate Manager</i>
<i>£50,001 – GPAThreshold</i>	<i>All purchases made via a local authority purchasing and distribution consortium are deemed to comply with these Contract Procedure Rules and no waiver is required e.g. Devon Procurement Services. However, purchases above the GPA threshold must be let under the GPA Procedure, unless the consortium has satisfied this requirement already.</i>	<i>N/a</i>
<i>Above GPA Threshold</i>	<i>GPA Procedure or, where this does not apply, Invitation to Tender by Advertisement</i>	<i>Operational Manager/Other Designated Officer in consultation with the Major Projects & Estate Manager</i>
<i>All values. Collaborative Contracts</i>	<i>The Section 151 Officer must be consulted prior to commencing any procurement process using collaborative contracts. The terms and conditions of Contract applicable to any collaborative Contract, including the requirement to undertake competition between providers, must be fully complied with.</i>	

² Professional judgement means for example to decide how many quotes to get, which quote provides the best value for money and which supplier to use. While rules are set out specifically for purchases above £10,000, below that value it is up to the Operational Manager to decide and evidence their decision.

All values. ICT	<i>All system developments and purchases of computer equipment or software must be approved by) Strategy, Performance & ICT Manager, and awarded in line with these Rules. NB This is not the same as in the Contract procedure rules -choose what you want it to read and match them</i>	<i>Operational Manager/Other Designated Officer in consultation the Council's designated Strategy, Performance & ICT Manager</i>
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5.1.8 Official orders may be either electronic orders produced through the Council's e-procurement system or official paper orders (where allowed). Both types shall carry unique identifying order numbers that are controlled and sequential.

5.1.9 All orders issued to suppliers must show:

- The name and address of the supplier
- The point of delivery
- The quality, description and quantity of goods or services required
- The date of the order

In addition, the Council copy of the order must show the correct expenditure code and estimated cost.

5.1.10 All verbal emergency orders shall be confirmed as soon as practically possible by an official order and clearly marked to show this is a confirmation order.

5.1.11 Before approving the electronic requisition or issuing the paper order the officer must verify that the budget has sufficient funds available to cover the estimated cost of the order and that the code used relates to the goods/services being ordered. If in doubt the Accountancy Services Section can advise on the correct coding for specific expenditure.

5.1.12 Each budget holder will endeavour to remain within his / her total expenditure budget, and any overspends will be dealt with as set out within section 6 of these Rules. Officers may not circumvent the budgetary limitations on an expenditure code by applying an incorrect expenditure code to an order.

5.1.13 Every officer issuing or requesting an order shall have regard to the Corporate Procurement Strategy, instructions and guidance issued by the Procurement team on central purchasing and supply and on the standardisation of supplies and materials.

Paper orders

- 5.1.14 Paper Orders are only to be used with the express authority of the Section 151 Officer.
- 5.1.15 Operational Managers in any department authorised to use paper orders shall forward a list of those officers who are authorised to sign orders, together with specimen signatures to the *Section 151 Officer*. Any additions or deletions to the list shall be notified to the *Section 151 Officer* immediately. No officer authorised to electronically approve invoices for payment shall be authorised to sign paper orders.
- 5.1.16 Any officer authorised to use paper orders should ensure that their official order book is held securely³ at all times.
- 5.1.17 All official paper orders must be signed by an authorised signatory and passed to the supplier prior to receipt of goods.
- 5.1.18 When orders have been completed they should be distributed as follows:
- The white copy order should be sent to the supplier
 - The blue copy should immediately be sent to the Section 151 Officer for commitment to the order
 - The yellow copy order should be filed in the spending department for possible external review and endorsed as 'paid' when the invoice is processed. Any delivery notes or collection notes from the supplier should be filed with the yellow copy.
 - The pink copy order is no longer required and should be filed with the yellow copy.
- 5.1.19 The *Section 151 Officer* must receive all blue copy orders promptly and before the invoice is received.

Electronic Requisitioning and Ordering

- 5.1.20 Electronic ordering shall be the Council's preferred method of raising orders.
- 5.1.21 There shall be complete separation of duty between those officers allowed access to raise requisitions and those officers allowed access to authorise requisitions. No officer with authority to raise requisitions shall have access to approving them for payment.
- 5.1.22 If an officer requires goods to be ordered he should email the requisitioner for his / her Service and provide the following information:
- Description of goods, services or work required
 - Quantity of goods, services or work required
 - Budget code to which the expenditure is to be coded
 - Estimate of cost See 5.1.7 above.
- 5.1.23 Except where paper orders are used all requisitions for official orders shall be made electronically. This shall not be authorised by the requisition approver unless it features the following details:
- Description of goods, services or work required
 - Quantity of goods, services or work required

³ Securely means kept in a locked drawer or it's held by an officer

- Budget code to which the expenditure is to be coded
- Estimate of cost (to be confirmed by the issuing officer through reference to the file records)

5.1.24 All orders in respect of ICT Hardware, Software, mobile phones and Peripherals (e.g. Digital Cameras) should be made via the ICT section.

Pecuniary Interest

5.1.25 In accordance with the Constitution and the Local Government Act 1972 all officers must give notice in writing to their Operational Manager / Member of SMT if they have a pecuniary interest whether direct or indirect, in a contract or order for goods or services.

Goods Receipting

5.1.26 The officer completing the goods receipting process on the computer system is deemed to be confirming that the works, goods or services have been received, carried out satisfactorily, examined and approved and was for the purpose of the Council's business. Any officer, other than the payment authorising officer, with knowledge that the goods or services have been properly received, may complete this goods receipting process.

5.1.27 For paper orders the officer receiving the goods must ensure any delivery note or collection note is signed off to confirm that the goods have been properly received as set out above. The delivery note or collection note shall be filed with the yellow copy of the order.

Employment of Agency Staff

- The procedure for employing agency staff is as follows:
- all agency staff should in the first instance be procured via Comensura if Comensura cannot source an appropriate agency worker then managers can approach other agencies directly.:
 - Managers must ensure that there is a valid vacant post on the establishment or an approved specific budget prior to the engagement of the agency worker, and the Senior Management Team have approved a GWAF (General Workforce Approval Form)
 - The manager must provide the agency with requirements of the post to be filled.
 - Prior to any agreement being signed with an agency (other than Comensura) the agreement should be approved by the Council's legal team.
 - When engaging staff via agencies other than Comensura. The manager should confirm in conjunction with HR the IR35 status of the individual
 - Separate arrangements are in place for the Waste and Recycling team who liaise directly with local agencies. Prior approval is not required from the senior management team..

Orders to Individuals (Self-employed)

- 5.1.28 Advice should be sought from the *Section 151 Officer* or the Human Resources Manager & Comms Manager when engaging individuals for services. The fact that a person considers themselves to be self-employed does not necessarily mean that they are.
- 5.1.29 Prior to engaging the self-employed individual the manager, in conjunction with HR, should confirm the IR 35 status of the individual. It should be noted that failure to treat such payments in the correct manner might result in the Council failing to comply with tax legislation and being required to pay tax due plus penalties.

5.2 Payment of Accounts and Returned Payments**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 and Key Controls

- 5.2.1 The normal method of payment of money due from the Council shall be by BACS payment (or by cheque) drawn by the *Chief Executive* on the Council's bank accounts. 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 Creditors individual file records and amended by Exchequer staff only on receipt of official notification in writing from the Creditor. In addition where a Creditor contacts the Council to request a change to their bank account details the Exchequer staff will call the Creditor back having first verified the business telephone number as correct.
- 5.2.2 Where electronic requisitioning, ordering and goods receipting has taken place and the invoice is matched by quantity and value to the items ordered, and they match, then there shall be no further authorisation required to generate the payment to the creditor. Where there is either a paper order, an exemption from raising an order or a mismatch on an electronic order of more than £20 then payment will need to be electronically authorised.
- 5.2.3 Operational Managers or officers designated by them shall be responsible for examining, certifying as accurate and electronically authorising invoices and payment vouchers relating to their respective departments.
- 5.2.4 Any payment greater than £30,000 must be electronically authorised by the *Section 151 Officer, Chief Executive or Monitoring Officer*. The one exception to this being Treasury Management payments, which are bound by Financial Procedure Rule 7.3.

- 5.2.5 The Operational Manager / Member of SMT may give permission for members of their staff to authorise accounts for payment on their behalf and shall notify or confirm to the Section 151 Officer those officers so authorised to have access to approve payments. The Section 151 Officer shall also be notified of all amendments to such access, in accordance with the ICT Security policy, and in particular when officers are leaving the Authority. Responsibility for this lies with the Operational Manager / Member of SMT.
- 5.2.6 Officers responsible for authorising accounts for payment should not be responsible for requisitioning official Council orders or for goods receiving accounts. Where possible the goods receiving process should be carried out by the requisitioning officer.
- 5.2.7 The examination and approval for payment of the account by an officer authorised by the relevant Operational Manager / Member of SMT will imply all of the following
- (a) The works, goods or services invoiced for have been received, carried out satisfactorily, examined and approved and were for the purpose of the Council's business
 - (b) The prices, extensions, arithmetic calculations, trade discounts, other allowances, credits and VAT are correct
 - (c) That an order number is quoted and whether that order is full or part paid. Order numbers will not be required for payments for utility services, (as explained in the section for Orders for Work, Goods or Services), and other payment types granted exemption by the Section 151 Officer (applications for order exemptions should be made to the Section 151 Officer).
 - (d) That the correct expenditure code and VAT code have been applied
 - (e) Any ICT equipment purchased with a value over £1,000 is to be given a security tag and listed on the ICT inventory. Where a purchase is over £10,000 an appropriate entry has to be entered in the Council's Asset Register maintained by the Section 151 Officer
 - (f) The relevant expenditure has been properly incurred and is within the relevant estimate provision
 - (g) That the account has not been previously passed for payment and is a proper liability of the Council
 - (h) That the details of the order match those shown on the invoice
 - (i) That the invoice for the goods is dated after the date of the order, subject to 5.2.9.
- 5.2.8 All authorising officers must check the Council's computer system at least weekly before 11am on **Thursday** to review invoices awaiting authorisation. Should the authorising officer be absent that officer or his / her supervisor is responsible for making arrangements for another authorising officer to carry out the weekly check and to authorise payments. This responsibility may only be passed to another current authorising officer and under no circumstances may an officer pass this responsibility to a requisitioner. Authorising officers should notify Accountancy Services of redirection requirements.

- 5.2.9 The Section 151 Officer may examine these accounts and shall be entitled to make enquiries and receive explanations or such information as is required to be satisfied that the accounts are in order.
- 5.2.10 All invoices received from VAT registered suppliers, which contain elements of VAT must be valid tax invoices.
- 5.2.11 No VAT should 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.
- 5.2.12 Any invoice considered incorrect should be recorded as disputed on the system and the reasons for the dispute communicated to the supplier as soon as possible and within 7 days of receipt of the invoice. Exchequer Services should be notified if the dispute is not resolved.
- 5.2.13 All invoices shall be forwarded to the Central Invoice Registry and registered on the computer within 1 working day of receipt. The system generated bar code label shall be applied to the invoice prior to filing the invoices ready for final checks against the payment production records.
- 5.2.14 All creditors cheques returned to the Council, whether by hand or by post, shall be passed immediately to Exchequer Services and not to the section that instigated the payment.

Purchase Cards

- 5.2.15 Council Purchasing cards may be issued to officers at the discretion of the Council's Purchasing Card Programme Officer (the Councils Buyer) at the request of an Operational Manager / Member of SMT.
- 5.2.16 Purchase cards should only be used where it is not practical to either raise an order through the CedAr eProcurement ordering system or issue a paper order or in instances where a financial advantage / efficiency can be gained by purchasing using this method e.g. discounted internet purchases. Purchase cards should not be used simply as an easier method of ordering or to circumvent other controls.
- 5.2.17 Each officer granted a card will be required to sign a Cardholders Responsibilities statement. Except for the purchase of fuel, the card is to be used only where the Cardholder has identified there is sufficient appropriate budget available and has a written request to purchase the goods and the written approval of the budget holder to proceed. The Cardholder must also keep a transaction log⁴.
- 5.2.18 Purchasing cards must only be used for Council purposes and never for personal use.

⁴ The transaction log should be in a format agreed with the Section 151 Officer and will identify each transaction, the originator of the request, the budget holder who has approved the purchase and the appropriate budget code.

5.2.19 *The maximum value of a single purchase is £1,500, except for the 11 nominated officers³ who may in exceptional circumstances purchase up to the value of £5,000.*

<i>Post</i>	<i>Single Transaction Limit</i>
<i>a. Major Projects Manager</i>	<i>£5,000</i>
<i>b. Estates Manager</i>	<i>£3,000</i>
<i>c. Buyer</i>	<i>£3,000</i>
<i>d. Head of Communities & Place</i>	<i>£3,000</i>
<i>e. Public Health & Housing Manager</i>	<i>£3,000</i>
<i>f. Vehicle Fitters x 3</i>	<i>£2,000</i>
<i>g. Revenues & Benefits Manager</i>	<i>£3,500</i>
<i>h. ICT Support officers x 2</i>	<i>£3,500</i>

5.2.20 Any changes to limits referred to in paragraph 5.2.19 whether temporary or permanent require the approval of the Section 151 Officer.

5.2.21 Officers issued with cards will be responsible for submitting monthly transaction logs to Accountancy for all purchases. Receipts for each transaction will be submitted with each statement. These must be VAT receipts where applicable.

5.2.22 Any refunds/ returns will be similarly recorded on the monthly statement and presented to Accountancy with the refund receipt.

5.3 Income

Why is this important?

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow 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 and Key Controls

5.3.1 The collection of all monies due to the Council shall be subject to the control or approval of the Section 151 Officer. All collecting officers must be covered by fidelity guarantee insurance.

5.3.2 Each Service Manager shall:

- Raise invoices within one week of supply of goods or services
- Assist the income recovery team in pursuing the debt
- Monitor progress of debt and advise of problems

³ The six nominated officers are the Major Projects Manager (up to £5,000), the Customer Support Manager (up to £3,500) two ICT Support Officer (up to £3,500) and the two *Vehicle Fitters* (up to £2,000)

- Deal promptly with customer enquiries.
- All uncollected debts will be charged to their budgets.

5.3.3 The income recovery team shall:

- Pursue debts actively and promptly
- Send reminders after 21 days
- Discuss with service managers appropriate courses of action

5.3.4 All proposals to introduce charges for services or to revise existing charges or assessment scales shall be the subject of a report by the Section 151 Officer to the Community & Resources Committee. Schedules of all existing fees charged shall be submitted to the Community & Resources Committee for review annually.

5.3.5 Where an ad hoc or special charge needs to be made which is not covered by the Schedule of Fees and Charges, the Operational Manager / Member of SMT, with the permission of the Section 151 Officer may agree an ad hoc or special charge that as a minimum reflects the work or cost involved.

5.3.6 The Section 151 Officer may also include new or revised charges when the annual review takes place and approve when necessary changes during the year, relating to items such as:

- Minor error
- Urgency
- Statutory
- To avoid the loss of income basis

Any such changes must then be reported in the next available quarterly performance report for member noting or approval as necessary.

Property rents shall be reviewed by responsible Operational Manager at least once every two years except where statutory provisions or legal agreements apply.

5.3.7 All receipts, forms, books, tickets, debtor invoices and other documents of a similar nature shall be either ordered and supplied by the Section 151 Officer or through an arrangement agreed by the Section 151 Officer, who shall be satisfied as to the arrangements for their control.

5.3.8 All income received shall be recorded and banked (on at least a weekly basis), and the collecting officer must issue the appropriate receipt for the correct amount, at the time of receiving the income

5.3.9 The Operational Manager / Member of SMT shall be responsible for the safe custody of cash and items having a cash value entrusted to the care of their department. The arrangements made for safe custody shall be subject to review and authorisation by the Section 151 Officer.

5.3.10 Any under or over-banking of more than £20 shall be reported to the Major Project & Estates Manager.

5.3.11 Officers shall ensure that all cheques are made payable to "Torridge District Council Only"; are dated correctly; the words and figures agree; and are signed. Post-dated cheques shall only be accepted in exceptional circumstances approved by the Section 151 Officer.

5.3.12 Money held on the Council's behalf must at all times be kept separate from private money and must never be used for private or unauthorised purposes.

5.3.13 All cash collection devices shall be emptied at frequent and regular intervals as laid down by the Section 151 Officer. This shall be done by *an officer* who shall agree and certify the amounts of cash collected, or such arrangements as the Section 151 Officer may determine.

5.3.14 Postal Remittances:

- All post opening duties shall be clearly defined and supervised by the Section 151 Officer or his / her nominee
- Cheques, postal orders etc. must be crossed immediately to the Council's bank account
- Cash remittances received via the post must be promptly and accurately recorded by the responsible officers

5.3.15 No cash will be transported to the bank except through the arrangements approved by the Section 151 Officer.

5.3.16 When all recovery procedures have been unsuccessful, individual write off of debts due to the Council exceeding £5,000 shall require the authorisation of the *Community & Resources Committee*, except that the Section 151 Officer is delegated to:

- Write off the debts owed by a confirmed Bankrupt or cases in administration
- Debt relief orders
- Accept the proposals made by professional insolvency practitioners for Individual Voluntary Arrangement (IVA) or Company Voluntary Arrangement (CVA)
- Write off ant debt remitted or dismissed by a court of law
- Write off any irrecoverable balances arising from an IVA or CVA

5.3.17 The Section 151 Officer can approve the excusal of individual debts up to and including £5,000. The Section 151 Officer may delegate his / her authority to officers to write off amounts up to these limits provided a procedure is agreed with the Internal Audit and a list of the officers so authorised together with the amounts is submitted to the Section 151 Officer.

5.3.18 In accordance with the Data Protection Act Members receiving personal information such as may be included in the above reports shall be required to sign annual declarations including provision for security of the information.

Electronic Income

5.3.19 Electronic payments will be implemented on a service-by-service basis wherever this can be done so efficiently. Whenever possible this will be through a means that is without human intervention in the process such as through the online secure web pages or by automated telephone payments. Where intervention is required then those officers

involved will receive appropriate training and be required to complete a declaration to maintain the confidentiality of the personal bank information they receive.

5.3.20 The officers taking bank payments by telephone will be allowed access only for the services directly in their remit, unless otherwise approved by a Operational Manager / Member of SMT. At all times the separation of duty set out at rule 7.2.6 will be maintained and where this is not possible Internal Audit will be consulted and approval sought for what other controls are to be implemented. Any such contraventions will be noted in the services Annual Assurance Statement.

5.3.21 Procedures shall ensure that electronic and telephone payments are reconciled, and the necessary steps taken to ensure they are received securely having regard to the Payment Card Industry Data Security Standards (PCIDSS).

5.4 Banking Arrangements

Why is this important?

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 Councils 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 and Key Controls

5.4.1 *Banking arrangements shall be tendered for a period of five years, with the option to extend contracts to a maximum of ten years where appropriate. The officers included as bank signatories in the bank mandate shall be reviewed at least annually. Bank signatories will be assigned to the posts of Chief Executive, Section 151 Officer and Head of Legal, Governance and Monitoring Officer.*

5.4.2 Only the Section 151 Officer can open bank accounts for the Council. All cheques shall be ordered by the Section 151 Officer who shall make proper arrangements for their safe custody.

5.4.3 All cheques over £100,000 shall be signed either in manuscript by two bank signatories or shall bear the facsimile signature of the *Chief Executive* as produced by the cheque signing machine and one other bank signatory.

5 SECTIONS APPLICABLE TO ADMINISTRATIVE DUTIES

- 5.4.4 All CHAPS payments over £100,000 shall have the approval of two authorised signatories; one authorised signatory shall approve CHAPS under £100,000.
- 5.4.5 Banking accounts shall be reconciled with the cash receipting system and the financial management information system each and every month. Any discrepancies to be clearly stated on the reconciliation statement and brought to the attention of the Section 151 Officer.
- 5.4.6 Cheque payments should be made on crossed cheques.
- 5.4.7 The Section 151 Officer shall be responsible for the annual review of overdraft facilities.
- 5.4.8 All new direct debit and standing order mandates **MUST** be in writing and authorised by the relevant number of authorised bank signatories. No officer may enter into a telephone agreement. The written mandate should be sent to the Section 151 Officer in the first instance for inputting to the direct payment register and then be promptly forwarded to the Section 151 Officer/alternative signatory for authorisation.
- 5.4.9 All direct debit and standing order mandates under £100,000 shall have one authorised signatory; those over £100,000 shall have two authorised signatories.
- 5.4.10 The Section 151 Officer shall be responsible for ensuring adequate controls are in place for payments and receipts via the BACS system and receipts via other electronic means. Full documentation and audit trails of the transactions to be evident.

5.5 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 and Key Controls

- 5.5.1 Each Operational Manager / Member of SMT shall be responsible for the custody and physical control of all stocks and stores in their department.
- 5.5.2 Stocks shall not be held in excess of reasonable requirements without committee approval.
- 5.5.3 All records controlling the receipt and issue of stores and equipment shall be kept in a form approved by the Section 151 Officer.

- 5.5.4 Operational Managers shall arrange for periodic independent test checks of stocks and stores and shall ensure that all stocks are checked at least once every year.
- 5.5.5 Internal Audit may carry out random of the ICT inventory.
- 5.5.6 Each Operational Manager / Member of SMT shall supply the Section 151 Officer with sufficient information on stocks and stores for accounting, costing and financial records.
- 5.5.7 Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction unless decided otherwise by the appropriate committee in a particular case.

5.6 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 and Key Controls

ICT Inventory

- 5.6.1 The ICT department shall be responsible for keeping a record of ICT equipment valued over £100, belonging to or in the care of the Council, in a form approved by the Section 151 Officer. All ICT property belonging to the Council and included within the inventory shall be marked as being the property of the Council. Serial numbers must be recorded.
- 5.6.2 Upon receipt of an invoice all new items shall be entered directly on the ICT inventory from the details on the invoice.
- 5.6.3 The Strategy, Performance & ICT Manager shall be responsible for authorising the write off of any items on the ICT inventory and this power may not be delegated. Disposal will be in accordance with the ICT Policy & Strategy. The ICT inventory will be updated promptly.
- 5.6.4 When an officer or elected members leaves the Council all ICT equipment must be returned to the line manager. It is the line manager's responsibility to ensure all such items are returned to ICT. It will include all forms of ICT equipment e.g. desktops, laptops, tablets, smart phones, printers, safeword tokens, memory sticks.
- 5.6.5 When an officer no longer requires an item of ICT equipment it shall be returned to ICT.

- 5.6.6 If a contractor is employed and any ICT equipment provided it will remain the responsibility of the line manager to ensure that equipment is returned to ICT.

6.1 The 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. This section should be read in conjunction with the Council's Constitution Part 4 – Chapter 3: Budget and Policy Framework Procedure Rules.

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 and Key Controls

- 6.1.1 The Section 151 Officer will determine the detailed format of Capital and Revenue budgets, having taken account of the recommendations of Community & Resources Committee about the overall framework of the budgets, and following consultation with the Senior Management Team.
- 6.1.2 Capital and Revenue budgets shall be prepared each year by the Section 151 Officer in consultation with the Senior Management Team and in accordance with relevant professional and statutory requirements. They will be reported to the Community & Resources Committee.
- 6.1.3 Operational Managers shall complete revenue and capital budget plans providing a direct link to business plans, which shall set out purpose, actions and measures covering the forthcoming year for each of their services.
- 6.1.4 Operational Managers shall complete project appraisal forms for all those capital funding bids identified in their Business Plan that require capital funding. All bids will then be evaluated in accordance with the Council's appraisal scheme, taking into account the revenue and capital costs, including land acquisition and the extent to which the project meets the Council's objectives. The decision on which projects will proceed will be taken as part of the budget setting process.
- 6.1.5 After the annual budgets have been approved any subsequent project proposal will be subject to the same appraisal process and evaluation method set out above. The project, its evaluation scores and sources of funding shall be reported to the appropriate Committees for consideration. Only projects approved by Community & Resources Committee shall proceed.
- 6.1.6 Where it appears that a Service's income budget may not be met or an expenditure budget exceeded the Operational Manager / Member of SMT will report immediately to the Section 151 Officer so that appropriate action can be taken and reported to Committee if required.

6.1.7 The Section 151 Officer:

- Shall provide each Operational Manager / Member of SMT with a quarterly budget report showing receipts and payments against budget
- Shall provide quarterly summaries of the financial position to Internal Overview and Scrutiny.

Budget Monitoring**6.1.8 Operational Managers are responsible for their budgets and the money they spend and should:**

- (a) Know what's in their budget
- (b) Receive training and have a good working knowledge of the financial management system
- (c) Be aware of all effects and influences on their budget, like seasonal variances
- (d) Let their accountant know quickly of any savings or potential overspends
- (e) Always seek advice from their accountant on ANY committee reports on financial implications.
- (f) ALL Committee reports that include financial implications must be approved by either the Section 151 Officer, or Chief Executive, and this approval to be recorded on the report.

Budget Changes (Virements)**6.1.9 The amounts approved by the Council in the annual budgets shall not be diverted to other purposes except as set out at paragraph 6.1.11 and 6.1.12 below⁴.****6.1.10 There shall be no virements for amounts less than £2,000. Heads of Service shall however ensure that any overspent budget is reported promptly in accordance with paragraph 6.1.8(d).****6.1.11 Any proposed virement between £2,001 - £10,000 can be approved by the appropriate Operational Manager / Member of SMT provided;**

- It is within the same service budget,
- It does not affect income,
- It does not affect future financial years,
- It does not affect central department recharges or capital financing charges, and
- It is not a grant

Operational Managers shall notify the appropriate accountant in writing within 3 working days.

⁴ Virements are not required for the transfer of earmarked reserves from the reserve account to their relevant expenditure code.

- 6.1.12 All requests for virements that cannot be approved under paragraph 6.1.11, such as virements over £10,000 or virements between services, must be made in the first instance to the Section 151 Officer and must be confirmed on form VIREMENT1 (V1) with all relevant information completed. Virements up to £30,000 must be approved by either the *Chief Executive* or the Section 151 Officer; virements over £30,000 must be approved by Community and Resources Committee
- 6.1.13 A record of all virements will be kept by the Section 151 Officer.
- 6.1.14 Windfall savings cannot be ploughed back into the service. These will be identified through managing the virements and will be referred to Senior Management Team for consideration.

6.2 Payroll – Officers and Members

Why is this important?

Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that member's 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 and Key Controls

- 6.2.1 The Section 151 Officer shall be responsible for the payment of all salaries, wages, pension, gratuities etc. to employees, former employees, members and former members of the Council. These payments shall be made directly to the employee's bank account or similar, no payments shall be made in cash.
- 6.2.2 The salary in respect of each full calendar month will be paid no later than the 25th of that month.
- 6.2.3 At the discretion of the Section 151 Officer, urgent notifications for changes to pay shall be considered not later than 5 working days before the pay date.
- 6.2.4 The Section 151 Officer shall be responsible for the maintenance and control of records relating to:
- P.A.Y.E.
 - Statutory Sick Payments (with HR keeping detailed sickness records)
 - Statutory Maternity Payments (with HR keeping detailed records)

- Other statutory entitlements e.g. paternity payments (with HR keeping detailed records)
- Trade Union deductions
- Pensions
- Any other additions or deductions to pay

This information is to be in such a form as the Section 151 Officer may prescribe and in accordance with UK legislation and tax requirements.

- 6.2.5 The Section 151 Officer and the Human Resources & Comms Manager shall submit a joint report to the appropriate committee on the financial implication of any pay award (other than cost of living awards) affecting employees of the Council.

Salaries and Wages – Amendments

- 6.2.6 The Human Resources Manager or authorised officer/s within the Human Resources team, will advise as to any procedural or legal issues and notify the Section 151 Officer of all notifications requiring changes to pay normally within 2 working days on the appropriate form approved by the Section 151 Officer, and no later than 7th of the month.

- 6.2.7 Each Operational Manager / Member of SMT shall discuss with the Human Resources Manager as soon as possible details of any matter, which may affect the payment of such emoluments, in particular:

- Appointments, resignations, dismissals, suspensions, secondments, maternity leave, parental leave and transfers
- Absence from duty for other reasons, which may affect pay e.g. compassionate leave, time-off for dependants
- Changes in remuneration, other than normal increments and nationally negotiated pay awards
- Information required for pension, tax and national insurance purposes.

Changes in remuneration must be agreed with the Human Resources Manager

- 6.2.8 In applying scales of salaries, wages, allowances, compensation or other emoluments, Operational Managers shall confer with the Human Resources Manager. The Human Resources Manager will confer with the Section 151 Officer as appropriate. Arrangements for the detailed application will be set out in the Pay Rules. These shall be approved by the Human Resources Manager and the Section 151 Officer and copies will be lodged with HR, Payroll and Internal Audit teams.

- 6.2.9 After consultation with the Human Resources Manager or authorised officer/s within the Human Resources team, appointments of all employees shall be made in accordance with the Establishment, approved budgets, approved grades and rates of pay. Any proposal to seek to make an appointment outside of the Establishment or rates of pay must be approved by the Community & Resources Committee except as set out below.

- 6.2.10 Where a manager wishes to make a change to a post that is not resulting in an increase in costs, it will not be necessary to seek approval from the Community & Resources

Committee. An example would be where a vacant Clerical Assistant post at Scale 3 is replaced with a Benefits Assessor at the same grade, where the need for a clerical post has diminished and the need for additional benefits assessment work has increased. This flexibility also extends to accommodating requests for Flexible working where a request by one officer to reduce their working hours could be accommodated by considering increasing the administrative support within the section. Any such changes must be authorised by the Chief Executive, the Section 151 Officer and the Human Resources Manager.

- 6.2.11 In summary changes to the Establishment which do not result in overall increased costs to salaries budgets have been delegated, subject to compliance with any Establishment policies and Establishment budget.
- 6.2.12 In all instances the Operational Manager / Member of SMT must complete a general workforce authorisation form (GWAFF) for approval by the Senior Management Team.
- 6.2.13 Where such changes are to be made, including if a post is no longer needed, authorisation must be obtained from both the Human Resources Manager and the Section 151 Officer prior to reporting to Senior Management Team.
- 6.2.14 If budgetary provision exists then overtime payments may be made to those officers on a pay scale up to, and including, Pay Point 23. Above that Spinal Point overtime payments may only be made for approved planned additional hours. The Operational Manager / Member of SMT in consultation with the Human Resources Manager may approve such planned additional hours, provided there is budgetary provision for this.
- 6.2.15 Overtime payments for covering vacant posts can be made to officers where budgetary provision exists, and the Human Resources Manager has been consulted. In these circumstances overtime will only be paid for that work carried out outside of the flexitime arrangements. Pay will be made in accordance with normal rates for evening and weekend working regardless of any flexi accrued.
- 6.2.16 *Claims for authorised overtime shall be authorised by line managers by the 12th of the month*
- 6.2.17 Any organisational review will be subject to the approval of Community & Resources Committee where there are increased costs arising, which require additional funds.

Salaries and Wages – Operational Managers Responsibilities

- 6.2.18 All time records or other pay documents shall be in a form prescribed by the Section 151 Officer and shall be certified by or on behalf of the Operational Manager / Member of SMT.
- 6.2.19 Each Operational Manager / Member of SMT shall provide the Section 151 Officer with a list of those officers authorised to sign on their behalf, together with specimen signatures. Any additions or deletions to the list shall be notified to the Section 151 Officer immediately.
- 6.2.20 The responsibility for authorising flexible working for employees is delegated to Operational Managers. However proposed changes should be discussed with the Human Resources section to assess whether there are any personnel implications (i.e. need to evaluate a revised post) or to consult with the trade union.

- 6.2.21 All original medical certificates must be forwarded to the Human Resources team as soon as possible.
- 6.2.22 In all cases where sickness or injury allowances are paid to an employee who may have a legal right to damages, including loss of earnings, against a third party, it shall be the duty of the Operational Manager / Member of SMT concerned to notify the Human Resources Manager of the fact that a third party claim may be made. The Human Resources Manager in liaison with the *Section 151 Officer* shall follow up all such payments and ensure that, as appropriate, sickness pay is recovered from the employee.
- 6.2.23 The names and grades of all employees listed on the payroll shall be annually checked and signed as correct by the appropriate Operational Manager / Member of SMT to verify the accuracy of the payroll records

6.3 Insurances

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 and Key Controls

- 6.3.1 The Section 151 Officer shall effect all insurance cover and liaise with the Council's insurers on all matters including claims.
- 6.3.2 Operational Managers shall promptly advise the Section 151 Officer of all new risks, properties, vehicles or plant that may require insurance cover and of any alterations affecting existing insurances.
- 6.3.3 Operational Managers shall promptly notify the Section 151 Officer of any loss, liability, damage or event that may lead to a claim.
- 6.3.4 All appropriate Council employees shall be insured by fidelity guarantee insurances.
- 6.3.5 The Section 151 Officer shall regularly⁵ review all insurances in consultation with other Operational Managers.

⁵ Regularly means at least once each year.

6 SECTIONS APPLICABLE TO ALL MANAGERS

- 6.3.6 No indemnities shall be given without the authority of the Section 151 Officer, and the Council's insurers.
- 6.3.7 Operational Managers shall promptly notify the Section 151 Officer of any property whose custody has been temporarily accepted on behalf of the Council.
- 6.3.8 All valuables held on behalf of a Third Party (e.g. jewellery, watches, documents of title, etc.) shall be deposited with the Section 151 Officer.
- 6.3.9 Operational Managers are responsible, in consultation with the Section 151 Officer, for the security of all buildings, stocks, stores, furniture, equipment, cash, etc., under their control.
- 6.3.10 Maximum limits for cash holdings shall be agreed with the Section 151 Officer and shall not be exceeded without his / her permission.
- 6.3.11 Keys to safes, offices, filing cabinets, etc., are to be carried by the person responsible. Any losses must be reported to the Section 151 Officer immediately. All office keys must be signed for and held securely by Officers.
- 6.3.12 The Data Protection Officer⁶ is responsible for putting a framework of guidance and training in place to ensure compliance with the GDPR legislation.
- 6.3.13 Operational Managers are responsible for the security and privacy of the information held within their service and during transit.
- 6.3.14 Recipients of car allowances shall annually, on request, produce to the Section 151 Officer such policies and/or premium receipts as may be necessary to ensure adequate cover against any liability of the Council arising out of official use.
- 6.3.15 All Officers will be required to comply with the requirements of the ICT Handbook and the Code of Conduct for Local Government Employees.
- 6.3.16 With regard to contract insurance, relevant Contract Administrators must ensure that all contractors undertaking work on behalf of the authority maintain public liability and employer's liability insurance policies at the levels set by the Council's Risk Management Group.

⁶ *The Data Protection Officer is the Monitoring Officer*

6.4 Partnerships

Why is this important?

Partnerships can 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 and Key Controls

6.4.1 All partnerships will be brought up to the standards set out in the Council's Partnership Protocol as partnerships are reviewed or when new partnerships are entered into.

(These are a copy of the Rules included in the Risk Management section at 4.1)

6.4.2 The Council will seek to embed good practice in managing its risks in accordance with the Council's Risk Management Strategy. Procedures will ensure each service, each significant partnership and each major project is assessed and an operational risk register developed and maintained. The Risk Registers will reflect those current risks that cannot be adequately controlled or moderated. Corporate risks will be recorded on the Corporate Risk Register.

6.4.3 Operational Managers, Service Managers and project officers will be responsible for maintaining their operational risk registers for their service(s), major project(s) and significant partnership(s) during the year, ensuring they reflect current risks and ensuring all identified actions to address significant risks are implemented in a timely manner.

6.5 Working 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 are 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 and Key Controls

6.5.1 Officers undertaking professional assignments for third parties as a Council approved duty shall ensure that adequate professional indemnity insurance for this purpose has been arranged by the Council where necessary, including run-off.

6.6 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 and the Single Regeneration Budget 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 and Key Controls

- 6.6.1 The Council may apply for external grant funding. All grant applications for external funding shall be approved by the Section 151 Officer. This shall be before any estimate or claim accompanying an application form for grant is submitted to any government department or any other funding body. The Section 151 Officer or Chief Executive must sign all such grant applications. The Section 151 Officer will particularly ensure that a record of all income and expenditure in relation to these grants is maintained.

6.7 Land, Buildings, Plant and Equipment

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 and Key Controls

- 6.7.1 The Estates Manager shall maintain a terrier record of all land and buildings owned by the Council, recording:
- Location and area
 - Interest held (i.e. leasehold or freehold)
 - Restrictive covenants applying
 - Particulars of sales and tenancies granted
 - Date of acquisition
 - Reason for original purchase (from April 2009)
 - Current use of land
 - Cross reference to deeds packet
 - GIS reference from the Local Land and Property Gazetteer (LLPG) system (as applicable)
 - Any obligations arising from external funding sources
- 6.7.2 The Monitoring Officer shall have the custody of all title deeds with records being kept showing when and by whom documents are borrowed and returned, under arrangements agreed with the Section 151 Officer.
- 6.7.3 The Estates Manager in conjunction with the Property and Major Projects Working Group shall be responsible for the continual review of land holdings and identification of land surplus to requirements, the results being reported to the appropriate Committee.
- 6.7.4 *The Estates Manager is empowered through the Scheme of Delegation on behalf of the Chief Executive to carry out various aspects of asset management. The Estates Manager shall obtain best value for the Council from all such disposals, acquisitions, licences,*

easements and wayleaves. Prior to the disposal of any land/building with a value of less than £10,000 the relevant ward members should be consulted. The limit for disposal being £10,000 without the prior approval of Community and Resources.

Disposal of land with a value of up to £10,000 is covered by the Officer Schemes of Delegations, the power for which is assigned to the Section 151 officer, subject to the relevant ward members being consulted. Anything above £10,000 must be approved by the Community and Resource Committee.

- 6.7.5 The *Section 151 Officer* shall be responsible for maintaining the Council's Capital Assets Register, and this Register shall conform to the CIPFA Accounting Code of Practice.
- 6.7.6 All assets owned by the authority are to be valued in accordance with the Chartered Institute of Public Finance Accountants Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC).
- 6.7.7 Assets valued at over £15,000 must be entered onto the Capital Assets Register.
- 6.7.8 All buildings shall be adequately insured.
- 6.7.9 Each Operational Manager / Member of SMT shall ensure that accurate records exist for all vehicles, plant and/or equipment under their control. Records to include:-
- Registration/serial numbers
 - Council identification numbers/marks
 - Description
 - Responsible officer/department reference
 - Usual storage location
- 6.7.10 No private use is permitted of any item of plant/equipment under ownership or lease to the authority. (This reference does not relate to lease vehicles or personal use of computers or mobile phones where these are allowed by an approved Council policy.)

6.8 Disposal of Assets

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 theft;
- Compliance with Government directives such as Waste Electrical and Electronic equipment (WEEE).

Responsibilities and Key Controls

6 SECTIONS APPLICABLE TO ALL MANAGERS

- 6.8.1 When procuring vehicles for operational services an Operational Manager / Member of SMT may trade-in old vehicles if this provides greater efficiency and better value for money.
- 6.8.2 When disposing of plant, equipment and other vehicles that are estimated to be worth less than £5,000 then they may be sold through advertisement in trade journals or local press without requiring sealed bids. The value must be estimated by a professional, knowledgeable and experienced officer and the process must be agreed with the Section 151 Officer. Alternatively sales may be made through on-line competitive bidding facilities such as E-bay, provided arrangements are agreed in advance with the Section 151 Officer.
- 6.8.3 For those estimated to be under £5,000: if after the first attempt no income can be obtained then officers can offer the plant or equipment to freecycle <http://www.freecycle.org/> or other community group. Disposals without benefit shall be the last resort.

Monitoring Officer

7.1 Grants and Loan

Why is this important?

Each year the Council receives applications from the public for grant aid or loans to assist them financially in renovating their property or associated work such as alterations for the installation of disabled facilities. Many of the grants or loans are for thousands of pounds and it is therefore essential that applications are correctly assessed, calculated and paid in accordance with the legal and Council requirements.

Risks:

- Applicants may receive and yet not be entitled to receive grant monies; and
- The grant scheme may be manipulated with fraudulent intent.

Responsibilities and Key Controls

7.1.1 The Council pays out grants for various housing matters and for conservation work. The approval of these grants is set out in part 3 of the Constitution under the relevant Operational Managers. These Operational Managers will be responsible for ensuring appropriate controls are operated for such grant applications and that approved budgets exist.

SECTION 151 OFFICER

7.2 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 and Key Controls

- 7.2.1 All of the accounting procedures, accounting controls and records of the Council and its officers shall be determined by the Section 151 Officer. Where such procedures, controls and records are maintained outside of the Finance department, the Operational Manager / Member of SMT will comply with the directions of the Section 151 Officer.
- 7.2.2 All accounts and accounting records of the Council shall be compiled by, or under the direction of the Section 151 Officer.
- 7.2.3 The inputting, processing and output of financial information will be complete, accurate and timely.
- 7.2.4 All records and procedures shall comply with the Freedom of Information Act 2000, Data Protection Act 1998, and the Human Rights Act 1998, and such instructions as shall be issued from time to time by the Council's Data Protection Officer⁷.
- 7.2.5 The Section 151 Officer will ensure that accounting control systems include measures to prevent and detect inaccuracies and fraud and the ability to reconstitute any lost records. A documented and tested disaster recovery plan shall be in place to allow information processing of these records to resume quickly in the event of any interruption.

Separation of Duties

- 7.2.6 The main control mechanism to be applied to all accounting transactions will be to ensure division of responsibility. For example no one person may calculate, approve and record a transaction, or receipt payments, pursue arrears and write off debts. The following principles shall be observed in the allocation of accounting duties: -
- (a) The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording those sums, shall be separated as completely as possible from the duty of collecting or disbursing them
 - (b) Officers with the duty of examining and checking the accounts of cash transactions should not be engaged in any of these transactions.
- 7.2.7 Where complete separation is not practical, alternative, monitoring mechanisms may be discussed and agreed with the Internal Audit Manager. Such monitoring mechanisms may not be used for significant transactions.

⁷ The Data Protection Officer is the Monitoring Officer

7.3 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 and Key Controls

- 7.3.1 An Annual Investment /Treasury Management Strategy will be agreed by Full Council each year, which sets out procedures and limits for managing the Council's treasury management activities. The Strategy will reflect the CIPFA Code of Practice on Treasury Management.
- 7.3.2 All investments of money under its control shall be made in the name of the Council or nominee approved by Full Council.
- 7.3.3 All securities owned by, or in the name of the Council, or its nominees, shall be held in safe custody by the Section 151 Officer.
- 7.3.4 All borrowings shall be in the Council's name.
- 7.3.5 The Section 151 Officer shall maintain the Council's register of stocks, bonds and mortgages and shall maintain a record of all Council borrowing.
- 7.3.6 The existence and title to investments shown in the annual accounts shall be verified and reconciled to the register of investments each year by the Section 151 Officer.
- 7.3.7 All trust funds shall wherever possible be in the Council's name.
- 7.3.8 Any officer acting as trustee by virtue of his / her official position shall, unless otherwise provided by deed, deposit all securities, etc., relating to the trust with the Section 151 Officer.

7.4 Government Grants and Subsidies

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. This section should be read in conjunction with the Council's Data Quality Strategy.

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 and Key Controls

- 7.4.1 All grant applied for, which have subsequent revenue expenditure implications for the Council must have approval from the appropriate committee before they are applied for, unless the relevant committee has granted delegated powers for this purpose.
- 7.4.2 All other grant applications can be approved by the *Chief Executive* or Section 151 Officer provided that they cover fully the expenditure to be incurred.
- 7.4.3 Operational Managers will liaise with the Section 151 Officer on relevant grants.

7.5 Maintenance of Reserves

Why is this important?

The Council must decide the level of general reserves that it wishes to maintain before it can decide the level of Council Tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

Risks:

- The Council may be unable to meet its financial commitments or any unforeseen costs that may arise during the year;
- The Council fails to comply with standard codes of practice on local authority accounting).

Responsibilities and Key Controls

- 7.5.1 The Council maintains an approved Earmarked Reserves strategy including prudent levels of reserves for the Council.

7.5.2 The Section 151 Officer will comply with CIPFA guidance notes on Local Authority Reserves and Balances

7.5.3 Specific reserves shall only be used for the purpose for which they were created and intended.

7.5.4 Transfers to reserves will be subject to the following rules:

- Technical and accounting movements for example collection fund accounting for business rates and council tax, unused / un-allocated external grants shall approved by the Chief Executive and or Section 151 Officer.
- Surplus operating / service budgets up to £10,000 as at 31 March where there is a commitment / ongoing project and the reserve is being used to carry forward resources shall be approved by the Chief Executive and or Section 151 Officer.
- Surplus operating / service budgets over £10,000 and up to £25,000 as at 31 March where there is a commitment / ongoing project and the reserve is being used to carry forward resources shall be approved by the Chief Executive and or Section 151 Officer in consultation with the Lead Member.
- Movements in excess of £25,000 must be approved by the Community and Resources Committee.

7.5.5 Transfers from reserves will be subject to the following rules:

- General transfers from reserves where there is an appropriate Committee decision to use the reserve no further approval shall be required.
- All other transfers from reserves will be approved by the Chief Executive and or Section 151 Officer provided they are being used for the purpose that the resources were specifically set aside for.

7.5.6 All transfers between reserves must be approved by the Community and Resources Committee

The Reserve Transfer Form must be completed for all transfers to and from reserves in order to retain a complete record of all approved movements.

7.6 Payment of Housing Benefits and Council Tax Support⁸

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

⁸ Reference to Council Tax Benefit will also include the Council Tax Support Scheme as adopted by the Council.

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
- Employees could set up fraudulent claims.

Responsibilities and Key Controls

- 7.6.1 The Revenues & Benefits Manager shall be responsible for the procedures, assessment and payment of benefit.
- 7.6.2 She/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

- 7.6.3 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.
- 7.6.4 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 GDPR regulations.
- 7.6.5 All Revenues and Benefits officers will complete an annual declaration setting out any interests in a benefit claim and access will then be appropriately restricted.

Cheques

- 7.6.6 All cheques in payment of benefit shall be crossed. Only in exceptional circumstances and with the approval of the *Section 151 Officer* will the subsequent opening of those cheques be permitted and this is subject to satisfactory identification being produced.
- 7.6.7 All benefit cheques returned to the Council, whether by hand or by post, shall be cancelled immediately by the Customer Services officer and passed to the Benefits team leader or other Revenues team leader. The accountants will also be promptly notified that any such cheques have been returned.

7.7 Emergency Payments

Why is this important?

In the event of an emergency it is important that officers have powers to deal with emerging situations to save lives, prevent worsening situations, and put in place emergency repairs.

Risks:

- Officers would be acting outside of their powers
- Emergency works may not be undertaken if there is no clear authority to act and incur expenditure.

Responsibilities and Key Controls

7.7.1 In the event of a defined emergency the Chief Executive, Section 151 Officer, will ensure where possible the Financial Procedure Rules are applied, however in the event that the relevant Silver Control Officer should need to incur expenditure relevant to the emergency he /she may do so without reference to Members and subject to a maximum of £20,000.

However, when doing so he / she shall record the type of expenditure incurred, providing full details of the decision made and reasoning. This will be reported to the Chief Executive and Section 151 Officer at the earliest opportunity.

Appendix 2



Contract Procedure Rules

The Constitution: Part IV: Chapter 6

Issue Number	3.1	Date:	Feb 2023
	4.0 Draft for Audit & Governance Committee	27 July 2020	David Heyes
	4.1 Full Council	February 2021	Date of next review April 2025
Updates:	Change of role title	Date:	20 Feb 2023

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A BRIEF GUIDE TO CONTRACT PROCEDURE RULES

These Contract Procedure Rules are intended to promote good procurement practice and public accountability and deter corruption. Following the rules is the best defense against allegations that a purchase has been made incorrectly or fraudulently.

Officers responsible for purchasing or disposal must comply with these Contract Procedure Rules. They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract.

(For example, if Rule 8.1 would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations or tender submissions. Equally, it may not always be appropriate to make use of a waiver under Rule 3 even if one might apply or be granted.)

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail (or other e-communication systems e.g. e-tendering) as well as hard copy.

- Follow the rules whenever you purchase goods or services or order building work.
- Take all necessary procurement, legal, financial and professional advice.
- Declare any personal financial interest in a contract. Corruption is a criminal offence.
- Conduct any Value for Money review and appraise the purchasing need.
- All Tenders must be awarded on the basis of “both price and quality”.
- Check whether there is an existing Corporate Contract or Framework Agreement in place you can make use of before undergoing a competitive process.
- Normally allow at least four weeks for submission of bids.
- Keep Bids confidential.
- Complete a written contract and/or Council order before supply or works begin.
- Identify a contract manager with responsibility for ensuring the contract delivers as intended.
- Keep records of dealings with suppliers.
- Assess each contract afterwards to see how well it met the purchasing need and quality of delivery requirements.

In accordance with the Constitution, the Section 151 Officer may propose amendments to these Contract Procedure Rules after consultation with the Head of Legal & Governance & Monitoring Officer, and the Major Projects Manager. Proposed amendments must then be submitted to the Audit Governance Committee, with a recommendation to Full Council for approval, where appropriate.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1 **BASIC PRINCIPLES**

All purchasing procedures and the letting of Concession Contracts must:

- Comply with these Contract Procedure Rules and Financial Regulations;
- The tender shall be awarded to the highest rated tender considering both price and where appropriate quality.
- Be consistent with the highest standards of integrity, having regard to the Council's Anti-Fraud and Corruption Strategy. The Bribery Act 2010 and the Office of Fair Trading guidance on Anti-Competitive behaviour;
- Ensure fairness in allocating public contracts;
- Comply with all legal requirements;
- Ensure that Non-commercial Considerations (except where related to quality assessments and Social Value) do not influence any Contracting Decision;
- Support the Council's corporate and departmental aims and policies; Comply with the Council's Procurement Strategies;
- Be followed by officers of the Council in all procurement activities including circumstances where there has been any challenge by the Community (Community Right to Challenge 2012 and Localism Act 2011).
- Comply with the Modern Slavery Act 2015 and any Council Policy on this matter.

1.1 The Procurement/Buyer Officer should be consulted prior to commencing any procurement process.

2 **OFFICER RESPONSIBILITIES**

Officers

- 2.1 Officers responsible for purchasing or disposal must comply with these Contract Procedure Rules, Financial Instructions, the Code of Conduct and with all UK binding legal requirements. Officers must ensure that any Agents, Consultants and contractual partners acting on their behalf also comply.
- 2.2 The Procurement Officer must keep a register of all contracts; the Corporate Governance Team keep a register of all waivers. All contracts over £30,000 (including VAT) must be published on the Contracts Tender Portal
- 2.3 The Council's Monitoring Officer must arrange for the safekeeping of all signed contracts.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

- 2.4 When any employee either of the authority or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and obtain legal advice before proceeding with inviting Tenders or Quotations.
- 2.5 Officers must:
- *Have regard to the Council's purchasing and contract guidance*
 - Ensure that the appropriate approved budgetary provision is in place.
 - Check whether a suitable Corporate Contract exists before seeking to let another contract; where a suitable Corporate Contract exists, this must be used unless there is an auditable reason not to
 - Keep all records as detailed in Section 6
 - Take all necessary legal, financial and professional advice.

Business Managers

- 2.6 Operational and Strategic Managers must:
- Ensure that their staff comply with Rule 2.1

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

3 WAIVERS, COLLABORATIVE & E-PROCUREMENT ARRANGEMENTS

- 3.1 The Council has power to authorise waivers from the requirement to seek quotations or invite tenders for specific projects. All waivers shall be completed on the Standard Form of Waiver.
- 3.2 Where a waiver is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council Services (**Life or Death, Increased Costs/Loss of Income, Limited Markets or Reputation**) the Officer must obtain the approval of the Section 151 Officer, and the Chief Executive.
- 3.3 The Chief Executive or the Section 151 officer may then approve the waiver, but a report must be prepared for the next relevant committee to support the action taken. Where the costs exceeds £75,000 revenue or £125,000 for capital, the decision must be referred back to the Community & Resources Committee as must any decision which may have a significant effect on communities, i.e. those affecting over 2,000 residents or more than two wards.
- **Life or Death** – Is there a significant chance that the life or health of officers, members or the public will be put at real risk?
 - **Increased Costs/Loss of Income** – Will the Council incur significant avoidable costs or lose significant income (significant shall be taken to mean material in the sense that it is either material to the project, the service or the Council)?
 - **Limited Markets** – Would the Council be wasting its time obtaining quotations as supply of the product or service is demonstrably restricted to one or few businesses (or an approved list if it is recommended by Central Government which evidences that the market has been tested)?
 - **Reputation** – Would the Council be criticised for failing to act promptly?
- 3.4 **No waiver can be used if the Government Procurement Agreement (GPA) Procedure applies.** The latest GPA limits should always be checked.
- 3.5 No officer shall approve a Financial Procedure Rules waiver initiated by them, i.e. a higher authority must approve it.
- 3.6 If a decision requires referral to Community & Resources Committee but is urgently required, the Urgency procedure may be used by completing the last section of the Waiver form. The last section of the waiver form requires the decision to be noted by the Leader or Deputy Leader of the Council. The Urgency decision will be subsequently reported to Community & Resources.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

- 3.7 Pro-formas must be used and are available on the Council's intranet or from the Corporate Governance team who will monitor the use of waivers and ensure that all waivers are reported to the next relevant Committee.

In-House Awards or between Public Bodies

- 3.8 Where the Council seeks to provide goods, works or services through its own internal resources it may do so without triggering a procurement exercise (links to Financial Procedure Rules).
- 3.9 Where the Council seeks to provide goods, works or services by entering in to a formal arrangement with another public sector body over which it has some ownership or control it may do so without triggering a procurement exercise where it can be demonstrated that:
- the contracting authority exercises over the contractor concerned a control which is similar to that which it exercises over its own departments ("similar control" in this context means the contracting authority exercising "a decisive influence over both strategic objectives and significant decisions" of the contractor. It includes where this control is exercised by another body, provided that the other body is itself controlled by the contracting authority); and
 - more than 80% of the activities of the contractor are carried out in the performance of tasks entrusted to it by the controlling contracting authority or by other bodies that are themselves controlled by that contracting authority; and
 - there is no private sector ownership of the contractor, with certain exceptions.

Or

Where the public sector body that is controlled by the Council seeks to provide goods, works or services by entering in to a formal arrangement with its controlling Council or another public sector body controlled by the same Council it may do so without triggering a procurement exercise where it can be demonstrated that a limited condition is met, that:

- there is no direct private capital participation in the body being awarded the *Contract*.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

Or

Where the Council seeks to provide goods, works or services by entering in to a formal arrangement with one or more public sector bodies over which it has no control it may do so without triggering a procurement exercise where it can be demonstrated that three limited conditions are met, that:

- the Council must exercise jointly with other public sector bodies “a control which is similar to that which it exercises over its own departments” over the body to be awarded the *Contract*;
- more than 80% of the activities of the body to be awarded the *Contract* must be carried out in the performance of tasks entrusted to it by the joint public sector bodies; and
- there must be no direct private capital participation in the body to be awarded the *Contract*.

Or

The Council and other public sector bodies can be said to exercise joint control over another body where all of the following conditions are met; that:

- the decision-making bodies of the controlled body are composed of representatives of all participating public sector bodies;
- the participating public sector bodies are able to jointly exert decisive influence over the strategic objectives and significant decisions of the body awarded the *Contract*; and
- the body to be awarded the *Contract* does not pursue any interests which are contrary to those of the controlling public sector bodies.

3.10 A *Contract* concluded exclusively between two or more public sector bodies may not trigger a procurement exercise where it can be demonstrated that three limited conditions are met, that:

- the *Contract* establishes or implements a co-operation between the participating public sector bodies with the aim of ensuring that public services they have to perform are provided with a view to achieving common objectives;
- the implementation of that co-operation is governed solely by considering relating to the public interest; and

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

- the participating public sector bodies perform on the open market less than 20% of the activities with which the *Contract* is concerned.

Collaboration

- 3.11 The Procurement/ Buyer Officer must be consulted prior to commencing a procurement process using any consortia contracts e.g. Crown Commercial Services (CCS), ESPO, LASAR etc. The terms and conditions of Contract applicable to any consortia arrangement, including the requirement to undertake competition between providers, must be fully complied with.
- 3.12 In order to secure Value for Money, the authority may enter into collaborative procurement arrangements. The Officer must consult the Section 151 Officer where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.
- 3.13 All purchases made via a consortium are deemed to comply with these Contract Procedure Rules and no waiver is required. However, purchases above the GPA Threshold must be let under the GPA Procedure, unless the consortium has demonstrated that it has satisfied this requirement already by letting their contract in accordance with the GPA Procedures on behalf of the authority and other consortium members.
- 3.14 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedure Rules of the leading organisation, will be deemed to comply with these Contract Procedure Rules and no waiver is required. However, advice **must** be sought from the Procurement /Buyer Officer.
- 3.15 The use of e-procurement technology enhances the administrative process for tendering (audit trails etc.) but does not negate the requirement to comply with all elements of these contract procurement rules, particularly those relating to competition and Value for Money.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

4 **RELEVANT CONTRACTS**

4.1 All Relevant Contracts must comply with these Contract Procedure Rules. A Relevant Contract is any arrangement made by, or on behalf of, the authority for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- The supply of goods;
- The hire, rental or lease of goods or equipment;
- The delivery of services, including (but not limited to) those related to:
 - the recruitment of staff;
 - financial and consultancy services;
 - Concession Contracts.

and where the Supplier is not:

- Another public sector organization, to include a town and / or parish council
- A third sector organization, to include social enterprises, not-for-profit organisations or charities; and.
- A body wholly or jointly owned or controlled by the Council

4.2 Relevant Contracts do not include:

- Contracts of employment which make an individual a direct employee of the authority; or
- Agreements regarding the acquisition, disposal, or transfer of land (for which Financial Procedure Rules shall apply); or
- Section 151 Officer dealing in the money market or obtaining finance for the Council; or
- Contracts made by the Monitoring Officer for the appointment of counsel.

SECTION 2: COMMON REQUIREMENTS

5 **STEPS PRIOR TO PURCHASE**

5.1 The Officer must appraise the purchase, in a manner commensurate with its complexity and value and taking into account any purchasing guidance, by:

Taking into account the requirements from any relevant Value for Money review

- Appraising the need for the expenditure and its priority;
- Defining the objectives of the purchase;
- Assessing the risks associated with the purchase and how to manage them;
- Considering what procurement method is most likely to achieve the purchasing objectives; including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium
- Consulting users as appropriate; about the proposed procurement method, contract standards and performance and user satisfaction monitoring
- Drafting the terms and conditions that are to apply to the proposed contract
- Ensuring the Social Value (Public Services) Act 2012 is complied with for all service contracts where the Total Value exceeds the GPA Threshold;
- There is member or delegated approval for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the Constitution.

6 **RECORDS**

6.1 Where the Total Value is less than £50,000, the following records must be kept:

- Invitations to quote and Quotations;

A record:

- of any waivers and the reasons for them;
- of the reason if the lowest price is not accepted (the most economically advantageous tender).
- Written records of communications with the contractors or an electronic record if not normally produced in writing e.g. Contract Portal.

SECTION 2: COMMON REQUIREMENTS

6.2 Where the Total Value exceeds £50,000 the Officer must record:

- The method for obtaining bids (see Rule 8.1);
- Any Contracting Decision and the reasons for it
- Any waiver under Rule 3 together with the reasons for it;
- The Selection Criteria;
- The Award Criteria;
- Invitation to Tender documents sent to and received from Suppliers;
- Pre-tender market research; clarification and post-tender negotiation (including minutes of meetings);
- Any Legal advice received;
- The contract documents and any variations or extensions;
- Post-contract evaluation and monitoring;
- Communications with Suppliers and with the successful contractor throughout the period of the Contract;
- Ongoing checks through the contract.

6.3 Records required by this rule must be kept for six years (12 years if under seal) after the end of the contract.

6.4 Where the Total Value exceeds the GPA Threshold the officer shall draw up a written report including name, address of the Council, subject matter, contract value, results of selection (where applicable), names of tenderers and reasons for selection or rejection, justification for procedure, reasons for non-award, conflicts of interest etc. as set out in GPA Legislation. The Contract Award Notice should contain this information.

7 ADVERTISING, AND FRAMEWORK AGREEMENTS

7.1 Identifying and Assessing Potential Candidates

Identifying:

7.1.1 Wherever practicable Officers shall ensure that where the Total Value of the proposed Contract does not exceed £50,000, they shall invite a minimum of three suppliers, where possible one of whom should have their Registered Head Office in North Devon. Officers shall be seen to alternate suppliers wherever possible to ensure fair competition.

Invitation to tender must be placed on the Councils portal and Contracts Finder. All information shall be offered unrestricted and with free access where electronic.

SECTION 2: COMMON REQUIREMENTS

Advertisements may also be placed in:

- The Council's website
- Portal websites specifically created for contract advertisements
- National official journals, or
- The Find a Tender Service (FTS) (even if there is no requirement within the GPA Procedure). But this **must** be used for contracts over the GPA threshold.

- 7.1.2 For proposed contracts that are expected to exceed £50,000, assessment and selection will be in conjunction with the Procurement / Buyer Officer.

Assessing:

- 7.1.3 Officers are responsible for ensuring that all Suppliers for a Relevant Contract are suitably assessed in accordance with the Public Contracts Regulations 2015. The assessment process shall establish that the potential Suppliers have relevant and proportionate requirements or minimum standards for:

- Economic and financial standing;
- Technical ability and capacity;
- Health and Safety,
- Legal Status

- 7.1.4 The use of pre-qualification stages is not permitted under the GPA Threshold. Use of PAS 91 or other prequalification systems is permitted.

7.2 Approved Lists

- 7.2.1 Approved Lists will not be maintained due to the costs of proper administration and the need to ensure that competition is maximised.
- 7.2.2 Suppliers interested in doing business with the Council should register on the Council's e-tendering system (Pro-Contract), which is available at www.supplyingthesouthwest.org.uk.
- 7.2.3 A register of pre-qualified contractors and consultants maintained by or on behalf of central government (e.g. Constructionline, Accredited) will not be deemed to be an Approved List for the purpose of these Contract Procedure Rules.

7.3 Framework Agreements

- 7.3.1 A Framework Agreement is an arrangement of one or more contracting authorities with one or more suppliers in order to establish the terms governing the contracts awarded during a given period.

SECTION 2: COMMON REQUIREMENTS

7.3.2 The term of a Framework Agreement must not exceed five years.

7.3.3 Contracts based on Framework Agreements may be awarded by either:

- Applying the terms laid down in the Framework Agreement (where such terms are sufficiently precise to cover the particular call-off) without reopening competition (also known as a direct award); or
- Where the terms laid down in the Framework Agreement are not precise enough or complete for the particular call-off by holding a **mini competition** in accordance with the following procedure:
 - inviting the organisations within the Framework Agreement that are capable of executing the subject of the contract to submit written Tenders
 - fixing a time limit which is sufficiently long to allow Tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract
 - awarding the contract to the tenderer who has submitted the best Tender on the basis of the Award Criteria set out in the specifications of the Framework Agreement.

7.3.4 Contracts based on a *Framework Agreement* may under no circumstances entail substantial modifications to the terms laid down in that *Framework Agreement*.

7.3.5 When a *Framework Agreement* has been selected for use, only the *suppliers* that appear on the agreement may be approached to provide the Contract. Multiple *Framework Agreements* may not be selected for use to procure one single *Contract*.

7.3.6 Contracts may be awarded beyond the life of a *Framework Agreement* provided that such contracts are not awarded improperly or in a way that seeks to distort competition. As an example, it would serve to distort competition to award a *Contract* that significantly exceeded the life of the *Framework Agreement* where it was not common practice nor expected by the market to do so.

7.3.7 A *Contract* procured under a *Framework Agreement* by another user may not be used by way of avoiding running a further competition, unless expressly permitted by the terms of the *Framework Agreement* or resultant call-off contract.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

8 COMPETITION REQUIREMENTS FOR PURCHASE AND PARTNERSHIP ARRANGEMENTS

8.1 Purchasing – Requirements to Obtain Quotations or Tenders

8.1.1 The **Total Value** of a Contract is the whole of the value or estimated value (in money or equivalent value) for a single purchase, e.g. where the Contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period, including any permitted extensions.

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

Total Value (excl. VAT)	Award Procedure	Short listing
Up to £10,000	A minimum of one Quotation, but good practice to seek most favourable prices and terms.	Operational Manager/Other Designated Officer
£10,001 - £50,000	A minimum of three written Quotations. Wherever practical the Council's E-Procurement Portal (Pro Contract) should be used to solicit quotations	Operational Manager/Other Designated Officer
£50,001– Government Procurement Agreement (GPA) Threshold ****	Invitation to Tender by advertisement or select list and use of e-procurement portal (Pro Contract)	Operational Manager/Other Designated Officer / the Major Projects Manager
Above GPA Threshold	FTS Procedure or, where this does not apply, Invitation to Tender by Advertisement.	Operational Manager/Other Designated Officer in conjunction with Major Projects Manager
£50,001 – GPA Threshold	All purchases made via a local authority purchasing and distribution consortium are deemed to comply with these Contract Procedure Rules and no waiver is required However, purchases above the FTS Threshold must be let under the FTS Procedure, unless the consortium has satisfied this requirement already.	See paragraph 3.7.

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Total Value (excl. VAT)	Award Procedure	Short listing
All values. Collaborative Contracts	The Section 151 Officer must be consulted prior to commencing any procurement using collaborative contracts. The terms and conditions of Contract applicable to any collaborative Contract, including the requirement to undertake competition between providers, must be fully complied with.	See paragraph 3.6
All values. ICT	All system developments and purchases of computer equipment or software must be approved by the ICT Manager or designated deputy and awarded in line with these Rules.	Operational Manager/Other Designated Officer in consultation with the Council's designated ICT Manager

*** Government Procurement Threshold

- Supplies and Services - £ 189,330
- Works - £4,732,252

- 8.1.3 Where it can be demonstrated that there are insufficient number of suitably qualified suppliers to meet the competition requirement, all suitably qualified suppliers must be invited to quote or Tender.
- 8.1.4 An Officer must not overtly enter into separate contracts nor select a method of calculating the Total Value in order to minimise the application of these Contract Procedure Rules.
- 8.1.5 Where the GPA Procedure is required, the Officer shall also consult the Property and Procurement Officer, to determine the method of conducting the purchase.
- 8.1.6 Where the Council procures on behalf of itself and other partners the total value is the overall contract value not just the element that each Council or partner bears. In such shared contracts, the costs of provision of the contract should be transparent to all parties.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

8.2 Contracts to Provide Services to External Purchasers

- 8.2.1 The Council does not procure contracts for third parties where there is no Council interest or involvement, except with the approval of the Monitoring Officer and Property and Procurement Manager.

8.3 Collaborative and Partnership Arrangements

- 8.3.1 Collaborative and partnership arrangements are subject to all UK procurement legislation and must follow these Contract Procedure Rules. If in doubt, Officers must seek the advice of the Monitoring Officer.

8.4 The Appointment of Consultants to Provide Services

- 8.4.1 Construction Consultants, to include architects, engineers and surveyors, financial and management Consultants, legal advisors and Consultants and any other professional persons considered Consultants as per the definition provided shall be selected and commissions awarded in accordance with the limits and procedures detailed within these Contract Procedure Rules.

- 8.4.2 The engagement of a Consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or Contract of appointment to be in the form agreed by the Council's Monitoring Officer. In most cases the relevant professional body will have an applicable form of appointment.

- 8.4.4 Consultants shall be required to provide evidence of and maintain professional indemnity insurance policies to the satisfaction of the Council's Insurance Officer for the periods specified in the respective agreement.

9 PRE-PROCUREMENT ENGAGEMENT AND CONFLICT OF INTEREST

- 9.1 All suppliers must be treated equally with no distortion of competition or Transparency. Where irreversible conflicts of interest exist suppliers can be excluded.

- 9.2 The Officer responsible for the purchase: may, prior to the issue of the Invitation to Tender or Quotation, consult potential suppliers in general terms about the nature, level and standard of the supply and other relevant matters provided this is not anti competitive or a breach of transparency and non-dissemination principles. All relevant information gathered must be disseminated to all suppliers

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

- 9.3 The *Officer* shall take appropriate measures to ensure that competition is not distorted, including:
- communicating to the other *Tenderers* any relevant information exchanged resulting from the involvement of the *Supplier/s*; and
 - fixing adequate time limits for the receipt of *Tenders*.
- 9.4 For service contracts where the Total Value will exceed the Threshold the *Officer* must give due consideration to the Social Value (Public Services) Act 2012 prior to the commencement of the procurement process.

10 STANDARDS AND AWARD CRITERIA

Principle: All contract awards must now be made to the “most economically advantageous tender”, using a cost effectiveness approach such as life-cycle costing to assess this; this may include best ‘price-quality ratio’ – as assessed on the basis of award criteria, taking into account quality considerations.

10.1 The Officer must define the Selection Criteria that are relevant and proportionate to the subject matter of the Contract. Pre-Qualification Questionnaires may not be used below GPA thresholds and only suitable assessment questions shall be asked below this level. The PAS 91 Crown Commercial Services Format should be used for works contracts above the GPA threshold.

10.2 Selection Criteria must not include:

- Non-commercial Considerations;
- Criteria that is not related and proportionate to the subject matter of the contract.

It can include:

- criteria for the mandatory exclusion of the *Supplier*, such as conspiracy, prior criminal convictions, evidence of corruption, bribery, fraud, terrorism, money laundering, tax evasion, etc. (this list is not exhaustive);
- criteria for the discretionary exclusion of the *Supplier*, such as bankruptcy, grave professional misconduct, evidence of distorting competition, conflict of interest, significant deficiencies in the delivery of a prior public contract, etc. (this list is not exhaustive);
- information as to economic and financial standing; such as, insurances, statements of accounts, statements of turnover, etc. (this list is not exhaustive); and
- information as to technical or professional ability; such as
- the *Supplier's* professional ability, considering in particular that economic operator's skills, efficiency, experience and reliability;
- evidence of a sufficient level of experience demonstrated by suitable references from contracts performed in the past; and
- evidence that the *Supplier* possesses the necessary human and technical resources and experience to perform the contract to an appropriate quality standard (this list is not exhaustive).

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

- 10.3 The Officer must ascertain what are the relevant British, European or international standards which apply to the subject matter of the contract. The Officer must include those standards which are necessary properly to describe the required quality. This includes sustainability, environmental, and health and safety British.
- 10.4 The Officer must define Award Criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the authority. The basic criteria shall be:
- 'Lowest price' where payment is to be made by the authority when the Award Criteria is price alone;
 - 'Highest price' if payment is to be received; or
 - 'Most economically advantageous', where considerations in addition to price also apply.

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

- 10.5 Award criteria must not include:
- Non-commercial Considerations
 - Criteria that is not related and proportionate to the subject matter of the Contract.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

11. **PROCUREMENT DOCUMENTATION**

- 11.1 Council Officers must prepare their Procurement Documentation using the Council's standard templates, which are available on the Council's Intranet site or via the Procurement /Buyer Officer and are appropriate to the size and nature of the contract.
- 11.2 The Procurement Documentation shall state that no Bid will be considered unless it is received by the date and time stipulated. A Bid delivered in contravention of this clause shall be considered only under exceptional circumstances, e.g. Council error/council software breakdown.
- 11.3 All procurement documentation should include the following as appropriate to the type of Contract:
- (a) A specification that describes the authority's requirements in sufficient detail to enable the submission of competitive offers;
 - (b) A requirement for Suppliers to declare that the Bid content, price or any other figure or particulars concerning the Bid have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose);
 - (c) A requirement for Suppliers to complete fully and sign all Bid documents including a form of Tender and Terms and Conditions;
 - (d) Notification that Bids are submitted to the Council on the basis that they are compiled at the Supplier's expense;
 - (e) A description of the Award Procedure and, unless defined in a prior advertisement, a definition of the Award Criteria in objective terms and if possible in descending order of importance;
 - (f) Notification that no Bid will be considered unless it submitted via the Council's approved electronic tendering system (Pro Contract)
 - (g) Quotations by email are acceptable for tenders under £10,000, but must be dated and clearly stated.
 - (h) The method by which any arithmetical errors discovered in the submitted Bids is to be dealt with. In particular, whether the overall price prevails over the rates in the Tender or vice versa;

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

- (i) Instructions to Suppliers concerning the procurement process and Procurement Documentation and information concerning the contract opportunity;
 - (j) The pricing schedule, schedule of rates, whole life costing schedule or other such appropriate pro-forma for gathering the Supplier's pricing.
 - (m) a stipulation that no tender issued electronically via the Portal can be submitted by other means.
 - (n) details of any subcontractors and consortium arrangements.
- 11.4 All Suppliers invited to bid must be issued with the same information at the same time and be subject to the same conditions. Any supplementary information must be given on the same basis.
- 11.5 All Procurement Documentation must specify the goods, service or works that are required, together with the terms and conditions of Contract that will apply and must state that the Council is not bound to accept any Quotation or Tender, either as a whole or in part.

12 **SHORTLISTING**

- 12.1 Any Shortlisting must be done in accordance with the permitted Selection Criteria and without a Prequalification Stage. Where the Total Value of the Contract will exceed the GPAThreshold, the Officer must contact the Property and Procurement Manager for advice.
- 12.2 Evaluation criteria must be transparent and any sub-criteria specified. Short listing records must be kept and held for the period specified in the Council's Data Retention Policy.

13 **SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS**

- 13.1 Suppliers must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of Tenders. The GPA Procedure lays down specific time periods.
- 13.2 Each Tender is recorded within the Procurement Portal:
- 13.3 Tenders received after the set date and time must not be accepted and the Procurement/ Buyer Officer informed of late submissions. For the purposes of these rules the time will be deemed to be at the first stroke e.g. noon will be 12:00:00.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

13.4 The Officer or Procurement / Buyer Officer must ensure that all Tenders are opened at the same time via the procurement portal when the period for their submission has ended. The Officer or his or her representative must be present. Tenders must be opened in the presence of an officer representing the Service Lead. Where the Total Value is more than the GPA Threshold, the Procurement / Buyer Officer shall also attend.

14. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION

14.1 Providing clarification of an Invitation to Tender to potential or actual Suppliers is permitted:

- Via the Council's electronic tendering system;
- At a meeting, provided that a written record is made of the meeting;
- In a way that is fair, transparent and equal to all participants.

14.2 Discussions with tenderers after submission of a Tender and before the award of a Contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) **must be the exception** rather than the rule. In particular, they must not be conducted in an GPA Procedure where this might distort competition, especially with regard to price. If in doubt, seek professional advice from the Monitoring Officer

14.3 If post-tender negotiations are necessary after a single-stage Tender or after the second stage of a two-stage Tender, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best Tender and after all unsuccessful Suppliers have been informed. Officers carrying out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

14.4 Where post-tender negotiations result in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

15. EVALUATION, AWARD OF CONTRACT, DEBRIEFING CANDIDATES

- 15.1 Tenders and Quotations must be evaluated and awarded in accordance with the Selection and Award Criteria. During this process, Officers shall ensure that submitted Tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.
- 15.2 The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their Tender.
- 15.3 Officers may accept Quotations and Tenders received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these Contract Procedure Rules. Awarding of contracts that are expected to exceed the approved budget sum shall be referred back to the Section 151 Officer as appropriate, in line with the Scheme of Delegation.
- 15.4 Where the Total Value is over £50,000, the Officer must notify all Suppliers in writing simultaneously and as soon as possible of the intention to award the contract to the successful Supplier and include the reasons why for unsuccessful bidders. Where an unsuccessful Supplier requests debrief information the Officer may use their discretion in deciding whether or not to comply with the request; there is no legal obligation imperative on the Officer to do so.
- 15.5 Where the **Total Value will exceed the GPA Threshold** the Officer must notify all Suppliers in writing simultaneously and as soon as possible of the intention to award the Contract to the successful Supplier, unless it is known sooner in the procurement process that a Supplier has been unsuccessful, in which case the Officer must notify the Supplier soonest with as much of the information required at 15.8 below as possible. (See 15.9 for further details).

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

15.6 The letters to the unsuccessful Suppliers must contain

- The criteria for the award of the Contract;
- The reasons for the decision, including the characteristics and relative advantages of the successful Tender, the score (if any) obtained by the Supplier which is to receive the notice; and the Supplier to be awarded the Contract.
- A precise statement of either:
 - when the Standstill Period is expected to end and, if relevant, how the timing of its ending might be affected by any and, if so what, contingencies; or
 - the date before which the Council will not enter into the Contract or conclude the Framework Agreement or Dynamic Purchasing System.

15.7 The Officer must provide a Standstill Period of at least ten days, for GPA threshold contracts where the communication is made electronically to allow unsuccessful Suppliers the opportunity of challenging the decision before the Officer awards the Contract. The Standstill Period shall end at midnight on the final day of Standstill and no sooner. Where the last day of the Standstill Period is not a working day, the Standstill Period is extended to midnight at the end of the next working day. If the decision is challenged by an unsuccessful Supplier then the Officer shall not award the Contract and shall immediately seek the advice of the Monitoring Officer and Procurement / Buyer Officer.

15.8 Where the Supplier has been informed of the fact that they have not been successful at an early stage in the procurement process, they must be provided within ten working days of any request in writing from said Supplier, with the reasons that they were unsuccessful.

SECTION 4: CONTRACT AND OTHER FORMALITIES

16 CONTRACT DOCUMENTS

16.1 Relevant Contracts

16.1.1 All Relevant Contracts above £10,000 shall be **in writing** in a form approved by the Monitoring Officer.

16.1.2 All Relevant Contracts, irrespective of value, shall clearly specify:

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

16.1.3 The Council's purchase orders or standard terms and conditions issued by a relevant professional body must be used for simple purchases of goods and works.

16.1.4 In addition, every Relevant Contract of purchase over £50,000 must also state clearly as a minimum:

- Health and Safety requirements (where applicable and proportionate);
- Sustainability and environmental management requirements (where applicable and proportionate);
- Social Value Act requirements (where applicable, i.e., for service Contracts with a Total Value in excess of the GPA Threshold);
- Equality Act 2010 requirements (where applicable and proportionate).
- That the contractor may not assign or sub-contract without prior written consent;
- Any insurance requirements;
- Ombudsman requirements;
- Data protection requirements, if relevant;
- That charter standards are to be met if relevant;
- Bribery and whistleblowing policies;
- Freedom of Information Act requirements;
- Where Agents are used to let contracts, that Agents must comply with the Council's Contract Procedure Rules;
- A right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant;
- Any confidentiality requirements;
- Tax evasion and avoidance requirements.
- A prompt payment clause.
- Termination clauses compliant with the Public Contracts Regs 2015.

SECTION 4: CONTRACT AND OTHER FORMALITIES

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

- Where the Total Value exceeds £50,000; or
- Below £50,000 if other than the Council's standard terms and conditions are to be used; or
- Those involving leasing arrangements (Section 151 Officer to be advised); or
- Where it is proposed to use a supplier's own terms; or
- Those involving the purchase of application software with a Total Value of more than £50,000; or
- Those that are complex in any other way.

16.2 Contract Formalities

16.2.1 Agreements shall be completed as follows and in all cases an official order issued.

Total Value	Method of Completion	By
Purchase orders - up to £50,000	Electronic Order or Signature	Authorised officer (see Rule 16.2.3)
Contracts and licences up to £50,000 with the Council's Standard Terms and Conditions	Signature	Monitoring Officer or Deputy
Contracts and licences up to £50,000 with Non Standard Terms and Conditions	Signature	Monitoring Officer or Deputy
Above £50,000 or if any of para 16.1.5.	Signature or Sealing (unless advised by the Council's Solicitor that sealing is not necessary)	Monitoring Officer or Deputy
ICT - system developments and purchases of computer equipment or software	Method of completion in line with limits above	As above, except in all cases to involve the Council's designated ICT Manager.

SECTION 4: CONTRACT AND OTHER FORMALITIES

- 16.2.2 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Monitoring Officer, Deputy or Section 151 Officer. An award letter is insufficient.
- 16.2.3 The Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it. The use of Letters of Intent (which are binding for the Council) should be avoided, but in exceptional circumstances they may be used with the approval of and review by the Monitoring Officer before issue.
- 16.2.4 Any new Contract should not be signed until the Contract it replaces is either ended or under notice.
- 16.2.5 All original contracts must be given to the Monitoring Officer for secure storage and Procurement /Buyer Officer notified for recording in the Council's Contract Register.
- 16.2.6 Contract Awards Notices must be placed on the Councils tendering system and Contracts Finder.

16.3 Sealing

- 16.3.1 Where appropriate contracts are completed by each side adding their formal seal. The fixing of the Council's seal must be witnessed by a further officer on behalf of the Monitoring Officer or deputy.
- 16.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed except in accordance with the Council's Constitution.
- 16.3.3 A contract must be sealed where:
- The Council may wish to enforce the contract more than six years after its end;
 - The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services, or
 - There is any doubt about the authority of the person signing for the other contracting party.

SECTION 4: CONTRACT AND OTHER FORMALITIES

17 BONDS AND PARENT COMPANY GUARANTEES

17.1 The Officer must consult the Property and Procurement Manager about whether a Parent Company Guarantee is necessary when a Candidate is a subsidiary of a parent company and:

The Total Value exceeds £75,000, or
Award is based on evaluation of the parent company, or there is some concern about the stability of the Candidate.

17.2 The Officer must consult the Section 151 Officer about whether a Bond is needed:

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

18 PREVENTION OF CORRUPTION

18.1 Prevention of Corruption

18.1.1 The Officer needs to be aware of the Bribery Act 2010 which introduces general offences of offering or receiving bribes, a specific offence of bribing a foreign public official, and the new corporate offence of failing to prevent bribery.

18.1.2 The Officer must comply with the Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Officer to prove that anything received was not received corruptly.

18.2 Anti Competitive Behaviour

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

- a) Use non-collusion clauses, certificates of independent bids and requests;
- b) Ensure sufficient credible bidders;
- c) Look for suspicious bidding patterns
- d) Keep good notes of all discussions and potential bidders and systematically scrutinise them for suspicious patterns e.g., geographical prevalence of certain suppliers' areas.

SECTION 4: CONTRACT AND OTHER FORMALITIES

18.2.2 If there is any doubt during a procurement exercise, or for further guidance, the Officer should contact the Procurement / Buyer Officer or Corporate Governance Team.

19. **DECLARATION OF INTERESTS**

19.1 If it comes to the knowledge of a member or an employee of the authority that a contract in which he or she has an interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Monitoring Officer. (See Definitions Appendix for description of Interest)

19.2 All Councillors must comply with the Members' Code of Conduct and register all contracts for goods, services or works made between the Council and:

- The Councillor;
- A firm in which s/he is a partner;
- A company in which s/he is a remunerated director;
- A member of the Councillor's family or a person with whom they have a close association, or a partnership or company employing or operated by such a person;
- Any person or body who has a place of business in the Torridge District Council area and in which the Councillor has a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 (or one hundredth of the total issued share capital) whichever ever the lower.

19.3 The Monitoring Officer shall maintain a record of all declarations of interests notified by members and Officers.

SECTION 5: CONTRACT MANAGEMENT

20. **MANAGING CONTRACTS**

- 20.1 **Senior Management Team must appoint contract managers for all new contracts.** All contracts must have a named Council contract manager for the entirety of the contract.
- 20.2 Contract managers must follow best practice in the area of supplier relationship and contract management.
- 20.3 **Variations or Extensions** should not be made unless this is provided for in the Invitation to Tender and the Contract itself or as permitted in the Public Contracts Regulations 2015. Any **variations or extensions** to contracts are to be in writing in the form approved by the Monitoring Officer, sequentially numbered and stored with the original Contract.

Variations or extensions proposed by the Officer that are likely to be considered as 'materially different' from the original Contract, include:

- When the amendment introduces conditions which, had they been part of the original procurement process, would have allowed for the admission of different Tenders or the acceptance of a Tender other than the one accepted;
- When the amendment "extends the scope of the Contract considerably to encompass goods, works or services not initially covered";
- When the amendment changes the economic balance of the Contract in favour of the contractor; or
- When there is a change of main contractor, change of ownership of the main contractor, a transfer of shares in the main contractor or a change of sub-contractor where the inclusion of a sub-contractor is inherent to the decision to award the Contract.

These variations or extensions are unlikely to be permitted on the basis that the proposed Contract will be fundamentally different from the old and therefore will a re-tender will be required.

- 20.4 **Payments** to contractors will only be made on certification of the designated contract manager, in line with the Financial Procedure Rules or where engaged by the Council, external architect, engineer or consultant.
- 20.5 **Liquidated and ascertained damages** must be deducted for all periods of delay in line with the terms of the contract.
- 20.6 The Officer / Contract Manager will consult with the responsible Strategic Manager, the Monitoring Officer and the Section 151 Officer promptly on becoming aware of any significant **dispute, claim for additional payment** in connection with a contract.

SECTION 5: CONTRACT MANAGEMENT

21. **RISK ASSESSMENT AND CONTINGENCY PLANNING**

- 21.1 A business case must be prepared for all procurements with a potential value over the GPA Threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- 21.2 For all contracts with a value of over £50,000, contract managers must:
- Maintain a risk register during the contract period;
 - Undertake appropriate risk assessments and for identified risks; ensure contingency measures are in place

22. **CONTRACT MONITORING, EVALUATION AND REVIEW**

- 22.1 All Contracts which have a value higher than the GPA Threshold limits, or which are High Risk, are to be subject to formal review(s) by the contract manager with the contractor. The review may be conducted at a frequency that is determined by the risk value and profile of the Contract.
- 22.2 During the life of the contract, the Officer must monitor and take any necessary corrective action in respect of:
- Performance;
 - Compliance with specification and contract;
 - Cost;
 - Any Value for Money requirements;
 - User satisfaction and risk management.
- 22.3 When the Contract is completed the Contract Manager must submit a Performance Project Review to the Asset & Capital Monitoring Group. The report must evaluate the extent to which the purchasing need and the contract objectives were met by the contract.

Additional Requirements for Contracts Financed from the Capital Programme

- 22.4 Any Officer proposing a project for inclusion in the Capital Programme must complete a Project Initiation Document (PID), and have this signed as approved by their Strategic Manager. The PID must then be submitted to the Section 151 Officer, who will refer the project to the relevant Committee for approval.
- 22.5 The Project Initiation Document will include the objectives of the project; a risk assessment and contingency plan; details of how the project will be controlled including appointment of a Project Manager; funding required and any revenue impact that the project may incur.

SECTION 5: CONTRACT MANAGEMENT

- 22.6 The Property Manager will provide the Strategic Management Team with a monthly report on the overall progress of the Capital Projects and the financial aspect will be considered at each Asset & Capital Monitoring Meeting.
- 22.7 Overspends of greater than 10% against the original capital project budget and which are **also** in excess of £10k shall be reported to Community and Resources Committee. Additionally, **all overspends of greater than £30k** will be reported to Community & Resources.

SECTION 6: OTHER RELEVANT CONSIDERATIONS

DEFINITIONS APPENDIX	
Agent	A person or organisation acting on behalf of the Council or on behalf of another organisation.
Approved List	A list drawn up in accordance with Rule 7.2.
Award Criteria	The criteria by which the successful <u>Quotation</u> or <u>Tender</u> is to be selected (see further Rules 10 and 11.2e).
Award Procedure	The procedure for awarding a contract as specified in Rules 8, 10 and 15.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now in many instances been superseded by <u>Value for Money</u> .
Bond	An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from the contractor's failure.
Candidate	Any person who asks or is invited to submit a Quotation or Tender.
Code of Conduct	The code regulating conduct of Officers, available on the Council's Intranet.
Constitution	The constitutional document approved by the Council which: allocates powers and responsibility within the Council and between it and others delegates authority to act, Other Member Bodies and Officers; regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.
Consultant	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.
Contracting Decision	Any of the following decisions: withdrawal of Invitation to Tender whom to invite to submit a Quotation or Tender Short listing award of contract any decision to terminate a contract.
Corporate Contract	A contract recorded by the <u>Procurement Officer</u> to support the Council's aim of achieving <u>Value for Money</u> .

SECTION 6: OTHER RELEVANT CONSIDERATIONS

Contract Finder	A web-based portal provided for the purpose of under-GPA <i>Threshold Contracts</i> on behalf of the Cabinet Office
GPA Procedure	The procedure required by the Government Procurement Agreement where the <u>Total Value</u> exceeds the GPA threshold
GPA Threshold	The contract value at which the GPA procurement directives apply.
Financial Procedure Rules	The Financial Procedure Rules outlining <u>Officer</u> responsibilities for financial matters issued by the <u>Section151 Officer</u> in accordance with the <u>Constitution</u> (Financial Procedure Rules).
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the <u>European Economic Area</u> are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore
High Profile	A high-profile purchase is one that could have an impact on functions integral to Council service delivery should it fail or go wrong.
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the GPA <u>Threshold</u> values
Invitation to Tender (ITT)	Invitation to tender documents in the form required by these contract procedure rules.
Monitoring Officer	As identified in the <u>Constitution</u>
Nominated Suppliers and Sub-Contractors	Those persons specified in a main contract for the discharge of any part of that contract

SECTION 6: OTHER RELEVANT CONSIDERATIONS

<p>Non-commercial Considerations</p>	<p>(a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').</p> <p>(b) Whether the terms on which contractors' contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.</p> <p>(c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.</p> <p>(d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').</p> <p>(e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of,</p>
	<p>contractors.</p> <p>(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.</p> <p>(g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.</p> <p>(h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best <u>Value</u>; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 1981 (<u>TUPE</u>) may apply.</p>
<p>Officer</p>	<p>The officer designated by the <u>Head of Service</u> to deal with the contract in question.</p>
<p>Parent Company Guarantee</p>	<p>A contract which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.</p>
<p>Procurement Strategy</p>	<p>The document setting out the Council's approach to procurement and key priorities for the next few years.</p>
<p>Purchasing Guidance</p>	<p>The suite of guidance documents, together with a number of standard documents and forms, which supports the implementation of these contract procedure rules. The guidance is available on the Council's intranet.</p>
<p>Procurement Officer</p>	<p>The Council's central procurement officer charged with providing strategic direction and advice to secure <u>Value for Money</u> in the Council's procurement activities.</p>
<p>Operational Manager</p>	<p>The officers defined as such in the <u>Constitution</u>.</p>

SECTION 6: OTHER RELEVANT CONSIDERATIONS

Quotation	A quotation of price and any other relevant matter (without the formal issue of an <u>Invitation to Tender</u>).
Relevant Contract	Contracts to which these contract procedure rules apply (see Rule 4).
Section151 Officer	The Strategic Manager (Resources) or such other officer as may be designated Section151 Officer by the Council.
Service Manager	The <u>Officer's</u> immediate superior or the <u>Officer</u> designated by the Section 151 Officer to exercise the role reserved to the Service Manager by these contract procedure rules.
Short listing	The process of selecting <u>Candidates</u> who are to be invited to quote or bid or to proceed to final evaluation.
Tender	A <u>Candidate's</u> proposal submitted in response to an <u>Invitation to Tender</u> .
Tender Register	The log kept by Property & Procurement to record details of <u>Tenders</u> (see Rule 13.4).
Total Value	The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows: (a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period (b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months (c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48 (d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result (e) for <u>Nominated Suppliers and Sub-contractors</u> , the total value shall be the value of that part of the main contract to be fulfilled by the <u>Nominated Supplier or Sub-contractor</u> .
TUPE Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246)	Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business
Value for Money	Value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

PART 4 - Chapter 7

OFFICER EMPLOYMENT PROCEDURE RULES

1. **Recruitment and Appointment**

(a) **Declarations**

All candidates for appointment will be required to state in writing whether they are related to either Councillors or Officers of the Council or the partners of such persons.

(b) **Seeking Support for Appointment**

The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

2. **Recruitment of Chief Executive**

(a) The Full Council will appoint the Chief Executive, and

(b) Will agree the detail of the appointment process on the basis of recommendations regarding the appointment by the Community and Resources Committee.

3. **Appointment of Chief Officers.**

The Full Council will appoint Chief Officers having made specific arrangements for the appointment process through advice from the Community & Resources Committee.

4. **Other Appointments**

(a) Appointment of Officers below Chief Officer (or Deputy Chief Officer) is the responsibility of the Chief Executive and his/her nominee and may not be made by Councillors.

(b) All permanent vacancies must be advertised publicly unless filled by internal promotion or transfer from another post, but the Council reserves the discretion to decide otherwise if it is in the justified interests of the Council.

5. **Disciplinary Action**

(a) The Council's Chief Executive, Finance Manager and S151 Officer (the latter appointed for the purposes of s151 of the Local Government Finance Act 1972 or s6 of the Local Government and Housing Act 1989) or The Head of Legal and Governance and Monitoring Officer (the Statutory Officers) may not be dismissed unless the following procedure is complied with:

- (i) The Full Council must appoint a committee (the Panel) for the purposes of advising the full Council on matters relating to the dismissal of the Statutory Officers.
 - (ii) The Council must invite Relevant Independent Persons to be considered for appointment to the Panel, with a view to appointing at least two such persons.
 - (iii) Appointments to the Panel must be made at least 20 working days before the relevant meeting to which the Panel will report its findings. The Full Council is not required to appoint more than two Relevant Independent Persons to the Panel but may do so.
 - (iv) 'Relevant Independent Person' means any independent person appointed by the Council under section 28(7) of the Localism Act 2011.
 - (v) The Council should issue invitations to Relevant Independent Persons in accordance with the following priority order:
 - A Relevant Independent Person who has been appointed by the Council and who is a Local Government elector
 - Any other Relevant Independent Person who has been appointed by the Council; and
 - A Relevant Independent Person who has been appointed by another council or councils.
 - (vi) Before voting on any dismissal, the Full Council must take into account the Panel's view, the conclusions of any investigation into the proposed dismissal and any representations from the relevant officer.
 - (vii) These requirements allow local people to be involved in the disciplinary process for senior officers and makes councils more accountable to the community.
- (b) The disciplinary action in 5(a) above, may be suspension whilst an investigation takes place into alleged misconduct. Any such suspension shall be on full pay and terminate no later than the expiration of two months, beginning on the day in which the suspension takes effect.

6. **Dismissal**

Councillors will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or enquiry into alleged misconduct, although the Council's disciplinary capability in related procedures as adopted from time to time, will allow a right of appeal to Members in respect of dismissals.

PART 5 – Chapter 1

Code of Conduct for Members

Introduction

This Code of Conduct applies to you as an elected or non-elected Member of Torridge District Council and it is your responsibility to understand this Code and to comply with its provisions.

The Code is made up of three distinct parts; the Principles, the General Provisions and Interests. Although the General Provisions and Interests give details of specific requirements that must be met, you should realise and understand that conduct that is not referred to or covered by the General Provisions or Interests may still constitute a breach of the Principles and therefore may be a breach of this Code of Conduct.

Scope

You must comply with this Code whenever you conduct the business of the Council (which in this Code includes the business of the office to which you are elected or appointed) or you act, claim to act or give the impression you are acting as a representative of the Council, and references to your official capacity are to be construed accordingly.

Where you act as a representative of the Council on any other body, you must, when acting for that other body, comply with this Code of Conduct except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

Interpretation

“the Council”	Torridge District Council
“director”	Includes a member of the committee of management of an industrial and provident society
“family”	Includes a Member’s parent, parent in law, a son or daughter, a son in law or daughter in law, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece and the partners of any of these people
“close associate”	Someone who you are in either regular or irregular contact with over a period of time who is more than just an acquaintance and who is someone a reasonable member of the public might think you would be prepared to favour or disadvantage.
“land”	Includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive an income

“Member”	An elected or non-elected Member of the Council including an Independent Person appointed to assist in the ethics and standards functions of the Council
“meeting”	Any meeting of the Council, any of its Committees or sub-Committees, Joint Committees or Joint sub-Committees and any meeting of any Area Advisory Committee.
“Monitoring Officer”	The officer of Torridge District Council appointed under s 5 Local Government and Housing Act 1989
“relevant authority”	Means an authority defined by s27(6) of the Localism Act 2011
“relevant period”	Means the period of 12 months ending with the day on which you provide notification of your interests under article 17 of this Code.
“relevant person”	Means you or your spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you were civil partners.
“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”	An interest of such a nature that if information concerning the interest were to be available publicly you or a person connected with you could be subjected to violence or intimidation.
“Register of Interests”	The register containing the interests of Members required under s29 Localism Act 2011

Purpose

As elected Members and non-elected Members of the Council you have a responsibility to represent the community and work constructively with the staff and partner organisations to secure better social, economic and environmental outcomes for all.

The purpose of this Code of Conduct is to promote high standards of behaviour amongst the elected and non-elected Members of the Council and to demonstrate to the public that the

Council is committed to maintaining those high standards and to representing the community in every way that it can.

The public and others working for or with the Council should have confidence in the integrity and capability of you as elected and non-elected Members of the Council and this Code seeks to ensure that such confidence is maintained.

Principles of Public Life

For the reasons set out above, the Code of Conduct is underpinned by the following Principles of Public Life which should be borne in mind when interpreting the meaning of the Code:-

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

Disclosure and Barring Service Checks

Councillors are expected and encouraged to undertake Disclosure and Barring Service (DBS) checks and a record of those undertaken will be published on our website. This is intended to

increase public confidence in their elected Members, and gives the Council an opportunity to put measures in place to mitigate any risk arising from previous conduct, if necessary.

General Provisions

1. You must treat others with respect, including members of the public, officers of the Council and any other person with whom you come into contact;
2. You must not bully or intimidate or attempt to bully or intimidate any person;
3. You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;
4. You must not do anything or act in any way which could reasonably be regarded as bringing either your office of Member or the Council into disrepute.
5. (i) You must not disclose information given to you in confidence by anyone, or information acquired by you or provided to you by the Council which you believe, or ought reasonably to believe, is of a confidential nature or is capable of being treated as confidential;

(ii) For the avoidance of doubt, information covered by and dealt with by schedule 12A of the Local Government Act 1972 (Part 2 information) is included within 5(i) above;

(iii) Exceptions to the requirement in 5 (i) above may arise where you have consent to disclose the information given to you by someone authorised to do so, where you are required by the law to disclose the information, where the disclosure is to a third party for the purpose of obtaining professional advice and the third party agrees not to disclose the information to any other person or where the disclosure is reasonable and in the public interest and made in good faith and in accordance with the requirements of the Council;
6. You must not do anything which may lead the Council to be in breach of any legislation or act in a way which is otherwise unlawful;
7. You must have regard to any relevant advice provided to you by the Council's officers and other external bodies or officers;
8. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
9. In taking decisions you must exercise independent judgement, taking into account all relevant considerations and views, and you must give reasons for your decisions in an open and transparent manner;
10. You must not use the resources of the Council for purposes which conflict with the Council's requirements or for political or personal purposes;
11. You must treat everyone equally, impartially and fairly and represent the residents of the whole of the Council area, not just the Ward to which you were elected.

Interests

Disclosable Pecuniary Interests

12. You have a Disclosable Pecuniary Interest if it is of a description specified in Regulation 13 hereof, and either:-

- (i) it is an interest of yours, or
- (ii) it is an interest of your spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you were civil partners.

13. A Disclosable Pecuniary Interest is an interest in any of the following matters:-

Interest	Prescribed Description
Employment, Office, Trade, Profession or Vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the Relevant Period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses, including 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 which is made between the Relevant Person (or a body in which the Relevant Person has a beneficial interest) and the Council under which goods or services are to be provided or works are to be executed and which has not yet been fully discharged.
Land	Any beneficial interest in land which is within the area of the Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate Tenancies	Any tenancy where (to your knowledge) the landlord is the Council and the tenant is a body in which a Relevant Person has a beneficial interest, including a firm in which the relevant Person is a partner or a body corporate in which the relevant person is a director, or in the securities of which the Relevant Person has a beneficial interest.

Securities	<p>Any beneficial interest in securities of a body where:-</p> <p>(a) that body, to your knowledge, has a place of business or land in the area of the Council, and</p> <p>(b) either:-</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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14. For the purposes of 12(ii) above you will only be deemed to have a Disclosable Pecuniary Interest if you are aware that the other person referred to in 12(ii) above has that interest.

Registerable Interests

15. You have a Registerable Interest if it is of a description set out in paragraph 16 of this Code and either:-

- (i) it is an interest of yours, or
- (ii) it is an interest of your spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you were civil partners.

16. The following shall be Registerable Interests:-

- (i) membership of any body to which you have been appointed or nominated by the Council,
- (ii) membership of the County Council or a Parish or Town Council within the District,
- (iii) membership of any body exercising functions of a public nature, which is directed to charitable purposes or whose principal purpose includes the influence of public opinion,
- (iv) the name and the interests of any person or body from whom you have receive a gift or hospitality with an estimated value of at least £25.00,

Prejudicial Interests

17. Notwithstanding the content of paragraphs 13 and 16 above, you will have a prejudicial interest in a matter where:-

- (i) a decision on that matter would affect the well being or financial position of any relevant person, member of your family or close associate more than it would affect the majority of people living within the ward or electoral division affected by the decision and

- (ii) a reasonable member of the public with knowledge of the relevant facts would reasonably think that your interest was so significant that it is likely to prejudice your judgement of the public interest..
- 18. Subject to paragraph 23 below, you must within 28 days of this Code being adopted by the Council, or your election or appointment (where that is later), notify the The Head of Legal and Governance and Monitoring Officer in writing of any Disclosable Pecuniary Interests and any Registerable Interests that you have at that time.
- 19. Subject to paragraph 23 below, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest or Registerable Interest, or any change to any such interest already registered, register details of that new interest or that change in writing to the Monitoring Officer.
- 20. If you attend a meeting of the Council and have and are aware that the business being conducted at that meeting affects a Disclosable Pecuniary Interest or a Registerable Interest or is such that you would have a Prejudicial Interest in the business:-
 - (i) you must, subject to paragraph 23 below, disclose to the meeting that you have a Disclosable Pecuniary Interest, a Registerable Interest or Prejudicial Interest in that matter and if you have not done so already, you must also notify The Head of Legal and Governance and Monitoring Officer of the interest in writing within 28 days of the meeting,
 - (ii) subject to paragraph 21 below, unless a Dispensation has been granted, you must NOT participate, or participate further once the interest is known, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting, and you must leave the room whilst discussion on the matter is taking place.
- 21. If your interest in a matter being discussed at a meeting of the Council is a Registerable Interest falling within paragraph 16(1) or 16(2) above you may remain in the room and participate in the discussion on the matter and may also take part in the vote taken on the matter provided the matter could not have a significant effect on the financial viability or well-being of the external organisation.
- 22. If you have delegated powers to take a decision on behalf of the Council acting alone, and you have and are aware that you have a Disclosable Pecuniary Interest, a Registerable Interest or a Prejudicial Interest in the matter dealt with or to be dealt with by you, you must not take any steps or any further steps in relation to that matter except for the purposes of enabling the matter to be dealt with other than by yourself.
- 23. Where you consider that the information relating to any of your interests is sensitive information, and The Head of Legal and Governance and Monitoring Officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest or when disclosing that interest to a meeting under paragraph 19 above.
- 24. You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 23 is no longer sensitive information, notify The Head of Legal and Governance and Monitoring Officer asking that the information be included in the Register of Members' Interests.

Dispensations

25. Section 33 of the localism Act 2011 makes provision for the granting of a dispensation allowing a Member with a Disclosable Pecuniary Interest in a matter to speak and/or vote on that matter. For the avoidance of doubt, this Code extends the provisions of section 33 to allow a Member to also seek a dispensation excusing the Member, in whole or in part, from the effect of paragraph 20 above where the Member has a Registerable or Prejudicial Interest in an item of business. Any dispensations granted will only apply to decision making bodies of the Council who granted the dispensation (for example, dispensations granted by the District Council will not apply to Parish or Town Councils and vice versa).

PART 5 – Chapter 2

CODE OF CONDUCT FOR OFFICERS

1. Introduction and Explanatory Note

This code has been derived from a draft national Model Code of Conduct. In the event that a Code of Conduct is introduced for all Local Government employees, the content of this Code will be updated.

The Council may separately publish Employee Rules and/or a Statement of Expectations.

2. Core Values that apply to all Council employees

General principles

The public is entitled to expect the highest standards of conduct from all Council employees. As an employee your role is to serve the Council in providing advice, implementing the Council's policies and delivering services to the local community. In performing your duties, you must always act with integrity, honesty, impartiality and objectivity.

Accountability

You are accountable, and owe a duty to, the Council. You must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

Political neutrality

You must follow every lawfully expressed policy of the Council and must not allow your own personal or political opinions to interfere with your work. If by reason of the post you hold or the nature of the work you do, then you must comply with any statutory restrictions on political activities.

Relations with members, the public and other employees

Mutual respect between employees and members is essential to good local government and working relationships should be kept on a professional basis. The Council has agreed a Member/Officer protocol to promote these aims.

You should deal with the public, members and other employees sympathetically, efficiently and without bias.

Equality

You must comply with policies relating to equality issues, as agreed by the Council, in addition to the requirements of the law.

Stewardship

You must ensure that you use any public funds entrusted to you in a responsible and lawful manner and must not utilize property, vehicles or other facilities of the authority for personal use unless authorised to do so.

Personal interests

You must not allow any private interests (including those of your immediate family) or beliefs to conflict with your professional duty. You must not misuse your official position or information acquired in the course of your employment to further any private interest or the interests of others.

You should abide by the rules of the Council about the declaration of gifts or hospitality offered to or received from any person or body seeking to do business with the Council or which would benefit from a relationship with the Council. You should not accept benefits from a third party unless authorised to do so by the Council. In any event, any gifts or hospitality must be registered with the Council's Monitoring Officer and recorded in the Register of Officers' Interests.

3. Whistleblowing

If you become aware of activities which you believe to be illegal, improper, unethical or otherwise inconsistent with this code of conduct for employees, you should report the matter, acting in accordance with your rights under the Public Interest Disclosure Act 1998 and with the Council's Whistleblowing Policy and Procedure.

4. Treatment of Information

Openness in the dissemination of information and decision-making should be the norm in conducting Council business. However, certain information may be confidential or sensitive and therefore not appropriate to a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a Member, relevant Council employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

5. Appointment of staff

When involved in the recruitment and appointment of staff, you must ensure that appointments are made on the basis of merit. In order to avoid any accusation of bias, you must not be involved in any appointment, or any other decision relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom you are related or with whom they have a close personal relationship.

6. Investigations by The Head of Legal and Governance and Monitoring Officers

Where The Head of Legal and Governance and Monitoring Officer is undertaking an investigation in accordance with the Localism Act 2011 and associated regulations, you must comply with any requirement made by that Monitoring Officer in connection with such an investigation.

7. Additional Values that apply to Qualifying Employees

Qualifying employees are ordinarily those who occupy the most senior posts within the Council, who will be formally identified as such.

As a qualifying employee you must not compromise, or attempt to compromise, the impartiality of anyone who works for or on behalf of the Council, either directly or as a response to pressure from others. You should not attempt to force employees to take action or change advice if doing so would prejudice their professional integrity.

8. Using your position improperly

You must not use, or attempt to use, your position improperly either for your own or anybody else's advantage or disadvantage.

9. Considering advice provided to you and giving reasons

If you seek advice, or advice is offered to you, on aspects of how this code applies, then you must have regard to that advice.

10. Personal interest

You must register, within 28 days of taking up your appointment, any interests set out in the categories below. This record of interest must be in writing, to The Head of Legal and Governance Monitoring Officer

The registration of interests protects the qualifying employee by giving early warning of any possible areas of conflict of interest and provides assurance to the public that the qualifying employee is acting transparently. Only registration of personal interests in areas where there are clear grounds for concern that such an interest could give rise to accusations of partiality in decision making and working practice of the authority are required. These are:

- Membership, or position of control or management, in bodies exercising functions of a public nature (that is, carrying out a public service, taking the place of a local or central governmental body in providing a service, exercising a function delegated by a local authority or exercising a function under legislation or a statutory power).
- Any business you might own or have a share in, where that shareholding is greater than £25,000 or have a stake of more than 1/100th of the value or share capital of the Company.
- Any contracts between the Council and any Company you have an interest in, as above.
- Any land or property in the Council's area, in which you have a beneficial interest.

You may seek to exempt your personal interests from the register of interests if you consider, for instance, that having this information on record might put you or others at risk. In such cases, you should discuss the matter with The Head of Legal and Monitoring Officer.

11. Prejudicial interest

A prejudicial interest is considered to be a matter which affects your financial interest or relates to a licensing or regulatory matter in which you have an interest and where a member of the public, who knows the relevant facts, would reasonably think that your personal interest is so significant that it is likely to prejudice your judgment of the public interest.

A prejudicial interest in a licensing or regulatory matter may stem from a direct financial interest or from a more tangential interest, where for instance approval for a licence may affect a body with which you have a personal interest or will affect you personally.

Qualifying employees with a prejudicial interest should declare such an interest. Where possible, you should take steps to avoid influential involvement in the matter. Where this is not possible, your prejudicial interest should be made clear.

PART 5 - Chapter 3

PROTOCOL FOR MEMBER/OFFICER RELATIONS

The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another. It aims to promote the high standards in public office that are required for a modern Local Government.

1. Principles underlying member- officer relations

The principles underlying this protocol are consistent with the principles within the Members Code of Conduct, which are set out in the Localism Act 2011. They are:

Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. Members have a duty to declare any private interests relating to their public duties and take steps to resolve any conflicts in a way that protects the public interest.

Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

Members should be accountable to the public for their actions and in the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

Members should be as open as possible about their actions and those of their Authority and should be prepared to give reasons for those actions.

Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence. Both Members and Officers serve the public. They depend on one another, but their responsibilities are distinct.

2. The roles of Members

Members are elected democratically. It is their policies, ideas, and decisions which people vote for. Members set the core values of the authority, agree a policy framework, set corporate goals, and promote the Council in all its work. Members are also the key channels of democratic accountability, ensuring that Officers uphold the values of the organisation and deliver those policies that have been determined by democratic means. Members are the channel for the voices of the people in their wards.

Members have four main areas of responsibility:

1. determining the policy of the Council and giving it leadership;
2. monitoring and reviewing the performance of the Council in implementing that policy and delivering services;
3. representing the Council externally; and
4. acting as advocates on behalf of their constituents and the wider community

Members have a right to ensure that their decisions, for which they are statutorily responsible and accountable, are implemented by Officers.

Members must not normally become involved in the management of the Council except where an appeal is made under the Grievance Procedure (for example, all disciplinary, capability or grievance processes are officer-only affairs). They must not engage in activities which might undermine the management line of command or adherence to Council personnel procedures or try to influence the recruitment process.

3. The roles of Officers

The Officers of the Council will support all Members to enable them to perform their roles effectively in the interests of the Council and the public. They will provide support, information, and advice to Members to help them in their roles.

Certain statutory Officers (The Chief Executive, The Head of Legal and Governance & Monitoring Officer and the Finance Manager and S151 Officer) have specific roles. These roles are set out in Article 11 of the Constitution. Their roles need to be understood and respected by all Members.

Officers give advice and information to Members, implement the policies determined by the Council and manage the day-to-day business of the authority.

Officers serve the Council through its committees and other Council bodies. They work to the instructions of their manager or the Chief Executive – not individual Members of the Council, whatever office the Member might hold.

Officers should always know that they must:-

- pursue every known lawful policy of the Council
- implement the decisions of Council and Committees
- inform Members immediately of any decision that they cannot fully implement
- be helpful and respectful to Members
- behave in a professional manner
- serve all Members equally
- maintain confidentiality
- deal with Member enquiries efficiently
- strive continually to comply with the Council's performance management and scrutiny processes
- support Members in their role as ward Councillors

The organisational role of officers has two important dimensions. Some Officers have professional skills relevant to a particular organisational task. Others have a primarily managerial responsibility. Many have elements of both in their job.

Professional officers will be given the opportunity to give their own professional views – they cannot be required, or expected, to recommend against their own professional view. Mutual respect between Members and Officers is essential to good Local Government.

Close personal familiarity between individual Members and Officers can prove embarrassing to other Members & Officers.

Officers must comply with the Code of Conduct for Officers, as set out in Part 5 of the Constitution.

4. Relationship between Chair of the Council and Leader and Officers

The Chair of the Council shall be bound by the same provisions when acting as Chair as he/she would be when acting as an ordinary Council Member.

Similarly, the Leader of the Council shall be bound by the same provisions when acting as Leader as he/she would be when acting as an ordinary Council Member.

It is clearly important that there should be a close working relationship between the Leader, Chair of the Council and Members and Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with the Member(s).

5. Relationship between Chairs and Members of the Council and Officers

The expression Chairs in this section will include Vice Chairs.

The Chairs shall be bound by the same provisions when acting as Chairs as they would be when acting as ordinary Council Members.

Although relationships should be declared on application forms, a situation may arise where a relative or close friend becomes a Member of the Council after the appointment of the Officer. In such cases the Member and Officer should make the circumstances known to the Chief Executive.

There should be a close working relationship between the Chairs and Members of a Committee and Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with the Member(s).

Officers will regularly brief Chairs on matters affecting their committee. Any Chair may have a briefing from officers at a mutually agreed time, on matters to be discussed at a forthcoming committee meeting.

A manager will always be fully responsible for the content of any report submitted in his name. Reports will contain a recommendation unless the issue is one where the Members' judgement is required, or where the officer writing the report believes the situation is such that Members may legitimately exercise a choice between two or three alternatives. They will also always include the name of the contact officer.

Chairs will be given the opportunity to view and discuss the draft agenda and reports for their committee.

The Chairs and members of all committees shall give Officers the opportunity to present any report and give any advice they wish to give.

All members must seek the advice of the Monitoring Officer where they consider there is doubt about the lawfulness of a decision. Members should seek advice from the Monitoring Officer and/or other appropriate officers where they consider a committee decision might be contrary to the policy framework.

Members and Officers should be mutually supportive in order to minimise any potential embarrassment to the Council.

Any criticism of Officers should be dealt with in private and in accordance with the Dignity at Work Policy, and by the same token, Officers will never be publicly critical of the Council or its policies.

6. Relationships between Chairs and Members of Overview and Scrutiny Committee and Officers

The Chairs and Members of the Council's Overview and Scrutiny Committees shall be bound by the same provisions as those for Members and Officers. In addition, they shall:

- consider the seniority of the officers asked to appear before it to ensure that more junior officers are not put under undue pressure.
- when asking officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions.
- where they consider it appropriate, ask officers to explain and justify advice given to Members of committees prior to decisions being taken, and
- not question officers in such a way as to be in breach of the Council's Dignity at Work Policy.

Officers are required at all times to serve the whole Council in a manner which is impartial and politically neutral. Members must continue to respect the political neutrality of Officers and accept that Officers are obliged to respond positively to any requests from the Overview and Scrutiny Committees for appropriate information and advice relevant to the issue being considered by the Committee.

7. Officer Relationships with Party Groups

Any invitation to an Officer to attend a group meeting shall be deemed to include the Chief Executive.

Officers will not attend and provide information to any political group meeting which includes non-District Council members. Exceptions to this may be approved by the Chief Executive.

In all dealings with Members, in particular when giving advice to political groups, Officers must demonstrate impartiality and must not suppress their professional advice in the face of political views.

For the avoidance of doubt, any information disclosed to an officer in the course of a meeting with a political group shall not be regarded as confidential or privileged.

Any particular cases of difficulty or uncertainty in this area of Officer advice to political groups should be raised with the Chief Executive who will then discuss them with the relevant group leader(s) prior to the meeting.

8. Members in their Ward Role and Officers

Officers will keep members informed about any significant issues currently affecting their Wards, including matters raised in correspondence and complaints made under the formal complaints' procedure.

It is the duty of the Chief Executive and managers to ensure that all relevant staff are aware of the requirement to keep local Members informed and that the timing of such information allows Members to contribute to the decision-making process.

9. Member access to documents and information

The Council believes in open government. This means information will be provided to members of the public and Members of the Council unless it falls within a list of items which are exempt or confidential or for other proper reasons. The meaning of Exempt Information can be found in Part 4 of the Constitution.

Members are free to approach any Council service to provide them with information, explanation or advice as they may reasonably need in order to fulfil their role as a Member, including responding to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the manager, or another senior Officer of the service concerned. Members must ensure that junior officers are not put under undue pressure.

Members are not entitled to confidential information which is not directly relevant to their role as a Councillor. Members are in a position of trust and should not request confidential information in order to use it for a purpose not legitimate for their role as a Councillor. A Member's motive for requesting information must be relevant, and Members should always be prepared to disclose the reason for their request either to the officer from whom the information is sought or the Chief Executive. Members must not abuse this trust by disclosing information that is confidential or exempt from disclosure to the public.

Confidential information should not be disclosed to any third party unless –

- the Member is legally compelled to do so, for example there is a legal duty to make disclosure in the public interest.
- the disclosure is at the request, or with the consent, of the party that provided the information.

Members who believe that the disclosure of confidential information is necessary for the effective performance of their duties as members should seek advice from the Chief Executive or the Monitoring Officer. Improper disclosure of confidential information can put the Council at legal and financial risk.

Where, in a service manager's view, a request for information will require an unreasonable amount of staff resources to provide the information, which he feels unable to commit, he should seek guidance from his manager or the Chief Executive so that a satisfactory solution, in consultation with the Member, can be found. In the event of a dispute, a decision will be made by the Chief Executive in consultation with the leader of the group whose member is requesting the information.

By common law, Councillors are entitled to see all those documents as are necessary to enable him to carry out his duties. This does not, however, permit a 'roving commission' and simple interest or curiosity is unlikely to provide sufficient justification.

Members have a statutory right to inspect any Council document which contains material in relation to any business which is to be transacted at a Council or Committee Meeting. This right applies irrespective of whether the Member is a member of the committee concerned and extends not only to reports which are submitted to the meeting, but also to any relevant background papers.

10. Other individuals who are members of Council bodies

This protocol applies equally to non-Council members who are members of, or attend any of the Council's committees or any other Council bodies as it does to Council Members.

11. Press releases / media Relations

All press releases should be issued through the Corporate Services Team in accordance with the Media Policy.

Councillors must check the up-to-date position with the appropriate member of Corporate Services Team or the Chief Executive to verify the facts before speaking to the media or taking part in interviews. Whilst individual views are respected, Members are the democratically elected representatives of Torridge District Council. If a Member is speaking to the media as a spokesman for his particular group or on his own account he should make this clear from the outset.

This shall not fetter the individual Member's right to comment personally on issues provided such comment does not seek to represent or be capable of being construed as representing the Council's corporate or resolved position on any issue.

Officers - all approaches from the media should be addressed to the Corporate Services Team in accordance with the Media Policy.

12. Correspondence

Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g., representations to a Government minister) for a letter to appear in the name of a Member, but this should be the exception rather than the rule.

It is not legal for letters which, for example, create obligations or give instructions on behalf of the Council to be sent out in the name of a Member as this would constitute an act which cannot be delegated to an individual Member.

13. Support Services to Members and Party Groups

Support services such as typing, photocopying, etc., to Members must only be used on Council business. Such services should never be used in connection with party, political or campaigning activities or for private use.

14. Complaints

Members may have reason to complain about the conduct or performance of an Officer. All such complaints should be made in accordance with the Dignity at Work Policy.

Officers may have reason to complain about the conduct of a Member. All such complaints should be made in accordance with the Dignity at Work Policy or the Grievance Procedure.

The Chief Executive will ensure that the Authority's response to any allegation of bullying or harassment will be dealt with promptly and effectively under the terms of the Dignity at Work Policy.

15. Whistleblowing

The Council is committed to the highest possible standards of openness, honesty, and accountability. In line with that commitment the Council expects Officers and Members to come forward and voice their concerns in respect of any wrongdoing such as fraud, malpractice, breach of any health and safety law, or any other illegal act. The Council has, therefore, adopted a Whistleblowing Policy.

PART 5 – Chapter 4

Public Participation at Full Council and Committees

The public are encouraged to become involved in Full Council and Committee meetings through the 15-minute public participation period at the start of each meeting.

General Rules

1. There will be a 15-minute Public Participation period at the start of each meeting. Torridge welcome public participation however please be aware that issues raised during Public Participation will not be debated at the actual meeting.
2. Persons may speak on any District Council matter.
3. Persons wishing to speak must register with Democratic Services by the deadline date and time stated on the Agenda. Public speakers must sign to agree to abide by the Public Participation Scheme **before** the commencement of the meeting. If speakers are unable to attend the meeting, then they can request that their Statement/Question is read out by the Chair of the meeting (this will be at the Chair's discretion) and that a limit of 3 minutes be imposed on each written statement to be read out.
4. The Chair may select from the register any speaker in any order as he/she thinks appropriate.
5. Persons may speak for a maximum of 3 minutes.
6. Persons must ensure that what they say is factually correct (speakers cannot take advantage of the defence of qualified privilege and may be exposed to legal proceedings for defamation).
7. Speakers contravening the Code may be barred from participating in the Scheme for the next 6 meetings.
8. The Chair has absolute discretion over this Public Participation Scheme and its temporary suspension, variance or withdrawal at a particular meeting.
9. Questions asked under this Scheme will receive a written response from the Chief Executive or appropriate officer within 14 working days of the meeting. The Statement will not be debated at the Committee.
10. If the Member of Public wishes to receive an answer to a question at Full Council, they should submit their question in writing to the Chief Executive at least 5 working days in advance of the meeting and should state that it is a question for which an answer is required at that particular meeting. The Member of the Public will not be permitted to ask any supplemental questions at that meeting. If the Question is not provided a minimum of 5 working days before the meeting then they can still register under the Public Participation Scheme, but they will not be provided with a verbal answer at the meeting.
11. A separate public speaking scheme operates in relation to the Plans Committee, which can be found at Part 5 Chapter 5 of this Constitution.

PART 5 – Chapter 5

Public Participation at Plans Committee

How many people can speak – and for how long?

In most cases, up to four members of the public can address the Committee on a specific application. Two would be objectors, and two either as applicant /agent or as a supporter. Each speaker will have up to three minutes to put his or her case.

A representative from the Town or Parish Council is also given 3 minutes to express the views of that council.

To be eligible to speak

You must make a request **in writing** following publication of the Committee Agenda and it must arrive no later than 2 pm, two days before the scheduled Committee meeting, so if the meeting is on a Thursday, the request must be received by 2 pm on the previous Tuesday. The **written** request must be sent by post, or email to the:

Planning Support
Torridge District Council
Riverbank House,
Bideford, EX39 2QG

E-mail to: planning.support@torridge.gov.uk

You must include the application number, site address, your full name, address and telephone number and whether you are in favour or against the application.

You must agree to abide by the Code of Conduct outlined in this leaflet.

What if more than two people wish to support or oppose a proposal?

The procedure allows for two people to speak in support of the application and two against. Requests to speak are dealt with through the process highlighted above, and where there are more than two people wishing to speak they will be required to organise spokes people to represent the views on each side. After the deadline date of 2 pm on the Tuesday before Committee, a list of people requesting to speak will be posted on our website at www.torridge.gov.uk/speakplanning

What happens at the Committee Meeting?

Those who have a valid request to speak will be required to report to the Committee Clerk 15 minutes before the meeting starts. The Committee Clerk will meet all the speakers, explain the procedure, and show you where you will be asked to sit and present your case.

Working through each application on the agenda, the Committee Chair will first invite the Planning Officer to introduce the application and advise the Committee of the main

planning issues and the recommendation. The Chair will then invite the Parish / Town Council representative to speak on behalf of their local council. The nominated objectors to that specific item will then put their views, to be followed by the applicant/agent and /or supporters. The Ward Member will then be allowed the opportunity to speak.

Exceptionally other Members will be allowed to speak at the discretion of the Chair provided that they represent an adjacent ward to where the red line is located and in the Committee's opinion the development directly affects residents in that adjacent ward and any of those residents have submitted letters of representation within the statutory notice period.

The speakers will not have the right to question Members or the Planning Officers, and neither shall they produce any further photographs or other written evidence for information or display. The Committee will then discuss the application and will have the opportunity of further guidance from the Planning Officers before reaching their decision.

It is essential that there is no unnecessary repetition of points made and the Chair will strictly control the procedure exercising discretion when required in order to satisfy "*natural justice*" and provide members with the required information upon which to make an informed and well-considered decision.

Each speaker will be allocated 3 minutes in which to make their views known. This time limit will be strictly applied by the Committee Clerk. Member representations should be as succinct as possible but are not restricted to 3 minutes. An application will not be deferred because a speaker is not present. Please bear in mind that by law the Council can only take into account certain matters when considering planning applications.

What if a decision is deferred, perhaps for more information or a site visit?

Generally, the right to speak can only be exercised at the first meeting at which the planning application is considered, except if an application is on the agenda but the item is deferred prior to the Planning Officer presenting the case. In the event an application is deferred, anyone wishing to speak at the subsequent Plans Committee meeting must register in the normal way and whether they are allowed to speak will be at the discretion of the Chair. Any previous speaker will not be given preference over other eligible speakers.

Representations to the Plans Committee

When putting your case, you must only talk about planning issues as the Committee can only make a decision on planning grounds.

If you address the Committee on other matters, which are not planning issues, the Chair may interrupt you, or even withdraw your opportunity to speak further. This also applies if you act inappropriately.

It will be helpful if you are able to prepare your presentation in order to ensure that the key points are made and that you are able to keep within the time limit.

In all issues relating to public speaking at the Plans Committee, the Chair has the ultimate discretion.

The Committee Must Consider:

In reaching a decision the Plans Committee must consider all relevant Planning Policies in the Development Plan (i.e. Torridge District Local Plan), relevant Government Policies and all material planning considerations.

Some of the most common “material considerations” include:

- Loss of light or over-shadowing
- Overlooking / loss of privacy
- Overbearing
- Loss of trees
- Layout and density of development
- Design and appearance
- Nature conservations
- Landscape impact
- Tourism / employment
- Sustainability
- Previous planning history and appeal decisions
- Highway safety, parking and turning
- Traffic generation
- Effect on Listed Buildings and Conservation Areas
- Landscaping
- Archaeology
- Hazardous materials
- Disabled persons access
- Noise and disturbance resulting from a use
- Odour / Fumes

The Committee cannot normally take into account:

Matters controlled by other legislation such as Building Regulations. Examples include -

- Encroachments of foundations, gutters, pipes, etc
- Structural stability of a property
- Terms of gaming or alcohol licences
- Control of rodents
- Noise and dust from construction works

Other issues such as:

- Ownership
- Boundary disputes
- Loss of / impact on views
- Private rights of way, light or easements
- Damage to property
- Access for maintenance
- Applicant or neighbours behaviours
- Age, health, status or background of an individual

- Size of the applicant's family
- How long the applicant has been living there
- The applicant's motive
- What may happen in the future
- Loss of Trade

For further information or advice contact:

Planning Support
Riverbank House
BIDEFORD, EX39 2QG
Tel. 01237 428778

PUBLIC PARTICIPATION - CODE OF CONDUCT

In seeking to speak at a Plans Committee.....

You must:

- Treat everyone with dignity and respect.
- Register your wish to speak no later than 2 pm two days before the scheduled Committee Meeting and agree to abide by this code
- Ensure what you say is factually correct

You must not:

- Speak when the Chair speaks
- Make personal or slanderous remarks
- Be abusive
- Interrupt speakers
- Go beyond the prescribed time allowed

You are not entitled to take advantage of the defence of 'qualified privilege' and may be liable to legal proceedings for possible defamation.

The Chair has absolute discretion over this Public Participation Scheme and may temporarily suspend, vary or withdraw the Scheme at a particular meeting.

REQUEST TO SPEAK AT PLANS COMMITTEE

Please complete this form and either send by email or post to –

Plans Admin Support
TORRIDGE DISTRICT COUNCIL
Riverbank House,
BIDEFORD
EX39 2QG

or complete the form online at <http://www.torridge.gov.uk/speakplanning>

Requests to speak must arrive no later than 2pm two days before the scheduled Committee Meeting.

Application Number:
Site Address:
Full Name:
Address:
Day-time Tel. Number:
*I wish to speak IN SUPPORT of this application / I wish to speak AGAINST this application
<i>* Please delete as appropriate</i>
I AGREE TO ABIDE BY THE CODE OF CONDUCT
Signed:
Date:

PART 6

MEMBERS ALLOWANCE SCHEME

2022/23



1. Torridge District Council (“the Council”) in exercise of powers contained within the local Authorities (Members Allowances) (England) Regulations 2003 has made the following scheme providing for allowances to be paid to Councillors and certain Co-optees serving on the Council.

BASIC ALLOWANCES

2. The Basic Allowance is intended to recognise the time devoted by Councillors to their work, including such calls on their time as meetings with constituents etc., and to cover incidental costs for which no other provision is made, such as telephone costs. This basic allowance is the same amount for each Councillor.

At the Council each Councillor will receive the current “fully inclusive” Basic Allowance of £5,331.95. The Allowance should be updated annually on the basis of any percentage increase agreed for NJC Local Government Staff.

The £360 replaced the provision of a laptop and the payment of any phone/broadband lines. Only Members choosing electronic access can claim this second allowance.

SPECIAL RESPONSIBILITY ALLOWANCES

3. The present scheme includes a provision for the payment of special responsibility allowances (“SRA”) for certain Councillors. Members should only be entitled to claim one SRA and less than 50% of roles should attract a SRA.

The Council has identified the following positions as those in respect of which SRAs are payable:-

Position	SRA 2022/23
Leader	12,530.09
Deputy Leader	5,331.95
Chair of Council	5,331.95
Chair of Community and Resources	5,331.95
Chair of Overview and Scrutiny (Internal)	5,331.95
Chair of Overview and Scrutiny (External)	5,331.95
Chair of Plans	5,331.95
Chair of Audit and Governance	2665.98
Chair of Licensing	2665.98
Chair of Standards	688.45

4. Only one Special Responsibility Allowance will be payable to an individual Councillor. Any part-year entitlements to either Basic or Special Responsibility Allowances will be paid according to the number of days in a relevant period as related to the number of days in the whole year.

TRAVELLING ALLOWANCES

5. The following rates are payable in respect of travel costs incurred by a Councillor or co-opted member. The rates are only payable in respect of travel undertaken wholly in order to fulfil an Approved Duty as set out within the Appendix to this document.
6. No claims will be reimbursed for the costs of hiring a vehicle although the travel rates indicated below will still be payable.
7. All travel claims must be submitted on the appropriate form and in the appropriate manner as laid down by the Council from time to time. All receipts and car park tickets must be produced.
8. **Public transport** – The rate reimbursed shall be the actual costs incurred except where more than one class of fare is available, in which case the cheapest class will be payable. Use of any form of public transport other than bus/coach or train must be approved in advance by the Strategic Manager (Resources).
9. **Motor Vehicle** – The rates of allowance shall be:

Up to 10,000 business miles	45p per mile
Over 10,000 business miles	25p per mile
Passenger Supplement	+ 5p per mile <i>per passenger to whom a travel allowance would be provided (max 4)</i>

10. **Cycle** – The rates of allowance shall be:

Any cycle	25p per mile
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11. **Motor cycle** – The rates of allowance shall be:

Any motor cycle	24p per mile
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12. **Ancillary** – Any car parking or toll charges shall be reimbursed in full except penalty charge notices issued for parking or driving infringements

SUBSISTENCE ALLOWANCES

13. The Council will reimburse Councillors and co-opted members for any expenses incurred in purchasing food and drink whilst wholly engaged on an Approved Duty outside of the Council area. The amount reimbursed will equate to the amount actually incurred and must be supported by receipts. Payments will not be made unless the correct receipts are provided. Claims should be made on the appropriate forms and in the appropriate manner as laid down by the Council from time to time. The following list represents the maximum amounts that will be payable for each particular meal and the conditions applicable.

Breakfast Allowance – Payable for absence away from the area for more than 4 hours prior to 11.00am	£6.01
Lunch Allowance – Payable for absence away from the area for more than 4 hours including the period between 12.00 and 14.00	£8.27

Tea Allowance – Payable for absence away from the area for more than 4 hours including the period from 15.00 to 18.00	£3.29
Evening Meal Allowance – Payable for absence away from the area for more than 4 hours ending after 19.00	£10.26

CARERS ALLOWANCES

The Carers allowance be subject to more detailed review in future Panel deliberations which might also look at policies on parental leave which some Councils are considering

14. An allowance of up to £10.18 per hour (pro rata for part of an hour) may be claimed in respect of expenses incurred by a Councillor when a carer for a dependant has been engaged to enable a Councillor to carry out an Approved Duty.
15. A carer will be any responsible person who does not normally live with the Councillor as part of the Councillors family. An allowance will be payable if the dependant being cared for:
- Is a child under the age of 14 years,
 - Is an elderly person, or
 - Has a recognised physical or mental disability,

AND who normally lives with the Councillor as part of that Councillors family and should not be left unsupervised.

16. For meetings or duties within the Council's boundaries, the allowance will be paid 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.
17. The actual cost of care will be reimbursed, up to a maximum of £10.18 per hour subject to receipts being provided.

UPDATING AND INDEXATION

18. The above allowances will increase in line with the following indices or principles:

Allowance	Index/Principle	Automatic or Approval Required
Basic	By equivalent of pay award agreed for staff by NJC	Approval
SRA	By equivalent of pay award agreed for staff by NJC	Approval
Travel Allowances	By amendment of the Contribution Free Allowance set by Inland Revenue	Automatic
Subsistence Allowance	Officer rates	Automatic
Carers Allowance	National minimum wage for over 21 years	Automatic

EXCEPTIONS

19. Whereas a result of any disability or through any exceptional circumstances, the application of the above restrictions on allowances causes difficulties for the Councillor, the Council will consider any amendments as appropriate and reasonable to ensure that the needs of the Councillor are met.
20. Where a Councillor does not wish to receive a basic allowance or SRA, they should notify the Chief Executive to ensure that appropriate steps are taken to comply with the Councillors wishes.

CONTACT

21. If there are any queries regarding the application of the above Scheme, please contact:
 - Chief Executive
 - The Head of Legal and Governance and Monitoring Officer

Appendix

List of Approved Duties

- a) The attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
- b) the attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and one or more local authority within the meaning of section 270(1) of the Local Government Act 1972, 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 at least two members of the authority have been invited;
- c) the attendance at a meeting of any association of authorities of which the authority is a member;
- d) the performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;
- e) the performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
- f) the attendance at a meeting of an outside body to which the Councillor has been nominated by the Council to represent the Council,
- g) the attendance at a meeting of a Parish Council within the Ward of the Councillor,
- h) the attendance at the authority's offices for the purpose of a pre-arranged meeting with Council officers regarding functions of the authority affecting inhabitants of the Ward which they represent,
- i) the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or of any of its committees or sub-committees

COUNCIL TAX - RESTRICTIONS ON VOTING

Under the Local Government Finance Act 1992, Section 106 applies at any time to a Member of a Local Authority whose Council Tax or penalties relating thereto have remained unpaid for at least two months. If a Member to whom this section applies is present at a meeting of the Authority at which any calculation required by Part 1 of the 1992 Act; or any recommendation, resolution or decision affecting the making of such a calculation; or the exercise of corresponding provisions with respect to Council Tax etc are the subject of consideration; then the Member shall, as soon as practicable, disclose the fact that Section 106 applies to him/her and shall not vote on any question with respect to this matter.

In effect, this legislation relates to budget making and the setting of the Council Tax. It is therefore likely to apply to the direct or indirect approval of supplementary votes and virements during the year and decisions directly or indirectly affecting the Council's resources. Persons failing to comply with this legislation shall be liable to summary conviction

Arrangements can be made for Member's council tax liability to be paid by direct debit to ensure regular up to date payments. A direct debit mandate can be obtained from The Finance Manager in Riverbank House to enable those Members who have not taken up this facility to do so.

A copy of Section 106 is shown on the following page.

LOCAL GOVERNMENT FINANCE ACT 1992 CHAPTER 14
PART IV MISCELLANEOUS
ENGLISH AND WELSH PROVISIONS

UK Statutes Crown Copyright. Reproduced by permission of the
Controller of Her Majesty's Stationery Office.

Amendment as at: April 1, 2002

s **106** Council tax and community charges: restrictions on voting.

1) This section applies at any time to a member of a local authority, or a member of a committee of a local authority or of a joint committee of two or more local authorities (including in either case a sub-committee), [or a council manager within the meaning section 11(4)(b) of the Local Government Act 2000, if at that time--

- a) a sum falling within paragraph 1(1)(a) of Schedule 4 to this Act; or
- b) a sum falling within paragraph 1(1)(a), (b), (d) or (ee) of Schedule 4 to the 1988 Act (corresponding provisions with respect to community charges),

has become payable by him and has remained unpaid for at least two months.

2) Subject to subsection (5) below, if a member[or a council manager] to whom this section applies is present at a meeting of the authority or committee[or in the case of an authority which are operating executive arrangements the executive of that authority or any committee of that executive] at which any of the following matters is the subject of consideration, namely--

- a) any calculation required by Chapter III, IV or IVA of Part I of this Act;
- b) any recommendation, resolution or other decision which might affect the making of any such calculation; or
- c) the exercise of any functions under Schedules 2 to 4 to this Act or Schedules 2 to 4 to the 1988 Act (corresponding provisions with respect to community charges),

he shall at the meeting and as soon as practicable after its commencement disclose the fact that this section applies to him and shall not vote on any question with respect to the matter.

2A) In the case of an authority which are operating executive arrangements, if or to the extent that any matter listed in paragraphs (a), (b) or (c) of subsection (2) is the responsibility of the executive of that authority, no member of the executive to whom this section applies shall take any action or discharge any function with respect to that matter.

- 3) If a person fails to comply with subsection (2) above, he shall for each offence be liable on summary conviction to a fine not exceeding level 3 on the standard scale, unless he proves that he did not know--
 - a) that this section applied to him at the time of the meeting; or
 - b) that the matter in question was the subject of consideration at the meeting.
- 4) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Director of Public Prosecutions.
- 5) Subsections (1) to (3) of Section 97 of the Local Government Act 1972 (removal or exclusion of liability etc.) shall apply in relation to this section and any disability imposed by it as they apply in relation to section 94 of that Act and any disability imposed by that section.
- 6) In this section "local authority" has the same meaning as in sections 94 and 97 of the Local Government Act 1972.

Chief Executive

Head of Legal and Governance & Monitoring Officer

Finance Manager (s151)

- Finance
- Payroll
- Audit
- Performance/Risk

Head of Communities and Place

Legal Services Manager

- Legal
- Land Charges
- Elections
- Democratic Services
- FOI

Public Health & Housing Manager

- Environmental Health
- Food Safety
- Licensing
- Health & Safety
- Housing Renewal/Options
- Emergency Planning
- CCTV

HR & Comms Manager

- HR
- Comms
- Customer Services

Strategy, Performance & ICT Manager

- Strategy
- ICT

Planning Manager

- Building Control
- Planning
- Planning Policy

Operational Services Manager

- Waste & Recycling
- Street Cleansing
- Harbour
- Grounds Maintenance

Estates Manager

- Estates Management
- Parking
- Northam Burrows
- Climate Change
- Health & Safety

Major Projects Manager

- Major Projects
- Contracts & Procurement

Economic Development, Leisure & Tourism

Housing Options

Revenue & Benefits Manager

- NNDR
- Council Tax
- Benefits

PART 7 - Chapter 1

Petition Scheme

1. Petitions

The Council welcomes petitions and recognises that they are a way in which people can let the Council know their concerns. All petitions must be submitted in accordance with this guidance and can be in electronic form or paper form and sent to:

The Head of Legal and Governance and Monitoring Officer
TorrIDGE District Council,
Riverbank House,
Bideford,
Devon.
EX39 2QG

or: Dem.Services@torridge.gov.uk

Petitions can also be presented to a meeting of Full Council. These meetings take place on a six weekly basis, dates and times can be found here <http://www.torridge.gov.uk/CHttpHandler.ashx?id=5333&p=0>.

If you would like to present your petition to the Council or would like your councillor or someone else to present it on your behalf, please contact Democratic Services on 01237 428703 at least 10 working days before the meeting and they will talk you through the process.

2. Content

2.1 Petitions submitted to the Council must:-

- include a clear and concise statement covering the subject of the petition stating what action the petitioners wish the Council to take;
- should be accompanied by the name, address, and contact details of the petition organiser; and
- contain a minimum of 50 signatures and;
- be signed by residents of TorrIDGE

3. Petition Organiser

The Petition Organiser is the person the Council will contact to explain how it will respond to the petition. The contact details of the Petition Organiser will not be placed on the website. If the petition does not identify a Petition Organiser, the Council will contact signatories to the petition to agree who should act as the Petition Organiser.

4. Restrictions

4.1 A petition may be rejected if the Council consider that the petition:-

- contains intemperate, inflammatory, abusive or provocative language;
- is defamatory, frivolous, vexatious, discriminatory or otherwise offensive, or contains false statements;

- is too similar to another petition submitted within the last six months;
- discloses confidential or exempt information, including information protected by a Court Order or Government Department;
- discloses material which is otherwise commercially sensitive;
- contains names of individual citizens as the target of the petition, or provides information where they may be easily identified, e.g. officers or public bodies;
- contains advertising statements;
- refers to an issue which is currently the subject of a formal Council complaint, Local Government Ombudsman complaint or any legal proceedings;
- relates to the Council's Planning or Licensing functions as there are separate statutory processes in place for dealing with these matters;
- does not relate to an issue upon which the Council has powers or duties or on which it has shared delivery responsibilities; or
- has already been the subject of debate by Full Council within the last six months.

4.2 During politically sensitive periods, such as prior to an election or referendum, politically controversial material may need to be restricted.

4.3 If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, the Council will write to you to explain the reasons.

4.4 If a petition is submitted with less than 2000 signatures, therefore not triggering a Full Council debate, the Petition organiser will receive a written response from the Council explaining the Council's current policy on the matter.

5. On Receipt of a Petition

5.1 An acknowledgement will be sent to the Petition Organiser within ten working days of receiving the petition. It will let them know what the Council plans to do with the petition and when they can expect to hear from the Council again.

5.2 To ensure that people know what the Council is doing in response to the petitions received, the details of all the petitions submitted will be published on the website, except in cases where this would be inappropriate. Whenever possible the Council will also publish all correspondence relating to the petition (all personal details, except the name, will be removed).

5.3 If the Council can do what your petition asks for, the acknowledgement may confirm that the Council has taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate (over 2000 signatures), then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, the Council will tell you the steps it plans to take. If more than one petition is received on the same subject matter within a 7-day period, if appropriate, they will be amalgamated which may trigger a Council debate as above.

5.4 If the petition relates to action currently being progressed by the Council and the petition triggers with a debate at Full Council, then the action will be suspended pending the debate, save in relation to statutory, contractual or other legal situations, where suspension would prejudice the Council's position.

6. Council's Response to Petitions

6.1 The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:-

- taking the action requested in the petition;
- considering the petition at a Council meeting. The Council Committee will be dependent upon the subject matter of the Petition;
- holding an inquiry into the matter;
- undertaking research into the matter;
- holding a public meeting;
- holding a consultation;
- holding a meeting with petitioners;
- referring the petition for consideration by the Council's Overview and Scrutiny Committee;
- calling a referendum;
- writing to the petition organiser setting out the Council's views about the request in the petition

6.2 If your petition is about something over which the Council has no direct control (for example the local road network or hospital) it will consider what the best method is for responding to it is. The Council may make representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If the Council is not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then it will set out the reasons for this to you.

6.3 If your petition is about something that a different Council is responsible for, the Council will consider the best method for responding to it. It might consist of simply forwarding the petition to the other Council but could involve other steps. In any event the Council will always notify you of the action it has taken.

7. Full Council debates

7.1 If a petition contains more than 2000 signatures, it will be debated by the Full Council at a subsequent meeting within 3 months of receiving the petition. This means that the issue raised in the petition will be discussed at a meeting which Councillors and the public can attend. The Petition Organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors in accordance with Council Procedure Rules as contained.

7.2 The Council will decide how to respond to the petition at this meeting. They may decide to commission further investigation into the matter the petition requests, refer the matter to a relevant Committee for further consideration and/or decision, or decide not to take the action requested for reasons put forward in the debate. The Petition Organiser will receive written confirmation of this decision. This confirmation will also be published on the Council's website. Petition Organisers should be aware that a decision in relation to the Petition may not necessarily be made at the Full Council Meeting. It may be that it is referred to another Council Committee which has specific delegated functions to deal with the subject matter contained within the Petition, or it may be that further information or enquiries are needed to be made.

7.3 Petitions that do not trigger a Full Council debate, will be sent to the relevant Council Officer to provide a response, or transferred to the relevant Council Committee if applicable. The exact course of action is dependent upon the subject matter of the Petition. In any event the Council will contact the Petition Organiser to explain how the Petition will be dealt with.

PART 7 - Chapter 2

Voting Scheme

Introduction

Paragraph 12 of Schedule A1 to the Local Government Act 2000 provides that:-

“A local Authority in England may permit a co-opted member of an overview and scrutiny committee of the authority to vote at meetings of the committee”.

The Council is fully committed to achieving an accountable and transparent decision-making process for Torrridge and a key part of this process is ensuring that the Council's Overview & Scrutiny Committees are made up of a mixture of Councillors and co-opted members and that those co-opted members are entitled to vote on matters falling within the remit of the Council's Overview & Scrutiny Committees.

Accordingly, the Council has adopted this Voting Scheme to ensure that co-opted members of the Council's Overview & Scrutiny Committees are permitted to vote at Overview & Scrutiny Committee meetings and to regulate the way in which this is carried out.

Co-Opted Members

For the purposes of the Local Government Act 2000, a “co-opted member” refers to a member of the Council's Overview & Scrutiny Committees who is not an elected member of the Council.

The Composition of the Council's Overview & Scrutiny Committees is set out in Part 3 of this Constitution and sets out the number of Councillors and Co-Opted Members who are entitled to sit on the Committees at any one time.

Operation of the Voting Scheme

The basis on which co-opted members are entitled to vote at Overview & Scrutiny Committee meetings and the rules which govern that right are as follows:-

- a) The right to vote at Committee meetings is extended to all of the co-opted members entitled to sit on the Council's Overview & Scrutiny Committees subject to a maximum number of 3 co-opted members sitting on any one of the Overview & Scrutiny Committees having the right to vote;
- b) In the event that either of the Council's Overview & Scrutiny Committees are made up of more than 3 co-opted members, then the Councillors that form the remainder of the membership of that Committee shall vote to allocate voting rights to any 3 of the co-opted members of that Committee;

- c) A co-opted member who has the right to vote under paragraph a) above, shall have the right to vote on any decision that is within the remit of the Overview & Scrutiny Committee on which they sit and which is before the relevant Overview & Scrutiny Committee at the relevant time;
- d) In the event that the Councillors are required to take a vote allocating the right to vote for 3 of the co-opted members sitting on the Committee in accordance with paragraph b) above, then any co-opted member who has previously acquired a right to vote, shall have no right to vote on that particular issue and once the Councillors have voted to allocate the appropriate voting rights, only those co-opted members who have been allocated voting rights shall continue to have a right to vote.

Adoption, Variation and Revocation of the Voting Scheme

The Council's voting scheme shall be approved annually by Full Council.

Full Council shall retain the right to vary, modify, amend or revoke this Voting Scheme at any time.

Publication and Availability for Inspection

The latest version of the Council's Voting Scheme is available for inspection at the Council's Offices at Riverbank House, Bideford, Devon EX39 2QG during normal office hours or by prior arrangement with the Council's Monitoring Officer.

The Council shall publish this scheme and any subsequent variation, modification, amendment or revocation of it in an appropriate local newspaper in accordance with the requirements of the Local Government Act 2000.