

GOOD GOVERNANCE IN LOCAL GOVERNMENT

Report of the Corporate Leadership Team

Recommendation:

that the draft Governance Statement be approved;

1. The Council is required, annually, to prepare and publish a governance statement in accordance with CIPFA/SOLACE guidance and comply with Regulation 4 of the Accounts and Audit (England) Regulations 2011. The Council is required to publish the statement alongside the Annual Statement of Accounts.
2. This is the seventh year for which the Council has been required to produce a Governance Statement and the attached draft has, as is usual, been produced in line with the previous year's versions, focusing on the six core principles of the CIPFA/SOLACE guidance which form the basis of the accompanying, detailed, schedule. In line with advice from the External Auditor the Annual Governance Statement should be considered and signed-off by this Committee in parallel with the Council's Statement of Accounts.
3. In recommending the adoption of the attached Annual Governance Statement the Corporate Leadership Team and Heads of Service confirm that the organisational, financial, compliance and operational key controls referred to therein and the accompanying schedule continue to be appropriate and that statements of internal control which support the content of this Statement have operated, effectively, during 2013/14.
4. This Report and the accompanying Statement have no specific equality, sustainability, public health or legal implications that are not already covered by or subsumed within the detailed policies or actions referred to therein.

[Electoral Divisions: All]

Local Government Act 1972: List of Background Papers

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<u>Background Paper</u>	<u>Date</u>	<u>File Reference</u>
Nil		

DEVON COUNTY COUNCIL Annual Governance Statement 2013/14

Scope of Responsibility

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

In discharging this overall responsibility, the Council is responsible for putting in place proper arrangements for the governance of its affairs so as to facilitate the effective exercise of its functions and manage risk.

The County Council has approved and adopted a code of corporate governance which is consistent with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government.

A copy of these codes can be obtained from the County Treasurer. This statement explains how the Council has complied with the code and also meets the requirements of the Accounts and Audit Regulations 2011.

Purpose of the Governance Framework

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

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

Satisfactory controls to support statements made in this Annual Governance Statement are essential and in endorsing it the Council's officers confirm that input to systems and processing of transactions is complete for the financial year ended 31 March 2014 and that there were no material or significant delays or backlogs of either input or processes that would result in financial or other records being incomplete.

The Council's financial management arrangements also conform with the CIPFA/Solace guidance on the role of the Chief Financial Officer in Local Government (2010), enabling the County Treasurer to operate in line with the 5 principles set out in the 'Application Note Delivering Good Governance in Local Government: A Framework' to operate effectively and perform her core duties demonstrating commitment to good practice in governance and financial management.

The Governance Framework – The Council's Constitution

The Constitution is fundamental to the working of the County Council, transcending the six core principles of corporate governance in the CIPFA/SOLACE Framework which form the basis of the response set out in the attached schedule.

The Constitution is the Council's Code of Corporate Governance. Framed in accordance with statute and Government guidance and evolved in the light of experience and subsequent legislation, it sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people.

The Constitution is the guarantor of the continuing openness, accountability and integrity of the Council's decision-making processes and sets a series of exacting standards against which the Council's actions can be judged and, if necessary, challenged.

The Constitution is at the heart of the Council's business:

- it allocates power and responsibility within the Council and between it and partner organisations;
- it delegates authority for specific issues to act to the Leader, Committees, Portfolio Holders and officers;
- it enables the people of Devon to ask questions at certain meetings and to have them answered or submit petitions;
- it sets down the procedures by which the people of Devon may give their views on the key decisions which the Council's Cabinet is to take;
- it regulates the behaviour of individuals and groups through codes of conduct, protocols and standing orders.

The Constitution comprises 16 Articles setting out the basic rules governing all aspects of the working of the Council (Part 2) and is then divided up into:

- the elements which define the Council's internal organisation, standing orders, financial regulations, schemes of delegation and terms of reference, procedures covering Cabinet and Scrutiny, Risk Management and Codes of Conduct (Parts 3–9);
- working practices which supplement these formal rules (Part 10);
- documents which focus on the Council's external operation through service delivery, community engagement and partnership working (Part 11).

In formulating its Constitution in 2002, the Council adhered closely throughout to the framework presented in Government's *Modular Constitutions for English Local Authorities*, enabling it to produce a constitution which was logical, integrated and accessible to members, officers, citizens and others interested in the way a local authority makes decisions and governs itself and its area. Then and subsequently, wherever legislation permitted local choice, the Council has framed its Constitution to take advantage of the most open and inclusive of the available options.

The Constitution is designed to meet all the necessary statutory requirements for instruments of governance and to include matters traditionally covered by local authority standing orders, financial regulations, schemes of delegation and terms of reference. It also contains the elements necessary to describe the Council's executive arrangements in a single, coherent document which can be used as a comprehensive point of reference by individuals and organisations inside and outside the Council. All the familiar elements can be found in the Constitution and the Council has sought to use the model format to create a genuinely accessible, meaningful instrument of governance.

The Council is committed to involving the community in setting its priorities, enabling citizens to raise matters with and convey their concerns to the Council and to considering the needs of all groups in the community and promoting democratic understanding and participation. The Council's Constitution provides that framework.

Review of Effectiveness

The County Council's Constitution has been in force since 2002 and is regularly reviewed.

Significant amendments were made in 2012/13 reflecting the requirements of the Localism Act and revised arrangements for Standards required by Government and in preparation for assumption of new public health duties. Alterations to the constitution were made in relation to the Members' Code of conduct, declaration of interests and arrangements for Standards Committees consequent upon implementation of the provisions of the Localism Act 2011.

The Constitution is published on the County Council's website at <http://www.devon.gov.uk/constitution.htm> and is also available for Inspection at the Council's offices.

The County Council has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including systems of internal control. This review of effectiveness is informed by the work of managers within the authority who have a responsibility for the development and maintenance of the governance environment, the Head of Internal Audit's annual report, and also by comments made by the external auditors and other review agencies and inspectorates.

Details of processes applied in maintaining and reviewing the effectiveness of the governance framework are summarised below.

The Constitution

The roles and responsibilities of the Council, its Cabinet and non-Cabinet Members are set out more fully in Articles 6 and 7 of the Constitution and in Part 3 (Responsibility for Functions). These have been regularly reviewed and revised since the County Council elections in 2009 and are themselves balanced by the Codes of Personal Conduct set out at Part 6 of the Constitution.

The Council currently comprises 62 (61 at present) councillors, meeting together as the full Council for specific purposes, to decide the Council's overall policies and set the budget each year. Meetings of the Council and its Committees are normally open to the public. The Council appoints the Leader, Scrutiny Committees, the Standards Committee and all other committees. The Council receives the minutes of committees, and has power to vary or refer back decisions which are outside established policy. From time to time it also debates issues of particular relevance or topicality for the County.

The Council had previously anticipated the potential impact of the provisions of the Localism Bill Act 2011 for its governance framework, including the new power of general competence for local authorities, governance arrangements, the abolition of the standards regime, enhanced community empowerment and availability of local referenda, community involvement in provision of services and potential acquisition of assets and reformation of the planning system including more localised neighbourhood plans and has made appropriate revisions as elements of that Act were brought into force.

The Cabinet

The Cabinet is the part of the Council responsible for most day-to-day decisions. It is made up of a Leader and no more than nine other members (Cabinet Members), appointed by the Leader from amongst the membership of the Council. When major decisions are to be discussed or made, these are published in the Cabinet's Forward Plan in so far as they can be foreseen. These major decisions will be taken with council officers present at meetings of the Cabinet which will be open to the public except where personal or confidential information is discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this matter must be referred to the full Council to decide.

The Scrutiny Function

Scrutiny Committees support the work of the Cabinet and the Council as a whole. They look at the effectiveness of the Council's own policies and inquire into matters of local concern. These investigations lead to reports and recommendations which advise the Cabinet and the Council on its policies, budget and service provision. Scrutiny Committees also monitor the Cabinet's decisions. They may "call in" a decision which has been made by the Cabinet but not implemented. This enables them to consider whether the decision is appropriate and they may recommend that the Cabinet reconsiders it. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy. An Annual Scrutiny Report is also prepared for and considered by the County Council.

The Health & Wellbeing Scrutiny Committee also monitors the function and activity of the new Devon Health & Wellbeing Board and the development of commissioning strategies and strategic needs assessments.

Scrutiny Committees aim to operate in a non-partisan way which it is believed has served both the electorate and the Council well in line with the Constitution and the Council's protocol governing relationships between the Cabinet and Scrutiny Committees. Members of the Council may place items on the agenda of any Scrutiny Committee, a right which has always effectively existed in the Constitution since it was first adopted in 2002, reflecting the requirements of the Local Government & Public Involvement in Health Act and its definition of '*any local government matter*'

It is widely acknowledged that, in order to be effective, call-ins must be used only in exceptional circumstances, sparingly and appropriately. In the year in question there were only 3 instances as summarised below and while these may not have resulted in any significant changes to decisions they reinforce the independence and value of scrutiny in applying an 'external' view on decisions. During 2013/14 there were three instances of decisions of the Cabinet or Cabinet Member being 'called-in'. In all cases, and following detailed consideration of the issues the relevant Scrutiny Committee was either satisfied with the original decision or in one case, and notwithstanding the views of the Scrutiny Committee, the Cabinet subsequently decided that no new or additional evidence or specific proposals had been submitted that would warrant the original decision being revoked or amended.

Following the County Council elections in May 2013, the first year of the new Council saw the beginning of what are set to be another challenging four years in local government. The Council, having already saved £100 million over the last four years, has to save a further £110 million by 2017 due to cuts in Government funding. This means that it will inevitably see further major changes to the way in which services are delivered in the future. The elections returned a Conservative majority with a high turnover and 19 new Members. Three out of the four chairmanships of Scrutiny Committees changed after the elections and there was a further change mid-year for the Corporate Services Scrutiny Committee. Notwithstanding that, the central objective remained, of working together across the political spectrum and organisational boundaries in order to achieve the best possible outcomes for the people of Devon.

The Cabinet and Corporate Leadership Team remain appreciative of the work undertaken by the Scrutiny Committees and acknowledge that it has made a major contribution to the work of the Council, especially in areas where detailed objective research and analysis needed to be done. This has been none more so apparent following the April 2013 inadequate judgement from Ofsted after an unannounced inspection on the overall effectiveness of the arrangements in Devon to protect children. Following Ofsted's findings, the People's Scrutiny Safeguarding Children Task Group was set up to examine Devon's arrangements for the protection of children and monitored the County Council's implementation of the Ofsted Action Plan. A considerable number of meetings and site visits have and continue to be held as Committee Members discharge their duty in helping to ensure Devon's children are kept safe.

More detailed information on the work of the County Council's scrutiny committees may be found in the various scrutiny annual reports available at

<http://new.devon.gov.uk/democracy/committee-meetings/scrutiny-committees/scrutiny-annual-reports/>.

Organisational Performance

The continuing impact of the Government's Comprehensive Spending Review, the Council's financial settlement for 2014/15 and beyond, and the general direction of travel indicated by Government for the reform of the public realm services, reaffirms the need a more flexible organisational structure to respond to those challenges and better equip and position the Council to focus on its future strategic commissioning responsibilities.

The Council also agreed:

- (a) the establishment of a joint Heritage Trust with Somerset Council as a-not-for-profit charitable company for the future provision of heritage services;
- (b) the creation of a new Southern Construction Framework with Hampshire County Council and Haringey Council through the convergence of existing regional arrangements;
- (c) the development alongside district councils of a Community Impact Fund to support communities to become more self-reliant;
- (d) the approval of a revised countywide Parking Dispensation Scheme;
- (e) the creation of a Regional Growth Fund for a series of the County Council's priority infrastructure projects supporting economic development in the Exeter and East Devon Growth Point;
- (f) the approval of a 'One Council' Energy Policy and Strategy to reduce demand for energy and generate energy from renewable sources;
- (g) the transfer of the County Council's Facilities Management Services to the existing joint venture partner Devon Norse;
- (h) the Establishment of a shared service for pension administration with Somerset County Council.

In addition the Council has also agreed new or revised strategic plans to try to set out how services were to be delivered including:

- (i) the Education Infrastructure Plan 2013/31, incorporating strategic objectives for educational provision to 2031, which would thus form the basis of future school organisation and local investment plans;
- (j) the Waste and Resource Management Strategy for Devon.

In April 2013 the County Council received an inadequate judgement from Ofsted following an unannounced inspection under section 136 of the Education and Inspections Act 2006 on the overall effectiveness of the arrangements in Devon to protect children.

The Council received a favourable Ofsted report on its Adult and Community Learning Services following inspection in April 2013. The Service received an overall effectiveness score of 2 (Good) resulting from similar individual scores for each of the three areas of inspection namely; 'Outcomes for Learners', 'Quality of Teaching, Learning and Assessment' and 'Effectiveness of Leadership and Management'. The Council was also subject to an LGA Corporate Peer Challenge.

The Standards Committee

The Standards Committee continued to exercise its role in monitoring complaints and standards. The number of complaints received against Councillors remains small. There were no cases locally where a councillor was found to have been in breach of the Council's Code of Conduct.

Efficient, effective and ethical governance protects the public interest and the Council itself. Members and Officers are supported by a wide range of policies and Codes of Practice enunciated in the Council's Constitution and also by a wide range of training opportunities tailored to meet their needs. The Council's Governance Framework is reviewed annually and any issues for the future governance of the Council are highlighted and addressed at that time.

During the course of 2013/14 the Committee considered,

- (a) the first annual feedback report covering both corporate and social care services, relating to compliments, representations and complaints received and handled by the Council in 2012/13;
- (b) the revised Code of Conduct and arrangements for assessing and determining complaints adopted by the Council from 1 July 2012.

The Audit Committee/ Devon Audit Partnership

The Audit Committee remains vigilant in monitoring the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources including the work of the Council's Internal Audit team and the External Auditor and the application of the Council's Risk Management policy.

The Audit Committee will also review separately, and on a regular basis, progress with and implementation of any recommendations made in Audit Reports into specific areas of activity to ensure they have been adhered to and appropriate management action taken.

In the 2012/13 Annual Audit letter of the Council's external auditors, it was confirmed that the accounts had been produced to a good standard with an excellent level of support provided by the Council's finance team. The Audit Report gave a qualified value for money conclusion, due to the findings of the April 2013 Ofsted Inspection on the Council's arrangements for the safeguarding of children which had been judged to be inadequate.

The Committee received the report of the external auditors which considered whether the Council had proper arrangements in place for securing financial resilience. The report in particular outlined historic areas such as the Council's borrowing levels, which were being proactively addressed, as well as the significant challenge facing all local authorities of financial planning and concluded that the Council was well placed to deal with this. The overall conclusion was that the Council had adequate arrangements in place to deliver financial resilience.

The Devon Audit Partnership was established by the Council in conjunction with Plymouth City and Torbay Councils in 2009 to provide shared internal audit services (as a means of improving services through joint working and maximising efficiencies and economies of scale) reporting to the new Devon Audit Partnership. The Devon Audit Partnership currently undertakes audit work for a number of District Councils, Devon and Somerset Fire and Rescue Service, Devon and Cornwall Police, the University of Plymouth and many other public authorities and planned to continue expanding on their work with external partners. The Partnership and democratic arrangements are working well and will continue to be reviewed.

The Investment and Pension Fund Committee

Accounting arrangements require separate accounts to be prepared for the County Council and the Devon Pension Fund. Recognising the need for clear governance arrangements for managing these Accounts the Council's Investment & Pension Fund Committee undertakes the role of reviewing and approving the Pension Fund Annual Report, which incorporates the Statement of Accounts. The Devon County Council Audit Committee undertakes the role to review and approve the accounts of the Devon Pension Fund to ensure appropriate accounting policies were introduced in the same way as it is responsible for monitoring and approving the Council's main accounts.

Engagement and Participation

The County Council has always prided itself on the work it does, over and above statutory consultations, to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the Council. Examples of this are the Council's Communications Strategy, the Devon Voice (Residents Panel), Parent Carers Voice, and the Tough Choices events held by the Leader of the Council across the County as part of a wider exercise by the County Council to consult and involve local people in determining the Council's priorities.

Significant Governance Issues

One of the biggest issues in 2013/14 was perhaps the setting of the budget for 2014/15 and in making sure that appropriate steps were taken and measures put in place to ensure that services delivered or commissioned by the County Council remained accountable and properly managed. The Council had regard to appropriate assessments of the impact of the budget on services and were mindful of any legislative and equality considerations which would be made available as part of their deliberations. To illustrate that approach Council commenced a number of consultations which would be completed early in 2014 in relation to:

- (a) the Accommodation Strategy for Adults with social care needs;
- (b) the Community Life Choices Strategy, which incorporates community enabling, community capacity building and County Council day centres;
- (c) Children's Homes.

A particular situation arose in relation to Dartington Church of England Primary School, where following construction completion of the new school site, in only 2010, significant water ingress had led to the need to provide temporary accommodation for pupils for up to 24 months while a programme of remedial works is implemented. Appropriate action is being taken to protect the Council's position and recover costs.

The continuing impact of the unprecedented turmoil in the financial markets over the previous years justifies the continuing focus on treasury management practices. The County Council's treasury management practices are soundly based on the principle that when balancing risk and return the security and liquidity of an investment is given a higher priority than the yield.

Throughout the year, the Council has been active in managing investment and interest risk. Levels of liquidity and active treasury management have meant that no short term borrowing was required. Similarly, no long term borrowing was undertaken during this financial year with any borrowing required to finance capital expenditure being met from internal cash balances.

The Council also regularly reviews and updates its Investment Strategy and its Treasury Management Policy and Practices to ensure that they reflect best practice guidance as issued by the Chartered Institute of Public Finance and Accountancy (CIPFA). In line with that guidance, the policies were first scrutinised - as indicated above - by the Council's Policy & Resources Scrutiny prior to consideration by the Council's Cabinet.

The Treasury Management Stewardship Annual Report for 2013/14 had not identified any issues to highlight confirming there had been; no long term or short term borrowing

requirements at that stage; that investment income targets would be achieved and all lending had been carried out in accordance with the Council's Treasury Management Strategy.

At the time this Annual Statement was in preparation – and over and above the impact upon the organisation and services of the Comprehensive Spending Review (CSR) and financial settlements for 2014/15 and beyond – a degree of uncertainty remains over the impact upon the Council's governance framework of the Government's intentions for and direction of travel of public realm services post general election 2015. The CSR published in October 2010 outlined real terms cuts of 28% in local authority expenditure over four years to 2014/15. The Spending Review in June 2013 and the Chancellor's Autumn Statement in December 2013 continue to indicate significant reductions in public expenditure into the medium term.

The Cabinet and the Council's Scrutiny Committees had previously acknowledged that the uncertainties caused by the fundamental changes to the grant regime were far greater than would normally be the case, particularly in relation to the ability of District Councils to determine council tax bases and the proportion of the business rate yield that would accrue to the County Council. Moreover, the impact on District Councils of the transfer to them of the administration of local Council Tax Support schemes had also been acknowledged.

The County Council has formulated and put in place new Standards arrangements adopting a common format with the Devon District Councils.

While a large amount of preparatory work has been undertaken in 2013/14, there remain future significant challenges from the implications of reorganising the NHS including:

- the transfer of local health improvement functions to local councils;
- the role of local councils in leading joint strategic needs assessments;
- the establishment by councils of Health and Wellbeing Boards and enhanced Scrutiny functions;
- transferring responsibility for funding and contracting of the new local Healthwatch (replacing LINK);
- increased joint commissioning and pooled budgets i.e. the Transforming Community services programme;
- the establishment of the Better Care Fund;

Finally, it must also be acknowledged that 2013/14 saw the announcement by the Local Government Boundary Commission that it has included the County Council in its Electoral Review programme for 14/15 because of existing imbalances / variations between electoral divisions.

While that of itself had minimal impact on organisational performance in this year it required a great deal of preparatory work to be undertaken – which will also be the case in 2014/15 – in preparing the Council's submission on the future size of the Council which, inevitably, could ultimately have a direct impact on how it operates even if, as is likely, the Council argues for an option that will complement the existing, evolutionary, approach to future organisational development and performance.

The Council formally places on record and expresses its appreciation to its entire staff for their continuing commitment to the delivery of high quality services for the people of Devon throughout this period.

Certification

We have been advised on the result of the review of the effectiveness of the governance framework undertaken by the Cabinet, the Standards Committee, the Audit Committee, the Investment & Pension Fund Committee and by Scrutiny Committees and the plans, as summarised above, to address weaknesses and ensure continuous improvement of systems is in place.

We will over the coming year continue to address the above matters to further enhance our governance arrangements. We are satisfied that these steps will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operation as part of our next annual review.

Signed.....

Chairman of the Audit Committee, on behalf of Devon County Council

Signed.....

Chief Executive, on behalf of Devon County Council

27 June 2014