

GOOD GOVERNANCE IN LOCAL GOVERNMENT

Report of the Corporate Leadership Team

Recommendation:

that the draft Governance Statement be approved;

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1. The Council is required, annually, to prepare and publish a governance statement in accordance with CIPFA/SOLACE guidance and comply with Regulation 4(2) of the Accounts and Audit (Amendment) (England) Regulations 2006. The Council is required to publish the statement alongside the Annual Statement of Accounts.
2. This is the sixth 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. 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 2012/13.
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> |
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Nil

# **DEVON COUNTY COUNCIL Annual Governance Statement 2012/13**

## **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.

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 2013 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 to act to the Leader, Committees 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, together with the most recent Annual Review (also at <http://new.devon.gov.uk/annualreview/your-achievements>) and the Statement of Accounts for 2011/12 (also at <http://www.devon.gov.uk/statement-of-accounts1112.pdf>)

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 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.

From 1 April 2013 the Devon Health and Wellbeing Board will replace the Shadow Board. The County Council has agreed that the Board will have the same membership as before (with HealthWatch Devon replacing the Local Involvement Network). The Devon Health and Wellbeing Board will bring together locally elected representatives with those responsible for health services and social care, including members of the new Clinical Commissioning Groups, in order to support joint working and coordinate commissioning of services, social care and health improvement.

### **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 Council's Scrutiny Committees continue to be Chaired by members of the opposition groups with Vice-Chairmen drawn from the party of the administration. These Committees 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*'.

Having previously acknowledged the need to review the roles and remits of the then Overview and Scrutiny Committees, the composition and terms of reference of the Council's Scrutiny Committee within the life of this Council was amended to create 4 separate Scrutiny Committees responsible for discrete service areas of the Council and has also got a new role in the last year in scrutinising the Police and Crime Panel. The County Council will commence its proposed scrutiny activity in the field of community safety with the Panel to avoid duplication and complement the Panel's work, (with District and County Council representation) including review of progress and outcomes arising from the Police and Crime Commissioner's draft Plan.

The Corporate Resources Scrutiny Committee was empowered, in line with the revised CIPFA Code of Practice, to examine and comment upon the Council's Treasury Management Strategy prior to it being adopted by the Council as part of its annual budget considerations. Progress reports are presented at half yearly intervals.

The Health and Wellbeing Scrutiny Committee has had an important role looking at the work of the Shadow Devon Health and Wellbeing Board before it comes into effect proper on 1 April 2013.

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 were needed to be done.

## **Organisational Performance**

The continuing impact of the Government's Comprehensive Spending Review, the Council's financial settlement for 2013/14 and beyond, the general direction of travel indicated by Government for the reform of the public realm services, the need for 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 have been implemented and are working well.

The Council also agreed:

- (a) to a County Deal approach for Devon, which aggregates a number of service areas and opportunities to create new and innovative funding mechanisms, including Tax Incremental Funding and discounts on business rates to unlock growth and improve the quality of life for residents;
- (b) to adopt Peninsula Community Safety Priorities;
- (c) to award the contract, jointly with NHS Devon, for the provision of Integrated Children's Services to Virgin Care Ltd;
- (d) to support the required investment plan for the proposed Exeter Flood Alleviation Scheme with an addition to the Capital Programme of £3,000,000, together with revenue contributions in 2012/13 and/or 2013/14 through the existing Flood Risk Management budget to facilitate early progression of the scheme preparation;
- (e) to the Resource and Waste Management Strategy for Devon Review with other Devon Councils (including Plymouth and Torbay);
- (f) to work with district councils on Council Tax Support and Local Welfare Support to include approval to funding from the Department of Work and Pensions Discretionary Social Fund being passed to District Councils through a Partnership Agreement to administer a Local Welfare Support Service.

## **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 2012/13, the way in which complaints that a councillor may have breached the Code of Conduct were to be dealt with changed again in line with the provisions of the Localism Act 2011. The Localism Act 2011 required the introduction (from July 2012) of new Standards arrangements which ultimately required all Councils:

- (a) to have a Code of Conduct established in line with the Nolan Principles;
- (b) to require members to register and disclose pecuniary and non pecuniary interests;

- (c) to put in place a system to deal with allegations that members had breached the Code; and
- (d) to appoint one or more Independent Persons through a transparent process who must be consulted by Councils before reaching a decision regarding any allegation.

The County Council put in place appropriate mechanisms and processes which can be seen on its website at:

[http://www.devon.gov.uk/index/councildemocracy/county\\_councillors/councillorcomplaints.htm](http://www.devon.gov.uk/index/councildemocracy/county_councillors/councillorcomplaints.htm)

On the advice of the Standards Committee the County Council was instrumental in developing a Devonwide Code of Conduct which was also adopted by a majority of District Councils in Devon and by a number of statutory public bodies such as the Somerset & Devon Fire Authority and National Park Authorities.

At the same time the Council agreed to appoint a separate Standards Committee with the same wider role of securing and maintaining high standards of conduct among members and officers throughout the organisation and adopted appropriate procedures for seeking and recording Members' Interests and granting dispensations where appropriate. The County Council also appointed 2 persons to act as the newly created 'Independent Person' who must be consulted on all complaints in line the Localism Act and the above arrangements.

The Standards Committee Annual Report for 2012/13 may be viewed at: <http://www.devon.gov.uk/annual-report-201214.pdf>

### **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 Audit Commission's appointed auditors 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.

A review was undertaken this year by the County Treasurer on the effectiveness of Internal Audit especially in relation to its structure, the resources available to the Internal Audit function, the performance of Internal Audit and the need to keep pace with the changes happening at the County Council and remain effective during a period of planned budget reductions. The County Treasurer found that the Internal Audit procedures were effective and the service is continuing to operate effectively and is compliant with the main areas of best practice. However, there is a need to be vigilant to ensure that the Internal Audit service keeps pace with the changes happening at the County Council and that it continues to remain effective in the face of planned budget reductions.

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 Devon Audit Partnership. The Partnership and democratic arrangements are working well but will continue to be monitored.

## **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 continues to undertake that role to review, and approve, the accounts of the Devon Pension Fund to ensure appropriate accounting policies were introduced in the same way as the Audit Committee was 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, Devon Voice (Residents Panel), Parent Carers Voice, and the "Your Community Your Choice" roadshows 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**

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 all capital expenditure having been funded by revenue balances.

The Council also regularly reviews and updates its Investment Strategy and its Treasury Management Policy and Practices to ensure that they reflected 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 Corporate Services Scrutiny Committee prior to consideration by the Council's Cabinet.

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 2013/14 and beyond – a great deal of uncertainty remains over the impact upon the Council's local authority's governance framework of the Government's intentions for and direction of travel of public realm services. The CSR published in October 2010 had outlined real terms cuts of 28% in local authority expenditure over four years and the Secretary of State's earlier announcements on the settlement had been for the third year of that CSR period. However, the Chancellor's Autumn Statement published in December 2012 had also confirmed that further budget reductions were anticipated for at least three years beyond the current CSR period, up to and including 2017/18; further reducing Government funding for 2014/15 by 3%.

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 2012/13, there remain 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);
- the abolishment of the Strategic Health Authority and development of replacement agencies;
- increased joint commissioning and pooled budgets.

The Council formally places on record and express 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

28 June 2013