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## CONSTITUTION

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The Council's Framework of Corporate Guidance also includes other Devon County Council Strategies, Plans etc, which are listed in this part.

## PART 1 SUMMARY AND EXPLANATION

The Constitution is the Council's Code of Corporate Governance which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are prescribed by the law, others are matters for the Council's discretion or have evolved in light of experience.

The Constitution opens with 16 articles which set out the basic rules governing all aspects of the working of the Council (Part 2).

It is then divided up into:

(a) all 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);

(b) working practices which supplementing these formal rules (Part 10);

(c) documents which focus on the Council's external operation through service delivery, community engagement and partnership working (Part 11).

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**Article 1** commits the Council to govern the County in accordance with the law and this Constitution. The Council aims to:

- take any lawful action to represent, promote and champion the interests of Devon and to work to improve the social, economic and environmental wellbeing of its people;
- play a key role in delivering local services and by working in partnership to identify needs and to find solutions to local issues;
- recognise and value all individuals and progress policies which value their diversity, promote equal opportunities and improve their care and welfare.

**Articles 2–16** explain the rights of the people of Devon and how the key parts of the Council operate, as follows:

<b>2</b>	Members of the Council
<b>3</b>	The People of Devon and the Council
<b>4</b>	The Council
<b>5</b>	Chairing the Council
<b>6</b>	The Cabinet
<b>7</b>	Scrutiny Committees
<b>8</b>	Regulatory and other Committees
<b>9</b>	The Standards Committee

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10	Area Committees and Forums
11	Joint Arrangements
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13	Decision Making
14	Finance, Contracts and Legal Matters
15	Review and Revision of the Constitution
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## How the Council Operates

The Council is currently composed of 60 Councillors. Councillors are democratically accountable to the residents of their electoral divisions. The overriding duty of councillors is to the whole community but they have a special duty to their constituents, including those who did not vote for them. Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Council's Standards Committee trains and advises them on the code of conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council, Scrutiny Committees, the Standards Committee and all other committees. It 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.

## How Decisions are Made

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 of the Council. When major decisions are to be discussed or made, these are published in the Council'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 Council or 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.

## Scrutiny

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 can "call in" a decision which has been made by the Cabinet but not yet implemented. This

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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.

## **Area (Locality) Committees**

To enable local people to have a greater influence over Council affairs, a number of Local Strategic Partnerships have been created to work with other local authorities and organisations in their respective areas. These are based on District Council areas and are responsible for overseeing the development of community planning in those areas.

## **The Council's Staff**

The Council has employees (called "officers") to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council.

## **Rights of Members of the Public**

Members of the public have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, others depend on or derive from the Council's own processes. Local Citizens' Advice Bureaux can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as a parent of a school pupil or as a client of Social Care Services, they have additional rights not covered in this Constitution.

Members of the public have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of this Constitution;
- attend meetings of the Cabinet and of the Council and its committees except where personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Cabinet;
- ask questions at meetings of the Council and the Cabinet and make representations to the Council, Development Management Committee, Highways and Traffic Orders Committees, the Public Rights of Way

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Committee and Scrutiny Committees in accordance with the scheme set out at Part 4 of this Constitution, and submit written representations;

- submit petitions in accordance with the Council's Petition Scheme set out at Part 4 of this Constitution;
- record or film all or part of the proceedings of any meeting of the Council, Cabinet or a Committee as set out in Article 3 of this Constitution and/or report on proceedings at any such meeting using Facebook , Twitter or any other forms of social media;
- contribute in writing or orally by invitation to investigations carried out by Scrutiny Committees;
- find out from the Forward Plan what major decisions are to be discussed or decided by the Council or Cabinet and when;
- see reports and background papers and any record of decisions made by the Council and Cabinet as described in the Access to Information Procedure Rules in Part 4 of this Constitution;
- complain to the Council about problems with the services they receive (at <https://new.devon.gov.uk/haveyoursay/feedback-and-complaints/>);
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Monitoring Officer or Standards Committee if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct (at <https://new.devon.gov.uk/democracy/councillors-nav/making-a-complaint-about-a-devon-county-councillor/>); and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by members of the public in its work. For further information on any of the rights listed above please contact the:

Democratic Services & Scrutiny Secretariat, County Hall, Topsham Road,  
Exeter EX2 4QD

Telephone: (01392) 382888

Email: [centre@devon.gov.uk](mailto:centre@devon.gov.uk)

## **PART 2 ARTICLES OF THE CONSTITUTION**

### **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**

The Constitution of Devon County Council comprises these Articles and all the appendices incorporated in Parts 3–9.

#### **1.3 Purpose of the Constitution**

- to set out how the Council will exercise its powers and duties and provide leadership to the community in co-operation with the public, businesses and other organisations;
- to set out how decisions will be taken;
- to ensure that the people responsible for decision making are clearly identifiable and that they explain the reasons for their decisions;
- to establish a means of holding decision makers to public account;
- to ensure that no one will review or scrutinise a decision in which they were directly involved;
- to support the involvement of members of the public in the Council's decision-making processes;
- to help councillors represent their constituents.

#### **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 in accordance with Article 15.

### **Article 2 Members of The Council**

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## 2.1 Composition and eligibility

### (a) Composition

The Council is currently composed of 60 members, otherwise called Councillors. One Councillor will be elected by the voters of the 56 single-member electoral divisions and 2 Councillors by the voters of the 2 two-member electoral divisions, in accordance with a scheme drawn up by the Electoral Commission. The Chief Executive maintains a Register of the names and addresses of all members, of the Committees on which they serve and of the outside bodies to which they have been appointed to represent the Council.

### (b) Eligibility

Only registered voters of the County of Devon or those living, occupying property or working here are eligible to hold the office of councillor in accordance with the qualifications set out in Section 79 of the Local Government Act 1972.

## 2.2 Election and terms of office of councillors

Unless HM Government prescribes otherwise, the regular election of councillors is held on the first Thursday in May, every four years. The terms of office of councillors start on the fourth day after being elected and finish on the fourth day after the date of the next regular election.

## 2.3 Roles and functions of all councillors

### (a) Main roles:

All councillors:

- (i) participate in the governance and management of the Council;
- (ii) are, collectively, the ultimate makers of policy and carry out a number of strategic and corporate management functions;
- (iii) contribute to the good governance of the area and encourage community participation and public involvement in decision-making;
- (iv) maintain the highest standards of conduct and ethics;
- (v) represent the interests of their electoral divisions and of individual constituents;

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- (vi) respond to constituents' enquiries and representations fairly and impartially; and
- (vii) represent the Council on other bodies.

**(b) Rights and duties:**

- (i) Councillors have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions in accordance with the law.
- (ii) Councillors must not make public information which is confidential or exempt without the consent of the Council or divulge information given to them in confidence to anyone other than another councillor or officer entitled to receive it.
- (iii) For these purposes, "confidential" and "exempt" information is defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

## **2.4 Conduct**

Councillors are expected at all times to observe the Members' Code of Conduct set out in Part 6 of this Constitution and to abide by the Protocol on Member/Officer Relations which is also set out in Part 6.

## **2.5 Allowances**

Councillors are entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 7 of this Constitution.

## **Article 3 The People of Devon and The Council**

### **3.1 People's rights**

Those who live and work in Devon have the rights summarised in (a) to (d) below. Their rights to information about and to participate in decision-making are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution:

**(a) Voting and petitions**

Residents on the electoral roll for the area have the right to vote and to sign a petition to request a referendum for an elected mayor form of constitution.

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## (b) Information

The people of Devon have the right to:

- (i) attend meetings of the Council, its committees and the Cabinet except where confidential or exempt information is disclosed and that part of the meeting is therefore held in private;
- (ii) find out from the Forward Plan what key decisions will be taken by the Council and Cabinet and when;
- (iii) see reports and background papers and any records of decisions made by the Council and the Cabinet; and
- (iv) inspect the Council's accounts and make their views known to the external auditor.

## (c) Participation

The people of Devon have the right to ask questions at meetings of the County Council or the Cabinet and to also make representations at meetings of the County Council on any matter relating to the functions of the Council. There is no other general right to speak at meetings although members of the public:

- (i) have the right, where they may be concerned about specific planning applications, to make oral representations at meetings of the Development Management Committee and likewise in respect of Traffic Regulation proposals at Highways and Traffic Orders Committees and proposals for public path orders at the Public Rights of Way Committee, as set out in Part 4 of this Constitution;
- (ii) at any of these meetings may, in addition, make written representations relating to an item on the agenda for that meeting, submit petitions relating to the County Council's functions (raising their concerns, asking for the matter to be discussed by the Council or for a senior officer to attend a meeting) in accordance with the Council's Petition Scheme, as also set out in Part 4 of this Constitution;
- (iii) may also contribute in writing or orally by invitation to specific investigations carried out by Scrutiny Committees or make representations at a Scrutiny Committee on any substantive matter to be considered at that meeting.

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## **(d) Webcasting. Recording or Reporting of Meetings and Proceedings**

Proceedings of the Council, the Cabinet and Committees may be recorded for broadcast live on the internet via the 'Democracy Centre' on the County Council's website. Such meetings will broadcast in full excluding any confidential items which may need to be considered in the absence of the press and public. For more information go to: <http://www.devoncc.public-i.tv/core/>

The people of Devon also have the right to record or film all or part of the proceedings of any meeting of the Council, its Cabinet or any Committee unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chair of the meeting.

Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chair so that all those present may be made aware that is happening and have the opportunity to be excluded.

The public also have the right to use Facebook, Twitter or any other forms of social media to report on proceedings at a meeting. An open, publicly available Wi-Fi network is normally available for meetings held in the Committee Suite at County Hall. For information on Wi-Fi availability at other locations please contact the Democratic Services & Scrutiny Secretariat.

## **(e) Complaints**

The people of Devon have the right to complain to:

- (i) the councillor who represents the division in which they live or work;
- (ii) the Council under its complaints scheme;
- (iii) the Ombudsman (after having exhausted the Council's own complaints scheme);
- (iv) the Council's Monitoring Officer about an alleged breach of the Council's Code of Conduct for Members.

Details of how to make a complaint in any of the above situations may be found on the Council's website at:

<https://new.devon.gov.uk/haveyoursay/feedback-and-complaints/>

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[https://new.devon.gov.uk/democracy/councillors-nav/making-a-complaint\\_about-a-devon-county-councillor/](https://new.devon.gov.uk/democracy/councillors-nav/making-a-complaint_about-a-devon-county-councillor/)

## **3.2 Responsibilities of members of the public**

All councillors and officers are entitled to be treated with courtesy. Members of the public must not be violent, abusive or threatening to councillors or officers and must not wilfully damage Council property.

## **Article 4 The Full Council**

### **4.1 Meanings**

#### **(a) Policy Framework**

The policy framework means the following plans and strategies (or successor documents):

- The Council's Strategic / Corporate Plan;
- Performance Plan and Summary
- Minerals and Waste Development Plan documents;
- Local Transport Plan;
- Municipal Waste Management Strategy;
- Pay Policy Statement
- Youth Justice Plan
- Corporate Parenting Policy / Plan
- Children and Young People's Plan
- Member Development Strategy
- Members Allowances
- Constitution (except those minor updates which MO has delegated power to authorise as outlined in Article 15)
- Any other Plan, Strategy or matter (whether statutory or non-statutory) in respect of which the Council from time to time determines that the decision on its adoption or approvals should be taken by full Council rather than the Cabinet.

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## **(b) Budget Framework**

The budget is an annual process by which financial resources are allocated to different services and projects, contingency funds are earmarked, the council tax precepts required from each District Council are approved, together with the consequent level of council tax for each of the property valuation bands, and decisions are made relating to the control of the Council's borrowing requirements, the control of its capital expenditure, virement limits, treasury management strategy and capital strategy.

## **(c) Rules**

The Policy and Budget Framework Rules in Part 4 of this Constitution set out in more detail how policies are approved and the budget is adopted.

## **4.2 Functions of the full Council**

Only the Council exercises the following functions:

- (a) adopting and changing the Constitution;
- (b) adopting or amending the policy framework;
- (c) adopting or amending the budget;
- (d) determining and keeping under review how much money it can afford to borrow;
- (e) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter where the Cabinet, and Cabinet Member or another Committee proposes to act in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (f) appointing the Leader of the Council;
- (g) agreeing and/or amending the terms of reference for committees, including any joint committee to be appointed under s20 of the Local Government Act, deciding on their composition and making appointments to them;
- (h) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;

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- (i) adopting an allowances scheme under Article 2.6;
- (j) changing the name of the area and conferring and removing the title of Honorary Alderman;
- (k) confirming the appointment of the Head of the Paid Service;
- (l) Appointment of Chief Officers and Heads of Service
- (m) Dismissal of Head of Paid Service, Chief Finance Office, Monitoring Officer, Chief Officers and Heads of Service.
- (n) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (o) all other matters which, by law, must be reserved to Council;
- (p) deciding whether or not to accept any proposed delegation of functions from another local authority.

## **4.3 Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings;

and they are conducted in accordance with the Standing Orders (Council Procedures) set out in Part 4 of this Constitution.

## **4.4 Responsibility for functions**

The Council will keep up to date Part 3 of this Constitution setting out how responsibilities for the Council's functions are delegated and exercised.

## **Article 5 Chairing The Council**

### **5.1 Role and function of the Chair of the Council**

The Chair of Council and, in his/her absence, the Vice-Chair has the roles and functions described below.

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The Chair is elected annually by the Council and has the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) to call extraordinary meetings of the Council in accordance with Schedule 12 of the Local Government Act 1972;
- (d) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- (e) to promote public involvement in the Council's activities;
- (f) to be the conscience of the Council; and
- (g) to attend such civic and ceremonial functions as the Council or they consider appropriate.

## **Article 6 The Cabinet**

### **6.1 Role**

The Cabinet will carry out all the Council's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution as set out in Part 3 hereunder.

### **6.2 Form and composition**

The Cabinet will consist of the Leader together with a minimum of 2 and a maximum of 9 councillors whom they appoint.

### **6.3 Leader**

The Leader will be a councillor elected by the Council at the first annual meeting following the date of ordinary elections. The Leader will hold continue to hold office until the date of the next quadrennial elections, unless they:

- (a) resigns from the office or from the Council; or

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- (b) is disqualified from office under Section 82 of the Local Government Act 1972;
- (c) are suspended from being a councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (d) is removed from office by resolution of the Council.

## **6.4 Deputy Leader**

The Council may also appoint a Deputy Leader annually to that position from among the other Cabinet members, to hold office on the same basis as the leader in 6.3(a)-(c) above.

## **6.5 Cabinet Members**

Cabinet members shall be appointed annually by the Leader of the Council with Remits assigned by them and shall hold office on the same basis as the Leader in 6.3(a)-(c) above.

## **6.6 Cabinet Support Members**

The Leader of the Council may appoint other members to support Cabinet Members in carrying out their Cabinet Remits and assign to them particular elements of those Remits in which to engage. Such members may attend and speak but not vote at meetings of the Cabinet.

## **6.7 Member Champions**

The Council may appoint Member Champions annually from among non-Cabinet Members of the Council and assign to them Remits and responsibilities in which to engage.

## **6.8 Proceedings of the Cabinet**

Proceedings of the Cabinet take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

## **6.9 Responsibility for functions**

The Leader will maintain the scheme of delegation and lists in Part 3 of this Constitution setting out which individual members of the Cabinet and Council, officers or joint arrangements are for the time being responsible for the exercise of particular Cabinet functions.

## Article 7 Scrutiny Committees

### 7.1 Terms of reference

The Council will appoint the Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or any regulations made under section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

Committee	Scope
<p>Corporate, Infrastructure and Regulatory Services Scrutiny Committee</p>	<p>To review the implementation of the Council's existing policy and budget framework and ensure effective scrutiny of the Council's Treasury Management Strategy and policies and consider the scope for new policies for the Council's use and management of its resources and the discharge of its corporate and strategic services and governance arrangements and community safety activity, including emergency planning and the Council's functions in the scrutiny of authorities responsible for crime and disorder strategies.</p> <p>To review the implementation of existing policies and to consider the scope for new policies with regard to all aspects of the discharge of the Council's 'place shaping and universal population services' functions concerning the environment, economic activity and enterprise, integrated planning and transport and community services, including libraries, arts and cultural heritage of the County, an integrated youth service and post 16 education &amp; skills.</p> <p>To assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity and relate overview and scrutiny to the achievement of the Council's strategic priorities and objectives and of delivering best value in all its activities.</p> <p>To make reports and recommendations as appropriate arising from this area of overview and scrutiny.</p>
<p>Children's Scrutiny Committee</p>	<p>To review the implementation of existing policies and to consider the scope for new policies for all aspects of the discharge of the Council's functions concerning the provision of personal services for children including social care, safeguarding and special needs services, schools and learning;</p>

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	<p>To assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity.</p> <p>To relate scrutiny to the achievement of the Council's strategic priorities and objectives and of delivering best value in all its activities.</p> <p>To make reports and recommendations as appropriate arising from this area of overview and scrutiny.</p>
Health & Adult Care Scrutiny Committee	<p>To review the implementation of existing policies and to consider the scope for new policies for all aspects of the discharge of the Council's functions concerning the provision of personal services for adults including social care, safeguarding and special needs services and relating to the health and wellbeing of the people of Devon, including the activities of the Health &amp; Wellbeing Board, and the development of commissioning strategies, strategic needs assessments and, generally, to discharge its functions in the scrutiny of any matter relating to the planning, provision and operation of the health service in Devon.</p> <p>To assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity.</p> <p>To relate scrutiny to the achievement of the Council's strategic priorities and to its objectives of promoting sustainable development and of delivering best value in all its activities.</p> <p>To make reports and recommendations as appropriate to the County Council and may request to the Secretary of State that a proposal be called in, in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) (Amendment and Saving Provision) Regulations 2024.</p>

## 7.2 General role

Within their terms of reference Scrutiny Committees will:

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- (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 the Cabinet and/or any other committee in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants; and
- (d) exercise the right to call-in for reconsideration decisions made but not yet implemented by the Cabinet and/or other committees.

## 7.3 Specific functions

### (a) Policy development and review

Scrutiny Committees may:

- (i) assist the Council and the Cabinet in the development of the budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research within the community and other consultation in the analysis of policy issues and possible options;
- (iii) question members of the Cabinet, committees and officers about their views on issues and proposals affecting the area.

### (b) Scrutiny

Scrutiny Committees may:

- (i) review and scrutinise the decisions made by and the performance of the Cabinet, individual Cabinet Members, other committees and officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of the Cabinet and/or committees and chief officers or responsible senior officer(s) about their decisions and performance, whether generally in comparison with service plans and targets over a period

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of time or in relation to particular decisions, initiatives or projects;

- (iv) make recommendations to the Council and/or Cabinet and/or appropriate committee arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to discuss their activities and performance; and
- (vi) question and gather evidence from any person who is willing to respond to an invitation from a Committee to contribute.

## **7.4 Proceedings of Scrutiny Committees**

Scrutiny committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **Article 8 Regulatory and other committees**

### **8.1 Regulatory and other committees**

The Council will appoint the committees set out in the list of responsibilities for Council functions in Part 3 of this Constitution to discharge the functions described there.

## **Article 9 The Standards Committee**

### **9.1 Standards Committee**

The Council will establish a Standards Committee.

### **9.2 Composition**

The Standards Committee must be composed of at least three people and may include at least one co-opted member.

## **9.3 Role and Function**

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) assisting through advice and training councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) considering complaints, in consultation with an Independent Person appointed under the provisions of the Localism 2011, which allege breaches of the Code of Conduct by Members of the Council;

## **Article 10 Area Committees**

### **10.1 Area committees**

The Council may appoint area committees as it sees fit if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

The Council will consult relevant district, parish and town councils and the chairs of relevant parish meetings when considering whether and how to establish area committees.

### **10.2 Form, composition and function**

- (a) Area committees: The Council will appoint area committees with the membership and terms of reference set out in Part 3 of this Constitution.
- (b) Delegations: The Council and the Cabinet will include details of the delegations to area committees in Part 3 of this Constitution, including the functions delegated (showing which are the responsibility of the Cabinet and which are not) any budget devolved and any limitations on delegation.

### **10.3 Conflicts of interest — membership of Area Committees and Scrutiny Committees**

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- (a) Conflict of interest: A member of a Scrutiny Committee which is scrutinising specific decisions or proposals of an area committee on which the member also serves may not speak or vote at that Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Committee.
- (b) General policy reviews: A member of a Scrutiny Committee which is reviewing a policy relating either generally or specifically to the remit of an area committee on which that member also serves must declare his/her interest before the relevant agenda item is reached but need not withdraw.

## **10.4 Area committees — access to information**

Area committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas for area committee meetings which include items concerning functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

## **10.5 Cabinet members on area committees**

A member of the Cabinet may serve on an area committee if otherwise eligible to do so as a councillor.

## **Article 11 Joint Arrangements**

### **11.1 Arrangements to promote well being**

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

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

### **11.2 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities to exercise functions which are not Cabinet functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the

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appointment of a joint committee with these other local authorities.

- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the Council as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
  - the joint committee has functions for only part of the area of the authority and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area;
  - the joint committee is between a County Council and a single District Council and relates to functions of the Cabinet of the County Council. In such cases, the Cabinet of the County Council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within that District Council area.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in Parts 3 and 9 of this Constitution.

## **11.3 Access to information**

- (a) The Access to Information Procedure Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the Cabinet in each of the participating authorities then the Council shall respond to requests for access to information as if the joint committee was its own Cabinet.
- (c) If the joint committee contains members who are not on the Cabinet of any participating authority then the Access to Information Rules in Part VA of the Local Government Act 1972 will apply.

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## 11.4 Delegation to and from other local authorities

- (a) The Council may delegate non-cabinet functions to another local authority or, in certain circumstances, the Cabinet of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the Cabinet of another local authority in certain circumstances.
- (c) The decision whether or not to accept a delegation of functions from another local authority shall be reserved to the Council.

## 11.5 Contracting out

The Cabinet 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 powers.

## Article 12 Officers

### 12.1 Management structure

- (a) The Council may employ such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) The oversight of the work of these officers is undertaken by a Leadership Group comprising the Chief Executive, the Directors for Children and Young People's Futures, for Integrated Adult Social Care, for Public Health, Communities and Prosperity and for Climate Change, Environment and Transport and the Director of Legal and Democratic Services (Monitoring Officer), the Director of Finance and Public Value (s151Officer), the Director of Transformation & Business Services and Director of People and Culture. More details of these officers' roles can be found in Part 8 of this Constitution.
- (c) The following posts are designated as follows and have the functions described in Articles 12.2, 12.3 and 12.4: the Chief Executive is the Head of the Paid Service; the Director of Children and Young People's Futures is the Council's statutory Director of Children's Services (s18 Children Act 2004); the

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Director of Integrated Adult Social Care is the Council's statutory Director of Adult Social Services (s6 Local Authority Social Services Act 1970); the post of Director of Communities and Prosperity is the Council's statutory Director of Public Health; the Director of Legal and Democratic Services is the Monitoring Officer and Returning Officer and the Officer responsible for RIPA under the Regulation of Investigatory Powers Act and the Director of Finance and Public Value is the Chief Finance Officer.

- (d) The Head of the Paid Service 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 8 of this Constitution.

## **12.2 Functions of the Head of the Paid Service**

### **(a) Discharge of functions by the Council**

The Head of the Paid Service reports to the full Council on the manner in which the discharge of the Council's functions is co-ordinated and the number and grade of officers required for the discharge of functions.

### **(b) Restrictions on functions**

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

## **12.3 Functions of the Monitoring Officer**

### **(a) The Constitution**

The Monitoring Officer maintains an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

### **(b) Lawfulness and fairness of decision making**

After consulting with the Head of the Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function, if they consider that any proposal, decision or omission would

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give rise to unlawfulness or if any decision or omission has given rise or may give 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) Reports**

The Monitoring Officer will decide whether any report on the agenda of the Council, the Cabinet or any other Committee shall be defined as containing confidential or exempt information.

## **(d) The Standards Committee and Conduct of Investigations**

The Monitoring Officer contributes to the promotion and maintenance of high standards of conduct within the Council by supporting the Standards Committee in responding to and investigating complaints about the conduct of members, in conjunction with any Independent person appointed in accordance with s28 of the Localism Act 2011, and officers and make reports or recommendations in respect of them to the Standards Committee.

## **(e) Proper Officer for access to information**

The Monitoring Officer ensures that decisions of the Council and the Cabinet, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

## **(f) Context of Cabinet decisions**

The Monitoring Officer (in consultation with the Chief Finance Officer) advises whether decisions of the Cabinet are in accordance with the policy and budget frameworks.

## **(g) Advice**

The Monitoring Officer provides advice to all members of the Council on the scope of powers and authority to take decisions, the exercise of 'call-in' mechanisms, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.

**(h) Restrictions on post**

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

## **12.4 Functions of the Chief Finance Officer**

**(a) Lawfulness and financial prudence of decision making**

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

**(b) Determination of Annual Budget**

The Chief Finance Officer will advise the County Council on the robustness of estimates made for the purpose of determining the annual budget, on the adequacy of the proposed financial reserves and on the appropriate level of affordable borrowing.

**(c) Administration of financial affairs**

The Chief Finance Officer has responsibility for the administration of the financial affairs of the Council.

**(d) Corporate management**

The Chief Finance Officer contributes to the corporate management of the Council, in particular through the provision of professional financial advice.

**(e) Advice**

The Chief Finance Officer provides advice on the scope of powers and authority to take decisions, maladministration,

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financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

**(f) Financial information**

The Chief Finance Officer provides financial information to members of the public, the community and the media.

## **12.5 Functions of the Director of Public Health**

- (a) As the Director of Public Health, will ensure the Council exercises its public health functions including but not limited to improving and protecting public health across the County and championing health matters throughout the County Council.
- (b) As principal adviser on health matters, advise the County Council on all matters relating to public health: health improvement, health protection and healthcare and such other areas as may be prescribed.
- (c) As a Statutory Member of the Health and Wellbeing Board, advise and contribute to the development of Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy and the commissioning of services.

## **12.6 Functions of the Scrutiny Officer**

- (a) Promote the role of the Council's Scrutiny Committees.
- (b) Provide support to the Council's Scrutiny Committees and members of those committees.
- (c) Provide support and guidance to all members and officers of the Council in relation to the functions of the Council's Scrutiny Committees.

The Scrutiny Officer may not be:

- (d) the Head of the Council's Paid Service;
- (e) the Council's Monitoring Officer, or
- (f) the Council's Chief Finance Officer

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

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

## **12.7 Conduct**

As well as abidance of policies as part of contractual obligation, Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 6 of this Constitution.

## **12.8 Employment**

The recruitment, selection and dismissal of officers will comply with the Chief Officer Employment Rules set out in Part 6 of this Constitution.

## **Article 13 Decision Making**

### **13.1 Responsibility for decision making**

Decisions of the Council can only be made by one of the following:

- (a) the full Council, the Cabinet, a statutory Committee or a Committee established by the Cabinet with the agreement of the Council;
- (b) a member of the Cabinet or other member or officer of the Council exercising powers specifically delegated by the Leader or Cabinet.
- (c) An Officer of the Council exercising powers specifically delegated to them by the Council.

The Council will issue and keep up to date within Part 3 of this Constitution a record of the powers delegated in accordance with (b) above.

### **13.2 Principles of decision making**

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

- The provisions of this Constitution;

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- Legality;
- Financial prudence;
- The best interests of the people of Devon, with emphasis upon their present and future wellbeing, human rights, prosperity and environment.

## **13.3 Types of decision**

- (a) Decisions reserved to full Council (Framework decisions).
- (b) Key decisions.
- (c) Other decisions

## **13.4 Key Decisions**

Key decisions are those which by reason of their strategic, political or financial significance or which will have a significant effect on communities in more than one division are to be made by the full Cabinet. This is to be cross referenced with Part 3 of the Constitution which gives further guidance on the key decision criteria. At every meeting the Cabinet will review the Forward Plan of forthcoming business prepared by the Leader and determine which items are to be defined as key decisions and the date of the meeting at which every such decision is to be made, in line with the Cabinet Procedure Rules.

## **13.5 Decision making by the full Council**

Subject to Article 13.9, the Council will follow the Standing Orders set out in Part 4 of this Constitution when considering any matter.

## **13.6 Decision making by the Cabinet**

Subject to Article 13.9, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **13.7 Decision making by Scrutiny Committees**

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

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

Subject to Article 13.9, other Council committees and sub-committees will follow those parts of the Standing Orders set out in Part 4 of this Constitution as apply to them.

## **13.9 Fairness of Council decision making**

The Council, the Cabinet, n Cabinet Member, a Committee, a councillor or an officer acting in a quasi-judicial manner or determining/considering the civil rights and obligations or the criminal responsibility of any person will act at all times in accordance with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights and will suspend or depart from Standing Orders when advised by the Monitoring Officer that it is necessary to do so in order to achieve this compliance.

## **Article 14 Finance, Contracts and Legal Matters**

### **14.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Code of Business Conduct in Part 5 of this Constitution.

### **14.2 Contracts**

Every contract made by the Council will comply with the relevant section of the Financial Regulations set out in Part 5 of this Constitution.

### **14.3 Legal proceedings**

The Director of Legal and Democratic Services is authorised:

- (a) to institute, defend or settle any legal proceedings where such action is necessary to give effect to decisions of the Council or to protect the Council's interests;
- (b) to sign any document relating to a legal action to which the Council is or may become a party.

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## **14.4 Affixing the Common Seal of the Council and Signing of Contracts**

The Common Seal of the Council will be kept in secure custody by the Director of Legal and Democratic Services. A decision of the Council, the Cabinet or any committee exercising delegated powers will be sufficient authority for sealing any document or signing any contract necessary to give effect to that decision. The Director of Legal and Democratic Services is authorised:

(a) to affix the Common Seal to those documents which in his/her opinion should be sealed;

(b) to sign any contract or document pursuant to the above;

The signing of any contract or the affixing of the Common Seal will be attested by the Director of Legal and Democratic Services or some other person authorised by them in writing.

## **14.5 Authentication of documents**

All contracts entered into on behalf of the Council in the course of the discharge of a Cabinet function or in accordance with the decision of any other Committee shall be made in writing and, if not made under the Seal of the Council, signed by a Chief Officer of the Council.

## **Article 15 Review and Revision of the Constitution**

### **15.1 Duty to monitor and review the Constitution**

The Council will appoint a Procedures Committee to monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **15.2 Protocol for monitoring and review of Constitution by Monitoring Officer**

The Monitoring Officer will advise this Committee on the operation of the Constitution and make recommendations for ways in which it should be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

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- (a) observe meetings of different parts of the member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and research issues raised by members, officers, the public and other relevant stakeholders; and
- (d) compare the Council's practices with those in other comparable authorities or national examples of best practice.

## **15.3 Changes to the Constitution**

- (a) Changes to the Constitution will only be approved by the full Council after consideration of a proposal by the Procedures Committee except that:
  - (i) the Monitoring Officer shall be responsible without such reference for routine updating necessary to reflect legislative requirements and the decisions of the Council;
  - (ii) the Leader of the Council shall be responsible for updating the scheme of delegation to members and officers set out at Part 3 of the Constitution, relating only to those functions that are the responsibility of the Cabinet, upon the recommendation of the Monitoring Officer in line with Article 6.9
- (b) If a change from a Leader and Cabinet form of executive to alternative arrangements is contemplated, the Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

## **Article 16 Suspension, Interpretation and Publication of the Constitution**

### **16.1 Suspension of the Constitution**

- (a) Limit to suspension.

The Articles of this Constitution may not be suspended. Any rule set out in Part 4 may be suspended by the full Council to the extent permitted within those Rules and the law provided that this suspension is not inconsistent with the Constitution.

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(b) Procedure to suspend.

Subject to Article 13.9, a motion to suspend any rules in Part 4 will not be moved without notice at a meeting of the full Council unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

## 16.2 Interpretation

The ruling of the Chair of Council as to the interpretation or application of this Constitution shall not be challenged at any meeting of the Council. Any such ruling will have regard to the purposes of this Constitution contained in Article 1.

## 16.3 Publication

The Monitoring Officer will:

- (a) send a copy of this Constitution to each Member of the Council upon delivery to them of that member's declaration of acceptance of office on first election to the Council, providing a hard copy where requested;
- (b) ensure that copies are available for inspection at council offices (County Hall and Taw View) and can be purchased by members of the local press and the public on payment of a reasonable fee;
- (c) ensure that the summary in Part 1 of the Constitution is made widely available within the county and is updated as necessary.

## Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Council's Executive arrangements:

- Article 7 (Scrutiny Committees) and the Scrutiny Procedure Rules;
- Article 8 (The Cabinet) and the Cabinet Procedure Rules;
- Article 10 (Area Committees) and Part 9;
- Article 11 (Joint arrangements) and Part 9;

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- Article 13 (Decision making) and the Access to Information Procedure Rules;
- Part 3 (Responsibility for Functions).



## **PART 3      RESPONSIBILITY FOR FUNCTIONS**

[Introductory/Explanatory Note

*The Local Authorities (Functions & Responsibilities) (England) Regulations 2000, as amended from time to time, set down in law those functions of a Council which may or may not be the responsibility of that Council's Executive (or Cabinet).*

*Under the Local Government Act 2000 the majority of a Council's decision making must be carried out by or through that Council's Cabinet. A Cabinet may delegate or allocate any of its functions to an individual Cabinet Member, a Committee of the Cabinet or an Officer. The Act does not however allow other Committees or Members to take those decisions.*

*The full Council must retain certain powers (e.g. setting the Council Tax/Budget and approving strategic plans.*

*There is, in addition, a range of decisions that must be taken relating to certain 'regulatory functions' - which deal with the activities of or impact upon individuals (e.g. Planning, Licensing, Pensions and Remuneration) - and a Council has to appoint Committees to deal with those. A Council may also appoint other Committees for specified purposes to advise the Cabinet or Council on the exercise of its functions.*

*A County Council must also appoint at least one Overview/Scrutiny Committee to specifically 'hold the Cabinet to account' (i.e. to monitor and review a Cabinet's decisions) and generally to review a Council's existing policies and examine the scope for new policies for that Council's use and management of its resources. It must also establish a Health & Wellbeing Board which, like a Cabinet, has direct responsibility - on behalf of the Council – for making sure all health, social care and public health providers (e.g. NHS, Social Care Providers, Clinical Commissioning Groups, District Councils and other public sector bodies) work together to deliver those services effectively.*

*The Regulations referred to above also list a number of 'local choice' functions that need not be carried out by a Council's Cabinet; where a Council is free to choose how they are to be classed - as either 'executive' (i.e. dealt with by the Cabinet) or 'non-executive' (dealt with by another Committee). A Council's Scheme of Delegation must show how and where the Council has decided that such 'local choice' functions should be dealt with.*

*Devon County Council has appointed a Cabinet, a Health & Wellbeing Board and a number of Regulatory, Scrutiny and other Committees listed below to exercise those executive, non-executive and local choice functions as shown in paragraphs 2-7 below and in the more detailed terms of reference of those committees set out at paragraph 9 below. Any functions not otherwise specified fall within the responsibility of the Cabinet].*



## Section One — Terms of Reference

- 1.0** The functions of the full Council shall be those set out in Article 4.
- 2.0** The functions of the Cabinet shall be **all** those functions not reserved to the full Council in Article 4 **or** specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Order 2000, as amended, to be dealt with by **or** delegated to a Committee, as set out in more detail in the Terms of Reference below; the Cabinet shall accordingly discharge the remaining ‘local choice’ functions contained in the Schedule 2 referred to above, as follows:

Function	Limitation
Any function under a local Act other than a function specified or referred to in Regulation 2 of the Local Authorities (Functions and Responsibilities) (England) Order 2000 or Schedule 2 thereof.	Excepting determination of the budget and policy framework and any other constitutional and quasi-legislative functions and any functions which involve either determining an application from a person for a licence, approval, consent, permission or registration or direct regulation of a person (except in case where there is only limited discretion in the discharge of the function) together with any related enforcement action (including prosecution).
Obtaining the particulars of persons interested in land under s16 of the Local Government (Misc. Provisions Act 1976	None
Making agreements for the execution of highways works	None
Making agreements with other local authorities for placing staff at the disposal of those other authorities.	None

- 2.1** The Cabinet shall be responsible for the development and approval of any policy, strategy, operating procedure or criteria and/or plan of the Council within and to deliver the budget and policy framework approved by the County Council under Article 4.
- 2.2** Responsibility for the functions of the Cabinet shall be assigned by the Leader of the Council to the individual members of the Cabinet (Cabinet Members) working collegiately with the Cabinet remits set out for the time being in Paragraph 8.0 below to ensure the integrated delivery of services. The names and addresses of current members of the Cabinet, the divisions they represent and the remits they have been assigned are contained in a Register maintained by the Chief Executive.

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- 3.0** The functions of the Council not discharged by the Cabinet in accordance with Paragraph 2 shall be the responsibility of the following Committees:

Appeals Committee  
Appeals (Chief Officer) Committee  
Appointments, Remuneration and Chief Officer Conduct Committee  
Audit Committee  
Development Management Committee  
Health & Wellbeing Board  
Investment and Pension Fund Committee  
Locality (County) Committees (one for each District Council area)  
Personnel Partnership and Personnel Panel  
Procedures Committee  
Public Rights of Way Committee  
Standards Committee

The Terms of Reference of these Committees and any Committees of the Cabinet are set out in Paragraph 9.0.

- 4.0** Personnel matters – save those issues dealt with by the Appointments, Remuneration and Chief Officer Conduct Committee – shall be dealt with by a Personnel Partnership (comprising an equal number of elected members and staff representatives with the Chairing alternating annually between a Member and a staff representative) and a Personnel Panel. The terms of reference for both are set out in paragraph 9.
- 5.0** The functions of Scrutiny Committees are as set below and out in Article 7 and in the Council’s Scrutiny Procedure Rules.
- 6.0** The Cabinet will be responsible for the discharge of all the functions of the Council under Education and Social Services legislation and in its capacity as Highway Authority (other than those exercised by the Public Rights of Way Committee), County Planning Authority (other than the determination of planning applications), Waste Disposal Authority, Public Transport Authority and Traffic Authority, Corporate Public Health and health and wellbeing duties and for all its statutory duties, including the exercise of relevant powers not specifically delegated by the Council to other Committees.
- 6.1** The Cabinet shall arrange for the discharge of certain of its functions by the following Committees of the Cabinet:
- 1) the management and development of the County Farms Estate, by the Farms Estate Committee, within the general strategy, policies and operating procedures of the Council;

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- 2) those responsibilities for highways set out in paragraph 9.16 below by area Highways and Traffic Orders Committees;

## 7.0 In particular the Cabinet will:

- 1) participate in the annual budgetary process in accordance with the budget framework and keep under review the Council's treasury management policies and practices;
- 2) direct the Council's economic regeneration activities;
- 3) provide advice in the development of strategic, waste and minerals planning;
- 4) establish policies and procedures relating to the Council's property;
- 5) address issues of importance or public concern to the County;
- 6) consider references from Scrutiny Committees, Locality (County) Committees and Highways and Traffic Orders Committees;
- 7) receive the minutes of other Committees referred to at 6.1 above;
- 8) approve Local Impact Reports relating to applications for development consent in respect of nationally significant infrastructure projects (commonly referred to as major infrastructure projects) as set out in Section Four of this Part of the Constitution.

**8.0** The responsibilities of the Cabinet shall be divided into the following Remits. Cabinet Members will also exercise regular budget monitoring of the resources allocated by the Council for those purposes, seek to achieve best value in the services for which they are responsible and have regard to the Council's policies and strategic objectives with respect to sustainability and health and wellbeing generally, to achieve the co-ordinated management of the Council's plans and policies and the integrated delivery of services for the people of Devon. Where elements of these Remits overlap with another, Cabinet Members will exercise their responsibilities jointly, particularly in respect of identifying the future delivery and direction of services.

### **8.1 Policy, Corporate and Asset Management**

Responsibility for the overall strategic direction and the development of external relations and partnerships including Team Devon, and oversight of the formulation and coordination of corporate planning and policy development within the Council's Policy and Budget Framework and, in particular, the oversight of its governance and external affairs arrangements.

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Also responsible for the management of the Council's property, the use of its assets and the development of its estates, including the schools' and education property portfolio and the Farms Estate.

## **8.2 Integrated Adult Social Care & Health**

Responsibility (a) as Lead Member for Integrated Adult Social Care for the discharge of all the Council's statutory functions, powers and duties under Social Services legislation and all the functions of the Council which relate to the care and welfare of adults and those entering adulthood, including those with additional needs, the commissioning of integrated social care and health services for those in need; adult protection and harm reduction services and the provision of services for families with most complex needs and support for careers and (b) for fulfilling the Council's statutory lead role in relation to the Council's Health & Wellbeing Board.

## **8.3 Children's Services and Schools**

Responsibility as Lead Member for Children's Services, for the discharge of all the Council's statutory functions, powers and duties in relation to children's social care and education and learning (excluding SEND): this to include the Council's functions as local education authority particularly in respect of schools, provision of learning services, strategic commissioning of integrated services for children & young people, school planning, school transport and early years services; for child protection and harm reduction services, the Youth Offending Service, children in care and support for young carers: having regard to the Council's strategic objectives and working collegiately to secure the future delivery and direction of these services.

Cabinet liaison for co-ordinated management of the Council's plans and policies and the integrated delivery of services for the people of Exeter by the County Council and partner organisations acting as the Cabinet proponent for advancing the needs of and aspirations of the County's Capital City.

## **8.4 Children's SEND Improvement Services**

Responsibility as Lead Member for Children's Special Educational Needs and Disabilities (SEND) and Inclusion Services, for the strategic direction and discharge of the Council's statutory functions, powers and duties in respect of services and support to children with special educational needs and disabilities. This includes assessment, provision and the commissioning of services relating to SEND: having regard to the Council's strategic objectives and working collegiately to secure the future delivery and direction of these services.

## **8.5 Climate Change, Environment and Transport**

Responsible for the Council's commitment to Climate Change and the principles of the Devon Climate Declaration, in particular carbon reduction and working in partnership with public, private and voluntary organisations to achieve its objectives.

Responsibility for strategic and infrastructure planning generally and for the provision of transport services in the community, for coast protection planning and for those Council services which safeguard individuals in the community and enhance their quality of life including countryside management, heritage, biodiversity and conservation.

Responsibility for delivering the Council's major infrastructure schemes including all transportation links and the children's and adults services, highways, environment and corporate capital programmes, in cooperation with other Cabinet Members, integrating resources and utilising external partner relationships, and for the discharge of the Council's functions relating to public transport and other energy-related issues: having regard to the Council's strategic objectives and working collegiately to secure the future delivery and direction of services.

## **8.6 Economic Recovery and Skills**

Responsibility for the progression and promotion of economic recovery and development of the County; the encouragement of employment through regeneration and investment; fulfilling the Council's lead role relating to the provision of post-16 education, training and skills for employment in schools, colleges and other settings and for the provision of trading standards and consumer protection: having regard to the Council's strategic objectives and working collegiately to secure the future delivery and direction of services.

Also responsible for fulfilling the Council's role in relation to Local Enterprise Partnerships (LEPs).

## **8.7 Finance**

Responsible for and the oversight of the Council's finances, annual budget setting, medium and long term financial planning, monitoring of expenditure, year-end closure of accounts and Treasury Management activities, to achieve value for money in the delivery of Council services.

## **8.8 Highway Management**

Responsibility for the discharge of the Council's powers and duties as a Highway Authority, taking particular account of road safety requirements and asset management of the county highway network and for the implementation of a Local Transport Plan including the provision of cycle

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routes; having regard to the Council's strategic objectives and working collegiately to secure the future delivery and direction of services.

## **8.9 Organisational Development, Workforce & Digital Transformation**

Responsibility for co-ordinating the management of organisational development and digital transformation in the Council to secure effective Council wide transformational outcomes for the benefit of citizens and communities including digital inclusion and digital skills.

Responsibility for the continuous improvement of performance and risk management across the Council, for all workforce issues which fall outside the remit of the Personnel Partnership, the development of the Council's digital and technology platforms, Procurement systems and procedures, oversight of the Council's legal and communications services, including Freedom of Information, customer service arrangements and access to services by users and clients.

## **8.10 Public Health, Communities and Equality**

Responsibility for the discharge of the Council's public health functions and health protection and promoting the health and wellbeing of the public and also responsible for those Council services which safeguard individuals in the community and enhance their quality of life: in particular local flooding, waste management including recycling, community safety, food insecurity, financial hardship and other community inequalities, emergency planning and gypsies and travellers.

This includes collaborating with and supporting other public sector bodies, voluntary and community organisations to develop relationships for mutual advantage and community gain, working together for the benefit of people and communities in Devon.

Responsible for the Council's statutory duties and responsibilities in relation to equality, diversity and inclusion together with its own equality policies and objectives.

Responsible also for the Registration Service and for the provision of a basic adult learning services, a library and archives service and support for the arts and for the discharge of all the Council's statutory functions, powers and duties in relation to the provision of youth services.

Responsible for the Armed Forces Covenant and initiatives thereunder.

## 8.1 Advisory Groups

- 8.1.1** From time to time, the Council may appoint Advisory Groups to advise and assist Cabinet Members in carrying out their duties, for example, to initiate the review and development of policies or discuss major issues prior to consideration by the Cabinet.
- 8.1.2** Where the Council has decided not to appoint Advisory Groups an Cabinet Member shall, nonetheless, have the right to convene, on an ad hoc basis and at his/her discretion, a small representative group of members of the council (i.e. all party) to assist them with particular issues or matters.
- 8.1.3** It is the Cabinet Member's prerogative to convene such meetings and frame the agenda. These Groups are not decision-making bodies and will not therefore be held in public. Administrative support will be provided by the appropriate Head of Service including, inter alia, co-ordinating arrangements and preparing and circulating relevant papers and notes of the meeting, which shall be available to all members of the Council. Meetings must be fixed as far in advance as possible and shown in the Council's calendar of meetings and on the internet to avoid potential clashes and to give Members as much notice as possible.

## 9.0 Committees

### 9.1 Health & Wellbeing Board

To exercise the functions of the Council to:

ensure the delivery of improved health and wellbeing outcomes for the population of Devon, with a specific focus on reducing inequalities;

promote the integration of health, social care and public health, through partnership working with the NHS, Social Care Providers, District Councils and other public sector bodies;

promote an integrated health improvement approach to public health service provision, and to;

provide a local governance structure for the local planning of and accountability for all health and wellbeing related services to individual adults and young people and families working with strategic alliances, partnerships or national or local initiatives not identified hereunder which may impact on the commissioning or provision of services

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assess the needs and assets of the local population and lead the development of the statutory Devon Joint Strategic Needs Assessment (JSNA) in partnership with Clinical Commissioning Groups

similarly, produce and update a Devon Joint Health and Wellbeing Strategy to provide a strategic framework to meet the needs identified in the JSNA

promote joint and joined-up commissioning and pooled budget arrangements, where that makes sense as a means of promoting integration and partnership working across areas

ensure that all commissioning plans and policies reflect the health and wellbeing priorities identified through the joint needs assessment process

to receive regular reports from the Devon, Plymouth & Torbay Health Protection Committee, the Devon Children Young People's & Families Alliance, the Devon Children's and Adults Safeguarding Boards, Healthwatch Devon and other stakeholders, as required.

## **Scrutiny Committees**

*(see also Article 7 and Table 1 of the Council's Scrutiny Procedure Rules)*

### **9.2 Corporate, Infrastructure and Regulatory Services Scrutiny Committee**

- 1) To review the implementation of the Council's existing policy and budget framework and ensure effective scrutiny of the Council's Treasury Management Strategy and policies and consider the scope for new policies for the Council's use and management of its resources and the discharge of its corporate and strategic services and governance arrangements and community safety activity, including emergency planning and the Council's functions in the scrutiny of authorities responsible for crime and disorder strategies;
- 2) To review the implementation of existing policies and to consider the scope for new policies with regard to all aspects of the discharge of the Council's 'place shaping and universal population services' functions concerning the environment, economic activity and enterprise, integrated planning and transport and community services, including libraries, arts and cultural heritage of the County, an integrated youth service and post 16 education & skills;
- 3) To assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity and relate overview and scrutiny to the achievement of the Council's strategic priorities and objectives and of delivering best value in all its activities;

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- 4) To make reports and recommendations as appropriate arising from this area of overview and scrutiny.

## **9.3 Children's Scrutiny Committee**

- 1) To review the implementation of existing policies and to consider the scope for new policies for all aspects of the discharge of the Council's functions concerning the provision of personal services for children including social care, safeguarding and special needs services, schools and learning;
- 2) To assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity;
- 3) To relate scrutiny to the achievement of the Council's strategic priorities and objectives and of delivering best value in all its activities;
- 4) To make reports and recommendations as appropriate arising from this area of overview and scrutiny.

## **9.4 Health & Adult Care Scrutiny Committee**

- 1) To review the implementation of existing policies and to consider the scope for new policies for all aspects of the discharge of the Council's functions concerning the provision of personal services for adults including social care, safeguarding and special needs services and relating to the health and wellbeing of the people of Devon, including the activities of the Health & Wellbeing Board, and the development of commissioning strategies, strategic needs assessments and, generally, to discharge its functions in the scrutiny of any matter relating to the planning, provision and operation of the health service in Devon;
- 2) To assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity;
- 3) To relate scrutiny to the achievement of the Council's strategic priorities and to its objectives of promoting sustainable development and of delivering best value in all its activities;
- 4) To make reports and recommendations as appropriate to the County Council and may request to the Secretary of State that a proposal be called in, in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) (Amendment and Saving Provision) Regulations 2024.

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## **Regulatory Committees**

*(exercising executive, non-executive and/or local choice functions set out hereunder, in line with paragraph 2 above)*

### **9.5 Investment & Pension Fund Committee**

To discharge the duties of the Council as Administering Authority of the Pension Fund, review and approve the annual statement of accounts of the Devon Pension Fund, consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from any audit that need to be brought to the attention of the Council. To review and approve the annual statement of the Pension Fund accounts. To exercise the powers and duties of the County Council as a shareholder of any vehicle established to manage the Council's Investment and Pension Funds.

### **9.6 Devon Pension Board**

To assist the Administering Authority (the County Council) for the Devon Pension Fund (LGPS) Fund in securing compliance with any Legislation and Statutory Regulation relating to the governance and administration of the Local Government Pension Scheme or any requirements imposed by the Regulator in relation thereto, to ensure the effective and efficient governance and administration of the LGPS.

### **9.7 Appointments, Remuneration and Chief Officer Conduct Committee**

To make recommendations, as appropriate, to the Council on the discharge of its duties in relation to:

- a) the appointment, remuneration and conditions of service of all substantive Director and Heads of Service posts, including the Head of Paid Service, Director of Finance and Public Value (Chief Finance Officer), and Director of Legal and Democratic Services (Monitoring Officer), in line with the Council's Pay Policy Statement.
- b) Appointments to the post of Director of Public Health are jointly made (Local Authority and Secretary of State) and must comply with the relevant statutory guidance, therefore both the process and composition of the Committee will reflect that guidance accordingly.
- c) Appointments by Local Authorities to the post of Coroner (including terms and conditions) must be in line with the Coroners and Justice Act 2009 and relevant guidance, thereby requiring the consent of the Chief Coroner and the Lord Chancellor of any appointment.

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- d) any reports from the Chief Executive in relation to a change in the manner in which the discharge of the Council's functions is co-ordinated and the number and grades of officers;
- e) the dismissal of Officers in line with the Council's Chief Officer Employment Procedure Rules and Disciplinary and Dismissal Policy for Chief Officers / Directors and Heads of Service<sup>1</sup>
- f) the terms in the event of the cessation of employment of Officers at (a) above;
- To discharge the duties of the Council and determine, as appropriate, any disciplinary matters short of dismissal in relation to those Senior Officers at (a) above governed by and in accordance with the Council's Chief Officer Employment Procedure Rules and Disciplinary and Dismissal Policy for Chief Officers / Directors and Heads of Service.
  - To review annually (or as otherwise determined) and recommend to the County Council the adoption of the Pay Policy Statement and Chief Officer Employment Procedure Rules set out at Part 6 of this Constitution.
  - The Chair of the Committee (Leader of the Council) shall have delegated to them, in consultation with the Deputy Leader of the Council, the power to suspend a Protected Officer immediately in an emergency if an exceptional situation arises whereby allegations of misconduct are such that the Officer's remaining presence at work poses a serious risk to the health and safety of others or the resources, information or reputation of the Authority.
- g) The consideration of Special Severance Payments over £100,000 and to make appropriate recommendations to Council.<sup>2</sup>

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<sup>1</sup> *(An Independent Panel comprised of at least two independent persons appointed by the Council, for the purposes of the Council Members' conduct regime under section 28(7) of the Localism Act 2011 can review a recommendation of the Appointments, Remuneration and Chief Officer Conduct Committee proposing dismissal of the Chief Executive and any representations made by the Chief Executive).*

<sup>2</sup> *(For any Special Severance Payment to the Head of Paid Service (Chief Executive), the Appointments, Remuneration and Chief Officer Conduct Committee recommendation would need to be ratified and approved by two Independent Persons (already appointed for the purposes of the Council Members' conduct regime under section 28(7) of the Localism Act 2011).).*

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## 9.8 Appeals (Chief Officer) Committee

To discharge, on behalf of the Council, the following duties:

- a) Hearing an appeal of a Chief Executive / Protected Officer against action taken by the Appointments, Remuneration and Chief Officer Conduct Committee on Sanctions (except for dismissal).
  - b) Consideration of an Investigation Report and any other relevant information considered by the Appointments, Remuneration and Chief Officer Conduct Committee.
- (a) Listening to the Chief Executive/Protected Officer who have the opportunity to state their case in person.
- (b) Giving careful consideration to these matters and conduct any further investigation it considers necessary to reach a decision.
- (c) Deciding whether to;
  - confirm the sanction of the Appointments, Remuneration and Chief Officer Conduct Committee;
  - impose no sanction; or
  - impose a lesser sanction.

(The decision of the Appeals Committee is final).

## 9.9 Development Management Committee

To discharge the functions of the Council as County Planning Authority:

- 1) by determining planning applications relating to minerals, waste disposal and the Council's own development proposals;
- 2) by dealing with other matters relating to town and country planning legislation;

and any other (non-executive or local choice) functions not reserved to the full Council in Article 4 or specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Order 2000, as amended, or to be discharged by the Cabinet or other Committee, as set out in the Council's Scheme of Delegation (see Introductory/Explanatory Note);

To oversee the production of the County Council's Minerals and Waste Plans, subject to approval at formal stages by the Cabinet and County Council, and to prepare and approve all other documents forming part of the County Council's Minerals and Waste Development Framework.

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*[A mechanism by which in certain circumstances an appeal against a decision by this Committee to refuse planning consent for proposed County Council development is set out in Section 3 of this Part of the Constitution. The Development Management Protocol adopted by the County Council is set out at Part 4 of this Constitution].*

*[Arrangements for responding to nationally significant infrastructure projects (commonly referred to as major infrastructure projects) are set out in Section Four of this Part of the Constitution].*

## **9.10 Audit Committee**

### *Audit Activity*

To consider the Head of Internal Audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.

To consider summaries of specific internal audit reports as requested.

To consider reports dealing with the management and performance of the providers of internal audit services.

To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.

To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.

To consider specific reports as agreed with the external auditor.

To comment on the scope and depth of external audit work and to ensure it gives value for money.

To liaise with the Audit Commission (or any successor body) over the appointment of the Council's external auditor.

To commission work from internal and external audit.

### *Regulatory Framework*

To make recommendations as appropriate to the Standards Committee and the Procedures Committee in respect of contract procedure rules, financial regulations, codes of conduct and behaviour, whistleblowing policies and the Council's internal complaints procedure.

To monitor the effective development and operation of risk management and corporate governance in the Council.

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To oversee the production of the Council's Annual Governance Statement and to recommend its adoption.

To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

To consider the Council's compliance with its own and other published standards and controls.

## *Accounts*

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.

To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

## **Other Committees**

### **9.11 Appeals Committee**

To determine appeals from parents arising from the application of Council policies relating to the provision of school transport and appeals from students arising from the application of Council policies relating to the payment of educational grants and awards.

### **9.12 Procedures Committee**

To keep under review all matters relating to the governance of the Council including the operation of its Constitution, its Standing Orders, conventions, working practices and calendar of meetings; to oversee its civic arrangements and programmes for member development/training and to make recommendations to the Council on its Scheme of Members' Allowances.

### **9.13 Public Rights of Way Committee**

To discharge all the Council's statutory functions relating to the mapping, protection, improvement and variation of the public rights of way network and unsurfaced roads;

To determine issues relating to the registration of village greens or the assertion of other public rights of access to land in the county.

## **9.14 Standards Committee**

- 1) The role of the Council's Standards Committee referred to at Article 9 is further defined as follows:
- 2) To advise the County Council on the adoption of a local Members' Code of Conduct with any appropriate local provisions and on its subsequent monitoring and updating.
- 3) To implement a local Code of Conduct and promote and maintain highest standards of conduct including the training of members and officers.
- 4) To advise members as to the declaration of interests and the grant of dispensations where appropriate to allow members to participate in matters in which they have interests.
- 5) To supervise the Registers of Members' and Officers' Interests and of politically restricted officers.
- 6) To oversee the Council's policy on the Proper Conduct of Business.
- 7) To keep up to date the Council's Code of Practice on relations between members and officers.
- 8) To be responsible for the Council's procedures for investigating and responding to complaints.
- 9) To adopt contract conditions to apply the Council's complaints procedure to contractors.
- 10) To approve a Local Planning Code.
- 11) To consider Findings of Maladministration by the Local Government Ombudsman.
- 12) To undertake such other functions as may be determined by the County Council.

## **9.15 Personnel Partnership**

To act as the forum for discussion of employee relations matters which form part of the County Council's Strategic Plan and any national initiatives which may impact on the Council and its employees in line with the agreed Partnership Constitution:

Provided that it shall not consider matters relating to individual employees (such as discipline, grievance, promotion or capability) and/or

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any matters relating to a Directorate which have not been fully considered by the relevant Joint Consultative Committee.

To seek to resolve issues referred to it by the Corporate Forum.

To seek to reach agreement through consensus, acknowledging that where such consensus cannot be achieved the matter shall be referred to the Cabinet for consideration and determination by the Council thereafter.

## **9.16 Personnel Panel**

To determine appeals under the Council's appeals procedures, as appropriate.

## **9.17 Highways and Traffic Orders Committees**

Within the general strategy, policies and operating procedures of the Council to exercise the following powers of the Highway Authority delegated by the Cabinet:

- 1) To develop, approve details and monitor and implement the Statutory Devon Local Transport Plan local area improvement programmes, up to a value [works costs] of £250,000.
- 2) To approve details and implement improvement schemes from the Statutory Devon Local Transport Plan, countywide, sub-regional and local safety scheme programmes, up to a value [works costs] of £250,000.
- 3) To approve details and implement Traffic Regulation Orders, and schemes for the control of parking on the highway and to be involved in the development of proposals for park and ride schemes.
- 4) To comment on proposals by third parties to stop up or divert highways and stop up private means of highway access.
- 5) To control the use of highways by the granting of consents, approvals, licences, minor property rights in connection with operations, uses or activities on, under, over or adjacent to the highway.
- 6) To ensure the effectiveness of the maintenance of highways, bridges and street lighting.
- 7) To consider and approve proposals for the making up of private streets.

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- 8) To maintain an overview on issues relating to repeated obstruction of the highway and advise when action to enforce public rights of way may be considered appropriate.
- 9) To approve the establishment or deletion of school crossing patrol sites, within the criteria and budget defined by the Council.
- 10) To approve the revocation of New Street Orders.
- 11) To approve applications to the Magistrates' Court for the stopping-up or diversion of a public highway.
- 12) To make all the Orders required to implement a highway or transportation scheme approved by the Cabinet recognising that if, following public advertisement of such an Order, a HATOC has concerns about a proposal it should refer it to the Cabinet for final determination.
- 13) To make Gateway Orders under the Clean Neighbourhood Act 2005.

## **9.18 Locality (County) Committees (one for each District Council area)**

- 1) To receive briefings from and discuss with the relevant Locality Development Officer (who will act as Lead Officer to the Committee) and with other officers as necessary specific service and community issues and projects within the district and to make recommendations to the Cabinet on appropriate action.
- 2) To improve information and communication with the public about its access to County Council services in the area and to monitor its performance in the delivery of these services.
- 3) To develop and ensure effective partnership working with the City, District or Borough Council (as the case may be) and other partners in the discharge of local functions.
- 4) To undertake any additional responsibilities and allocate budgets which may be delegated by the Cabinet from time to time.
- 5) To consider, if required, any grant or award proposed by individual members from locality budget funds allocated by the Cabinet in line with the Locality Budget Operating Principles set out at Section Four hereunder.
- 6) To express a vision for the areas reflecting cohesion principles and community views, demonstrate understanding of the make-up of the community and champion the participation of under-represented groups and promote integration of different groups.

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- 7) To administer those educational trusts in the Committee's area for which the County Council is Trustee.

## Section Two — Scheme of Delegation

### 10.0 Delegation of Cabinet Functions

#### 10.1 Key Decisions

**10.2** In accordance with Article 13.4 the Leader, after consultation with Cabinet Members and Officers, will table at every meeting of the Cabinet a list of what they consider are key decisions and once this list has been approved such decisions shall not be taken other than by the full Cabinet.

#### 10.3 Devon County Council Defines a Key Decision as

- any decision which would result in the closure of an amenity, externalisation or total withdrawal of a service;
- any decision in accordance with the Council's Financial Regulations (Part 9), involving financial expenditure of £1,000,000 or above, with the exception of operational expenditure by the Chief Executive identified within the approved budget and policy framework;
- any proposal to change the policy framework;
- any proposal which would have a significant effect on communities living or working in an area comprising two or more electoral divisions, unless this falls under the delegation or terms of reference of another Committee of the Council;
- any contract (or programme) which: exceeds an annual value of £1 million; and
- proposes significant changes to the Constitution Together with any other decision which the Monitoring Officer in consultation with the Leader and Head of Paid Service considers to be a key decision within the Regulations.

**10.4** If Key Decisions are to be discussed with Council officers at a meeting of the Cabinet, the meeting will be open for the public to attend except where matters of a confidential or exempt nature are to be discussed.

**10.5** The Cabinet has to make decisions which are in line with the Council's budget and policy framework. If it considers that a decision is required which is outside the budget or policy framework, it must refer the matter to the whole Council for a decision."

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## 11.0 Delegation to Cabinet Members

- 10.1** Under the Local Government Act 2000, the Cabinet may delegate any of its functions to an individual Member of the Cabinet and the individual Member shall make decisions only in accordance with the guidance below.
- 10.2** A Cabinet Member may take any decision other than a key decision which is both within their remit (as set out in Paragraph 8.0 above) and within the policy and budget framework in Part 4 of the Constitution. An individual Member exercising their decision-making power shall not make any decision which the Cabinet would not be able to make either under legislation or under the Council's Constitution. No decision should be made, or which is not within budget, or a decision on a function which is reserved to the Council.
- 10.3** Two or more Cabinet Members may jointly agree to make a decision which is within their collective remits.
- 10.4** If a Cabinet Member has a Disclosable Personal Interest in any matter which is the subject of a proposed decision or is absent or otherwise unavailable to act the Leader or the Deputy Leader in the absence of the Leader may exercise all the powers delegated to that Member in paragraph 11.1.
- 10.4.1** If a Cabinet Member has a conflict of interest (within the meaning described in the Cabinet Procedure Rules) in any matter which is the subject of a proposed decision by them then they may seek a dispensation from the Council's Monitoring Officer to remove that disability or the Leader or the Deputy Leader may exercise the powers delegated to that Member.
- 10.5** Before taking any decision under this delegation the officer dealing with the decision shall send the Report to the relevant Cabinet Member, the Chief Executive, the Monitoring Officer and Section 151 Officer and any Member whose division is particularly affected by that decision. They shall also arrange for a copy of the report to be made available to the Chair of the relevant Scrutiny Committee.
- 10.6** Any of the above persons may make written comments to the Member who is due to make the decision before the five working days has expired, copied to the Officer who wrote the report.
- 10.7** The above procedure shall not apply where the decision being taken is urgent, i.e., where any delay would seriously prejudice the Council's or the public interest. The Chair of the relevant Scrutiny Committee or the Head of the Paid Service must agree both that the decision proposed is reasonable in all the circumstances and

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to it being treated as a matter of urgency. The record of the decision shall state the reasons(s) for urgency.

## **10.8** The Report template must set out:

- 10.8.1** the decision to be taken.
- 10.8.2** any publicity or consultation requirements (either before or after the decision is made) in respect of the decision, either under legislation or under Council policy or any which is considered appropriate and the outcome of those consultations.
- 10.8.3** the facts upon which any decision must be based.
- 10.8.4** any legislative requirements, including: the Public Sector Equality duty.
- 10.8.5** staffing and financial implications.
- 10.8.6** any implications for any other areas of the Council's activities.
- 10.8.7** any relevant national or regional guidance.
- 10.8.8** any Council policy relating to the issue, including sustainability issues.
- 10.8.9** the Cabinet Portfolio within which the issue falls and details of any interest or conflict of interest and / or any dispensation.
- 10.8.10** any Divisions which are particularly affected by the issue and confirmation the Local Member has been informed of proposal.
- 10.8.11** the options and alternatives that are available; and
- 10.8.12** any professional recommendation that the Officer wishes to make.

## **11.1** In relation to contracts,

- 11.1.1** the individual Member must ensure that the Council's Contract Procedure Rules and Financial Regulations have been complied with. They must not make a decision in respect of the selection of contractors, acceptance of tenders or otherwise entering into a contract unless they have written notification from the Director of Legal and Democratic Services/Monitoring Officer and the 151 officer that the above Procedure Rules have been complied with.
- 11.1.2** The individual Member must not sign any contract or in any way bind the Council or themselves. The contract documentation must be prepared by or approved by the Director of Legal and Democratic Services/Monitoring Officer and signed or sealed in accordance with the Council's procedures.

## **11.2** The report outlining the decision (to include options and reasons for taking the decision), signed by the Cabinet Member(s) shall be sent, together with any other information which was taken into

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account by the decision-maker(s), to the Director of Legal and Democratic Services immediately who will arrange for its publication.

- 11.3** The decision will then be notified to all Members of the Council within 2 working days of it having been made. If the decision relates to a local issue a member whose division is particularly affected may within 5 working days of such notification being given, ask that the decision be referred to the full Cabinet for consideration. If the decision is of general application to the whole County any Member may ask the Leader of their political group to require the decision to be referred to the full Cabinet for consideration. Where a decision relates to matter that would, had it been taken by the Cabinet, been considered as a Part II item in the absence of the press and public Members will be notified of the decision and reminded that any documentation contains exempt information which should not be disclosed to the press and public.
- 11.4** Until the Cabinet has considered a decision which is the subject of a requisition under Paragraph 11.11 it shall not be implemented.
- 11.5** No decision shall take effect until it has been confirmed by the Monitoring Officer. The Monitoring Officer shall ensure that an Officer is designated as responsible for keeping up to date the full record of decisions by individual Members.
- 11.6** All forms sent to the Director of Legal and Democratic Services in accordance with Paragraphs 11 shall be available for public inspection, published on the website (unless part 2) and be an agenda item on meetings of the Cabinet.
- 11.7 Principles of Delegation** - In respect of matters delegated from Cabinet to individual Cabinet Members, the focus will be on policy issues within the policy and expenditure frameworks agreed by Cabinet and Council.
- Policy matters, internal to the service and required to provide guidance to officers to ensure significant policy decisions are implemented.
  - Details of policy matters delegated by Cabinet once principles have been agreed.
  - Expenditure items not specifically detailed within Service Plans but not sufficiently significant in scale to refer to Cabinet.
  - Budget virement items within a service where only one Cabinet Member is involved.
  - Responses to consultation documents not referred to Cabinet.

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- In their absence, at the Leader's request, or where a prejudicial interest has been declared, to take decisions on any matter delegated to another Cabinet Member.
- It is the Cabinet Members responsibility to consult any other Member or Members of the Cabinet where the decision to be taken is of a cross-cutting nature.
- Any Member of the Cabinet may refer a matter delegated to them to the Cabinet for a collective decision.
- A record will be kept of all individual Cabinet Member decisions, which will be published and circulated to all Members to enable scrutiny of the same.

**11.8 Matters for Cabinet Members** - Cabinet Members are authorised to make decisions required in the area of their individual Cabinet Portfolio. This does not include a key decision, as defined in the Constitution.

- Cabinet Members may take policy, budget and expenditure decisions in accordance with the principles set out above.
- Cabinet Members may take decisions on tenders and contracts in accordance with the provisions within the Council's Constitution relating to contracts.
- Cabinet Members may take decisions on virement, audit, debt, write-off and placing of orders, in accordance with Financial Regulations.
- Cabinet Members may deal with petitions in accordance with the Council's Petitions Scheme.
- Cabinet Members may deal with asset management such as agreeing minor lease extensions.

## **12.0 Delegation of Discretionary Locality Budgets**

**10.9** In accordance with Article 6.9, the Leader of the Council in consultation with Cabinet Members, shall determine the amounts of any discretionary locality funds to be made available to Members within the overall sums determined by the Council for those purposes; to be allocated on the same basis for each Member.

**10.10** A Member may determine the allocation and distribution of any discretionary locality annual budget allocated to them in line with the operating principles set out in this Part of the Constitution and the Policy & Budget Frameworks set out at Part 4 of the Constitution.

## **11.0 Delegation of Committee Functions**

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- 11.1** Any Chief Officer or Head of Service shown in the Management Structure set out at Part 8 of the Constitution may, in consultation with the Chair of any Committee (or in his/her absence the Vice Chair), make a decision in respect of any functions within the terms of reference of that Committee which for reasons of urgency cannot be delayed until the next ordinary meeting of that Committee and does not warrant convening a special meeting.
- 11.2** The procedure for registering and reporting such decisions set out in Paragraph 11.8 shall apply.

## **12.0 Delegation to Officers**

- 12.1** For the purposes of this paragraph the words 'Chief Officer / Director' are defined as the holders of the following posts: Chief Executive, the Chief Officers for Children and Young People's Futures, for Integrated Adult Social Care, for Climate Change, Environment and Transport, Director of Finance and Public Value (Chief Finance Officer), Director of Legal and Democratic Services (Monitoring Officer), Director of Public Health, Communities and Prosperity, Director of Transformation and Business Services and Director of People and Culture.
- 12.2** A Chief Officer / Director or Head of Service (as defined in the Council's pay Policy Statement at Part 6 of the Constitution) is empowered to make all the day-to-day decisions which relate to the efficient discharge of the Council's statutory functions and which are within the directorate or management responsibilities identified in his or her terms of appointment and for this purpose may authorise an officer in his/her Service to make any such decision on his/her behalf.
- 12.3** Any Chief Officer / Director or Head of Service authorised to make the decisions referred to in paragraph 11.0 above but before doing so shall exercise careful, professional judgement, involving appropriate consultation, as to whether that decision is one which should be taken by a Cabinet Member.
- 12.4** Any decision under Paragraph 14.3, shall, in line with the Openness of Local Government Bodies Regulations 2014, be published on the Council's website at:  
<https://new.devon.gov.uk/democracy/officer-decisions/>.
- 12.5** For the avoidance of doubt:
- All the specific delegations of subsisting duties and powers to members and individual officers in this Part of the Constitution and which are in the Register maintained by the Chief Executive under

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the Local Government (Access to Information) Act 1985 (as set out in the table overleaf) are hereby approved by the Leader of the Council (adjusted as necessary to reflect any variation in the title of job description of the officer concerned);

- Any statutory reference to "the Proper Officer" shall mean the Director of Legal and Democratic Services as Monitoring Officer.



## **Section Three — Appeals against Adverse Determinations of Devon County Council Planning Applications**

- 15.0** When the Development Management Committee resolves to refuse planning permission for an application in respect of the Council's own development proposals despite the fact that the Chief Officer or Head of Service (i.e. Head of Planning, Transportation & Environment) has recommended that approval should be given the following procedure shall apply.
- 15.1** The relevant Cabinet Member and Chief Officer/Head of Service will consider the decision and indicate whether or not they intend to seek leave from the Cabinet to refer it to the Independent Panel;
- If the Cabinet approves such a reference the Chief Executive will arrange for the decision of the Committee to be reviewed as soon as possible by the Independent Panel;
  - The Independent Panel shall be provided with the original papers submitted to and tabled at the meeting of the Development Management Committee, a full note of any representations made to and the minute of the Committee and an appeal statement by the promoting Directorate;
  - The Independent Panel may inspect the site of the proposed development and, but only if the Development Management Committee so wishes, may meet the Committee to discuss the reasons for its refusal. It will not hold any form of public inquiry.
  - The Panel will prepare a report for the Development Management Committee recommending that the original decision should be confirmed, or amended, or replaced by a decision to grant approval (either conditional or unconditional);
  - Once it has been received by the Chief Executive the Panel's report will be published on the agenda for and considered at the next meeting of the Development Management Committee but the recommendation of the Panel shall not be binding on the Committee.
- 15.2** No action to issue a Decision Notice in respect of the refusal shall be taken until, as the case may be, the Cabinet Member and Chief Officer/Head of Service have indicated that leave to appeal will not be sought, the Cabinet has declined to grant such leave or the Panel's report has been considered by the Development Management Committee
- 15.3** The Procedures Committee shall approve a list compiled and maintained by the Chief Executive of at least five persons with suitable planning experience willing to serve on an Independent Panel for the purposes of this paragraph. For every reference approved by the Cabinet the Chief Executive shall arrange for the

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appointment of a Panel of three persons on the list who live outside the immediate area of the site of the proposed development. The persons serving on this panel shall be remunerated at the same rates as are currently paid by the Planning Inspectorate.

## **Section Four — Arrangements for responding to nationally significant infrastructure projects in the fields of energy, transport, water, waste water, and waste (commonly referred to as major infrastructure projects)**

- 16.0** In accordance with the Planning Act 2008 (as may be amended from time to time) a new development consent regime has been created for nationally significant infrastructure projects in the fields of energy, transport, water, waste water, and waste more commonly known as major infrastructure projects
- 16.1** Responsibility for determination of such applications is vested in the Secretary of State who, having first determined whether or not any such application complies with the acceptance criteria set out in the Act will then, if required, make arrangements for any such application for development consent to be undertaken by an Examining Authority, appointed by them.
- 16.2** The Development Management Committee will respond on behalf of the County Council in the normal way to any consultation on an application for development consent in its role as Strategic, Highways, Minerals and Waste Planning Authority.
- 16.3** The County Council may be also designated an 'interested party' by the Examining Authority and invited to submit a separate Local Impact Report outlining details of the likely impact of the proposed development on any part of the area of the administrative County of Devon, based on the Council's body of local knowledge and robust evidence of local issues.
- 16.4** Any such Local Impact Report shall be considered and approved by the Cabinet as it will necessarily represent the broader views of the community, covering a broad range of local interests and impacts, including economic and social ones; presented in terms of the positive, neutral and negative effects of the development application. Any such Local Impact Report is distinct from any representations the Council may make on the merits of an application or any subsequent approvals that should be delegated to a Council for determination (for example, on detailed design) which will be a matter for the Development Management Committee as outlined above.

## **SCHEDULE OF DELEGATED POWERS**

### **A. GENERAL DELEGATIONS TO OFFICERS**

In line with Articles 4.4, 6.9 and 15.3 and paragraphs 1-7 of this Part of the Constitution relating to the exercise of Council functions, Cabinet functions and other local functions this scheme delegates powers and duties under s14 of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Order 2000, as amended.

The postholders listed below or any successor(s) are authorised to exercise the functions of the County Council and Cabinet (executive and non-executive) relating to the service area or management responsibilities summarised at Part 8 of the Constitution and further delineated below subject to the policy and budget framework approved by the Council or any policies approved by the Cabinet from time to time and to make all the day-to-day decisions which relate to the efficient discharge of those functions, The postholders shall work collaboratively as part of the Council's senior leadership group to support the Council's overall aims in promoting a better quality of life for Devon's residents and may authorise any other officer to make any such decision(s) on his/her behalf. A composite list of the sub-delegations can be found [here](#).

Postholders are also authorised to provide and market professional and similar services to outside bodies where this is legally permissible.

### **CHIEF EXECUTIVE**

The Head of Paid Service (s4, Local Government & Housing Act 1989 & Local Government Act 2000).

Responsible for the overall strategic direction, policies and priorities of the Cabinet and of the Council, including the overall corporate revenue and capital budget strategy, and performance management of the workforce and the Council. To exercise all executive functions of the council in accordance with paragraph 13 of this part of the Constitution and, where appropriate and in as matters of urgency, any executive functions delegated to members and officers.

Responsible for leading and managing development of strategic planning and implementation of strategies within the corporate framework with partners for all services and activities that contribute to the well-being of communities and the delivery of the Council's 'Strategic Plan' process incorporating planning for change and continuing delivery of services within one framework.

### **DIRECTOR OF INTEGRATED ADULT SOCIAL CARE**

Jointly responsible with the Chief Executive and other Directors for the overall performance of the Council and its workforce and in setting the strategic direction of the Council, integrating resources and utilising external partner relationships.

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The Council's statutory Director of Adult Social Services (DASS) (s6, Local Authority Social Services Act 1970) has overall responsibility for services for Adults Social Care. The DASS is responsible for the local delivery of relevant national legislation, primarily set out in the Care Act 2014 that brought together and replaced existing legislation into a single framework. This framework requires the DASS to have a key role in:

- Being responsible for promoting prevention and early intervention
- Leadership and challenge in adult safeguarding, being critical in the development of effective safeguarding of adults with care and support needs
- Taking a personalised approach to adult safeguarding requires a DASS promoting a culture that is person-centred, supports choice and control and aims to tackle inequalities.
- Provide strategic leadership in the commissioning and delivery of services to individuals and families, ensuring sufficiency including prevention and early intervention
- Ensuring support and reablement services for older people, those with physical disabilities, learning disabilities, sensory impairments and mental health need
- Working jointly and cooperating with statutory partners including health partners as set out in the Care Act 2014, (and in the Health and Care Act 2022 ensuring collaboration and joint working)

The DASS will ensuring preparedness for the CQC assurance of Adult Social Care, Care Act duties from April 2023

The DASS is also responsible for ensuring the local delivery of the Mental Health Act, and the Mental Capacity Act including Deprivation of Liberty Safeguards.

The DASS should maintain close contact with the principal social worker. This can take several different forms, including direct casework, co-working, undertaking practice development sessions, mentoring.

When the DASS is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, DASS shall allocate responsibility for exercising particular delegations to any officer of the Council in the interests of effective delivery.

## **DIRECTOR OF CHILDREN AND YOUNG PEOPLE'S FUTURES**

Jointly responsible with the Chief Executive and other Directors for the overall performance of the Council and its workforce and in setting the strategic direction of the Council, integrating resources and utilising external partner relationships.

To provide strategic leadership in the delivery of services to individuals and families including safeguarding and harm reduction services for children, support to those with special educational needs, learning and physical disabilities, sensory impairment and mental health problems and the strategic leadership of schools and learning services.

The Council's statutory Director of Children's Services (s18, Children Act 2004) with

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overall responsibility for services for Children's Social Care.

## **DIRECTOR OF PUBLIC HEALTH, COMMUNITIES AND PROSPERITY**

Jointly responsible with the Chief Executive and other Directors for the overall performance of the Council and its workforce and in setting the strategic direction of the Council, integrating resources and utilising external partner relationships.

Responsible also for leading and managing the development of strategic planning for and provision of public health services, exercising appropriate professional responsibility and accountability for their effectiveness and the functions of the Council under s325 of the Criminal Justice Act 2003.

To work within the Council and with partner organisations to improve population health, reduce health inequalities, public health protection and health improvement; promote healthy lifestyles, address threats to health; plan for and respond to emergencies that present a risk to public health; co-operate with the Police, Probation and Prison Services to assess the risks posed by violent or sexual offenders; liaise with the Local Safeguarding Childrens' Board to meet the needs of vulnerable children and, generally, influence the work of NHS commissioners to ensure a whole system approach across the public sector.

Prepare an Annual Report on the Health of the Local Population and the exercise of the Council's' functions, to be published by the Council (s75B, National Health Services Act 2006).

The Council's statutory Director of Public Health (s73A, National Health Services Act 2006 and Statutory Member of the County Council's Health and Wellbeing Board (Article 12.5 of the Constitution)

Responsible for establishing, managing and integrating the County Council's strategic information, community Intelligence, assessment and functions for communities and places and regulatory functions (e.g. libraries, trading standards, community safety, resilience and emergency planning) and an integrated youth service, post 16 education & skills, community strategies and cultural services.

To also oversee the Councils Communications functions.

## **DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT**

Jointly responsible with the Chief Executive and other Directors for the overall performance of the Council and its workforce and in setting the strategic direction of the Council, integrating resources and utilising external partner relationships.

Responsible for the maintenance and management of the local highway network and related assets and infrastructure and the provision of public rights of way; including the promotion of and support for any transport related safety issues. Responsible for developing and delivering the Council's Waste Strategy and Policies to comply with all statutory duties placed on the Council as Waste Disposal Authority. Direct and manage

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the commissioning of consultancy services for transportation, civil engineering, construction management, programme development and programme and project monitoring delivery and determining future development models for services to improve efficiencies in the delivery of strategic outcomes.

The Council's Traffic Manager under the Traffic Management Act 2004.

Responsible also for directing strategic policy formulation, commissioning and review including strategic, waste and minerals planning, transportation, flood risk management, education (provision of sufficient and suitable school places) and infrastructure planning generally and managing all aspects of passenger transport through the Transport Co-ordination Service.

Responsible for the Council's statutory development management role as planning, education and transport authority including the promotion of and support for transport related safety issues.

Also, developing the Council's community leadership role in relation to the countryside, climate change and carbon reduction and support the conservation and enhancement of Devon's natural and historic environment and promote and improve access to and understanding of the countryside including countryside management.

## **DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

The Council's Monitoring Officer (Section 5, LG&H Act 1989) and Chief Legal Advisor.

To safeguard the interests of the Council by the provision of timely and appropriate legal advice and the establishment of effective legal frameworks and procedures to regulate its decision making, responsible for the management of Legal (including land charges and Insurance), Democracy, Scrutiny, Registration, the Coroners Services and the Lord Lieutenant.

To act as Solicitor to the Council and, in line with Article 14 of the Council's Constitution, to institute, defend or settle any legal proceedings where such action is necessary to give effect to decisions of the Council or to protect the Council's interests; sign any document relating to a legal action to which the Council is or may become a party, authorise the giving of any indemnity by the Council, attest and determine which documents should be sealed by the affixing of the Common Seal and authenticate documents on behalf of the Council and to act as Proper Officer for the receipt and processing of complaints against Members of the Council.

The Council's Proper Officer for the exercise of the Council's functions in relation to the Registration of Births, Deaths and Marriages and the Proper Officer of the Council for the purposes of the Local Government Act 2000, as amended.

To act as County Returning Officer for Elections.

The Council's Senior Responsible Officer for RIPA under the Regulation of Investigatory Powers Act 2000 (RIPA).

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## **DIRECTOR OF FINANCE AND PUBLIC VALUE**

The Council's Section 151 (Local Government Act 1972) and the Proper Officer under s115 of the Local Government Act 1972 responsible for the proper administration of the Council's financial affairs, including audit and internal controls and risk management, and the Devon Pension Fund.

Also responsible for the Council's procurement services.

Ensuring timely and efficient implementation and delivery of the Council's annual budget, exercising any powers under the Local Government Finance Act 1992, the Audit Commission Act 1998 and associated Regulations, the Local Government Acts 2000 and 2003 relating to both capital finance and revenue expenditure and in connection with precepting or borrowing requirements.

## **DIRECTOR OF TRANSFORMATION & BUSINESS SERVICES**

Responsible for developing, implementing and maintaining strategies for the delivery of the most effective infrastructure in support of the County Council's strategic priorities to undertake and enhance service delivery across the council including business change, ICT and digital transformation and property and land asset strategy and for developing and delivering the Council's Customer Services Strategy and managing the Council's Helpdesks and Customer Service Centre.

## **DIRECTOR OF PEOPLE AND CULTURE**

Jointly responsible with the Chief Executive and other Directors for the overall performance of the Council and its workforce and in setting the strategic direction of the Council, integrating resources and utilising external partner relationships.

To also have responsibility for leading and managing on all aspects of the Council's People's Strategy, Human Resources strategies, policies and practices across the Council, to ensure provision of cost-effective services and a motivated, developed and fairly rewarded workforce.

## **HEAD OF ECONOMY, ENTERPRISE & SKILLS**

Responsible for leading the Council's strategic approach to place shaping through investment by the public and private sectors in economic activity, enterprise and skills development. Promote, encourage and support the commissioning of physical and intellectual infrastructure that will support and contribute to the prosperity of Devon, developing and maintaining effective partnerships with strategic bodies such as the Heart of the South West Local Enterprise Partnership, Homes England, Education Skills Funding Agency and Building Digital UK, along with Government departments and local authority partners. Responsible for the Council's representation on the Plymouth and South Devon Freeport, Great South West, Connecting Devon and Somerset and Exeter Science Park. Responsibility for joint Trading Standards service across the Heart of the South West and regulatory framework, community learning service Learn Devon and

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Post-16 Education, managing and delivering relevant statutory functions.
<b>DEPUTY CHIEF OFFICER / CHILDREN'S SERVICES AND HEAD OF SOCIAL CARE</b>
Responsible for the strategic direction, operational commissioning, policy and practice of the Council in relation to the safety and protection of vulnerable children and young people; developing preventative and early intervention approaches working across agencies and professional groups while maintaining and developing robust joint agency partnership arrangements. Responsible also for regulated services provided by the council for children and young people including children's homes, placement services, the Atkinson Secure Children's Home and fostering and adoption services and also for the Youth Offending Service ensuring that services provided are safe, efficient and effective to meet required regulatory standards and working with commissioners to prepare services for future delivery models.
<b>DEPUTY CHIEF OFFICER / HEAD OF EDUCATION &amp; LEARNING</b>
Responsible for the Council's functions in relation to schools including partnerships and new provision, admissions, school meal eligibility, attendance, educational outcomes for children in care and under achieving groups, SEND code of practice, Early Help and ensuring the delivery of efficient, effective and safe learning services that represent best value. Directing and managing the commissioning of special needs and alternative educational provision.
<b>HEAD OF INTEGRATED ADULT SOCIAL CARE COMMISSIONING</b>
Responsible for: <ul style="list-style-type: none"><li>• Leading and managing the development of strategic planning for and commissioning services across the full range of social care services for adults and older people, carers and people with special needs</li><li>• Quality assurance and compliance of services to ensure the delivery of services that are safe, efficient, effective, represent best value and are in the best interest of clients.</li></ul>
<b>HEAD OF INTEGRATED ADULT SOCIAL CARE OPERATIONS</b>
Responsible for: <ul style="list-style-type: none"><li>• The strategic direction, operational commissioning, policy and practice of the Council in relation to the safety and protection of vulnerable adults at risk of abuse</li><li>• Developing preventative and early intervention approaches</li><li>• Working across agencies and professional groups while maintaining and developing robust joint agency partnership arrangements.</li><li>• Regulated services provided by the council for adults including domiciliary care, residential care homes for long term and respite care, day opportunities and developing and delivering community services managed by Devon County Council</li><li>• Managing the delivery of care management services for adults to ensure those services are safe, efficient and effective, to meet required regulatory standards and working with commissioners to prepare services for future</li></ul>

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delivery models.

## **B. INDIVIDUAL DELEGATIONS**

An officer to whom a delegation has been made by or in accordance with this scheme may further delegate in writing all or any of the delegated functions to another officer either fully or under the control of the delegating officer.

### **TO THE CHIEF EXECUTIVE**

To appoint an officer as proxy for the Council at the general meeting of any company in which the Council is a Shareholder.

To make the necessary declaration on behalf of the Council under the provisions of section 86 of the Local Government Act 1972 when a member of the authority ceases to be a member by reason of failure to attend meetings for a period of six consecutive months without a reason for the failure having been approved.

To approve such changes to memberships of Committees, Joint Committees, Sub-Committees, Working Parties/Panels and Outside Bodies appointed by the County Council as may be notified from time to time by the relevant political group to which those seats have been allocated by the Council.

In conjunction with the relevant Cabinet Member to make payments in cases of maladministration.

In line with the statutory requirements set out in sections 36 – 41 of the Counter Terrorism and Security Act 2015, ensure compliance with the Channel duty guidance 2020 (and any future updates to this guidance) including the constitution of a Channel panel for its area.

In line with the duties placed on the Local Authority as outlined in Parts 2 (duty to co-operate with Commissioner) and 4 of the Domestic Abuse Act 2021, to exercise all requirements contained therein to support victims of domestic abuse, establish appropriate Governance arrangements (Board) and prepare and publish Strategies and Annual Reports as required by the Act.

To approve [Special Severance Payments](#) of £20,000 and above, but below £100,000. This must include Leader approval (and any others involved in payment sign off) and the Director of Finance and Public Value.

### **TO THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

To act on behalf of the County Council in respect of the Coroner's Service.

Appointed as Returning Officer for County Council elections.

To sign relevant contracts, after all necessary and required authorisations have been obtained.

To register applicants under the War Charities Acts where the conditions of registration have been fulfilled and where no objections have been received as a result of public advertisement.

To institute and conduct legal proceedings in Family Courts in connection with functions relating to children and young persons.

Authorised, pursuant to Section 223 of the Local Government Act 1972 to prosecute or defend or appear in proceedings before a Magistrate's Court on behalf of the County Council and to issue, process or do any other act or thing necessary to represent the

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Council in the County Court for the recovery of simple debts arising in contract, tort or by statute or in respect of other statutory matter.
To institute proceedings for non-attendance at Schools.
To institute proceedings in respect of breaches of bye-laws relating to the employment of Children.
To publish and confirm Modification Orders following consideration of proposals by the Public Rights of Way Committee.
To institute legal proceedings for public rights of way offences.
To make and confirm non-contentious Public Path Orders following consultation with the local County Councillor.
To decide all matters relating to the Commons Register (including applications for the Registration of Village Greens) in order to maintain this as a current and accurate record of rights within the County.
To provide response to questions relating to highways, common land and town and village greens as contained in form con29.
To determine requests from Members of the Council for Dispensations, in accordance with the Council's Code of Conduct for Members, following consultation with the Chair of the Council's Standards Committee.
To act, on behalf of the County Council, as its nominee for the purpose of taking out letters of administration of the estate of any person (e.g. applying for Probate) of whom the County Council is a creditor.
In line with S86 of the Local Government Act 1972, the power to declare the office of Councillor as vacant.
<b>TO THE CHIEF FINANCE OFFICER (DIRECTOR OF FINANCE AND PUBLIC VALUE)</b> <i>[The Director of Finance and Public Value shall exercise the undermentioned functions in relation to pensions administration for both Devon and Somerset County Councils in line with the decision of the County Council on 25 April 2013 (Minute 200 refers)]</i>
To exercise discretions contained in the Local Government Pensions Scheme Discretions Policy.
To appoint one or more outside providers of "in-scheme" additional benefits for those members who wish to pay AVC's.
To keep a loans register in accordance with Section 46 of the Local Government & Housing Act 1998.
To administer and make all Treasury Management decisions on a day-to-day basis, in line with the Council's Treasury Management Strategy or Policy and if (the Chief Finance Officer) is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
To undertake long and short term borrowing within the limits set by Central Government and approved by the Council and approve the premature repayment of debt .
To introduce new borrowing arrangements as allowed for in legislation.
To approve loans for other than Treasury Management purposes, including service related loans and bridging loans / car loans for staff.
To approve the purchase of IT Hardware, jointly with the Cabinet Member with responsibility for Finance or Resources.
To write off any deficiencies, theft or loss in value including obsolete stock exceeding 2.5% or £1,000, whichever is the greater, on any one item revealed on the occasion of the annual stocktaking or otherwise
To write off any debt below the value of £10,000.

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<b>TO THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES AND CHIEF FINANCE OFFICER (DIRECTOR OF FINANCE AND PUBLIC VALUE)</b>
To determine requests for indemnities to Members and Officers acting on behalf of the Council in line with the Council's policy set out at Part 5 of the Council's Constitution in consultation with the Cabinet Member responsible for Finance or Resources.
To oversee the management of the Council's insurance fund and arrange periodic reviews of the same to ensure it contains sufficient funds to pay for past, present and future claims.
To authorise the commence of redundancy processes and at conclusion to authorise redundancy payments for individual members of staff.
To determine and approve <a href="#">Special Severance Payments</a> of £20,000 and below.
To determine requests for early release of deferred pension benefits on compassionate grounds.
<b>TO THE DIRECTOR OF TRANSFORMATION &amp; BUSINESS SERVICES</b>
To exercise responsibility for the provision and management of all office accommodation and the implementation of the Council's Estates Strategy.
To advertise in accordance with Standing Orders the sale of surplus (or, in appropriate cases, potentially surplus) land and property for any planning uses notwithstanding that such uses potentially may conflict with the County Structure Plan; provided that any such advertisements make it clear that the Council reserves the right to express an adverse view on any planning applications made by prospective purchasers.
To administer & exercise day-to-day management responsibility relating to the County Farms Estate
To manage the Community Interest process to progress Expressions of Interest received for the running of local assets or the provision of local services.
To act as co-ordinator of the scheme and be given power to act on all financial matters associated with the official operation of Contract Car Hire.
To amend the lodging allowance and the base rate of removal allowances annually according to changes in the retail price index.
<b>TO THE DIRECTOR OF PEOPLE AND CULTURE</b>
The management of contracts for external providers of services or systems associated with Human Resources and employee wellbeing.
Responsibility for the authorising and issuing of all employment contracts for Hay grad staff within the Council.
To undertake shared responsibility with the Director of Legal and Democratic Services and Audit Manager for the handling and investigation of all Whistleblowing complaints within the Council.
To advise the Appointments Committee on recruitment and engagement matters for all Leadership appointments as outlined in the Constitution.
To act as responsible officer for all disciplinary, grievance and redundancy appeal processes within the Council.
To chair the Council's Health and Safety Panel
To approve requests to negotiate settlement agreements (up to the value of £20k)
To sign legal documents and payment documents associated with settlement agreements (up to the value of £20k)

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Authorisation of all redundancy processes and documentation and payment following initial approval by the Director of Legal and Democratic Services and Director of Finance and Public Value
To lead on consultation with the recognised Trade Unions on behalf of the County Council.
To review appeals by current members of staff appealing against decisions associated with tiers of ill-health retirement. (1 <sup>st</sup> stage of formal IDRP)
To approve applications for early release of benefits on compassionate grounds, or on the grounds of ill-health by ex-members of staff (internal IDRP process)
<b>TO THE DIRECTOR OF PUBLIC HEALTH, COMMUNITIES AND PROSPERITY (PUBLIC HEALTH FUNCTIONS)</b>
To exercise public health protection or health improvement functions that the Secretary of State may delegate to the Council or to the Director of Public Health, either by arrangement or under regulations; including services mandated by Regulations made under s6C of the National Health Services Act 2006 and any such other functions relating to public health as may be prescribed
To exercise the Council's public health response as a responsible authority under the Licensing Act 2003 and to make representations about licensing applications
To provide Healthy Start vitamins (under the Healthy Start and Welfare Food Regulations 2005 as amended) where the Council provides or commissions a maternity or child health clinic.
To make disbursements in accordance with the Council's Museums Policy and the Devon Museums Lifelong Learning Initiative.
To respond to Pharmacy Consolidation Applications following consultations with the Chair of the Health and Wellbeing Board and the local county councillor.
To cooperate with the Police, Probation and Prison services to assess the risks posed by violent or sexual offenders.
<b>TO THE HEAD OF EDUCATION &amp; LEARNING</b>
To approve, in consultation with the Director of Finance and Public Value, deficit budgets set by governing bodies (such approval to be granted for the maximum length of two years to repay the deficit. In very exceptional circumstances and only by agreement with the Director of Finance and Public Value can this be extended to three years).
To take decisions on financial assistance to costs of boarding education within agreed criteria (Report EO/87/119).
To review, in accordance with Section 19 of the Education Act 2002, the composition of a maintained school governing body of the school concerned.
To establish, in accordance with Section 34 of the Education Act 2002, a temporary governing body for any new or proposed school and to appoint temporary governors.
To establish an IEB in accordance with Section 72 of the Education and Inspections Act 2006
To prepare revised Instruments and Articles of Government for Devon Maintained Schools and make any necessary Orders.
To issue, through the Penalty Notices Officer in conjunction with the Education Welfare Service, Penalty Notices on behalf of the County Council relating to unauthorised absence of pupils from school.
In accordance with section 437 Education Act 1996, to issue a School Attendance Order if it appears that a child within the area is not receiving a suitable education either by regular attendance at school, or otherwise.

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<p>To appoint and authorise officers to carry out all relevant duties and to exercise all appropriate powers under legislation in force from time to time and enforced by the Education Service and, where appropriate, to institute and/or conduct any legal proceedings on behalf of Devon County Council, as appropriate, in respect of the Education Service's legal responsibilities.</p> <p>The Head of Inclusion may exercise any such powers in the absence of the Head of Education and Learning.</p>
<p>In accordance with section 447 Education Act 1996 and section 36(1) Children Act 1989, approve the instigation of an application for an Education Supervision Order.</p>
<p>To appear before any Family Proceedings Court for the purposes of s36(1) of the Children Act 1989 and to decide not to comply with a Court Direction to institute proceedings for an Education Supervision Order,</p>
<p>To determine requests from schools to change early years admission arrangements.</p>
<p>To act as the authorised Officer to require children over 2 to be medically examined in accordance with Section 521(1) of the Education Act 1996.</p>
<p>To Issue directions to admit children to a maintained school. Submit objections against admission arrangements determined by own admission authority schools.</p>
<p>To provide for an Independent Admissions Appeals Service for maintained schools in the LA area.</p>
<p>To comply with the legislative Code on Admissions in exercise and discharge of local authority functions in relation to admissions under the School Standards and Framework Act (SSFA) 1998. The SSFA and relevant regulations confers a number of duties which require the LA to carry out different functions at different times of the admissions cycle.</p>
<p>For each school year, publish the prescribed information about the admission arrangements for each of the maintained schools in their area, and if regulations so provide, such maintained schools outside their area.</p>
<p>Specific duties in relation to early years services. Includes duties to: make arrangements to ensure integrated provision of early years services; take steps to identify parents not using services and to encourage them to do so; take reasonable steps to encourage the involvement of various interested parties in the making and implementation of arrangements made under this section of the Act; have regard to such information about the views of young children as is available; and have regard to statutory guidance.</p>
<p>To approve revenue and external contributions to locally funded schemes included in the approved Capital Programme up to a maximum of £25,000 per project, in consultation with the Chief Finance Officer and the relevant Cabinet Member.</p>
<p>To determine in consultation with Members of the Appeals Committee, following a Members' route safety walk (supported by a Members route safety report), the eligibility of a route and the respective individual appeal(s) where there is unanimity of, or a clear majority view reached by a Members' route safety walk. (If no agreement is reached, the matter will be deferred for determination to a special meeting of the Appeals Committee where necessary).</p>
<p>To approve bodies or persons employing school children under Section 37(3) of the Children and Young Persons Act 1933.</p>
<p>Establish a permanent body called a standing advisory council on religious education.</p>
<p><b>TO THE DEPUTY CHIEF OFFICER, CHILDREN'S SERVICES AND HEAD OF SOCIAL CARE</b></p> <p><i>The Deputy Chief Officer, Children's Services and Head of Social Care shall exercise adoption functions in relation to both Devon, Cornwall and Somerset Councils, Plymouth</i></p>

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*City Council and Torbay Council in accordance with the Regional Adoption Agency arrangements (arrangements approved by the Cabinet on 11 April 2018 (Minute 163 refers) and endorsed by County Council on 24 May 2018 (Minute 97 refers]). The inclusion of Cornwall Council agreed by Cabinet ((8 November 2023) (Minute 414)) and Council (7 December 2023 (Minute 240)).*

To agree to the reimbursement of costs, without waiting for the completion of the legal aid process, in those exceptional cases and where satisfied that any delay would be harmful to the interests of the child, in accordance with the Adoption Act 1976.

Under the Adoption Act 1976 and Adoption Agency Regulations 1983:

- (a) to consult with the Adoption panel (and with the Medical Adviser) and set out arrangements for governing the prospective functions of the Agency and the Panel and to review the same at least once every 3 years;
- (b) to be satisfied that staff are appropriately qualified and experienced for the Agency's work;
- (c) to nominate Medical Advisers;
- (d) to set up certain procedures in relation to the child and his/her parents (e.g. counselling);
- (e) to set up certain procedures in relation to a prospective adopter;
- (f) to make a written report under (iv) and (v) to an Adoption Panel;
- (g) to refer any proposal to place a child for adoption with a prospective adopter to a Panel;
- (h) to decide the issues relating to whether or not a child should be adopted or freed for adoption, whether a prospective adopter is suitable and whether they are suitable for the particular child after considering the Panel's recommendations;
- (i) to implement any decisions in accordance with these procedures;
- (j) to review cases where 6 months have elapsed since a 'freeing' and no placement has been made.

To appoint independent members of Adoption Panels in consultation with the appropriate Cabinet Member(s).

To authorise the use of a secure placement for up to 72 hours under 10(1) of The Children's (Secure Accommodation) regulations 1991

## **TO THE DIRECTOR OF CHILDREN AND YOUNG PEOPLE'S FUTURES AND THE HEAD OF EDUCATION AND LEARNING**

To approve appropriate support packages of up to £8000 per week for individuals with special educational needs or medical needs of those who have been permanently excluded (in a range of settings) from the High Needs Block Budget (Note - this relates to the service's contribution to the support package)

## **TO THE DIRECTOR OF CHILDREN AND YOUNG PEOPLE'S FUTURES AND THE DEPUTY CHIEF OFFICER CHILDREN'S SERVICES AND HEAD OF SOCIAL CARE**

To approve individual social care, education or support contracts (in a range of settings) of up to £8000 per week in accordance with Part 3 of the Council's Constitution and to such actions being reported to the Cabinet Members with responsibility for Resources and Children's Services.

(Note - this relates to the service's contribution to the support package)

## **TO THE DIRECTOR OF INTEGRATED ADULT SOCIAL CARE**

To approve and agree packages of care of up to £5,000 per week.

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<b>TO THE HEAD OF INTEGRATED ADULT SOCIAL CARE OPERATIONS</b>
To ensure that duties set out in the Care Act 2014 in relation to preventing, reducing and delaying adult social care needs, the meeting of eligible adult social care needs and the safeguarding of adults are delivered within the current policies of the Council.
In circumstances of imminent provider failure, to approve interventions (including financial support) to independent sector social care providers to maintain operational delivery and quality in the interests of Devon residents and other users.
To approve and agree packages of care of up to £2,500 per week.
<b>TO THE HEAD OF INTEGRATED ADULT SOCIAL CARE COMMISSIONING</b>
To approve inflationary cost of living increases for externally purchased social care contracts in line with statutory guidance.
In circumstances of imminent provider failure, to approve interventions (including financial support) to independent sector social care providers to maintain operational delivery and quality in the interests of Devon residents and other users.
<b>TO THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT</b>
To trade permits, as and when required, through the Waste Management Earmarked Reserve to ensure the Council complies with the Landfill Allowance Trading Scheme.
To engage consultants in connection with waste disposal matters.
To take appropriate action for the provision of waste management facilities when it appears expedient to do so.
To take such urgent action as may be necessary to deal with any case of methane migration from landfill sites.
To authorise entry to land under Section 287 of the Public Health Act 1936 to ascertain suitability for waste disposal purposes.
To approve expenditure for recycling projects up to a cash limit of £1,000.
To take all actions necessary and to authorise other officers as appropriate to serve notices and grant authorisations under the provisions of the Highways Act 1980.
To take all actions necessary and to authorise other officers as appropriate to serve notices and grant authorisations under the provisions of the Traffic Management Act 2004.
To make Modification Orders for public rights of way in respect of (a) obvious administrative errors where applicable <u>and</u> (b) in respect of historic routes; as set out in Report HCW/16/47 endorsed by the Public Rights of Way Committee on 8 July 2016.
To review periodically the charge for Public Path Orders and to apply such increases as may from time to time appear to be reasonable.
To approve the design and siting of bus shelters and settle terms of agreements for the removal of shelters and display advertisements.
To authorise street closures, signing, bunting in connection with street parties/official celebrations.
To authorise emergency closures, weight restrictions etc., on county bridges.
To implement small schemes costed at less than £50,000 in the Devon Local Transport Plan and to vary the programme as necessary in line with DLTP objectives, to maximise delivery.
To remove unauthorised signs on/adjacent to the Highway in accordance with Policy and charge for such removal.
To make, in consultation with the appropriate Cabinet Member any change to

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operational procedures of the highway winter service policy/practice.
To approve any changes in project costs of schemes included in the approved Capital Programme for schools up to a maximum of £100,000 per scheme, in consultation with the Chief Finance Officer and the relevant Cabinet Member.
<b>Transport Co-ordination Service</b>
To authorise expenditure on experiments, publicity, grants, subsidies, tendering and capital schemes in connection with Public Transport Support and Development
To take all necessary action to comply with the Bus Service Tendering Regulations 1985.
To negotiate revenue payments with bus service operators for journeys on the approved network.
To approve the Vehicle Replacement Programme for vehicle purchases for all Directorates after consultation with the Chief Finance Officer
To plan and manage operational aspects of school, social care and NHS transport and contract compliance.
<b>TO EITHER DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT OR DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES IN RESPECT OF HIGHWAYS AND TRAFFIC ORDERS FUNCTIONS</b>
To advertise and/or implement all Traffic Orders after consultation with the Chair of the relevant HATOC and local County Councillor(s) in line with the agreed ' <i>Processes for Implementation of the Local Transport Plan</i> ' submitted to HATOCs, from time to time; provided that where a Traffic Order relates to a county-wide matter, only after consultation with the relevant Cabinet Member.
To advertise Gateway Orders after consultation with elected members as outlined in the processes for implementation of the Local Transport Plan and to implement such Orders where there have been no objections
To make temporary traffic regulation orders.
To grant consents, approvals, licences and minor property rights in connection with operations on under over or adjacent to the highway.
To protect the rights of the public to use highways safely.
To consult on the schemes on the agreed priority list in conjunction with local members prior to bringing forward the schemes for formal approval as necessary.
To receive petitions and undertake consequent investigations/actions thereon as they may relate to Traffic Orders, the administration of the Advance Payment Code, the private street works procedure and the making of highway agreements arising from development proposals.
To institute, defend and conduct any legal proceedings, criminal or civil or any process before any court or other tribunal in connection with highway matters and to settle any claim.
To authorise the entry onto land for the purpose of survey or to maintain any structure on, over or under such land.
To make improvements within or adjoining the highway up to a value of £50,000 (works) including land acquisition within specific allocations made to projects in the approved works list, all maintenance works and markings.
To express a technical view when consulted by other organisations on minor issues such as Pavement Cafe licences and to take any necessary administrative action in connection therewith.

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<p><b>TO THE CHIEF TRADING STANDARDS OFFICER</b>  <i>[The Chief Trading Standards Officer shall exercise all Trading Standards functions in relation to both Devon County Council and Somerset Council, Torbay Council and Plymouth City Council in accordance with the Joint Trading Standards Service arrangements, in line with the decisions of the County Council on 25 April 2013 (Minute 200 refers] (in respect of Somerset), 27 April 2017 (Minute 98 refers)(in respect of Torbay) and Minute 307 of 1 October 2020 (for Plymouth).</i></p>	
<p>Chief Inspector of Weights and Measures for purposes of the Weights and Measures Act 1985.</p>	
<p>To issue all Notices and Certificates, making relevant charges in connection therewith, and to take any necessary enforcement action under the Safety of Sports Ground Act 1975, the Fire &amp; Safety and Places of Sport Act 1987, the Regulatory Reform (Fire Safety) Order 2005 and any other legislation relevant to sportsground safety, in relation to Devon and Somerset only, under the Joint Trading Standards Services arrangements</p>	
<p>To exercise all the powers and duties of an authorised officer/inspector and to institute and conduct before a Magistrates Court any legal proceedings on behalf of the County Council as local Weights and Measures Authority and Food and Drugs Authority.</p>	
<p>To appoint and authorise officers/inspectors to carry out all relevant duties and exercise all appropriate powers in the performance of legislation enforced by the Trading Standards Service and, where appropriate, to institute and/or conduct any legal proceedings on behalf of Devon County Council, Somerset Council, Torbay Council and Plymouth Council, as appropriate, in respect of the Trading Standards Service's legal responsibilities.</p>	
<p>To inspect, enter, investigate, enforce or institute criminal or civil legal proceedings or issue Notices which might give rise to a criminal or civil liability, for example Fixed Penalty Notices, in respect of the following Acts of Parliament or legislation, including Orders or Regulations made thereunder or any further legislation amending or re-enacting or extending the same:</p>	
<p>Accommodation Agencies Act 1953  Administration of Justice Acts 1970 and 1985  Agriculture Act 1970  Agriculture (Misc. Provisions) Act 1968  Animal Health Acts 1981 and 2002  Animal Health and Welfare Act 1984  Animal Welfare Act 2006  Animals Act 1971  Anti-Social Behaviour Act 2003  Anti-Social, Behaviour Crime &amp; Policing Act 2014  Architects Act 1997  Business Protection from Misleading Marketing Regulations 2008  Cancellation of Contracts made in a Consumer's Home or Place of Work etc, Regulations 2008  Cancer Act 1939  Charities Acts 1992 &amp; 2006  Children and Families Act 2014</p>	<p>Gambling Act 2005  Hallmarking Act 1973  Health and Safety at Work Etc Act 1974  Health Protection (Coronavirus, Restrictions) (No4) (England) Regulations 2020  Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020  Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020  Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020  Housing Act 2004  Housing and Planning Act 2016  Insolvency Act 1986  Intellectual Property Act 2014  Knives Act 1997  Legal Services Act 2007  Licensing Act 2003  Magistrates Courts Act 1980</p>

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Children and Young Persons Act 1933	Malicious Communications Act 1988
Children & Young Persons (Protection from Tobacco) Act 1991	Medicines Act 1968
Clean Air Act 1993	Motor Cycle Noise Act 1987
Companies Acts 1985 and 2006	Motor Vehicles (Safety Equipment for Children) Act 1991
Companies Directors Disqualification Act 1986	Offensive Weapons Act 2019
Companies (Trading Disclosures) Regulations 2008	Offshore Safety Act 1992
Consumer Contracts (Information, Cancellation & Additional Charges) Regulations 2013	Olympic Symbol etc; (Protection) Act 1995
Consumer Credit Acts 1974 and 2006	Package Travel, Package Holidays and Package Tours Regulations 1992
Consumer Protection Act 1987	Performing Animals (Regulation) Act 1925
Consumer Protection from Unfair Trading Regulations 2008	Pesticides (Fees & Enforcement) Act 1989
Consumer Rights Act 2015	Petroleum (Consolidation) Regulations 2014
Consumers, Estate Agents & Redress Act 2007	Poisons Act 1972
Control of Pollution Act 1974	Prices Act 1974
Copyright, Designs and Patents Act 1988	Proceeds of Crime Act 2002
Courts and Legal Services Act 1990	Protection from Harassment Act 1997
Crime & Disorder Act 1988	Protection of Animals Act 1911
Criminal Attempts Act 1981	Psychoactive Substances Act 2016
Criminal Justice Act 1988	Registered Designs Act 1949
Criminal Justice & Police Act 2001	Regulatory Enforcement & Sanctions Act 2008
Criminal Law Act 1977	Road Traffic Acts 1988 and 1991
Crossbows Act 1987	Road Traffic (Consequential Provisions) Act 1988
Customs and Excise Management Act 1979	Road Traffic (Foreign Vehicles) Act 1972
Development of Tourism Act 1969	Road Traffic Offenders Act 1988
Dogs Act 1906	Safety of Sports Grounds Act 1975*
Dogs (Amendment) Act 1928	Scotch Whisky Act 1988
Education Reform Act 1988	Solicitors Act 1974
Employment Agencies Act 1973	Telecommunications Act 1984
Energy Acts 1976 and 2011	Tenant Fees Act 2019
Energy Conservation Acts 1981 and 1996	Theft Acts 1968 & 1978
Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015	Theft (Amendment) Act 1996
Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2012	Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010
Enterprise Act 2002	Tobacco Advertising & Promotion Act 2002
Environment Act 1995	Tobacco Products Duty Act 1979
Environmental Protection Act 1990	Trade Descriptions Act 1968
Estate Agents Act 1979	Trade Marks Act 1994
Explosives Acts 1875 and 1923*	Trading Representations (Disabled Persons) Acts 1958 & 1972
	Trading Schemes Act 1996
	Unsolicited Goods and Services Act 1971
	Unsolicited Goods and Services (Amendment) Act 1975
	Video Recordings Acts 1984 & 2010
	Weights and Measures etc., Act 1976
	Weights and Measures Act 1985
	Welfare of Animals at Slaughter Act 1991

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Explosives (Age of Purchase) Act 1976*	And all relevant Domestic or European legislation made by virtue of the European Communities Act 1972 and re enabled by The European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement) Act 2020.
Fair Trading Act 1973	
Farm and Garden Chemicals Act 1967	
Fire, Safety and Safety of Places of Sports Act 1987*	
Fireworks Acts 1951, 1964 and 2003*	
Food & Environment Protection Act 1985	
Food Safety Act 1990	
Forgery and Counterfeiting Act 1981	
Fraud Act 2006	
and (a) any other legislation relating to Trading Standards and/or weights and measures functions of local authorities; and (b) any other legislation or offence under any legislation or at common law which is of a similar nature or related to the foregoing including any offence of aiding, abetting, counselling and procuring, incitement conspiracy, perverting the course of justice and criminal attempts.	
<b>TO THE HEAD OF ECONOMY, ENTERPRISE &amp; SKILLS</b>	
To support projects involving applications to external funding sources requiring endorsement, but without commitment to additional resources on behalf of the County Council.	
To assess eligibility of projects for external funding.	
<b>TO THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT AND/OR THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES IN RESPECT OF PLANNING POLICY, INFRASTRUCTURE AND DEVELOPMENT MANAGEMENT FUNCTIONS</b>	
<b>Officer</b>	
<b>1. Land Use Planning Functions</b>	
<p><i>[NB: For the purposes of this schedule:</i></p> <p><i>i) the County Council's role as 'Strategic Authority' includes all functions for which the County Council has any statutory responsibility</i></p> <p><i>ii) Determination of applications made under the Town and Country Planning Act 1990 to includes the following: full application; outline application; reserved matters; discharge of planning conditions; applications to develop land without compliance with conditions previously attached; applications for development already carried out; and non-material changes to planning conditions. Determination of applications made under the Environment Act 1995 for the initial and periodic review of mineral permissions.</i></p> <p><i>Determination of prior approval applications when these are required by the provision of the General Permitted Development Order. The discharge of Habitats &amp; Species Regulations requirements in the role of a competent authority.</i></p> <p><i>iii) the Officer will not exercise delegated powers in respect of the</i></p>	

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<p><i>determination of County Matters or County Council Development planning applications, or review of mineral permission applications without prior notification to the local County Council member pursuant to the procedures agreed by the former Development Control Committee on 23 January 2001 [Minute 221* refers].</i></p> <p style="text-align: right;"><i>CC,E&amp;T</i></p>	
(a)	<p>In cases where a planning application falls to be determined by the County Council (as defined in 1ii above) to approve the application without further reference to the Development Management Committee when the intended decision is in accordance with existing Development Plan policy and there are no significant objections from a statutory consultee.</p> <p style="text-align: right;"><i>CC,E&amp;T</i></p>
(b)	<p>In cases where a planning application falls to be determined by the County Council (as defined in 1ii above) to refuse the application without further reference to the Development Management Committee where the application is clearly not in accordance with existing Development Plan Policy.</p> <p style="text-align: right;"><i>CC,E&amp;T</i></p>
(c)	<p>Determine when it may be necessary to seek confirmation of a delegated decision (approval or refusal) in consultation with the Chair of the Development Management Committee.</p> <p style="text-align: right;"><i>CC,E&amp;T</i></p>
(d)	<p>To issue decisions for applications (a) to discharge conditions or for non-material amendments following the grant of planning permission, and (b) for prior approval under the General Permitted Development Order.</p> <p style="text-align: right;"><i>CC,E&amp;T</i></p>
(e)	<p>To respond, on behalf of the County Council, in its role as Strategic, Education, Transport, Highways and Minerals and Waste Planning Authority, and as Lead Local Flood Authority, to consultations by Local Planning Authorities and neighbouring Minerals and Waste Planning Authorities on planning applications and pre-planning inquiries (including EIA screening and scoping consultations); by the Environment Agency on environmental permits; by the Planning Inspectorate on nationally significant infrastructure projects (NSIP's) and, by the Marine Management Organisation on marine licenses, except in those cases, which because of their nature, size or significance are thought by the Head of Service to require the approval of the relevant Cabinet Member.</p> <p style="text-align: right;"><i>CC,E&amp;T</i></p>

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<p>(f) In all cases of development by a Local Planning Authority which requires the County Council's response being given within a period of twenty-one days, to issue such comment within the required period; should there arise any conflict of view between that expressed by the County Council and the Local Planning Authority in question, the case to be referred to Development Management Committee. A similar procedure shall be applied also to development by Government Departments and consultations with adjoining Local Planning Authorities;</p>	<p><i>CC,E&amp;T</i></p>
<p>(g) To comment on proposals for the erection of overhead electricity supply lines below 132kv, where the proposed line is not in conflict with existing Development Plan policy;</p>	<p><i>CC,E&amp;T</i></p>
<p>(h) To determine Applications for Certificates of Appropriate Alternative Development under Section 17 of the Land Compensation Act 1961, except where the land is to be purchased for County Council purposes;</p>	<p><i>CC,E&amp;T</i></p>
<p>(i) To process and issue consents under the Planning (Hazardous Substances) Act 1990 (where these relate to County Matters)</p>	<p><i>CC,E&amp;T</i></p>
<p>(j) To make directions requiring an application for planning permission in respect of certain minerals permitted development rights for mineral exploration and removal of material from mineral working deposits (Directions under Article 5 of the Town and Country Planning (General Permitted Development) (England) Order 2015.</p>	<p><i>L&amp;DS or CC,E&amp;T</i></p>
<p>(k) To prepare and give evidence for planning appeals.</p>	<p><i>CC,E&amp;T</i></p>
<p>(l) To prepare and give evidence at Local Plan Examinations, Minerals and Waste Plan Examinations, Neighbourhood Plan Examinations, CIL Examinations, Marine Plan Independent Investigation and planning appeals and in particular where appropriate, to give evidence on behalf of the County Council in the light of amended circumstances.</p>	<p><i>CC,E&amp;T or L&amp;DS</i></p>
<p>(m) To respond, on behalf of the County Council, in its role as Strategic, Education, Transport, Highways, Minerals and Waste Planning Authority, following all appropriate consultations within the County Council, to any consultations by a Council's or other relevant organisations on Waste, Minerals or District Local Plans, CIL and Neighbourhood Plans, Brownfield Land Registers, Marine Plans or other policy documents and to enter into any Statement of Common Ground, Memorandum of Understanding or like document except in those cases, which because of their nature, size or significance would require the approval of the relevant Cabinet Member.</p>	<p><i>CC,E&amp;T</i></p>

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<p>(n) To issue screening and scoping opinions in respect of Environmental Impact Assessment requirements of County Matter and County Council development planning applications and reviews of mineral planning permissions (ROMP) applications; as required by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.</p>	<p><i>CC,E&amp;T</i></p>
<p>(o) To issue, upon request, non-binding pre-application advice to applicants in respect of prospective developments based on current development plan policy and the attributes of the proposal and its location in accordance with the Council's published scheme.</p>	<p><i>CC,E&amp;T</i></p>
<p>(p) To fulfil the legal responsibilities of a competent authority, either alone or in coordination with another competent authority, in accordance with The Conservation of Habitats and Species Regulations 2010 in determining whether a plan or project may have significant effect on a European Site, in undertaking an appropriate assessment, where required, and in deciding whether there may be an adverse effect on the integrity of the European Site in the light of the appropriate assessment</p>	<p><i>CC,E&amp;T</i></p>
<p>(q) To undertake the functions of relevant authority by establishing or amending, either alone or in combination with other relevant authorities, a management scheme for a European Marine Site.</p>	<p><i>CC,E&amp;T</i></p>
<p>(r) To implement matters required by an agreement under section 106 of the Town and Country Planning Act 1990 where the cost of the work is to be met by the developer.</p>	<p><i>CC,E&amp;T</i> or <i>L&amp;DS</i></p>
<p><b>2. Highway Planning Functions:</b></p>	
<p>(a) To respond on behalf of the County Council to consultations by Local Planning Authorities on planning applications except in a case which because of its nature, size or significance is thought by the Head of Service to require the consideration of the relevant Cabinet Member.</p>	<p><i>CC,E&amp;T</i></p>
<p>(b) To prepare and give evidence for planning appeals and in particular where appropriate, to give evidence on behalf of the County Council in the light of amended circumstances</p>	<p><i>CC,E&amp;T</i></p>
<p>(c) To object to the grant of a licence by the Traffic Commissioners for Goods Vehicle Operating Centres on environmental grounds and on the suitability of the site access; subject to cases of unusual importance being referred to the Development Management Committee and in consultation with the local County Councillor.</p>	<p><i>CC,E&amp;T</i></p>

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<p>(d) To respond to consultations from the Secretary of State in respect of proposals to stop up or divert a public highway under the Town &amp; Country Planning Act 1990, subject to consultation with the local County Councillor and provided that proposals which appear to HoPTE to be major or controversial are referred to the relevant Cabinet Member for consideration.</p>	<p>CC,E&amp;T</p>
<p>(e) To administer the Advance Payment Code, the private street works procedure and the making of highway agreements arising from development proposals.</p>	<p>CC,E&amp;T</p>
<p><b>3. Enforcement &amp; Monitoring Functions</b></p>	
<p>(a) To undertake the service of notices requiring the submission of information, breach of condition notices, stop notices and/or enforcement action in order to stop or regularise unauthorised development and to secure compliance with conditions attached to planning permissions</p>	<p>L&amp;DS &amp; CC,E&amp;T</p>
<p>(b) To determine applications for certificates of lawful use and development under s191 and s192 of the Town &amp; Country Planning Act 1990.</p>	<p>L&amp;DS</p>
<p>(c) To monitor conditions attached to mineral and landfill planning permissions and to prepare subsequent monitoring reports that contain a recording compliance or otherwise with the requirements of those conditions</p>	<p>CC,E&amp;T</p>
<p><b>4. Legal Agreements</b></p>	
<p>(a) To execute agreements and related powers including Sections 4, 6, 38, 184, 228 and 278 of the Highways Act 1980, and other sections/powers, as required, from time to time, where such arrangements are necessary to meet the requirements of HoPTE (including educational or social infrastructure), excepting cases which because of their nature, size and significance, are thought to require the consideration of the relevant Cabinet Member.</p>	<p>L&amp;DS</p>
<p>(b) To execute agreements pursuant to s106 of the Town &amp; Country Planning Act 1990 and related powers including Section 171, of the Highways Act 1980, and other sections/powers, as required, from time to time, where such arrangements are necessary to meet the requirements of HoPTE (including educational or social infrastructure), excepting cases which because of their nature, size and significance, are thought to require the Development Management Committee's consideration.</p>	<p>L&amp;DS</p>

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(c)	To execute Planning Performance Agreements with applicants for development consent as necessary to deliver decisions within an agreed timetable	CC,E&T
(d)	To prepare and enter into Section 171/184 (Highways Act 1980) Agreements	CC,E&T
(e)	To provide instructions to the Director of Legal and Democratic Services on Section 106 Agreements and Section 4, 6, 38, 171, 184, 228 and 278 Agreements (Highways Act 1980) including negotiated contributions and works	CC,E&T
(f)	To provide instruction to the Director of Legal and Democratic Services on management agreements under S39 of the Wildlife and Countryside Act 1981.	CC,E&T

**TO THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT AND/OR THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES IN RESPECT OF FLOOD RISK MANAGEMENT FUNCTIONS**

1. As Lead Local Flood Authority		
(a)	Duty to develop, maintain, apply and monitor a Strategy for Local Flood Risk Management	CC,E&T
(b)	Power to investigate flooding events, publish a report and ensure that other Flood Risk Management Authorities are fulfilling their roles.	CC,E&T
(c)	Power to designate an asset when, under the opinion of Devon County Council, the asset is considered to have significant flood defence benefits.	CC,E&T or L&DS
(i)	To designate an asset.	CC,E&T
(ii)	To respond on behalf of the County Council to any dispute arising from a designation.	CC,E&T or L&DS
(iii)	To approve any future maintenance or improvements on the designated structure.	CC,E&T
(d)	Duty to establish and maintain:	
(i)	a register of structures or features which, in the opinion of Devon County Council, are likely to have a significant effect on flood risk and make available for inspection at all reasonable times.	CC,E&T

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(ii)	a record of information about each of those structures or features, including information about ownership and state of repair.	<i>CC,E&amp;T</i>
(e)	To fulfil the requirements of Sections 29 and 33 of the Flood and Water Management Act by carrying out works to improve surface runoff and groundwater issues, provision of consent for works on a watercourse and the request for works to maintain flow in a watercourse.	<i>CC,E&amp;T</i> or <i>L&amp;DS</i>
(i)	To utilise powers of entry under Section 64 of the Land Drainage Act 1991.	<i>CC,E&amp;T</i> or <i>L&amp;DS</i>
(ii)	To approve or refuse applications for works within a watercourse that could be detrimental to the flow of water under Section 23 of the Land Drainage Act 1991.	<i>CC,E&amp;T</i>
(iii)	To act on behalf of the County Council to resolve any dispute arising from a refusal to grant consent for works within a watercourse	<i>CC,E&amp;T</i> or <i>L&amp;DS</i>
(iv)	To enforce the issue of flow impediment within a watercourse under section 25 of the Land Drainage Act 1991.	<i>CC,E&amp;T</i> or <i>L&amp;DS</i>
(f)	To respond on behalf of the County Council, in its role as Statutory Consultee to the Local Planning Authority, on major planning applications with surface water implications.	<i>CC,E&amp;T</i>
(i)	To review and provide advice on the suitability of the proposed surface water management for the development (i.e. sustainable drainage system).	<i>CC,E&amp;T</i>
(ii)	To provide guidance and best practice on the national non-statutory technical standards and local requirement.	<i>CC,E&amp;T</i>
(g)	To respond on behalf of the County Council, upon request from the Environment Agency, on the performance and delivery of the County Council's responsibilities under the functions of Flood and Coastal Erosion Risk Management (FCERM).	<i>CC,E&amp;T</i>



## **Section Five - Locality Budgets Operating Principles**

### **General Guidance**

Each Member of the County Council is allocated an annual budget to be applied within the 'operating principles' approved by the Council, as set out below. It is a matter for each Member to determine how his/her budget is allocated subject to a number of overriding principles to ensure financial probity, value for money and accountability. Members are encouraged to be proactive in considering the kinds of activity which would most benefit their areas, rather than waiting to be lobbied by active local groups.

### **Locality Budgets Operating Principles**

The use of such funds is likely to vary from one area to another, in part reflecting the **diverse** nature of Devon's communities. Furthermore, there are some parts of Devon in which various external funding designations mean there are different possibilities for matched funding (e.g. the Objective 2 area).

A decision should be backed by evidence of need to ensure that the project seeking support cannot be easily funded from another source (the principle of "investor of last resort") and should demonstrate:

- consistency with (and be not contrary to) the council's current policies,
- evidence of value for money (perhaps measured in part by match-funding leverage secured),
- evidence of proper procurement practices,
- transparency and accountability, and
- the extent to which the investment encourages or triggers partnership working.

A Member may choose to allocate funds individually or jointly with another Member or to 'pool' a proportion of his/her budget with a like amount by other Members through any formal mechanism established by the Council (e.g. a Locality (County) Committee, Link or Cluster) or any other locally agreed arrangement.

### **Areas for which the locality budget may not be used:**

Funding of individuals.

Reinstating a cut in a county council service or activity arising from an earlier policy decision of the County Council or other public body excepting where any one-off funding is required to mitigate the immediate impact of any such service reduction where a creative alternative solution has been found that in other respects meets the operating principles, provided also that there is no commitment upon the Council or Member to provide on-going support.

On-going yearly commitments, unless specifically agreed by the Cabinet in advance.

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## **Approval and Monitoring of Allocations**

The Head of Communities or Officers nominated by them can provide support and guidance on ensuring that the principles of this scheme are met when decisions to invest are made.

Any allocation shall be dependent upon the recipient(s) formally agreeing to spend the funding on the activity/scheme specified in the application form, return any unspent monies and provide the relevant Member(s) with a simple statement of how the funding has benefited the organisation and/or local community so that Members are able to identify the success, or otherwise, of the funding granted.

A cumulative statement of allocations approved by a Member (or Members acting jointly) will be made available for public inspection on the Council's website and an Annual Report/Statement shall be submitted to the Cabinet and the Corporate Services Scrutiny Committee for audit and monitoring purposes.

## **Carry forward of unallocated funds**

The present practice of the Council is to allow carry forwards in members' locality budgets from one year to the next.

## **Members Interests**

It will sometimes happen that a member has an interest in an organisation or project they wish to support. There is no reason why that organisation/project should automatically be excluded simply for that reason. In those circumstances a Member, or Members where acting jointly, shall make a recommendation to the Chair or Vice-Chair of the Cabinet indicating the extent of their interest. The Chair or Vice-Chair will then make a decision in the light of that submission with the presumption that consent should not unreasonably be withheld.

## **Council Procedure Rules (Standing Orders)**

These Standing Orders govern the way in which the County Council works and the conduct of elected members and officers.

- 1 County Council Meetings
- 2 Notice of and Summons to Meetings
- 3 Chair of Meeting
- 4 Quorum
- 5 Order of Business
- 6 Notices of Motion
- 7 Notice of Motion to rescind a previous resolution
- 8 Referred Motions
- 9 Motions Regulating Procedures of Council
- 10 Motions affecting persons employed by the Council
- 11 Motions and amendments which may be moved without notice
- 12 Minutes of Council meetings
- 13 Minutes of Committees submitted to Council
- 14 Rules of Debate and Procedures for Meetings of the County Council
- 15 Speaking at Meetings
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- 17 Written Questions at Council Meetings
- 18 Disorderly Conduct
- 19 Disturbance by Members of the public
- 20 Standing Orders applying to Committees
- 21 Appointment and Membership of Committees
- 22 Meetings of Committees
- 23 Agenda and Order of Business
- 24 Election of Chair and Vice-Chair
- 25 Attendance at Committee Meetings
- 26 Quorum
- 27 Confidential Proceedings
- 28 Public Participation at Meetings of Committees
- 29 Variation and Revocation of Standing Orders
- 30 Suspension of Standing Orders
- 31 Interpretation of Standing Orders
- 32 Voting on Motions and Amendments
- 33 Voting on Appointments
- 34 Members' Interests
- 35 Appointment of Officers and Disciplinary Action
- 36 Financial Matters and Procedures
- 37 Inspection of Land, Premises, etc.
- 38 Honorary Alderman (Conferment and Removal of Title)

# Item 4a

## **PART 1 [County Council Meetings]**

### **1. Meetings**

- 1) All meetings of the County Council will be held at County Hall, Exeter or such other place as the Council may decide.
- 2) The Annual Meeting of the Council will be held during the month of May unless otherwise directed by the Council.
- 3) In addition to the Annual Meeting, the Council will hold:
  - a) ordinary meetings to consider general business, on the dates and times shown in the Council's calendar of meetings;
  - b) a Budget Meeting on the date shown in the Council's calendar of meetings to consider and approve the annual estimates and to determine the Council's precept;
  - c) special meetings convened by the Chair or by any five members of the Council in accordance with Schedule 12 of the Local Government Act 1972;
  - d) in the year of the County Council Quadrennial Elections an additional meeting immediately prior to those elections to deal with any outstanding business identified in respect of 5 (e), (f) (g), (l,) (n) or (9) below.
- 4) If a meeting of the Council has not finished by 8pm, it will be adjourned automatically to the next Saturday morning, at 10.30am, unless a majority of members present agree to continue the meeting until it finishes or to adjourn it to some other day.
- 5) If the Chair considers that severe weather conditions or some other unforeseen circumstance warrant it, they may postpone for a period of not more than 14 days the date fixed for a meeting of the Authority.

### **2. Notice of and Summons to Meetings**

The Chief Executive will give notice to the public of the time and place of meetings in accordance with the Access to Information Procedure Rules contained in the Council's Constitution.

### 3. Chair of Meeting

The Chair of the County Council will, if present, preside at all meetings of the Council but in their absence the powers and duties of the Chair will be exercised by the Vice-Chair or the person appointed by the Council to preside at the meeting.

### 4. Quorum

The minimum number of members needed for a meeting of the Council to start and to continue (a quorum) is one quarter of the whole number of members on the Council. If a quorum is not present or maintained, the meeting will be adjourned to a time fixed by the Chair. If no time is fixed then any outstanding business will be dealt with at the next ordinary meeting of the Council.

### 5. Order of Business

- 1) The order in which business is dealt with at meetings of the Council will be as set out below. The order of items in paragraphs (e) - (r) may however be changed by the Chair at their discretion or by a majority of the members present at the meeting in accordance with paragraph (2) below:
  - a) Election of the Chair & Vice-Chair (Annual Meeting only) (see also standing order 3 above).
  - b) Appointment of Leader of the Council (Annual Meeting following quadrennial elections only).
  - c) Appointment of Cabinet Members by the Leader (Annual Meeting following quadrennial elections only).
  - d) Appointment of a member to act as Chair for the meeting if the Chair and Vice-Chair are absent.
  - e) Approval of the minutes of the last meeting as a correct record and their signature by the Chair (standing order 12 also refers)
  - f) Disposal of any business left over from the last meeting.
  - g) Announcements from the Chair.
  - h) Important Announcements from the Leader and Cabinet Members (Cabinet Procedure Rules)
  - i) Filling vacancies on committees or other bodies.

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- j) Receipt of Petitions.
  - k) Answers to questions by and receipt of representations from members of the public asked under the Public Participation Procedure Rules
  - l) Answers to questions by members asked under standing order 17.
  - m) Consideration of Framework Decisions/Recommendations from the Cabinet.
  - n) Receipt of Reports from Cabinet Members (see paragraph 16 of Cabinet Procedures Rules)
  - o) Consideration of minutes, reports and/or recommendations from committees.
  - p) Consideration of reports from officers.
  - q) Consideration of any other business listed on the agenda for the meeting.
  - r) Consideration of motions placed on the agenda under standing order 6.
- 2) Any proposal by a member under paragraph (1) above to change the order of business shall be voted on without discussion immediately after it has been moved and seconded.
- 3) A provisional Order paper indicating the business to be transacted at a Council meeting will be available in the Chief Executive's Office from 10.30am on the day of the meeting (or in the case of the Budget Meeting starting at 10.30am, from 9.00am) but will not be finalised until it is tabled in the Council Chamber before the start of the meeting.

## **6. Notices of Motion: At County Council**

- 1) A member who wishes to place a motion on the agenda of a meeting of the Council must give notice, in writing, to the Chief Executive by 9.00am on the eighth working day before the meeting of the Council at which it is to be considered. The Chief Executive will keep a record of all such motions received which may be inspected by any member of the Council.
- 2) This standing order does not apply to motions which can be moved without written notice in accordance with standing order 11.

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- 3) All motions submitted under this standing order will be set out on the agenda for the meeting of the Council in the order they were received. A motion may only be withdrawn — in writing — by the member who originally submitted it.
- 4) A motion which has been placed on the agenda must be formally moved at the meeting of the Council by the member who submitted it or, with his/her written consent, by another member. If it is not moved it will be regarded as withdrawn unless the Council agrees to postpone it.
- 5) The mover may if the Council agrees, without discussion, alter a motion provided that the alteration could have been made as an amendment under standing order 14(7).
- 6) The Council shall only consider a motion if it relates to some matter on which the Council has powers or duties or which directly affects the County as a whole.
- 7) At any ordinary meeting of the Council, a motion shall, after being formally moved and seconded, be passed to the Cabinet There will then be no discussion on the motion at that meeting of the Council.
- 8) If the motion is on a matter for which the Cabinet has no remit, then it shall be passed to the relevant Committee (Local Authorities (Functions and Responsibilities)(England) Regulations 2000).
- 9) However, and subject also to standing orders 9 and 29, the Council may decide to discuss a motion at the meeting to which it is submitted if, in its view, there is sufficient reason to do so.

## **7. Notice of Motion: To Rescind a Previous Resolution**

Any Notice of Motion which would negate, cancel or revoke an earlier decision taken by the Council on a motion submitted under standing order 6 during the previous six months can only be considered if the notice given to the Chief Executive under standing order 6(1) is signed by ten members.

When the Council has considered any such motion the subject matter or topic shall not be raised again by Notice of Motion within the following six months.

***[NOTE: This standing order only applies to formal Notices of Motions submitted to the County Council under standing order 6. The six-month rule does not apply to any decision of the Council taken as a result of approving a minute or recommendation of the Cabinet or a committee]***

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## **8. Referred Motions**

- 1) When a motion has been referred to the Cabinet under standing order 6(6) the Chief Executive will inform the member who originally submitted it when the Cabinet is to discuss it. If they are not a member of the Cabinet they have a right to attend the meeting and speak but not to vote on the motion.
- 2) The Cabinet will consider the matter and either refer it to another committee or make a recommendation to the Council.

## **9. Motions Regulating Procedures of Council**

Any motion which would affect the procedures of the Council will be passed to the Procedures Committee to consider and report back to the Council.

## **10. Motions affecting persons employed by the Council**

If any question arises at a meeting of the Council about the appointment, promotion, dismissal, salary, superannuation, conditions of service, or conduct of any employee of the Council, it shall not be discussed until the Council has decided whether or not to exercise the power of exclusion of the public under Section 100A(4) of the Local Government Act 1972.

## **11. Motions and amendments which may be moved without notice**

Motions or amendments on the following topics or matters may be moved without giving notice to the Chief Executive under standing order 6;

- 1) Appointing or electing a Chair.
- 2) Varying the order of business on the agenda.
- 3) Referring a matter to the Cabinet or a committee.
- 4) Appointing a Committee (or members thereto) when the agenda contains an item to allow members to do so.
- 5) Agreeing the minutes of the Council or a Committee and/or querying the accuracy of the minutes.
- 6) Requesting approval to withdraw a Motion.
- 7) Extending the time limit for speeches.

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- 8) Amending a motion submitted under standing order 6 or 7.
- 9) Asking the Council to proceed to the next item on the agenda.
- 10) Asking the Council now to vote on the issue being discussed (otherwise known as a motion that the question be now put).
- 11) Adjourning the debate.
- 12) Adjourning the meeting.
- 13) Suspending standing orders in accordance with standing order 30.
- 14) Excluding the press and public in accordance with Section 100A(4) of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Meetings & Access to Information) (England) Regulations 2012.
- 15) Dealing with disorderly conduct by a member under standing order 18.

## **12. Minutes: of Council Meetings**

- 1) The minutes of a meeting of the Council will be submitted to the next ordinary meeting for approval as 'a correct record'.
- 2) The Chair will ask the Council to agree *that the minutes of the meeting of the Council held on the ... day of ... be approved as a correct record*. and they will then sign the minutes. There shall be no discussion on any minute unless its accuracy is called into question.

## **13. Minutes: of the Cabinet and Committees submitted to Council**

- 1) Any Minute of the Cabinet relating to a Framework Decision (see paragraph 11 of the Cabinet Procedure Rules) submitted to the Council for approval will be formally 'moved' by the Leader or appropriate Cabinet Member.
- 2) Minutes of other committees submitted to the Council for adoption and / or approval will be formally 'moved' by the Chair of the Council and put to the Council for consideration. When all matters relating to those minutes have been dealt with (see also standing order 14(1)-(3)) the Chair of the Council will then ask the Council to adopt the minutes as a whole (together with any amendments the Council may have agreed), without any further discussion.

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- 3) The mover of the minute will exercise the 'right of reply' to any amendment moved under standing order 14.
- 4) Any decision of a committee taken on a matter for which it has power delegated to it under the Council's scheme of delegation (set out in Part 3 of the Council's Constitution) shall be known as a 'starred minute' and be denoted by an asterisk (\*) immediately in front of the minute number.
- 5) The County Council may only consider an amendment to a starred minute called for consideration at a Council meeting if 20 members vote in favour of so doing.

## **14. Rules of Debate and Procedures for Meetings of the County Council**

*[NOTE: This standing order relates to motions and amendments moved at meetings of the Council other than Notices of Motion submitted under standing order 6. Motions or amendments moved at the Cabinet or Committees do not have to be in writing].*

### **'Calling' of Minutes: at Council**

- 1) If a member wants to amend or talk to or ask a question on any committee minute which is before an ordinary meeting of the Council for approval they must give notice of their intention to "call" that minute to the Chief Executive by 12.00 noon on the day before the meeting. Minutes of the Cabinet relating to Framework Decisions will be regarded as having been called automatically.

If a member wishes the text of his/her motion or amendment to be printed on the Order Paper they should also supply that text and the name of their seconder.

Any motion or amendment which has not already been published on the Order Paper (see also standing order 5(3)) must be put in writing, read out at the meeting by the mover and then handed to the Chair. It must be moved and seconded before being discussed.

- 2) Any member may, without giving notice, move an amendment to, talk to or ask a question on a minute which has already been 'called'.

### **Motions and Amendments**

- 3) At a Budget meeting the text of any motion or amendment relating to the annual estimates must be put in writing and submitted to the Chief Executive by 9.00am on the third working day before the meeting in order that the officers may have sufficient time to

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consider and advise the Council of the financial implications of any such motion or amendment.

- 4) Only one amendment may be moved and discussed at a time.
- 5) If an amendment is lost other amendments may be moved to the original motion.
- 6) If an amendment is carried the motion, as amended, is the one to which further amendments may be moved.
- 7) An amendment must relate to a motion and can:

- refer the subject of debate to a committee for consideration or re-consideration
- leave out words
- leave out words and insert or add others
- insert or add words;

but must not introduce a substantially new proposal or give effect to the direct opposite of what was proposed in the original motion.

When an amendment is carried, any further amendment must follow the advice above and not revert to the wording of the original motion.

- 8) No amendment may be moved to a minute of a committee unless it has been called under paragraph (1) of this standing order and no amendment can be moved to a minute which does not contain a resolution.
- 9) Any motion or amendment may be altered or withdrawn by the mover with the agreement of his/her seconder, without debate, provided that the amendment in its altered form complies with paragraph (7) of this standing order.
- 10) When a motion is under debate, no other motion shall be moved, except the following:
  - to amend the motion;
  - to adjourn the meeting;
  - to adjourn the debate;
  - to proceed to the next business;
  - that the question be now put;

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- that a member be not further heard (in accordance with Standing Order 18);
- by the Chair that a member do leave the meeting;
- to exclude the public under section 100A(4) of the Local Government Act 1972.

11) On a motion by a member (who has not already spoken in a debate), duly seconded, 'That the Council proceed to the next business', 'That the question be now put' 'That the debate be now adjourned' or 'That the Council do now adjourn', the Chair will, if they agree that there has been enough debate on the matter or that further debate would not be helpful to the Council:

- on a motion *To Proceed to the Next Business* put that motion to the vote and if it is passed go on to the next item;
- on a motion *That The Question be Now Put* put that motion to the vote, and if it is passed immediately ask the mover of any amendment (if there is one) and the mover of the original motion to exercise their right of reply in that order and will then put the motion and/or amendment to the vote;
- on a motion to *Adjourn the Debate* or *Adjourn the Meeting*, put that motion to the vote without giving the mover of the original motion or amendment a right of reply on that occasion.

12) Motions and/or amendments which are not seconded or are withdrawn by the mover will not be recorded in the minutes.

13) Motions and/or amendments moved and seconded at Council meetings which are not approved will be recorded in the minutes of that meeting.

## 15. Speaking at Meetings

- 1) At meetings of the Council, members shall stand and face the Chair when speaking. The Chair will decide which member speaks first if more than one indicates a wish to do so. All other members shall remain seated until the Chair indicates it is their turn to speak or unless they wish to speak to a point of order or in personal explanation (see also paragraph 4 below).
- 2) If the Chair stands up any member who may be speaking must stop and, if necessary, sit down.

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- 3) A member's speech must relate either to the matter under discussion or to a personal explanation or to a point of order, as appropriate.
- 4) Any member who wants to raise either a point of order or to speak in personal explanation will be allowed to speak immediately. A point of order must relate to an alleged breach of a standing order or statutory provision and the member must say which standing order or statutory provision has been broken and in what way. A member may only speak in personal explanation to clarify remarks made by them earlier in that debate which appear to them to have been misunderstood.
- 5) In seconding a motion or amendment any member may reserve their right to speak until later in the debate.
- 6) Any member who has spoken in any debate may only speak again if it is:
  - to speak on an amendment subsequently moved by another member;
  - if the motion has been amended since they last spoke, to move a further amendment;
  - if their first speech was on an amendment moved by another member, to speak on the original motion, whether or not the amendment on which they spoke was carried;
  - to exercise their right of reply (see paragraph 7 below);
  - to raise a point of order (see paragraph 4 above);
  - to speak in personal explanation (see paragraph 4 above).
- 7) In any debate the mover of a motion under standing order 14 has a right to speak immediately before the motion is voted on (a 'right of reply'). If there is an amendment to that motion the mover of the amendment also has a right of reply - immediately before the mover of the motion. Where an amendment is moved to a minute the mover of the amendment shall have a right of reply immediately before the appropriate Cabinet Member or Chair who is moving the adoption of their minutes in accordance with standing order 13(2). The appropriate Cabinet Member or Chair cannot speak on an amendment to a minute until that time.

## 16. Length of Speeches

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Unless the Council decides otherwise, the length of speeches will be as set out below:

- (a) on a minute or other matter relating to the Cabinet, by the Leader or a Cabinet Member: 7 minutes
- (b) on a minute or other matter relating to any other committee, by the Chair of that committee or the relevant 'spokesperson' of the main Party Groups serving on that Committee: 7 minutes
- (c) by the mover of a motion to remove the 'star' from a minute to enable an amendment to that minute to be considered by the Council: 3 minutes.
  - (i) [Such a motion shall be formally seconded without any further speech by the seconder]
- (d) by the mover of any other motion or an amendment: 7 minutes
- (e) by the mover of a motion or an amendment exercising his/her right of reply: 3 minutes
- (f) by the Leader of the Council exercising their right of reply to Budget amendments: up to 10 minutes
- (g) by a Member attending a meeting of a committee under standing order 8(1) or 25: 5 minutes
- (h) A Cabinet Member presenting their report to the Council: up to 10 minutes
- (i) by a Member asking questions or responding to Cabinet Member reports at Council: up to 3 minutes
- (j) all other speeches: 5 minutes

## **17. Written Questions: Council Meetings**

1) A Member of the Council may ask the Leader, appropriate Cabinet Member or Chair of any other Committee a question about any matter or subject on which the Council has powers or duties or which affects the County as a whole. They should relate to strategic, policy or operational matters rather than local issues. Questions relating to local issues will be accepted, subject to the Member demonstrating they have exhausted all other options in terms of obtaining a response on a matter of concern. A single Member may not submit more than three questions per meeting.

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- 2) If the meeting is a special meeting, questions must relate to the matter to be discussed at that special meeting. Similarly, questions at the budget meeting must relate to the annual estimates for the year in question.
- 3) A question must be delivered to the Democratic Services Secretariat, in writing or by email, by the Member asking it, by 12.00 noon on the fourth working day before the meeting at which it is to be asked. Questions should be succinct (a maximum of 100 words) and should not contain a number of sub-elements or sub questions.
- 4) Questions will be printed in the order they were received. If a Member submits more than one question, the first question will be prioritised and subsequent questions will be placed at the end of the schedule. Questions and answers will be circulated to Members before the Council meeting commences together with the answers to those questions (unless an oral answer is to be given). Copies will also be sent to Members who are not able to attend the meeting.
- 5) There will be no discussion about any question, except that the Member who has submitted a question is entitled to ask one supplementary question arising from that question and answer and to receive a further answer. The response will normally be given by the Cabinet Member or Chair of the relevant Committee; however, Directors will support with factual responses where necessary. There is no time limit on asking a supplementary question, but the Chair will exercise discretion if Members make statements rather than asking their supplementary question. If a Member considers that the answer does not fully address the question, they may ask for a full and written answer to be provided to all Members of the Council.
- 6) If any reply indicates that the subject matter of the question is to be considered by the Cabinet or a Committee, the Member who asked the question will be told of the date and time that the Cabinet or Committee will consider the question. The member will be regarded as having given notice to place that item on the agenda under standing order 23(2).
- 7) 'Question Time' shall not exceed forty-five minutes. If however an oral answer has been given within the time limit, the member who asked the question has the right to ask a supplementary question and to receive an answer. If a question to which an oral answer was to have been given has not been reached within the time limit, a written answer will be sent by the Chief Executive to all members of the Council as soon as is practicable.
- 8) The Chair of the Council may rule questions or supplementary questions 'out of order' if their view they are irrelevant, frivolous or derogatory to the dignity of the Council.

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9) In order to permit Members to be able to raise questions on matters of urgency that cannot reasonably be dealt with in line with the procedure and deadlines for Councillor questions at Council, they are permitted to ask that the Leader makes a statement under **'Announcement and Reports from the Leader and Cabinet Members at Council Meetings'**. This must be done in consultation with the Monitoring Officer and that Member is able to ask a short, succinct question in response.

## **18. Disorderly Conduct**

- 1) If a member persistently ignores or disobeys the ruling of the Chair or behaves irregularly, improperly or offensively or deliberately obstructs the business of the meeting any other member may move *'That the member named be not further heard'* which, if seconded, must be put to the vote without discussion.  
If the same member continues to misbehave the Chair will either move *'that the member named do leave the meeting'* (in which case the motion shall be determined without seconding or discussion) or adjourn the meeting for such time as they think fit.
- 2) If a motion, *'that the member named do leave the meeting'* is approved by a meeting the Chair will then order the member concerned to leave the room for the rest of the meeting. If the member refuses to go the Chair can order that they be removed.
- 3) In the event of general disturbance by members which the Chair believes will prevent the business of the meeting being carried out properly, they can adjourn the meeting immediately for whatever period they think fit.

## **19. Disturbance by Members of the Public**

If any member of the public interrupts a meeting the Chair will warn them. If that person continues to interrupt or disrupt proceedings the Chair may order them to leave or be removed from the room. If there is a general disturbance in that part of the room open to the public the Chair may order that part to be cleared and, if they consider it necessary, may adjourn the meeting whilst this action is taken.

## **PART 2**

### **[Rules of Debate and Procedures for the Cabinet]**

The Cabinet Procedure Rules are set out in Part 4 of this Constitution.

## **PART 3**

### **[Rules of Debate and Procedures for Meetings of all Committees other than the Cabinet]**

#### **20. Standing Orders applying to Committees**

Standing Orders 2, 10-19 will apply, mutatis mutandis, to committees except for Standing Orders 13, 14(1), 14(3) and 17.

#### **21. Appointment and Membership of Committees**

1) All committees (including any Statutory Committee) will be appointed by the Council. The Council will decide on the size of each committee and how many voting or non-voting members it will have.

Provided that:

a) the Chair of the County Council may not be a member of the Cabinet or of a Scrutiny Committee;

b) the Vice-Chair of the County Council may not be a member of the Cabinet;

c) A Member of the Cabinet may not be a member of a Scrutiny Committee.

2) A Scrutiny Committee may appoint ad hoc working groups to assist in the investigation of a specific issue of policy or performance. Any other Committee may only appoint a sub-committee or working party with the approval of the Procedures Committee.

3) Whenever the Council is required to review the allocation of seats on committees between political groups, or the Council resolves to carry out such a review the Chief Executive shall submit a report to the Council showing what allocation of seats would, in his/her opinion, best meet the requirements of section 15(4) of the Local Government and Housing Act 1989 and in the light of such a report, the Council shall determine the allocation of seats to political groups.

4) Whenever an appointment of a member of a committee falls to be made in accordance with the wishes of a political group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, then the Chief Executive shall make or terminate the appointment accordingly.

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## 22. Meetings of Committees

- 1) Every committee shall meet at such times and places as are shown in the Council's calendar of meetings or otherwise agreed.
- 2) Meetings of committees shall not normally be held during August, the annual recess of the Council.
- 3) If a meeting of a committee has to be adjourned it should not normally meet within 7 days of the date of the original meeting and appropriate notice of the revised date shall be given.

*[NOTE: This paragraph does not apply to adjournments of meetings under standing orders 14(10) & (11), 18(3) and 19.]*

- 4) The Chair of a committee may call a special meeting of a committee at any time. A special meeting may also be called if one quarter of the whole number of a committee (but not fewer than three members) requisition a meeting in writing through the Chief Executive. The summons for any special meeting shall set out the business to be considered at that meeting.
- 5) If the Chair considers that severe weather conditions or some other unforeseen circumstance warrant it, they may postpone for a period of not more than 14 days the date fixed for a meeting of the Committee.

## 23. Agenda and Order of Business

- 1) The agenda for every meeting of a committee shall include an item to enable the Chair of that meeting to raise any matter which in his/her opinion warrants urgent consideration in accordance with section 100B(4) of the Local Government Act 1972.
- 2) Any member of the Council may put an item on the agenda of any committee relevant to the functions of that committee.

Provided that should a member wish to place an item on an agenda of any meeting that relates solely to a local matter within the electoral division of another member then the local member should be consulted upon the inclusion of any such item and the agenda should indicate whether or not its inclusion has the support of the local Member.

- 3) Notice must be given in writing or by email to the Chief Executive by 9.00am on the eighth working day before the date of the meeting of the appropriate committee giving details of the matter to be discussed. The member will have the right to attend the meeting at which the item is to be considered and explain the matter.

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This paragraph applies to any co-opted or additional member of a committee but only in relation to that committee.

## **24. Chairs and Vice-Chairs**

- 1) The Chair and Vice-Chair of every committee must be a county councillor and will be appointed by the Council at the Annual Meeting except for any Highways and Traffic Orders Committee and Locality (County) Committee which will each elect a Chair and Vice-Chair at the first meeting of those committees after the Annual Meeting of the County Council;
- 2) The Chair and Vice-Chair of the Devon Pension Board and the Vice Chair of the Health & Wellbeing Board will be elected at the first meeting of those Boards (after the Annual Meeting of the County Council) and, thereafter annually, from among the membership of each Board respectively.
- 3) Chairs and Vice-Chairs shall remain in office until their replacements are appointed unless they cease to be members of the Council in which case a replacement will be appointed at the next meeting of the Council or the relevant body.

## **25. Attendance at Committee Meetings**

- 1) The Chair of the County Council or any member of the Cabinet may attend meetings of a Scrutiny Committee but may not exercise his/her right to speak under paragraph 2(a) below except at the invitation of that Committee.
- 2) Subject to (1) above, a member of the Council may attend a meeting of the Cabinet or a committee of the council of which they are not an ordinary member as follows:
  - a) Any member, having given 24 hours notice to the Chief Executive in writing or by email, may attend any meeting and speak but not vote on an item on the agenda for that meeting.
  - b) Any member of the Council may attend, without notice, a meeting of the Development Management Committee to speak (but not vote) about a planning application or other matter which is on the agenda and which affects his/her electoral division and will have the right to speak at the beginning of the debate and again before the debate is finished — before any right or reply by a mover of a motion or an amendment. If a local member is unable to attend a meeting of the Development Management Committee

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they may put their views in writing and they will be read out and circulated at the meeting.

- c) Any member who has asked under standing order 23(2) that an item be placed on the agenda of any committee (which is within its terms of reference) or whose Notice of Motion has been referred by the Council to a Committee or the Cabinet under standing order 6(6) may attend the meeting at which this matter is considered with a right to speak (but not vote) on that item.
  - d) In the case of the Procedures Committee only, a Deputy Group Leader or Deputy Whip or Secretary may attend any meeting in the absence of either a relevant Leader or Whip or Secretary.
  - e) In the case of the Investment and Pension Fund Committee, alternate (nominated) representatives of Unitary and District Councils may attend in the absence of the appointed relevant Unitary or District Council representative.
  - f) In the case of the Devon Audit Partnership Committee, alternate (nominated) representatives of constituent Councils may attend in the absence of that Council's appointed representative.
- 3) In the event of a member of a committee being unable to attend any meeting they shall have the right to submit their views in writing on any matter before the Committee, which shall be reported at the meeting.
- 4) In relation to Highways and Traffic Orders Committees, any Member of the District Council or a Town or Parish Councillor for the area covered by the HATOC who is not a member of the Committee, may attend and speak to any item on the Agenda, with the consent of the Committee, having given 24 hours' notice.

## **26. Quorum**

The quorum for any committee is one quarter of the whole number of the committee (but not fewer than three elected members) except in the case of a Highways and Traffic Orders Committee where the quorum shall be three, of whom two shall be County Councillors.

## **27. Confidential Proceedings**

Documents marked 'Not for Publication' and all proceedings of the Council, the Cabinet or committees from which the public have been excluded under Section 100A(4) of the Local Government Act 1972

# Item 4a

shall be treated as confidential unless and until they become public in the ordinary course of the Council's business, in line with the Access to Information Procedures contained in the Council's Constitution.

## **28. Public Participation at Meetings**

A member of the public who is a resident of the administrative area of the County of Devon may deliver a petition, make representations or ask a question at meetings of the County Council or specified Committees of the County Council as set out in the Public Participation Procedures in the Council's approved Constitution.

## **PART 4**

### **[Variation, Revocation Suspension or Interpretation of Standing Orders]**

## **29. Variation and Revocation of Standing Orders**

Any Notice of Motion under standing order 6 to add to, vary or revoke any of these standing orders shall, when proposed and seconded, automatically stand adjourned without further discussion to the Procedures Committee and any amendment moved and seconded under standing order 14 which is capable of having the same effect shall not be debated further until it has been considered by the Procedures Committee.

## **30. Suspension of Standing Orders**

*[NB: This standing order must be read in conjunction with Article 13(9) of the Constitution]*

- 1) Subject to paragraph (2) of this standing order, any of the preceding standing orders except standing orders 6(1), 6(2), 11, 12(1), 14(3), 32 and 35 may be suspended so far as regards any business at the meeting where its suspension is moved.
- 2) A motion to suspend standing orders shall not be moved at a meeting of the Council without notice unless there shall be present at least one half of the whole number of the members of the Council.
- 3) The minute of any resolution of a committee which requires the suspension of a standing order before it can be acted upon shall be recorded as an unstarred minute.

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## **31. Interpretation of Standing Orders**

The Chair's decision on the meaning, application or interpretation of any standing order or on conduct of business at any meeting of the Council or a committee is final.

## **32. Voting: on motions and amendments**

- 1) The method of voting at meetings of the Council and committees will, unless a roll call vote is requested or required, in accordance with paragraphs (2) and (5) below, be by show of hands.
- 2) At a meeting of the County Council, if a majority of the members present agree, the vote on any matter at that meeting may be by roll call. All members present will be then asked how they wish to vote and how they voted will be shown in the minutes of the meeting. The names of those members who do not vote will also be shown in the minutes. The Leader or Deputy Leader of a Political Group may also ask at any time for the number of votes for and against any decision to be shown in the minutes.
- 3) In the case of an equality of votes the Chair or person presiding at any meeting of the Council the Cabinet or a committee will have a second or casting vote.
- 4) A member may, immediately after a vote has been taken, ask that his/her vote on any decision taken by the Council or a committee be recorded in the minutes as for, against or in abstention.
- 5) At a Budget meeting, the vote on any motion or amendment relating to the setting of the Council Tax or level of precept shall be by roll call (or by any electronic voting mechanism available to the Council) and the names of Members who voted as for, against or in abstention to any such motion or amendment shall be recorded in the minutes of that meeting.

## **33. Voting: on appointments**

- 1) Where there are more than two persons nominated for one position to be filled by the Council or a committee and one of those persons does not receive at least half of the votes cast in his/her favour then the name of the person having the least number of votes shall be removed from the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.

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- 2) In the case where more than one position is to be filled and there are more persons nominated than there are vacancies the same procedure as in paragraph (1) of this standing order shall apply.
- 3) Voting shall be by a show of hands unless it is resolved to use a secret ballot or, in the case of an appointment made at a Council meeting, a roll call under Standing Order 32 (2).
- 4) In the case of equality of votes and where the Chair does not exercise his/her casting vote the matter shall be determined by lot.
- 5) In the eventuality of an equality of votes between an existing Chair and another proposed candidate, the existing Chair will not have a casting or second vote and the matter shall be determined by lot.

## **PART 5** **[General]**

### **34. Members' Interests**

- 1) If any member or co-opted member of the Council, Cabinet or a committee has any financial or other interest within the meaning of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and as set out in the Council's Code of Conduct for Members at Part 6 of the Constitution made by the Secretary of State under section 30 of the Localism Act 2011 that member shall disclose the fact to the Monitoring Officer, in writing, and any such notification shall be recorded in a Register kept by the Monitoring Officer for that purpose;
- 2) If any member or co-opted member has any disclosable pecuniary interest in any matter being considered at a meeting of the Council, Cabinet or a Committee or any personal interest as defined by the above Code of Conduct adopted by the Council and set out in the Council's Constitution they shall disclose that interest and give an explanation of its nature but may remain speak and vote unless the interest is a disclosable pecuniary interest, in which case the member shall withdraw from the meeting while the matter is under consideration unless:
  - i) the disability to discuss that matter imposed upon them by the section has been removed\* by the Monitoring Officer in consultation with the Chair of the Council's Standards Committee;

*[\*See explanatory note appended to the Members' Code of Conduct at Part 6 of the Constitution]*

- ii) the meeting concerned is a Scrutiny, Area or Joint Committee which is not exercising functions of the Council or the Cabinet

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and the disclosable personal interest is of a non-financial nature;

- iii) the matter is under consideration by the Council as part of the minutes or report of a committee and is not itself the subject of debate.

Provided also that a member of a Scrutiny Committee will be regarded as having a personal and prejudicial interest where that Committee is considering a decision or action made by another Committee or joint Committee of which they are a member but that does not prevent them from attending the meeting of the Scrutiny Committee to answer questions or give evidence relating to that decision or action.

- 3) If any member of the Cabinet has, in their opinion (and in addition to any personal interest they are required to declare at (2) above under the Members' Code of Conduct), a conflict of interest relating to a matter to be decided by the Cabinet or in his/her capacity as a Cabinet member then they shall must disclose it and give an explanation of its nature and may remain and speak and vote on and determine the matter provided the disability to discuss and determine that matter has been removed by the Monitoring Officer in line with the Cabinet Procedure Rules. Similarly any member of the Devon Pension Board is required to declare any conflict of interest in line with the guidance notes appended to the Members' Code of Conduct at Part 6 of the Constitution and as set out at paragraph 12.4 of the Cabinet Procedure Rules.
- 4) Any member who declares any interest as required under paragraphs (2) and (3) above shall do so orally as soon as the matter in which they have an interest is raised and before any discussion takes place on that matter and they shall also complete the declaration form available at the meeting to indicate the nature of the interest;
- 5) In addition to the financial and other interests which a member must register in compliance with the Code of Conduct, a member of the Council and an officer holding a politically restricted post (as defined by the Local Government and Housing Act 1989) may submit to the Monitoring Officer, in writing, details of any matter(s) which in their view might create a conflict of loyalties with their Council duties and any such notification shall be recorded in a Register kept by the Monitoring Officer for that purpose;
- 6) Every Member of the Council and every Officer shall disclose details of every offer of gift or hospitality in line with the County Council's Policy Statement on the Proper Conduct of Business and any such notification

# Item 4a

shall be recorded in a Register kept by the Monitoring Officer for that purpose;

- 7) The Monitoring Officer shall record in a book to be kept for the purpose particulars of any notice given by an officer of the Council under section 117 of the Local Government Act 1972, of a pecuniary interest in a contract, and the register shall be open during office hours to the inspection of any Member of the Council.

## **35. Appointment of Officers and Disciplinary Action**

The appointment of, and disciplinary action against, Officers and in particular the Head of Paid Service, Statutory Chief Officers and other Chief Officers shall comply with the Regulations made by the Secretary of State under sections 8, 20 and 190 of the Local Government and Housing 1989 and, in respect of the Director of Public Health under s73A of the National Health Services Act 2006, as reflected in the Chief Officer Employment Procedure Rules set out at Part 6 of this Constitution and the Personnel Regulations as may from time to time be made by the Council.

## **36. Financial Matters and Procedures**

All decisions by the Council or by the Cabinet or any Committee or Officer of the Council or any other person spending or controlling the spending of the Council's money or other resources shall comply with the Budget and Policy Framework Procedures and the Code of Business Conduct set out in the Council's Constitution.

## **37. Inspection of Lands, Premises, etc.**

Unless specifically authorised to do so by the Council, the Cabinet or a committee, a member of the Council shall not issue any order respecting any works which are being or about to be carried out by or on behalf of the Council, or claim, by virtue of his/her membership of the Council, any right to inspect or to enter upon any lands or premises which the Council have the power or duty to inspect or enter.

## **38. Conferment and Removal of Honorary Alderman**

- 1) The Council may under Section 249(1) of the Local Government Act 1972, confer on those past Members of the Council, the title of

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Honorary Alderman, which is in recognition of eminent services to the Council during their membership. The is by resolution of the Council passed by not less than two thirds of the members voting thereon at a specially convened meeting of the Council.

- 2) There may be occasions where, due to the conduct of individuals who have been appointed as Honorary Aldermen, the Council may wish to remove the title of Honorary Alderman from an individual. This decision will be taken by full Council following a report from the Chief Executive/Monitoring Officer to the Procedures Committee. A simple majority of those present at Council must vote to pass the resolution.

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## **Budget and Policy Framework Procedure Rules**

### **1.0 THE FRAMEWORK FOR CABINET DECISIONS**

**1.1** The Cabinet will operate within the budget and policy framework approved by the Council.

### **2.0 POLICY FRAMEWORK**

**2.1** The policies and strategies comprising this framework are listed in Article 4 of the Constitution.

**2.2** When it wishes to develop a new policy/strategy or revise an existing policy/strategy the Cabinet will first canvass the views of local stakeholders in the most effective way and then publish proposals which take into account any representations received or opinions expressed during this consultation.

**2.3** These proposals will also reflect any review of the policy/strategy previously conducted by a Scrutiny Committee.

**2.4** The Cabinet's initial proposals will be referred to the relevant Scrutiny Committee for further advice and consideration which will include any further public consultation the Committee considers necessary but which does not duplicate any such work already conducted by the Cabinet.

**2.5** A Scrutiny Committee will respond to the Cabinet's proposals within six weeks unless the Cabinet considers that either a longer or a shorter period is appropriate.

**2.6** The Cabinet will consider reports of a Scrutiny Committee, amend its proposals as appropriate and then submit its final proposals to the Council for approval in a report which indicates how the Committee's recommendations have been taken into account.

**2.7** The Council will consider these proposals and may adopt them, amend them, refer them back to the Cabinet for further consideration or substitute its own proposals. In considering these proposals the Council shall have before it the relevant report from the Scrutiny Committee.

**2.8** The Council's decision will be publicised in accordance with the Access to Information Rules in this Constitution and a copy given to the Leader. The notice of decision will be dated and state either that the decision is effective immediately (if the Council has accepted the Cabinet's proposals without amendment) or (if the Cabinet's proposals are not accepted without amendment) that the Council's

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decision will become effective on the expiry of 5 working days after publication of the notice unless the Leader objects to it during that period.

**2.9** If the Leader so objects they shall give the Chief Executive written notice within that period of 5 working days, specifying the reasons for the objection. The Chief Executive will convene a further Council meeting within ten working days to reconsider the proposals which will not become effective pending that meeting.

**2.10** At that further meeting the written objection will be made available and the Council will make its final decision on the proposals in public and by a simple majority. The proposals shall then become effective immediately.

**2.11** Thereafter any significant change to the policy/strategy is reserved to the Council, other than the routine updating or minor amendment of an existing policy/strategy which is of a purely factual or technical nature.

## **3.0 BUDGET FRAMEWORK**

**3.1** Following the announcement of the provisional Local Government Finance Settlement the Chief Finance Officer will advise the Cabinet of its likely impact on the Council's budget for the coming financial year.

**3.2** The Cabinet will then meet to fix a 'target budget' for each service area following which each Cabinet Member will prepare detailed proposals for so much of the budget as is within his/her remit.

**3.3** These service proposals will be presented to the relevant Scrutiny Committee which will advise the Cabinet of their views having first undertaken whatever consultation they believe is necessary. The Cabinet will fix a date by which it requires the Committees' responses, allowing it as long as is practicable to deliberate upon the proposals.

**3.4** The Cabinet will receive final notification of the Local Government Settlement and at the same time consider the reports of all Scrutiny Committees. It may amend its proposals as appropriate and then submit a 'final budget' to the Council for approval in a report which indicates how the Committees' recommendations have been taken into account.

**3.5** The Council will consider this budget and shall have before it all relevant reports from Scrutiny Committees.

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**3.6** Where, and in line with The Local Authorities (Standing Orders) (England) Regulations 2001, the Cabinet has considered and submitted a 'final budget' before the 8<sup>th</sup> February in any given year then the Council may adopt it or may require the Leader of the Council to refer it back to the Cabinet for further consideration of any objections or amendments proposed thereto at that meeting of the Council.

**3.7** In that event the Chief Executive shall convene further meetings of both the Cabinet (*to consider the Council's objections and either amend the original 'final budget' or explain the reasons for not doing so*) and of the Council (*to consider those further deliberations of the Cabinet*) to be held within 5 days of the Leader having been notified of the Council's decision. The budget will not become effective pending that second Council meeting.

**3.8** At that further, second, Council meeting the Cabinet's response will be made available and the Council will make its final decision on the budget in public and by a simple majority. The budget shall then become effective immediately.

**3.9** Where the Cabinet has considered and submitted a 'final budget' on or after the 8<sup>th</sup> February in any given year then the Council may simply adopt it, amend it or substitute its own proposals and the budget shall become effective immediately.

*[\*Provisional dates for any second or additional Cabinet or Council meetings may be included in the Council's published calendar of meetings, as necessary]*

## **4.0 KEY DECISIONS**

The Monitoring Officer and the Chief Finance Officer shall advise the Cabinet on whether in their opinion any key decision under consideration is within the budget and policy framework.

## **5.0 DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

**5.1** If the Cabinet, an Cabinet Member or an officer or area committee want to make a decision which the Monitoring Officer and the Chief Finance Officer advise would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget, that matter must be referred by that body or person to the Council for decision in accordance with paragraph 2.11 above, unless it is a matter of urgency, in which case the provisions in paragraph 6.0 below (urgent decisions outside the budget and policy framework) shall apply.

## **6.0 URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

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**6.1** The Cabinet, a Cabinet Member or an officer, area committee or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by the Council if the decision is a matter of urgency. However, the decision may only be taken:

- a) if it is not practical to convene a quorate meeting of the Council; and
- b) if the chair of the relevant Scrutiny Committee agrees that the decision is a matter of urgency.

**6.2** The reasons why it is not practical to convene a quorate meeting of the Council and the chair of the relevant Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of a relevant Scrutiny Committee, the consent of the Chair of the Council, and in the absence of both the Vice-Chair, will be sufficient.

**6.3** Following the decision, the decision maker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **7.0 CALL-IN OF DECISIONS OUTSIDE THE POLICY OR BUDGET FRAMEWORKS**

**7.1** Where a Scrutiny Committee is of the opinion that a Cabinet decision to which paragraph 5 does not apply is contrary to the policy framework or the budget, it may ask the Monitoring Officer and the Chief Finance Officer to reconsider their advice that the decision need not be referred to Council in accordance with Paragraph 5.

**7.2** Regardless of whether the decision was delegated the Monitoring Officer and Chief Finance Officer shall report the request of a Scrutiny Committee to the Cabinet and shall either confirm their original advice that the decision is within the policy framework or the budget or indicate that on reflection they are satisfied that the decision does constitute a departure. In the latter case the decision will then be referred to the Council in accordance with Paragraph 5 and shall not be implemented beforehand unless the Cabinet decides that it is to be treated as a matter of urgency in accordance with Paragraph 6.

**7.3** A copy of the officers' report to the Cabinet under Sub-paragraph 7.2 will be sent immediately to the Chair of the relevant Scrutiny Committee and then made available to that Committee at its next meeting.





## Cabinet Procedure Rules

### 1.0 FRAMEWORK OF MEETINGS

**1.1** The arrangements for the discharge of Cabinet functions are set out in Article 6 of this Constitution. The Council and Leader, as appropriate, may approve arrangements for Cabinet functions to be carried out by:

- a) the Cabinet as a whole;
- b) a committee of the Cabinet;
- c) a Cabinet Member;
- d) an officer;
- e) an area committee;
- f) joint arrangements; or
- g) another local authority.

**1.2** The following rules apply to the delegation of Cabinet functions:

- a) The Cabinet may delegate to a committee of the Cabinet, an area committee or joint committee or to an officer any of its functions or powers in addition to those already delegated and set out in Part 3 of this Constitution.
- b) A committee of the Cabinet or a Cabinet Member responsible for an Cabinet function, may delegate further to an area committee, joint committee or an officer.
- c) Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

**1.3** The scheme of delegation containing the details required by Article 6 and set out in Part 3 of the Constitution may only be amended by the Leader. This provision does not affect any sub-delegation allowed for in Rule 1.2 above.

**1.4** The Cabinet will meet at least 10 times per year in accordance with the Council's calendar and at such other times as may be agreed by the Leader. The Cabinet will meet at County Hall, Exeter or another location to be agreed by the Leader.

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- 1.5** All meetings of the Cabinet will be convened in accordance with the Council's Access to Information Procedure Rules and will be held in public unless Paragraph 10 of those Rules applies.

## **2.0 CONDUCT OF CABINET MEETINGS**

- 2.1** If the Leader is present they will preside. In their absence, the Deputy Leader will preside. If neither the Leader nor Deputy Leader is present at a meeting, the powers and duties of the Chair will be exercised by a member elected from among those members of the Cabinet present.
- 2.2** The quorum for a meeting of the Cabinet shall be four members of the Cabinet (including the Leader if they are present). Where Cabinet decisions are delegated to a committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole except that a quorum of three members only is required.
- 2.3** At each meeting of the Cabinet the following business will be conducted:
- a) consideration of the minutes of the last meeting;
  - b) questions tabled by members in accordance with Rule 4 below or under the Public Participation Procedure Rules;
  - c) matters referred to the Cabinet (whether by a Scrutiny Committee or by the Council) for reconsideration in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this Part of the Constitution;
  - d) matters set out in the agenda for the meeting indicating those which are key decisions designated in the Forward Plan and those which are key decisions brought under paragraphs 7 and 8 below;
  - e) consideration of reports from Scrutiny Committees;
  - f) consideration of the Forward Plan and designation of key decisions to be taken at future meetings.
  - g) other items included by the Leader under paragraph 3 below.

## **3.0 AGENDA ITEMS**

- 3.1** The Forward Plan will be considered at every meeting of the Cabinet after consultation with the Leader and Cabinet Member

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but the Leader may add items to the agenda at their discretion which they consider do not constitute key decisions.

- 3.2** Any member of the Cabinet may require the Chief Executive to place an item on the agenda for a future meeting of the Cabinet for consideration; provided that if it is a key decision the appropriate period of notice is observed or the approval of the Chair of the relevant Scrutiny Committee is obtained in line with paragraphs 6-8 below.
- 3.3** Any member of the Council may ask the Leader to put an item on the agenda of an Cabinet meeting for consideration and if the Leader agrees the item will be considered at the next appropriate meeting of the Cabinet. The agenda will name the member who asked for the item to be considered. Discussion of any items included with the agreement of the Leader shall not exceed 15 minutes in total except with the consent of the Cabinet .
- 3.4** The Chief Executive (as Head of the Paid Service), the Monitoring Officer and the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting in pursuance of their statutory duties. If there is no meeting of the Cabinet in the Council's Calendar soon enough to deal with the issue in question then the Monitoring Officer may require that a special meeting be convened at which the matter will be considered.
- 3.5** There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Scrutiny Committees.
- 3.6** All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the relevant Scrutiny Committee and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **4.0 MEMBERS' QUESTIONS AT THE CABINET**

- 4.1** A member of the Council may ask the Leader or the appropriate Cabinet Member a question about any subject for which the Leader or Cabinet Member has responsibility.

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- 4.2** A member's question must be delivered to the Chief Executive's office, in writing or by email by 12.00 noon on the fourth working day before the meeting at which it is to be asked.
- 4.3** Notwithstanding the above, where a question relates to a matter which is included on the agenda for a meeting at which the question is to be put but that agenda or any Officer's Report has not been made available before the normal deadline for submission of questions at 4.2 above then provided written notice of a question is received within 24 hours of that Agenda or Report a response to the question shall be provided.
- 4.4** All questions will be printed in the order they were received and circulated to Members before the meeting starts together with the answers to those questions.
- 4.5** There will be no discussion about any question except that a Member who has submitted a question is entitled to ask one supplementary question arising from the answer given and to receive a further answer.
- 4.6** The time allowed for member's questions shall not exceed 30 minutes.

## **5.0 THE FORWARD PLAN**

- 5.1** A Forward Plan will be prepared by the Leader on behalf of the Cabinet to cover a period of no less than four months from the date of the meeting of the Cabinet at which it is approved.
- 5.2** The Forward Plan will be available for inspection at reasonable hours free of charge at the designated office or on the Council's website.
- 5.3** The Forward Plan will indicate whether a written report will be submitted to the Cabinet for consideration in relation to a key decisions on the plan.
- 5.4** The Forward Plan will contain matters which the Leader believes will be the subject of a key decision to be taken by the Cabinet during the period covered by the plan and any Framework Decisions to be made by the County Council under the Policy and Budget Framework. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
  - a) the matter in respect of which a decision is to be made;

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- b) the date on which, or the period within which, the decision will be taken and whether or not it is to be taken in public or private (in the absence of the press and public) and, if the latter, the reasons therefor;
- c) the identity of the principal groups whom the Cabinet proposes to consult before taking the decision;
- d) the means by which any such consultation is proposed to be undertaken;
- e) the steps any person may take who wishes to make representations to the Cabinet about the matter in respect of which the decision is to be made and whether it is to be considered in public or private, and the date by which those steps must be taken; and
- f) a list of the documents likely to be submitted to the Cabinet for consideration in relation to the matter.

## **6.0 PROCEDURE BEFORE TAKING KEY DECISIONS**

**6.1** If the Cabinet meets to discuss or to take a key decision collectively, with an officer present, then it must also comply with the following Rules unless Rule 7.0 (general exception) or Rule 8.0 (special urgency) applies. A key decision is as defined in Article 13.4 of this Constitution. This requirement does not include meetings whose sole purpose is for officers to brief members.

**6.2** Subject to Rule 7.0 (general exception) and Rule 8.0 (special urgency), a key decision may only be taken when:

- a) notice (called here a Forward Plan) has been given at least 28 days before the meeting at which the matter is to be considered and if the matter is to be considered in private, the reasons therefor;
- b) the Cabinet has determined that the matter is to be defined as a key decision and specified the date of the meeting at which it will be considered;
- c) within 2 working days of that determination by the Cabinet, a notice to this effect is given to all members and this information is then included in the next version of the Forward Plan.

## **7.0 GENERAL EXCEPTION**

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- 7.1** If it becomes impracticable to delay a decision which the Cabinet has defined as a key decision until the date fixed for its determination, then subject to Rule 8.0 (special urgency), the decision may still be taken by the Cabinet if:
- a) the Monitoring Officer has informed the chair of the relevant Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
  - b) the Monitoring Officer has made copies of that notice available;
  - c) at least 5 clear days have elapsed since the Monitoring Officers took these steps; and
  - d) notice of that decision is made available at the Council's offices and on its website (at <http://www.devon.gov.uk/dcc/committee/mingifs.html>), as soon as is practicable.

## **8.0 SPECIAL URGENCY**

**8.1** If by virtue of the date by which a decision must be taken Rule 7.0 (general exception) cannot be followed, then the decision can only be taken if the Leader obtains the agreement of the chair of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chair of the relevant Scrutiny Committee, or if the chair of that Scrutiny Committee is unavailable, then the agreement of the Chair of the Council, or in his/her absence the Vice-Chair will suffice.

**8.2** Notice of that agreement shall be published at the Council's offices and on its website as part of the agenda and minutes of the meeting at which the matter was considered.

## **9.0 QUARTERLY REPORTS ON SPECIAL URGENCY DECISIONS**

**9.1** In any event the Leader will submit quarterly reports to the Council on Cabinet decisions taken in the circumstances set out in Rule 8.0 (special urgency) during the preceding 3 months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **10.0 CALL-IN AND REFERENCE BACK OF DECISIONS**

- 10.1** Notice of all decisions by the Cabinet and Cabinet Members will be sent by email to all Members of the Council within 2 working days of their being made. The notice will bear on it the date on which it is published and will specify that the decision(s) it records will come into force 5 working days after that date unless they are called-in or referred back.
- 10.2** Any decision of the Cabinet, a Cabinet Member or an Officer exercising delegated powers, an area committee or under joint arrangements may be "called in" under the procedure detailed at Paragraph 11 of the Scheme of Delegation at Part 3 of this Constitution and Paragraph 17 of the Scrutiny Procedures Rules.
- 10.3** Any Member may also ask for any decision of the Cabinet which relates particularly to his/her electoral division to be referred back once for further consideration at the next meeting of the Cabinet. This entitlement does not apply to decisions which affect the County as a whole.
- 10.4** A Member who wishes to refer back a decision so notified must give notice in writing or by email to the Chief Executive.
- 10.5** A Member may also ask for any decision taken by a Cabinet Member to be referred back in line with Paragraph 11.0 of the Scheme of Delegation set out in Part 3 of this Constitution.
- 10.6** When a decision concerns land or premises located in or an issue arising in one division which has a major impact upon an adjoining division, a member may contact the Monitoring Officer and make the case that the matter is sufficiently specific to his/her division to justify its reference back.
- 10.7** A request to refer back a decision will be subordinate to a request by a Scrutiny Committee to call that decision in for consideration by that Committee (paragraph 17.0 of the Scrutiny Procedure Rules).

## **11.0 RECORD OF DECISIONS**

- 11.1** After any meeting of the Cabinet, whether held in public or private, the Monitoring Officer will produce the minutes of that meeting as soon as practicable. This record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

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- 11.2** Decisions of the Cabinet requiring the consent of the Council or matters relating to the policy or budget framework (i.e. Framework Decisions) as set out in Part 2 of the Constitution, will be submitted to the next appropriate meeting of the Council together with all relevant reports and other documentation for consideration and will be formally moved at that meeting by the Leader or appropriate Cabinet Member.
- 11.3** Any decision of the Cabinet on a key decision shall be known as a 'starred minute' and be denoted by an asterisk (\*) immediately in front of that minute number and will not be before the Council for approval.

## **12.0 RECORD OF DECISIONS – DECLARING INTERESTS & CONFLICTS OF INTERESTS**

- 12.1** If any member of the Cabinet has a Disclosable Pecuniary or Personal Interest in any matter before the Cabinet within the meaning of Standing Order 34 and the Member's Code of Conduct then they must declare it in the prescribed manner.
- 12.2** If any member of the Cabinet has a Disclosable Pecuniary Interest in any matter which is the subject of a proposed decision by them acting in an individual capacity within the meaning of Standing Order 34 and the Members' Code of Conduct then they must declare it in the prescribed manner and the Leader or the Deputy Leader of the Council shall exercise all the powers delegated to that Member in that matter in accordance with paragraph 11.1 of Section Two of Part 3 of the Constitution.
- 12.3** If any member of the Cabinet has, in their opinion (and in addition to any personal interest they are required to declare under the Members' Code of Conduct), any other conflict of interest relating to a matter to be decided by the Cabinet or in their capacity as a Cabinet member in accordance with para 11.1 of the Council's Scheme of Delegation then they must disclose it and may remain and speak and vote on and determine the matter provided the disability to discuss and determine that matter has been removed by the Monitoring Officer exercising powers delegated to them by the Head of the Paid Service in accordance with Regulations 12 and 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- 12.4** Members are expected to put service to the public and their constituents ahead of their own personal interests or self-interest and should, wherever possible, avoid taking decisions in

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circumstances that could reasonably be perceived as contradicting that basic tenet of public service ethos. The pitfalls of 'conflict of interest' is acknowledged in the Members' Code of Conduct adopted by the Council which recognises the potential conflict between Public Duty and Private Interests and the need to embrace and observe the Principles of Public Life and, inter alia, Members acting solely in the public interest and not placing themselves under an obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties. It is nonetheless acknowledged that members and their constituents should have a communion of interests inasmuch as elected members may share and understand the problems of their electors – but it is also necessary to distinguish between a Members' own special interests and the general interests of all constituents. Failure to do so could not only call into question the integrity of the member and his/her observance of the Members' Code of Conduct but could create the perception of impropriety and possibly leave the Council open to challenge and, ultimately, result in a decision taken being invalidated.

**12.5** While there is no clear definition as to what is meant by a conflict of interest, the following advice may be of assistance to Members.

**12.6** A Member of the Cabinet may be regarded as having or being perceived to have a conflict of interest that would be incompatible with his/her general duty to take decisions in accordance with the general principles of decision-making set out in the County Council's Constitution (Article 13) and in the public interest where, for example;

- they may have two or more differing interests held by or entrusted to them in a particular matter and or which are incompatible with each other or are incompatible with the general principles of the Members' Code of Conduct and the Principles of Public Life;
- they may profit personally from decisions made in his or her official capacity;
- they may owe separate duties to act in the best interests of two or more constituents in relation to the same or related matters and those duties conflict or there is a significant risk that those duties may conflict;
- their duty to act in the best interest of any constituent in relation to a matter conflicts or there is a significant risk that it may conflict with their own interest in relation to that or a related matter.

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- 12.7** Notwithstanding the above, the need to declare any 'conflict of interest' can necessarily only apply where any such conflict has not already been declared as is required to be declared as a personal interest in accordance with the Members' Code of Conduct.
- 12.8** Where a member of the Cabinet is of the opinion that they may have a conflict of interest over and above any personal interest they are already required to declare under the Members' Code of Conduct, then they are advised to consult the Monitoring Officer with a view to determining whether or not a Dispensation is required and may be granted to enable them to continue to speak and vote at the meeting or determine the matter.
- 12.9** However, where a member of the Cabinet has a conflict of interest which is significant or does not meet the criteria above, such that a Dispensation cannot be granted, then they shall withdraw from the meeting or refer the decision to the Leader or Deputy Leader of the Council in accordance with paragraph 11.3 of Part 3 of the Council's Constitution (Scheme of Delegation).

## **13.0 NOTICE OF MEETINGS OF THE CABINET**

- 13.1** Members of the Cabinet will be entitled to receive 5 working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.
- 13.2** Notice of meetings of the Cabinet will be served on the Chairs of all Scrutiny Committees and all other Members of the Council at the same time as notice is served on members of the Cabinet.

## **14.0 ATTENDANCE BY CHAIRS OF SCRUTINY COMMITTEES AT MEETINGS OF THE CABINET WHERE CONFIDENTIAL OR EXEMPT INFORMATION IS CONSIDERED**

- 14.1** The Chair of a Scrutiny Committee is entitled to attend any meeting of the Cabinet at which a matter within the remit of his/her committee is to be discussed and to speak to that item.

## **15.0 ATTENDANCE BY OFFICERS AT MEETINGS OF THE CABINET**

- 15.1** The Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer, or their nominees, are entitled to attend any meeting of the Cabinet. The Cabinet may not meet unless these

officers have been given reasonable notice that a meeting is to take place. Any of these officers may however be asked to leave the meeting if his/her personal position is under discussion.

## **16.0 ANNOUNCEMENTS AND REPORTS FROM THE LEADER AND CABINET MEMBERS AT COUNCIL MEETINGS**

16.1 A regular item shall be placed on the agenda of all meetings of the County Council (Standing Order 5(1)(m) refers) to receive any important updates or announcements from the Leader and/or Cabinet Members that cannot reasonably wait. Members may ask a brief question directly related to any verbal announcement made. A Member is also able to ask a brief succinct question on any urgent item of business agreed in advance, in line with the process outlined in Standing Order 17 (9)

16.2 A further agenda item will be titled Cabinet Member Reports. Cabinet Member Reports, save in exceptional circumstances, will be in writing and published with the agenda, in advance of the meeting. The Report from the Cabinet Member will focus on:

- any other areas of interest or service related developments relating to their remit since the previous meeting or were likely to impact on the service in the coming months; and
- any decisions taken by the Cabinet (i.e. key decisions) or by them under delegated powers (i.e. routine matters).

The Report must follow the prescribed template – available at <https://inside.devon.gov.uk/task/write-a-committee-report/>

16.3 A maximum of three Cabinet Member Reports shall be brought to each Council meeting (except for the budget meeting) which will be on a rota basis. For the Budget meeting a maximum of one Cabinet Member Report will be brought to that meeting. Any variation to this pattern needs to be agreed by the Chair, Leader and Group Leaders.

16.4 The Cabinet Member shall first give their Report and presentation thereof. Councillors may then, without notice, comment upon or ask a question of the Cabinet Member on any matter referred to in their Report. The Cabinet Member will then respond to the points raised, either taking all questions at once or three at a time before the conclusion of the item. Directors will factually support the Cabinet Members response, as necessary.

16.5 The Cabinet Member will, when presenting their Report, speak for a maximum of 10 minutes, with all other speeches being confined to a maximum of 3 minutes. In replying to questions from Members the Cabinet Member shall speak, at the discretion of the Chair.

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## **17.0 COUNCIL PROCEDURE RULES**

- 17.1** Except where these rules expressly provide for different arrangements, the Council Procedure Rules (Standing Orders) will apply mutatis mutandis to meetings of the Cabinet.

## **Scrutiny Procedure Rules**

### **1.0 NUMBER OF AND ARRANGEMENTS FOR SCRUTINY COMMITTEES**

- 1.1** At its Annual Meeting, the County Council will appoint one or more Scrutiny Committees and decide their membership and terms of reference. The current arrangements are set out in Part 3 of the Constitution.

### **2.0 MEMBERSHIP OF SCRUTINY COMMITTEES**

- 2.1** All councillors except the Chair of the Council and members of the Cabinet may be members of a Scrutiny Committee. However, no member may be involved in scrutinising a decision of another committee in which they have been directly involved.

### **3.0 CO-OPTEEES (Voting Scheme)**

- 3.1** A Scrutiny Committee is entitled to recommend to the Council (which shall appoint committees in accordance with Standing Order 21) the co-option of one or more persons as voting or non-voting members of the Committee.

### **4.0 OTHER REPRESENTATIVES**

- 4.1** The Children's Scrutiny Committee (or any successor committee dealing with education matters) shall include in its membership the following voting representatives:

- a) 1 Church of England diocesan representative; and
- b) 2 parent governor representatives representing primary and secondary and special schools in the county.

who shall vote only on matters relating to the Council's functions as a Local Education Authority and not on other matters considered by the committee although they may remain in the meeting and speak to those other items.

- 4.2** The Health & Adult Care Scrutiny Committee (or successor Committee) shall include in its membership 1 voting representative of City, Borough and District Councils in the administrative County of Devon, to collate and represent the views of the District Councils.

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## **5.0 MEETINGS OF SCRUTINY COMMITTEES**

- 5.1** There shall be at least 5 ordinary meetings of each Scrutiny Committee in each year in accordance with the Council's Calendar of Meetings. In addition, extraordinary meetings may be called from time to time as and when appropriate by the Chair or by the Chief Executive if either considers it necessary or appropriate.

## **6.0 QUORUM**

- 6.1** The quorum for a Scrutiny Committee shall be as set out for committees in the Council Procedure Rules (Standing Order 26) in this Part of the Constitution.

## **7.0 CHAIR**

- 7.1** The Chair and Vice-Chair of any Scrutiny Committee will be appointed by the Council at the Annual Meeting (see also Annex, paragraph 2)

## **8.0 WORK PROGRAMME**

- 8.1** A Scrutiny Committee will be responsible for setting its own work programme taking into account the wishes of all members of that Committee in line with these procedure rules (see also paragraph 9 below and Annex, paragraph 3)

## **9.0 AGENDA ITEMS**

- 9.1** In line with Standing Order 23 any Member of a Scrutiny Committee shall be entitled to give notice to the Chief Executive that they wish an item relevant to the remit of the committee to be included on the agenda for the next available meeting of the committee. On receipt of such a request the Chief Executive will ensure that it is included on the agenda for that meeting and the Member can explain to the Committee why the issue is important and then the Committee can determine whether the matter is added to its work programme.
- 9.2** Any member of the Council who is not a member of a Scrutiny Committee may give written notice to the Chief Executive that they wish an item on any local government matter and relevant to the functions of that Committee to be included on the agenda of that Committee and such an item will be included on the agenda of the next meeting of that Committee.

- 9.3** A Scrutiny Committee will also respond, as soon as practicable, to any petition referred to it by the Cabinet under the Council's Petitions Scheme (Part 4 of the Constitution) or where any such petition contains the required number of signatures, a Scrutiny Committee shall require a relevant senior council officer (i.e. a Chief Officer, as defined in Part 6 of the Council's Constitution, Chief Officer Employment Procedure Rules) to attend and give evidence to it to explain progress or to explain the advice previously given to councillors to assist in their decision making. A Scrutiny Committee shall then report its findings and any recommendations to the Cabinet.
- 9.4** A Scrutiny Committee will also respond, as soon as practicable, to requests from the Council and/or the Cabinet to review particular areas of Council activity. Where it does so, the Scrutiny Committee shall report its findings and any recommendations to the Council and/or the Cabinet.

## **10.0 POLICY REVIEW AND DEVELOPMENT**

- 10.1** The role of a Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- 10.2** In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, a Scrutiny Committee or sub-group may make proposals to the Cabinet for developments in so far as these relate to matters within its terms of reference.
- 10.3** A Scrutiny Committee may investigate the available options for future direction in the development of the Council's policies and may appoint advisers and assessors to assist it in this process. It may ask witnesses to attend to address it on any matter under consideration and may pay any advisers, assessors and witnesses a reasonable fee and expenses for doing so.
- 10.4** Scrutiny Committee undertaking the Council's functions in relation to the scrutiny of the health service and, in particular, where being formally consulted by the NHS or Health Providers will ensure that all relevant partners in the locality affected, including local authority partners, will have the opportunity to contribute and that those views will be taken into account in making its recommendations to the NHS and/or Health Provider, or requesting that the Secretary of State call in a decision.

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- 10.5** A Scrutiny Committee may, in accordance with Standing Order 21, appoint sub-committees or ad hoc task groups, spotlight reviews to investigate specific topics on its behalf on a time-limited basis. It can also establish a standing overview group or masterclasses to increase understanding and awareness for Committee Members. Sub-Committees will operate in line with the requirements of the Local Government Act. All other Scrutiny working groups as outlined above will operate in line with operational working practices, including meeting in private if required and final outcomes, recommendations and reports being presented to Scrutiny Committees.
- 10.6** A Scrutiny Committee may hold an inquiry in the nature of a "select committee hearing" such as a task group or spotlight review into an issue which is not directly related to the exercise of the Council's functions, but which has a bearing upon its statutory responsibility for the promotion of the economic, social and environmental wellbeing of the area.

## **11.0 REPORTS FROM SCRUTINY COMMITTEES**

- 11.1** Once it has formed recommendations on any proposal or Cabinet decision, a Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by the Cabinet or to the Council as appropriate.
- 11.2** If a Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet alongside the majority report.
- 11.3** The Council or the Cabinet shall consider the report of the Scrutiny Committee within two months of it being submitted to the Chief Executive.

## **12.0 CONSIDERATION OF SCRUTINY COMMITTEE REPORTS BY THE CABINET**

- 12.1** The agenda for Cabinet meetings shall include an item entitled 'Issues arising from Scrutiny Committees'. The report of a Committee referred to the Cabinet shall be included at this point in the agenda (unless it will be considered in the context of the Cabinet's deliberations on a substantive item elsewhere on the agenda) within two months of the Scrutiny Committee completing its report/recommendations.

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**12.1.1** When the Cabinet considers any such report from a Scrutiny Committee the record of the meeting at which that report is considered shall state:

- what will be done about the recommendations and the time scale for those actions.
- where the Cabinet rejects or decides not to act on a Scrutiny Committee's recommendations, the reasons for so doing.

**12.2** Where a Scrutiny Committee prepares a report for consideration by the Cabinet in relation to a matter where the Council or Cabinet has delegated decision making power to a Cabinet Member, then the Scrutiny Committee will submit a copy of its report to that member for consideration and shall send a copy to the Chief Executive. The member of the Cabinet must consider the report and respond in writing to the Scrutiny Committee within 2 months of receiving it. A copy of his/her written response shall be sent to the Leader and to the Chief Executive. The member will also attend a subsequent meeting of the Scrutiny Committee to present his/her response.

**12.3** Nothing in this paragraph prevents more detailed or informal liaison between the Cabinet and the Scrutiny Committee as appropriate, depending on the particular matter under consideration.

## **13.0 REPORT TO COUNCIL**

### **13.1 Reports on the taking of key decisions.**

If a Scrutiny Committee thinks that a key decision has been taken which:

- a) was not included in the Forward Plan; or
- b) was not the subject of the general exception procedure under Paragraph 7.0 of the Cabinet Procedure Rules; or
- c) was not the subject of an agreement with a relevant Scrutiny Committee Chair, or the Chair/Vice-Chair of the Council under Paragraph 8.0 of the Cabinet Procedure Rules.

the Committee may by resolution require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee but can also be exercised by the Monitoring Officer when so requested by the Chair (or, in his/her absence, the Vice-Chair) or any 3 members of that Committee.

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## **13.2 Cabinet's report to Council**

The Cabinet will then prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the resolution of the committee or a written notice of the Monitoring Officer, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

## **14.0 SCRUTINY COMMITTEES' ACCESS TO DOCUMENTS**

### **14.1 Rights to copies**

Subject to Rule 13.1 of the Access to Information Rules, and any statutory rights any Member of a Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet, and which contains material relating to

- a) any business to be transacted at a meeting of the Cabinet; or
- b) any decision taken by a Cabinet Member or Officer.

Copies of such documents shall be made available within 10 clear days unless the Cabinet determine the Member concerned does not have the right to that information in which case the Cabinet must provide a written statement of reasons to the relevant Scrutiny Committee.

### **14.2 Limit on rights**

A Scrutiny Committee will not be entitled to any part of a document which contains exempt or confidential information, unless the Monitoring Officer agrees that information is relevant to an action or decision they are scrutinising.

## **15.0 ATTENDANCE OF CABINET MEMBERS AND OFFICERS**

**15.1** A Scrutiny Committee may scrutinise, and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet and any senior officer to attend before it or a Task Group to explain in relation to matters within their remit:

- a) any particular decision or series of decisions.
- b) the extent to which the actions taken implement Council policy; and/or

c) their performance.

and it is the duty of those persons to attend if so required.

- 15.2** Where any member or officer is required to attend a Scrutiny Committee under this provision, the Chair of that committee will inform the Monitoring Officer. The Monitoring Officer shall inform the member or officer in writing giving at least 3 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 15.3** Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance.

*[NB: A copy of the protocol for relationships and communications between the Cabinet and Scrutiny Committees is appended to these Rules for convenient reference].*

## **16.0 ATTENDANCE BY OTHERS**

- 16.1** A Scrutiny Committee may invite people other than those people referred to in paragraph 15 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and may invite such people to attend (see also 10.3 and 10.4 above).
- 16.2** A Scrutiny Committee undertaking the Council's functions in relation to the scrutiny of the health service may require NHS Providers to attend before it or a Task Group to explain in relation to such matters.

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## **17.0 CALL-IN BY SCRUTINY COMMITTEES**

- 17.1** A decision made by the Cabinet, a committee or a Cabinet Member, an officer exercising delegated powers, an area committee or under joint arrangements may be "called in" under the following procedure. Such a call-in of a Cabinet decision or the decision of an Cabinet Member will take precedence over a request by an individual Member for reconsideration by the Cabinet under Paragraph 11.0 of the Scheme of Delegation set out in Part 3 of this Constitution or Paragraph 10.0 of the Cabinet Procedure Rules.
- 17.2** Call-in by Scrutiny should be used in exceptional circumstances and where Member(s) have evidence which suggests that the decision was not taken in accordance with the Council's Principles of Decision Making set out at Article 13 or the Council's Policy and Budget Framework.
- 17.3** Notice of all such decisions will be sent by email to all members of Scrutiny Committees within 2 working days of being made. The notice will bear the date on which it is published and will specify that the decision which it records will come into force 5 working days after that date unless it is called in.
- 17.4** Within that period, the Chair (or in his/her absence the Vice-Chair), any 3 members of the relevant Scrutiny Committee or any 5 members of the Council whether or not they are members of the relevant Scrutiny Committee may call in such a decision by requesting the Chief Executive to convene a meeting of that Committee to consider it. The Chief Executive will convene such a meeting within 5 working days of that request and will inform the decision-taker of the call-in.
- 17.5** Any Member wishing to call-in a decision is advised to first seek guidance from the Monitoring Officer on the veracity of their stated grounds for the call-in and demonstrate that they have been mindful of that advice when deciding whether or not to proceed with the call-in. Any Member or Members calling-in any decision must specify the reasons for so doing which will be reported to Scrutiny Committee together with any advice received from the Monitoring Officer.
- 17.6** If having considered the decision (the subject of the call-in), a Scrutiny Committee remains concerned, it may refer the decision to the Cabinet for reconsideration and will set out in writing the reasons for its concern and any proposed amendments. If, having considered the decision, the Scrutiny Committee decide not to ask for it to be reconsidered or amended in any way, it shall be implemented with immediate effect.

- 17.7** The Cabinet will reconsider the matter at its next ordinary meeting and may either amend or adopt the original decision, which shall be implemented with immediate effect.
- 17.8** The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent in line with Paragraphs 7.0 and 8.0 of the Cabinet Procedure Rules. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the relevant Scrutiny Committee (or in his absence the Vice-Chair), as appropriate must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be reported with the reasons therefore to the next meeting of the Council.
- 17.9** The operation of the provisions relating to call-in, and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **18.0 THE PARTY WHIP**

- 18.1** The Council considers that whipping is incompatible in principle with scrutiny and should only occur in exceptional circumstances. For these purposes whipping means:

*“Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should they speak or vote in any particular manner.”*

- 18.2** Where the whip has been imposed upon a matter, a member must declare the existence of the whip and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

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## **19.0 PROCEDURE AT SCRUTINY COMMITTEE MEETINGS**

**19.1** Scrutiny Committees shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest (including whipping declarations);
- (c) any matter referred to the committee for a decision in relation to call-in of a decision;
- (d) responses of the Cabinet to reports of that Scrutiny Committee; and
- (e) any petition referred to it or received under the Council's Petitions Scheme (paragraph 9.3 above refers)
- (f) the business otherwise set out on the agenda for the meeting.

**19.2** Where a Scrutiny Committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- (a) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees and to contribute and speak;
- (b) that those assisting the committee by giving evidence be treated with respect and courtesy.

**19.3** Following any investigation or review the committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

**19.4** The Council has also agreed a protocol governing relationships and communications between Scrutiny Committees and the Cabinet and operating procedures to supplement these Rules. This protocol does not form part of the Council's Constitution but is reproduced in the Annex to these Rules for convenient reference.

## **20.0 MATTERS WITHIN THE REMIT OF MORE THAN ONE SCRUTINY COMMITTEE**

**20.1** Where a Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Scrutiny Committee, then the committee conducting the review shall invite the Chair of the other committee (or his/her nominee) to attend its meetings when the matter is being reviewed.

## **21.0 COUNCIL PROCEDURE RULES**

**21.1** Except where these rules expressly provide for different arrangements, Standing Orders will apply mutatis mutandis to meetings of Scrutiny Committees.

## **TERMS OF REFERENCE OF SCRUTINY COMMITTEES**

### **Corporate, Infrastructure and Regulatory Services Scrutiny Committee**

- (1) To review the implementation of the Council's existing policy and budget framework and ensure effective scrutiny of the Council's Treasury Management Strategy and policies and consider the scope for new policies for the Council's use and management of its resources and the discharge of its corporate and strategic services and governance arrangements and community safety activity, including emergency planning and the Council's functions in the scrutiny of authorities responsible for crime and disorder strategies;
- (2) To review the implementation of existing policies and to consider the scope for new policies with regard to all aspects of the discharge of the Council's 'place shaping and universal population services' functions concerning the environment, economic activity and enterprise, integrated planning and transport and community services, including libraries, arts and cultural heritage of the County, an integrated youth service and post 16 education & skills;
- (3) To assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity and relate overview and scrutiny to the achievement of the Council's strategic priorities and objectives and of delivering best value in all its activities;
- (4) To make reports and recommendations as appropriate arising from this area of overview and scrutiny.

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## **Children's Scrutiny Committee**

- (1) To review the implementation of existing policies and to consider the scope for new policies for all aspects of the discharge of the Council's functions concerning the provision of personal services for children including social care, safeguarding and special needs services, schools and learning;
- (2) To assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity;
- (3) To relate scrutiny to the achievement of the Council's strategic priorities and objectives and of delivering best value in all its activities;
- (4) To make reports and recommendations as appropriate arising from this area of overview and scrutiny.

## **Health & Adult Care Scrutiny Committee**

- (1) To review the implementation of existing policies and to consider the scope for new policies for all aspects of the discharge of the Council's functions concerning the provision of personal services for adults including social care, safeguarding and special needs services and relating to the health and wellbeing of the people of Devon, including the activities of the Health & Wellbeing Board, and the development of commissioning strategies, strategic needs assessments and, generally, to discharge its functions in the scrutiny of any matter relating to the planning, provision and operation of the health service in Devon;
- (2) To assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity;
- (3) To relate scrutiny to the achievement of the Council's strategic priorities and to its objectives of promoting sustainable development and of delivering best value in all its activities;
- (4) To make reports and recommendations as appropriate to the County Council and may request to the Secretary of State that a proposal be called in, in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) (Amendment and Saving Provision) Regulations 2024.

## 1. ANNEX

### **A PROTOCOL FOR RELATIONSHIPS AND COMMUNICATIONS BETWEEN THE CABINET AND THE HEALTH & WELLBEING BOARD AND SCRUTINY COMMITTEES**

This protocol supplements the Scrutiny Procedure Rules contained in the Council's Constitution which affect the operation of the Committee process or impact upon individual members. This protocol does not form part of the Constitution but is reproduced here for convenient reference.

1. Chairs and Vice-Chairs of Scrutiny Committees will be appointed at the Annual Meeting of the Council.
2. The positions of Chairs of Scrutiny Committees may be filled by members of minority groups and the positions of Vice Chairs of such Committees by members of the majority group, at the discretion of the Council.
3. Co-ordination of the activities of Scrutiny Committees and their Task Groups shall be undertaken by the Chairs and Vice-Chairs of Scrutiny Committees, meeting jointly, to avoid duplication of effort and to ensure that the resources of the Council are best directed to support the work of Scrutiny Committees through, for example, investigating current or future policy development or scrutinising decisions of the Cabinet in connection with the discharge of the Council's functions rather than simply reviewing or monitoring operational performance; including, for example, guidance on the number of Task Groups that may be supported over a given period of time.
  - 3.1. It should be also regarded as good practice, as part of the regular bi-annual meetings between the Chairs and Vice-Chairs of Scrutiny Committees and the Leader of the Council, to review any such work programmes to ensure optimum resources may be made available or obviate any potential difficulty or conflict with the Council's strategic objectives or policy development.
4. Members of the Council may attend meetings of Scrutiny Committees to observe proceedings.
  - 4.1. To promote communication and understanding, all Scrutiny Committees will extend a standing invitation to Cabinet Members to attend meetings of those Committees most relevant to their responsibilities, to listen to the debate and contribute, if invited.
  - 4.2. Cabinet Members may only speak at Scrutiny Committee meetings at the invitation of the Committee. However, if a Cabinet Member asks to speak, then the Committee is asked to be receptive to that request. (Where the request is made prior to the meeting, it should be referred to the Chair. Scrutiny Officers will act as the contact point for such requests),

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- 4.3. Scrutiny Committees are encouraged regularly to call Cabinet Members to account.
- 4.4. Scrutiny Committees are urged to question Cabinet Members directly on the reasons for and merits of member-level decisions.
- 4.5. Scrutiny Officers will draw Cabinet Members' attention to impending investigations that appear likely to affect their areas of responsibility.
- 4.6. Where a Scrutiny Committee specifically wishes to question a Cabinet Member about some aspect of his/her remit:
  - the Scrutiny Officers should give as much notice as possible of the topic under consideration and the date on which it is to be considered;
  - the agenda will include an indicative time for the consideration of the item in question; and
  - that item will appear early on the agenda.
- 4.6.1. The Leader of the Council will seek to ensure:
  - that the appropriate Cabinet Member(s) attends each relevant Scrutiny Committee meeting in the Council's approved calendar; or
  - where the Cabinet Member is not able to attend, then another member of the Cabinet should attend in his/her stead.
- 4.7. All other members may, in line with Standing Order 25 and the Scrutiny Procedure Rules, speak to any item under consideration with the consent of the Scrutiny Committee.
- 4.8. There may be occasions when a Scrutiny Committee will discuss an issue which is of purely local significance relating exclusively to the electoral division of an individual member. In those circumstances even if they are a Member of the Cabinet that Member shall be deemed to have been invited by the Scrutiny Committee and may attend and speak to that meeting in line with Standing Orders.
5. A Scrutiny Committee may ask witnesses to attend to address them on any matter under consideration, as set out in detail in the Scrutiny Procedures Rules in the Council's Constitution.
  - 5.1. Scrutiny Committees' questioning of officers should centre on professional, technical and managerial matters.
  - 5.2. Chief Officers and Heads of Service are asked to ensure that, as far as possible, an officer is present to represent each service when items affecting it feature on a Scrutiny Committee agenda.
  - 5.3. It is recognised that when Scrutiny Committees are exploring options for the development of new policy, professional and technical information

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from officers is likely to play a greater role than input from Cabinet Members.

6. Information on a Scrutiny Committee's work programme should be circulated to complement the Cabinet's Forward Plan.
7. A Scrutiny Committee undertake site visits or public surveys or hold general public meetings if such a course of action is essential to its investigations and would be a cost-effective method of obtaining information.
8. In relation to the preparation and consideration of Reports by a Scrutiny Committee Task Group the following shall apply:
  - 8.1. The Task Group takes evidence from contributors. As those contributions are written up, each contributor is offered a chance to comment on the accuracy of the record of his/her evidence.
  - 8.2. Once all the evidence is taken, the Scrutiny Officer drafts a report and recommendations to reflect the preliminary views of the Task Group. A copy of this will be sent to the relevant Cabinet Member/Chief Officer/Head of Service and when the Task Group meets to consider and sign off the draft it is open to them to ask to attend and highlight any perceived inaccuracies or misunderstandings in the report. The meeting at which the Task Group discusses the draft should normally be held in Part II so that any differences of opinion can be aired in private.
  - 8.3. The entitlement of a Member to reasonable access to all documents within the Council's custody prevails over all other considerations and any commitment given to a witness who gives evidence at a hearing must contain the caveat that, once settled, the notes of the proceedings may be shown in confidence to any County Councillor who can satisfy the Director of Legal and Democratic Services of their "need to know"; accepting that in very exceptional circumstances it may be necessary to provide a member with an edited version of the notes.
  - 8.4. When the Task Group has settled the report and recommendations these go on the agenda for the next Scrutiny Committee meeting.
  - 8.5. When the Scrutiny Committee agenda is published, the Cabinet Member/Chief Officer or Head of Service concerned will receive a copy. If any of the Task Group's final recommendations cause them concern, they can ask to speak at the Scrutiny Committee meeting (Cabinet Members have a standing invitation to attend).
  - 8.6. The Scrutiny Committee will consider the Task Group's recommendations and any comments from the Cabinet Member/Chief Officer, then decide whether to refer the recommendations to the Cabinet as they stand or with changes arising from the debate - or occasionally they may ask the Task Group to go back and do more work.

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- 8.7. The report and recommendations go to the next Cabinet. That allows sufficient time for the Cabinet Member/Chief Officer to give a written response to any of the recommendations felt to be unacceptable to them in the form set out. The Cabinet can then debate the pros and cons and come to a view (or ask for more information, pending a debate at a later meeting).
- 8.8. The long established principles outlined above in relation to the relationship and communications between the Cabinet and Scrutiny Committees shall apply equally as between Health & Wellbeing Boards and Scrutiny Committees.
- 8.9. Moreover, it is acknowledged that while the Devon Health & Wellbeing Board is responsible for:
- encouraging integrated working between commissioners of NHS, public health and social care services for the advancement of the health and wellbeing of the local population.
  - providing advice, assistance or other support in order to encourage partnership arrangements such as the developing of agreements to pool budgets or make lead commissioning arrangements under section 75 of the NHS Act;
  - preparing, reviewing and monitoring the Devon Joint Strategic Needs Assessment and the Joint Health and Wellbeing Strategy for Devon;

the purposes of the County Council's scrutiny function is to:

- assess the effectiveness of strategic decisions of the Health & Wellbeing Board and of the Cabinet;
- examine the provision and delivery of health and wellbeing services (including health, social care and public health services) in order to review their quality and effectiveness,
- consider, either of its own volition or arising from any external suggestion or request, the implementation of existing policies and consider the scope for new or amended policies for services affecting the health and wellbeing of people and communities in Devon; and
- make reports and recommendations as appropriate arising from this scrutiny.

## **A PROTOCOL FOR RELATIONSHIPS AND COMMUNICATIONS BETWEEN THE HEALTH & ADULT CARE SCRUTINY COMMITTEE AND HEALTHWATCH DEVON**

*[NB: This protocol supplements the Scrutiny Procedure Rules contained in the Council's Constitution which affect the operation of the Scrutiny process or impact upon individual members. This protocol does not form part of the Constitution but is reproduced here for convenient reference.]*

While Devon County Council's Health & Adult Care Scrutiny Committee and Healthwatch Devon acknowledge the separate roles of the two organisations this document sets out a protocol intended to clarify how they will work together and to set out, transparently, the principles relating to the relationship between the County Council's Health & Adult Care Scrutiny Committee (or any successor body) and the Healthwatch Devon ensuring: -

- improved health and social care throughout the administrative county of Devon is a common goal;
- early and inclusive discussions to identify issues of mutual concern or interest are recognised; and
- relationships are based on openness, honesty and accountability.

The protocol will attempt to clarify and codify appropriate mechanisms for:

- exchanging information and work programmes;
- providing an opportunity for issues of mutual concern/interest to be recognised and dealt with co-cooperatively;
- avoid any duplication of effort;
- providing a shared understanding of the process of referral and arrangements for dealing with such;
- a clear understanding of accountability between the two bodies.

It is important to acknowledge that neither Healthwatch nor local authority scrutiny is a complaints service. It does not exist to directly inspect, or performance manage the NHS. The organisations that have responsibility for inspecting and performance management are NHS England, the Care Quality Commission (CQC) and MONITOR. While the Health & Adult Care Scrutiny Committee or Healthwatch Devon may wish to receive regular reports from these and other relevant bodies such as the Health & Wellbeing Board and individual NHS Trusts on performance that is solely for the purposes of obtaining an overview of the pressures on the service and quality of provision; it is not a complaints body.

### **The County Council's Health & Adult Care Scrutiny Committee**

In accordance with legislation, the County Council's Health & Adult Care Scrutiny Committee can scrutinise any matter relating to planning, provision and operation of health services in the area. It can hold to account Local commissioners and providers of healthcare service including local NHS organisations, the Health and Wellbeing Board and the County Council itself (as a commissioner or provider of health and/or public health services) for the

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quality, access and outcomes within the health services and ensure that these reflect the views and aspirations of local communities.

The Health & Adult Care Scrutiny Committee can hold these bodies to account by requesting information, requesting attendance at a scrutiny meeting, asking questions in public and making recommendations for improved services.

A local authority scrutiny committee may also seek evidence from other interested parties such as Healthwatch Devon, its delivery partners, stakeholders, voluntary agencies, other local authorities and public bodies and, perhaps most importantly, from the public. Any recommendations arising from scrutiny of provision or from any Review(s) initiated by the Health & Adult Care Scrutiny Committee have to be considered and responded to by the relevant organisation/body/commissioner, in a timely way.

NHS Bodies and commissioners, including Integrated Care Boards are also required to consult the Health & Adult Care Scrutiny Committee on substantial developments or variations to local health services as an official consultee. If the Scrutiny Committee has significant concerns with any proposals, it may make a request to the Secretary of State that a proposal be called in.

The formal terms of reference of the Health & Adult Care Scrutiny Committee are:

*'To review the implementation of existing policies and to consider the scope for new policies for all aspects of the discharge of the Council's functions relating to the health and wellbeing of the people of Devon including the activities of the Health & Wellbeing Board, and the development of commissioning strategies, strategic needs assessments and, generally, to discharge its functions in the scrutiny of any matter relating to the planning, provision and operation of the health service in Devon', including making a request to the Secretary of State that a proposal be called in, in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations (Amendment and Saving Provision) 2024.*

## **Healthwatch Devon**

Healthwatch is the new independent consumer champion for both health and social care established in April 2013 to work alongside the national body – Healthwatch England – set up in 2012.

Healthwatch Devon is the local body established, in line with Government's plans, to give people a stronger voice and drive improvements in health and social care services, gathering knowledge, information and opinion, influencing policy and commissioning decisions, monitoring quality, and reporting concerns to inspectors and regulators.

The national vision for local Healthwatch is that it will:

- act as local consumer champion representing the collective voice of patients, service users, carers and the public;
- support individuals to access information about services;

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- provide or signpost people to independent advocacy if they need help to complain about NHS services;
- influence commissioners, providers, regulators and Healthwatch England using their knowledge of what matters to local people.

Healthwatch Devon will build on the work of the former Local Involvement Networks (LINKs), to represent the views and experiences of the people and communities of the administrative County of Devon, endeavouring in particular to ensure that the voices of vulnerable people and hard to reach communities are heard. It will gather intelligence from people and use it to inform how decisions about services are made, including highlighting where there are problems and where things are working well, acting as a conduit for its acknowledged Delivery Partners (Devon Senior Voice; Living Options Devon; Citizens Advice Bureau; Devon Carers Voice; Be Involved Devon and Devon Link Up).

Healthwatch Devon will therefore strive to provide a collective voice, not only for these communities of interest but for all people across both health and social care, influencing the Joint Strategic Needs Assessment and Joint Health and Wellbeing strategy – through its links with Scrutiny and through its seat on the Health and Wellbeing Board where local commissioning decisions will be guided.

In particular it will seek to:

- promote and support the involvement of local people in the commissioning, provision and scrutiny of local care services, including asking providers for information which they must make available to the public;
- enable local people to monitor the standard of provision of local care services and whether and how local care services could and ought to be improved;
- obtain the views of local people regarding their needs for, and experiences of, local care services and importantly to make these views known;
- provide advice and information about access to local care services so choices can be made about local care services;
- formulate views on the standard of provision and whether and how the local care services could and ought to be improved; and
- provide Healthwatch England with the intelligence and insight it needs to enable it to perform effectively.

## **Working Principles and Commitments**

Devon County Council's Health & Adult Care Scrutiny Committee and Healthwatch Devon undertake to:

- share each with the other information through actions, Agenda, Reports and Minutes of their respective bodies, work programmes and Newsletters;
- provide each with an early opportunity to comment on and contribute to the development of the others work programme;

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- meet and exchange views on a regular basis to ensure a better understanding of each other's roles and responsibilities and, in particular, the role of the elected member in this process and to share knowledge and experience on specific topics, in the spirit of partnership working.

***[NB: Either party may, with prior approval, reproduce in whole or in part – or refer to - any Reports, Information, Data, Documents or Webpages that have been formally published by the other provided always that the reproduction of any such Report, Information, Data, Document or webpage is clearly acknowledged and credited in any publication, such consent not to be unreasonably withheld.]***

The application of the principles and commitments in this protocol will depend on both Healthwatch Officers and the Council's officers (principally, but not exclusively, the Head of Scrutiny/Scrutiny Officers and/or Democratic Services Officers) maintaining effective communication at an early stage.

In particular and in addition to the above, **Healthwatch Devon will also:**

- provide the Health & Adult Care Scrutiny Committee with a copy of any report that responds to a consultation exercise undertaken by Healthwatch Devon on behalf of local health or social care commissioners and providers or of its own volition;
- provide the Health & Adult Care Scrutiny Committee with a copy of its Annual Report and Reports arising from any completed reviews;
- assist, where possible, the Health & Adult Care Scrutiny Committee in its scrutiny of local health and social care issues;
- alert the Health & Adult Care Scrutiny Committee - when invited to comment on its future work programme - of any planned work **or** work previously undertaken **or** relevant evidence compiled on any item listed therein, to inform that piece of work and/or avoid duplication of effort and resources; and
- **may** escalate matters to the Health & Adult Care Scrutiny Committee where there is evidence indicating serious and widespread patient and public concern, having given careful consideration to the making of any such referral as set out below.

Is In particular and in addition to the above, **Devon's Health & Adult Care Scrutiny Committee will also:**

- issue a standing invitation for a representative of Healthwatch Devon to attend meetings of the Committee and speak on any matter impacting upon the health and social care needs of the local population, at the discretion of the Chair;
- provide Healthwatch Devon with a copy of its Annual Scrutiny Report;
- alert Healthwatch - when invited to comment on its future work programme - of any planned work **or** work previously undertaken **or** relevant evidence compiled on any item listed therein, to inform that piece of work and/or avoid duplication of effort and resources;

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- provide Healthwatch Devon with a copy of any Task Group Report(s) relating to matters impacting upon the health and social care needs of the local population;
- invite Healthwatch to contribute to any on-going item of scrutiny work or Task Group by providing information and data, or giving evidence thereto either in writing or in person, as appropriate.

## **Coordination of Activity**

While recognising that Healthwatch Devon and the County Council's Health & Adult Care Scrutiny Committee are independent organisations - and are therefore free to develop and pursue their own work programmes – it is equally acknowledged that there can be mutual benefit in the co-ordination of activity between the two bodies to achieve the best health outcomes for all.

This protocol recognises the complementary nature of and common functions of both bodies and the inherent ability therefore to be a critical friend to each other and to commissioners and providers in working toward the provision of high quality health and social care services for the people of Devon.

## **Referrals by Healthwatch Devon to Health & Adult Care Scrutiny Committee**

The County Council acknowledges that under the Local Government and Public Involvement in Health Act 2007 and the Health and Social Care Act 2012 a local Healthwatch may refer a matter relating to health and social care services to a scrutiny committee of a local authority.

Healthwatch Devon undertake that any and all such referrals will only be made by the Healthwatch Devon Board and submitted in writing (electronic form being acceptable) to the County Council's Head of Scrutiny and should normally be where there is significant evidence of patient and public concerns across the administrative area of Devon and where all attempts at seeking a local resolution with the appropriate health and social care commissioners and providers have been exhausted.

The Council's Health & Adult Care Scrutiny Committee will acknowledge receipt of any referral within 15 working days of receipt, indicating how it is planned to deal with that referral and when a final response will be forthcoming.

The final response will necessarily depend on the subject matter but it may be:

- if the referral is within the Scrutiny Committee's terms of reference and the Committee is of the view that there would be value in scrutinising the issue identified, that it will then do so, either at:
  - the meeting at which the referral is first reported;
  - a future date, to be included in its Work Programme; or
  - through a Task Group, as identified in its Work Programme;
- that it does not wish to scrutinise the issue (and, if that is the case, it will provide a full written explanation as to why it has not chosen so to do).

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If the matter is to be scrutinised, the Head of Scrutiny will formally advise the Chair of Healthwatch Devon of the outcome of that consideration in addition to the minutes of the meeting being made available in line with the general principles outlined above.

## **Referrals by Health & Adult Care Scrutiny Committee Scrutiny to Healthwatch Devon**

The Health & Adult Care Scrutiny Committee may wish to commission Healthwatch Devon to undertake specific pieces of research or collate evidence or undertake such other work relevant to scrutiny reviews in pursuit of its objectives.

Where timescales do not allow for such requests to be made or endorsed at a meeting of the Health & Adult Care Scrutiny Committee, a specification or scope for any piece of work or activity (including timescales) shall be prepared by the Head of Scrutiny in consultation with the Chair of the Committee. All requests will be submitted by the Head of Scrutiny to Healthwatch Devon in writing, utilising their Gateway Consultation portal\*. Healthwatch Devon will consider any request and respond within 15 working days of receipt indicating if it is able to carry out the work requested within the specified timetable or suggest an alternative means of providing any work/activity so requested.

*\*[NB: This shall not preclude any informal contact between Healthwatch and the Council's officers simply to ascertain, without prejudice, whether or not Healthwatch Devon would have the capacity to undertake any such research.]*

**February 2024**

## **Access to Information Procedure Rules**

### **1.0 SCOPE**

1.1 These rules apply to all meetings of the Council, the Cabinet, Scrutiny Committees, area committees, the Standards Committee and regulatory committees (together called meetings).

### **2.0 ADDITIONAL RIGHTS TO INFORMATION**

2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **3.0 RIGHTS TO ATTEND MEETINGS**

3.1 Members of the public may attend all meetings subject only to the exceptions in these rules.

### **4.0 NOTICES OF MEETING**

4.1 The Council will normally give at least five clear days' notice of any meeting by posting details of the meeting at County Hall, Exeter (the designated office) or on its website at: <https://democracy.devon.gov.uk/ieDocHome.aspx?bcr=1>

Meetings may only be convened with less than five days' notice as a matter of urgency, in exceptional circumstances.

4.2 The notice of any meeting of the Cabinet will list the key decisions to be taken at that meeting.

### **5.0 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

5.1 The Council will make copies of the agenda and of all reports except those marked "Not for Publication" available for inspection at the designated office at least five clear days before the meeting. If a Chair subsequently agrees that a matter should be added to the agenda as an urgent item any supporting papers will be made available for inspection by the public as soon as these are sent to councillors. Copies of agenda and reports will also be available on the County Council's website, as soon as practicable, at: <https://democracy.devon.gov.uk/ieDocHome.aspx?bcr=1>

5.2 Where any documents are not publicly available the Council will publish a Notice indicating that is so and the reasons therefor, in accordance with the Cabinet Procedure Rules.

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## 6.0 SUPPLY OF COPIES

6.1 The Council will supply to any person on payment of a charge for postage and any other costs, copies of:

- a) any agenda and reports which are open to public inspection;
- b) any further statements or particulars necessary to explain the nature of the items on the agenda; and
- c) if the Monitoring Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

## 7.0 ACCESS TO MINUTES ETC. AFTER THE MEETING

7.1 The Council will make available for public inspection at its designated office and website at: <https://democracy.devon.gov.uk/ieDocHome.aspx?bcr=1> copies of the following for six years after a meeting:

- a) the agenda for the meeting;
- b) reports relating to items considered when the meeting was open to the public;
- c) the minutes of the meeting (including a record of all decisions taken when the meeting was not open to the public);
- d) a register of decisions taken other than at meetings in accordance with the Council's scheme of delegation;

[NB: The Council uses a document management system known as Modern.Gov which means that Agendae and Reports can also be accessed through a free 'Modern.Gov App' which can be downloaded in the normal way. This App allows anyone with a suitable device to access to Agendae, Reports and Minutes; it allows subscribers to specify Committees of interest and will then automatically keep itself updated with all the latest documents]

## 8.0 BACKGROUND PAPERS

### 8.1 List of background papers

The Monitoring Officer will ensure that every report contains a list of those documents (called background papers) relating to the subject matter of the report which in his opinion:

- a) disclose any facts or matters on which the report or an important part of the report is based; and

- b) have been relied on by the author to a material extent in preparing the report (other than published works or documents which contain exempt or confidential information as defined in Rule 10).

## **8.2 Public inspection of background papers**

The Council will make available for public inspection at its designated office and on its website at:

<https://democracy.devon.gov.uk/ieDocHome.aspx?bcr=1> for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9.0 SUMMARY OF PUBLIC'S RIGHTS**

- 9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents is kept at and is available to the public at the designated office.

## **10.0 EXCLUSION OF THE PUBLIC FROM MEETINGS**

### **10.1 Confidential information**

- a) The public will 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 will be disclosed.
- b) Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### **10.2 Exempt information**

- a) The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted that exempt information will be disclosed.
- b) Where a public authority is making a decision that has an impact upon a person's civil rights or obligations, Article 6 of the Human Rights Act 1998 establishes a right to a fair (and public trial). There is therefore a presumption that the meeting will be held in public unless a private hearing is necessary for reasons specified in the Article.

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c) Exempt information means information falling within any of the following 7 categories subject to the condition(s) set out in the right hand column and where, in the opinion of the Council's Monitoring Officer, disclosure would, or would be likely to, inhibit:

- free and frank provision of advice;
- free and frank exchange of views for the purposes of deliberation; or
- the effective conduct of public affairs

<b>Category</b>		<b>Condition</b>
<b>1</b>	Information relating to any individual	Information is not exempt information unless it constitutes personal data as defined under data protection laws, and its disclosure would contravene the Data Protection Act 2018.
<b>2.</b>	Information which is likely to reveal the identity of an individual	(as above)
<b>3</b>	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information within paragraph 3 is not exempt if it must be registered under statutes, such as the Companies Act or Charities Act. To be exempt, the information must relate to an identifiable person and the disclosure of this information into the public domain must be contrary to the council's obligations under legislation such as the Enterprise Act or the Data Protection Act 2018.
<b>4</b>	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders, under the authority	Information within paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter.  "Labour relations matters" are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations

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		Act 1974, i.e. matters which may be the subject of a trade dispute
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	Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Information is not exempt information unless its disclosure into the public domain, would prejudice the prevention and detection of crime, or the apprehension or prosecution of offenders.

d) Information falling within any of paragraphs 1–7 is not exempt if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

e) Information falling within any of paragraphs 1–7 will be exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## 11.0 REPORTS NOT AVAILABLE TO THE PUBLIC

11.1 Article 11 authorises the Monitoring Officer to exclude access by the public to reports which in his opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed and a short explanation of why members may wish to decide that the paper contains exempt material.

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## **12.0 APPLICATION OF RULES TO THE CABINET**

- 12.1** In addition to the aforementioned rules, specific rules apply to the Cabinet if it meets to discuss or take a key decision collectively. These are set out in Paragraphs 6.0 to 15.0 of the Cabinet Procedure Rules.

## **13.0 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS OF THE COUNCIL**

### **13.1 Material relating to previous business**

All members are entitled to inspect any document which contains material relating to any business previously transacted at a meeting of the Council, the Cabinet or a Committee unless it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the above categories of exempt information and within category 3, in relation to terms or proposed terms for a contract.

### **13.2 Nature of rights**

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

### **13.3 Inspection of Documents**

Subject to 13.1 above, a Member may see any report or document which has been considered by the Council, the Cabinet or other committee (or any background paper used in preparing that report) – if they need it to carry out their duties as a Councillor. A copy will normally be provided upon request and if there is any doubt the request will be referred to the Monitoring Officer. The Monitoring Officer may refuse any request to see a document if, in his opinion, it would be protected by privilege arising from the relationship of solicitor and client.

Members must not ask to see any document in which they are professionally interested or in which they have a prejudicial interest under the terms of the Members' Code of Conduct.

All Committee Agenda, Minutes and Reports are available for inspection at the Council's offices during normal office hours and,

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in many cases, on the County Council's website, Information Devon.

The rules about Members access to Information and Committee Reports are set out in more detail in paragraph 4 of the Protocol on Member/Officer Relations.



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## **Public Participation at County Council, Cabinet and Committees**

Meetings of the Council, Cabinet and most Committees are open to the public who may attend and observe.

Members of the public will be treated with respect and courtesy when attending meetings of the Council. They will be listened to and everyone who has registered will be able to speak without interruption or intimidation (within the overall timescales).

It is therefore expected that members of the public listen to the proceedings and respect the views and experiences of other people contributing. For further information please see the Council's [public behaviour protocol](#).]

Members of the public are able to ask a question of the Leader or Cabinet Members at meetings of the full Council or at meetings of the Council's Cabinet. Attendance can be in person or in some circumstances via Teams.

Representations may be made to the Council, Development Management Committee, Scrutiny Committees, the Highways and Traffic Orders Committees or the Public Rights of Way Committee. The representation and the name of the person making the representation will be recorded in the minutes.

At meetings of the Council, it must either be a representation or a question, not both.

To ask a question or make a representation, the individual must live in the area served by the County Council.

The public may also, at any time, deliver or present a petition to the Council or one of its Committees (depending on the subject matter). There are various actions which the Council may take (depending upon the numbers of signatures the petition has) and for further information, please read the Council's Petition Scheme (part 4g).

Any question can be asked provided it is not frivolous, defamatory nor concerns a confidential issue which would be considered in private. The question can be about any matter which relates to the responsibilities of the Council or Cabinet.

The full guidance is available here –

<https://www.devon.gov.uk/democracy/guide/public-participation-at-committee-meetings/part-1-can-i-attend-a-meeting/> and covers the following matters.

- Part 1 – Attending Meetings
- Part 2 - Public Participation, Questions, Representations and Petitions
- Part 3 – Submitting Questions to Council or Cabinet
- Part 4 - Attendance and time allowed for petitions and / or questions.
- Part 5 – Answers to questions and what happens next
- Part 6 - Representations to Council
- Part 7 - Representations to the Scrutiny Committee Meeting

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- Part 8 - Presentations to Development Management, Highways and Traffic Orders and Public Rights of Way Committees
- Part 9 - Agenda Publication for a meeting
- Part 10 – Democratic Services Contact Details

## Petition Scheme

Devon County Council welcomes petitions and recognises they are one way in which people can let it know of their concerns. This scheme builds on the provisions of the Council's Constitution which, since 2002, has provided the opportunity for the public to submit petitions to the Council or its Cabinet (Article 3).

All petitions sent or presented to the Council will receive an acknowledgement within 15 working days of receipt indicating how it is planned to deal with the petition and when a response will be forthcoming.

Petitions may be sent, either on paper or via email, to:

**Democratic Services & Scrutiny Secretariat, Legal and Democratic Services, County Hall, Topsham Road, Exeter, EX2 4QD or [committee@devon.gov.uk](mailto:committee@devon.gov.uk)**

Petitions may also be submitted online (e-petition) through the Council's website at <http://democracy.devon.gov.uk/mgEPetitionListDisplay.aspx?bcr=1>, in line with the guidance on those pages.

Petitions may also be presented direct to a meeting of the Council or the Council's Cabinet. There is no timescale for this, but it is helpful to let us know in advance of the meeting. For further information please see 'Having your Say' at <https://new.devon.gov.uk/democracy/guide/public-participation-at-committee-meetings/part-1-can-i-attend-a-meeting/>

This Scheme accords with and fulfils the requirements of the statutory guidance issued by the Secretary of State under the Traffic Management Act 2004 to provide an opportunity for those living and working in Devon to challenge the Council's parking policies, where for example those affected by existing arrangements may feel changed circumstances or unintended consequences warrant a review of extant arrangements.

The Council will consider all petitions received, regardless of the number of signatures they contain.

However, if a petition has received 6000 signatures (equivalent to approximately 1% of the population of the administrative County and meets the requirements below) then it will automatically trigger a debate at the next ordinary County Council meeting, unless it is specifically asking for a senior officer to give evidence (see below). If this is the case we will let the petition organiser know the date of that meeting as, of course, the person submitting the petition will be entitled to attend and speak.

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## What are the guidelines for submitting a petition?

Petitions must include:

- a clear statement covering the subject matter or, if it relates to a suggested review of parking policy, accurately identifying the area to be addressed by any such review;
- what the petitioners want the Council to do; and
- the name, address (including a postcode) and signature\* of everyone supporting the petition.

Petitions should be accompanied by contact details (address and email) for the petition organiser. This is the person the Council will contact to give a response to the petition. Anyone who lives, works or studies in the administrative county of Devon may sign a petition.

*[\*In the case of online/e-petitions, a signature will not be required but a valid email address must be provided instead. If a postcode is not provided which can be verified then the entry may be discounted.]*

## When will a petition not be accepted?

There are certain circumstances in which a petition will not be accepted or dealt with, namely:

- if it is considered to be vexatious\*\*, abusive or otherwise inappropriate; or
- it relates to matters where there are on-going legal proceedings; or
- it targets individual members of a community; or
- it applies to a matter where there is already a right of appeal (e.g. planning or licensing applications or statutory petitions such as that for requesting a referendum on having an elected mayor); these will be dealt with under separate arrangements;

or, if the petition relates solely to a request for a review of the Council's parking policy:

- if it is the same or substantially the same as a petition for the same or substantially the same area as a petition dealt with in the previous 12 months; or
- if a review of the relevant traffic regulation order or parking policy in the area or substantially the same area is to be undertaken by the relevant Highways & Traffic Order Committee within the next 12 months of the date of the petition.

Also, if your petition is about something over which the County Council has no direct control we may consider making representations to the relevant body

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and where possible ask partners to respond to you. Similarly, if a petition is about something that another Council is responsible for, we will forward it to that Council, and notify you accordingly.

*[\*\*A petition shall be regarded as vexatious if it does not contain sufficient grounds for action or is frivolous or is seeking only to create disproportionate and/or unjustified disruption to the work of the Council or if it is manifestly unjustified, inappropriate or an improper use of a formal procedure.]*

## **What happens to my petition?**

An acknowledgement (by letter or email) will be sent within 15 working days of receipt indicating how it is planned to deal with the petition and when a response will be forthcoming.

## **How will the Council respond?**

The response to a petition will necessarily depend on what it is asking for and how many people have signed it, but may include;

- taking the action requested;
- considering the petition at a council meeting
- holding an inquiry or researching the matter
- holding a public meeting or a meeting with petitioners
- holding a consultation
- referring the petition to the relevant Scrutiny Committee  
<https://www.devon.gov.uk/democracy/committee-meetings/scrutiny-committees/>
- calling a referendum
- writing to the petition organiser giving our views about the request and/or letting them know what the County Council has already decided to do or proposes to do on the issue;

or, where the petition relates solely to the Council's parking policy, may include:

- referring the petition to the relevant Highways & Traffic Order Committee and/or
- writing to the petition organiser letting them know how long it will take to undertake the review and when that will be concluded and published and/or considered by the relevant HATOC.

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## **Debate at County Council Meetings**

If a petition contains more than 6000 signatures (as above) it will automatically be debated by the Council at its next ordinary meeting. The petition organiser will be given five minutes to present it and put forward his / her case for the action requested. The Council will decide how to respond to the petition and the organiser will receive written confirmation of this decision, which will also be published on the Council's website as part of the minutes for that meeting.

Petitions calling for evidence from a senior officer (as below) are excluded from the requirement to hold a debate.

## **Officer evidence**

If your petition contains at least 6000 signatures, you may ask for a relevant council officer (i.e. a Chief Officer and/or Head of Service) as shown at Part 8 of the Constitution to give evidence at one of the Council's Scrutiny Committees (e.g. to explain progress or to explain the advice given to councillors to assist their decision making). That Committee may also require the relevant Cabinet Member to attend the meeting. Committee members will ask the questions at this meeting, but you can suggest questions to the Chair of the committee by contacting the Scrutiny Team ([scrutiny@devon.gov.uk](mailto:scrutiny@devon.gov.uk)) at least four working days before the meeting.

## **What can I do if I feel my petition has not been dealt with properly?**

If you feel that the Council has not dealt with your petition properly, the organiser has the right to ask that the relevant Scrutiny Committee review the Council's response to it. The petition organiser should give a short explanation as to why the council's response is not felt to be adequate.

That Scrutiny Committee will endeavour to consider your request at its next meeting.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days and they will be published on our website as part of the minutes for that meeting.

## **Retention**

Petitions will be retained in line with the Council's retention policy - <https://www.devon.gov.uk/keepingdevonsdata/democracy/>

## **Development Management Protocol**

### **1.0 Introduction**

- 1.1** This Protocol sets out the practices and procedures that Members and Officers of Devon County Council should follow when determining planning applications.

### **2.0 Basic Principles**

- 2.1** The basis of the planning system is to manage the development process in the public interest.
- 2.2** Planning is often contentious because planning decisions affect the private interests of individuals, landowners and developers. It is not a precise science and requires informed judgement within a firm policy context. The planning system relies on ensuring that officers and members act in a way which is not only fair, but also is clearly seen to be so. The planning process must therefore involve open and transparent decision making. The process should leave no grounds for suggesting with any justification that a decision has been partial, biased, or not in any way well founded.
- 2.3** Members have a duty to represent their constituents, but also an overriding duty to the wider community. Whilst Development Management Committee Members may be influenced by the opinions of others, their decisions must not discriminate in favour of any individual, group, company or locality, nor appear to do so. Decisions should be clearly based upon material planning considerations.
- 2.4** The role of the planning officer is to advise and assist members in their determination of planning applications by providing impartial and professional advice. They will ensure that all the necessary information for a decision to be made is provided together with a clear and accurate analysis of the issues including identifying relevant development plan policies and all other material considerations. All reports to Members will contain a clear recommendation.
- 2.5** Members may raise with the relevant officers any points that they consider to be of relevance to the merits of a planning matter that the County Council is to determine. However, Members should not otherwise seek to influence officers regarding particular officer recommendations.

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- 2.6** Planning applications submitted by the County Council for its own development will be treated in the same way as those submitted by private developers, both in terms of procedures and the assessment of material planning considerations.

## **3.0 Pre-application discussions**

- 3.1** Pre-application discussions between potential applicants and a Planning Officer can be of considerable benefit to both parties and should be encouraged. Such discussions will help to clarify what information should accompany the application and will usually reduce the time taken to make a decision.
- 3.2** It should always be made clear at the outset that the discussions will not bind the officer to make a particular recommendation, or the Council to make a particular decision and that any views expressed are personal and provisional. Advice should be consistent and based on the development plan and material considerations.
- 3.3** A written note should be kept of potentially contentious meetings.
- 3.4** Members of the Development Management Committee need to preserve their role as impartial decision makers and generally should not give pre-application advice to applicants and/or agents regarding development proposals.
- (a) Members should discourage applicants from approaching them regarding planning applications.
  - (b) Members should only meet applicants if an officer is present. A note should be taken of the meeting. The taking place of the meeting should be reported to the Committee.
  - (c) Members should minimise social contacts with known developers and refrain from such contact when developments are contemplated or proposed.
  - (d) If an applicant makes an approach or interested party, members should agree to listen but are advised not to comment. If a comment is given, it should be made clear that it is a personal view rather than that of the authority. Members should avoid giving any commitment, or the impression of a commitment, that they hold any particular view on the proposed development. Exceptionally, where a Member considers that they cannot avoid giving an opinion, this should be declared at Committee. If the approach is from a constituent, members may give information on policies and procedures. Requests for information from professional advisors or agents should be referred to officers.

## 4.0 Lobbying

- 4.1** Lobbying is a normal and perfectly proper part of the political process. Those who may be affected by a proposal will often seek to influence the decision by an approach to their local Member or to Members of the Development Management Committee. However, such lobbying can lead to the impartiality and integrity of a member being called into question. The information provided by lobbyists may represent a selective and incomplete picture of the relevant considerations in respect of a planning matter.
- 4.2** Development Management Committee Members are free to listen to any point of view about a planning proposal. Even though they may agree with a particular view, Members of the Committee should avoid expressing an opinion which may indicate they or the authority have reached a final conclusion on a planning application until all the relevant information, evidence and arguments have been put before them at Committee.
- 4.3** Members may find the following guidance issued on the issue of pre-determination and pre-disposition helpful in relation to the consideration of planning matters. Section 25 of the Localism Act came into force on 15 January 2012 and states that:

“a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because:

- (a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take, in relation to a matter and
- (b) the matter was relevant to the decision”.

The Act recognises that politicians need to be able to express views without fear of challenge and to enable them to play an active part in local decisions. The effect therefore is that, just because a view has been given, this is not automatically construed as a “closed mind”. However, if the facts of a particular case show that the member or members did have a closed mind at the point of decision making, this could result in a judgement of unlawfulness.

You will still need to take into account all relevant considerations, not be irrational, nor take a decision for an improper purpose. In addition, human rights and proper consultation (where appropriate) need to be followed.

Put simply, if people believe you are favouring a particular application or are vehemently opposed to a development, you should aim to caveat your view by adding that you have not made a

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final decision, as that must wait until you receive all available information at the planning committee. It would not be appropriate to make such exclamations about an application such as, "not in my lifetime" or "nothing will change my mind".

- 4.4** Local Members who are also members of the Development Management Committee may participate in the Committee debate on an application in their division and will normally be able to vote on the application. Whilst local members may wish to ensure that a particular body of local opinion is heard by the Committee, and may reflect those views to the Committee, they should take care to avoid bias. Members of the Development Management Committee need to take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in a transparently open and fair manner, in which members taking the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality. A member may voice his or her concerns publicly before a meeting but they should make it clear that they will not form a final opinion until they have considered all the information.
- 4.5** If the member responds to lobbying by deciding to go public in support of a particular outcome; or even campaign actively for it; it will be very difficult for that member to argue convincingly that they have carefully weighed all the evidence and arguments presented at the committee meeting: In these circumstances the decision of the Development Management Committee may be vulnerable to challenge by way of Judicial Review if there is bias or the appearance of bias in the process. An appearance of bias is created if Members make it plain that they have already made up their minds about an application and will not be influenced by anything said at the meeting. In these circumstances the proper course of action would be for the member to make an open declaration and not to vote, even though that would not amount to a disclosable pecuniary interest as defined in the County Council's Code of Conduct for Members'.
- 4.6** Being a Member of a District, Parish or Town Council that has expressed a view on an application does not prevent a Development Management Committee Member reaching the same or a different view when the application is considered on its merits by the County Council. However the Member should approach the decision making process afresh and not express a final view in advance of the Committee meeting or act as a mere mouthpiece for another Authority. To do so could give an appearance of bias.

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## 5.0 Site Visits

- 5.1** Members site visits shall only be held where the proposals are of such a nature where the Committee is confident that the value added by such a visit justifies the delay in the processing of the planning application.
- 5.2** Attendance at site visits is generally by invitation only – the prime purpose being for the County Council members themselves to fully understand the material planning considerations to be taken into account in determining the planning application. Additional representation shall be at the discretion of the Chair of the Site Visiting Committee.
- 5.3** The Site Visiting Committee shall normally comprise the Chair and a limited number of members of the Committee, with full Committee Site Visits being exceptional and restricted to the most contentious cases only. The local County Councillor representing the Division will be invited to attend in all cases and the Site Visiting Committee will normally be accompanied by an officer from the County Council's Planning, Transportation & Environment Service. Representatives from the applicant/landowner; District Council; Parish Council; Statutory Consultees (where appropriate) and Objectors/Supporters (where appropriate) should be invited to attend and normally be notified at least 7 days before the Site Visit is due to take place.
- 5.4** The sequence of events at the site Visit should normally be as follows:-
- (a) a visit to the site by the County Council Members and officers only – to enable a description of the site and its surrounds and relevant geographical information regarding the proposal to be presented. (Exceptionally at the discretion of the Chair, the applicant may be asked to attend this part of the visit for site safety reasons and/or to point out physical aspects.)
  - (b) the Site Meeting – at which the County Councillor and Officer(s) together with invitees (including the applicants) are able to present their views. Representatives of objectors/supporters would be entitled to request attendance in advance (with an invitation to address the site meeting at the discretion of the Chair). In particular contentious cases or cases where the full Development Management Committee are in attendance, it may be necessary to make arrangements for the site meeting to be held in a local hall.
  - (c) at the conclusion of the Site Meeting, the County Council Members will retire to have a final discussion (with County Council Officers in attendance). Following that discussion the local ward County Council member will be asked to retire (unless they are a member of the Development Management Committee. If a recommendation is made the wording of such

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recommendation should be agreed with the Officer(s) present before the visit ends.

- 5.5** The above are guidelines. Circumstances will vary and some flexibility is necessary. Accordingly, the Chair should always have discretion to modify the arrangements in each case as appropriate e.g. to vary the sequence of 5 (a) and 5 (b) or to combine them.
- 5.6** The assumption is that the awareness gained by visiting members will inform the subsequent Committee debate and be of benefit to all members. There is no embargo on members voting at a Development Management meeting if they have not personally attended a site visit. They can listen to those who have attended and then vote on any motion before the Committee.

## **6.0 Delegated Decisions**

- 6.1** Delegation of appropriate powers and functions by Development Management Committee to designated officers has long been regarded as an essential element for the delivery of an efficient planning service.
- 6.2** The scheme of delegation (last reviewed in 2019) is set in Part 3 of the Constitution.

## **7.0 Committee Decisions**

### **Committee Reports**

- 7.1** Reports to Development Management Committee will normally be available at least five working days prior to the meeting.
- 7.2** All applications submitted to the committee will have a full written report from officers including a reasoned assessment of the proposal, reference to relevant policies and a justified recommendation and analysis of available options. Reports will cover the substance of any objectives and the views of people and bodies who have been consulted.
- 7.3** Relevant information will include a clear assessment against relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations and any other material planning considerations.
- 7.4** Any oral presentations raising new matters and updates by officers to the committee will be minuted.
- 7.5** Members should ensure that they are present for the whole presentation by officers and subsequent debate on a particular matter and do not attend part way through. This is to ensure that they are able to hear all the relevant evidence and debate in relation to a proposal. In the event that members are not present for the whole of that process and while they make still speak in any debate they should not vote on that application.

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- 7.6** If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations that justify this must be clearly stated.
- 7.7** Where an application is recommended for refusal the reasons will be set out in full in the officers' report.

## **Decisions contrary to officer recommendation**

- 7.8** The law requires that decisions should be taken in accordance with the Development Plan, unless material considerations (which specifically include the NPPF) indicate otherwise.
- 7.9** The Development Management Committee is entitled to make a decision which is different from the officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.
- 7.10** Before making a decision which differs from the officer recommendation the Development Management Committee may take the following steps:
- discuss the areas of difference and the reasons for that with planning officers at the chair's briefing session, if practicable;
  - record the detailed reasons as part of the mover's motion;
  - if necessary, adjourn for a few minutes for those reasons to be discussed by all Members of the Committee present and then to be agreed formally by the Committee; and
  - where there is concern about the validity of the reasons consideration should be given to defer to another meeting to have the reasons tested and discussed.
- 7.11** If the Development Management Committee makes a decision contrary to officers' recommendation a detailed minute of the committee's reasons will be made and a copy placed on the application file.
- 7.12** Where an application is refused contrary to officer advice, reasons for refusal will be agreed at the committee meeting and these should be based on material planning considerations and recorded in the minutes. An opportunity will be given to the officer to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the council, should one be made.

## **Free from political instruction**

- 7.13** Members of the committee must make planning decisions on planning grounds and decisions should not be taken in party groups

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on how to vote on particular applications prior to the committee meeting.

## **Declaration of interests**

- 7.14** The Council's Code of Conduct for Members' sets out requirements and guidance for members on declaring disclosable pecuniary or personal interests and the consequences of having such an interest. These must be followed scrupulously and Members should review their situation regularly. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct.
- 7.15** A Member with a disclosable pecuniary interest in respect of a particular planning matter must declare it and take no part in the determination of the proposal. They should leave the room. There is no opportunity for a member with a disclosable pecuniary interest to speak to the item being debated. Advice can be obtained from the Director of Legal and Democratic Services if required, in advance of a Committee meeting, but it is unsatisfactory if a member asks for guidance in the course of a debate. Where a Member does not have a direct, disclosable personal interest they should nonetheless adhere to the general principles of public life set out in the Council's Code of Conduct and seek to avoid giving the impression of or being perceived to have conferred any advantage or disadvantage on any person or act to gain financial or other material benefits for themselves, a member of their family, close associate or relevant person.
- 7.16** The Local Government Association/Planning Advisory Service publication "Probity in Planning" (revised April 2013) is a key document outlining how Members and Officers should approach this issue.

## **Requests by Members for information**

- 7.17** Wherever possible, Members should give advance notice of additional information they intend to request, or information they intend to contest, at the committee meeting so that officers can be in a position to assist and avoid the unnecessary deferral of a decision.

## **Public Participation**

- 7.18** In order to give greater opportunity to applicants and objectors to express their respective points of view, the Development Management Committee operates a scheme of public participation, details of which are set out at Part 4 of this Constitution.

## **8.0 Issue of Decisions**

- 8.1** Where an application is approved or refused by Committee the planning permission or notice of refusal will normally be posted to the applicant within 10 working days of the date of the Committee Meeting.

- 8.2** Where an application is approved subject to a legal agreement, the decision notice will not be issued until the agreement has been completed.

## **9.0 Member Training**

- 9.1** Members of the Development Management Committee will receive regular training in the planning system.
- 9.2** The Audit Commission's Report, 'Building in Quality', also recommends that elected Members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help reviews of planning policy. Visits to application sites, previously considered by the Development Management Committee, will be organised as appropriate.

## **Devon Duty to Cooperate Protocol**

All Councils are required by the Localism Act 2011 to co-operate with a variety of organisations to ensure that planning issues which cross local authority boundaries are considered effectively and appropriately. The County Council has worked closely with other local authorities and a range of other organisations in the County to produce a '*Devon Duty to Co-operate Protocol*' setting out how co-operation on planning matters will function in Devon. The Protocol, which supplements the Development Management Protocol is available at [http://www.devon.gov.uk/index/environmentplanning/planning-system/the\\_duty\\_to\\_co-operate.htm](http://www.devon.gov.uk/index/environmentplanning/planning-system/the_duty_to_co-operate.htm)). It does not form part of the Constitution but is referred to here for convenient reference.



## **Farms Estate Committee Protocol**

### **Introduction**

This protocol sets out the practices and procedures that should be followed by members and officers of the Farms Estate Committee in relation to the matters set out below when dealing with matters relating to the involvement of tenants.

The protocol is intended to clarify, and make transparent, the principles relating to the position of tenants (and tenants' representatives on the Committee) and their involvement in Farms Estate Committee meetings etc., to ensure all parties are treated fairly and consistently.

All meetings of the Farms Estate Committee will be conducted in accordance with Devon County Council's Constitution and Standing Orders.

### **Representation of Tenants' Views**

There will be a presumption that the Tenants' Representative and the Devon Federation of Young Farmers' Clubs Representative, both of whom sit as formal co-opted members on the Farms Estate Committee, will speak on general issues affecting the Estate or matters affecting tenants. The Chair will as a matter of courtesy invite those representatives to speak first after officers have presented any report/item. The co-opted members have the right to place items on the agenda for Farms Estate Committee meetings in line with the County Council's Constitution and Standing Orders.

There will be no right of public participation at meetings of the Farms Estate, although the Committee may at its discretion invite any person(s) to address it.

### **Members' Farm Visits**

Members' farm visits shall only be held where the proposals are of such a nature that the Committee is confident that the value added justifies the visit. The prime purpose of the visit is for Committee members to fully understand the material considerations to be taken into account in determining the relevant proposal. Farm visits are held in relation to requests for extension of tenancy and the monitoring of new tenants, and may be held for other reasons.

Farm visits will be made for information gathering purposes only. This should be made clear to the tenant. The tenant has the right to attend and speak. An officer's report and recommendation(s) will be made to the next/future Farms Estate Committee meeting.

### **Lobbying and Decision-Making**

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Lobbying is a normal and perfectly proper part of the political process. Tenants may seek to influence a decision by an approach to their local member or to members of the Farms Estate Committee. However, such lobbying can lead to the impartiality and integrity of a member being called into question. Committee members who have been lobbied on applications for tenancy extensions or other proposals relating to individual tenants must declare this before the application is considered.

Committee members are free to listen to any point of view about a proposal. Even though they may agree with a particular view, members of the Committee should avoid expressing an opinion which may indicate they or the authority have reached a final conclusion on a proposal until all the relevant information, evidence and arguments have been put before them at Committee.

Members of the Farms Estate Committee need to preserve their role as impartial decision-makers and should not give advice to tenants regarding proposals they have made or intend to make.

When meeting tenants, the Chair should be accompanied by an officer and at least one other member

## **Consideration of Requests for Extension of Tenancy at Meetings of the Farms Estate Committee**

Any request for an extension of a tenancy or recommendation arising from a site visit will be considered at the appropriate Farms Estate Committee with all relevant documentation. The tenant will be advised, by the Democratic Services & Scrutiny Secretariat, of the date of that meeting and shall have the right to attend (accompanied by a friend if desired) and speak to that item. The tenant will also be sent a copy of the officer's report on the matter.

Immediately after any introduction by the officers, the tenant will be invited to give a presentation lasting no more than 10 minutes explaining his/her business plan and justification for an extension of tenancy and respond to any questions from members or officers.

The tenant will be then asked to leave the meeting while the Committee comes to a decision and will be invited to return to be notified, by the Chair, of the Committee's decision (with a brief explanation of the reasons for that decision). In the event that the Committee, for whatever reason, is unable to reach a decision, the tenant will be brought back into the meeting and informed when the decision is expected to be made. There will be no further discussion of the matter or representations by the tenant at that meeting.

The tenant will subsequently also receive formal notification of the decision, in writing, together with more detailed reasons for the decision as soon as possible after the meeting, normally within 3 working days.

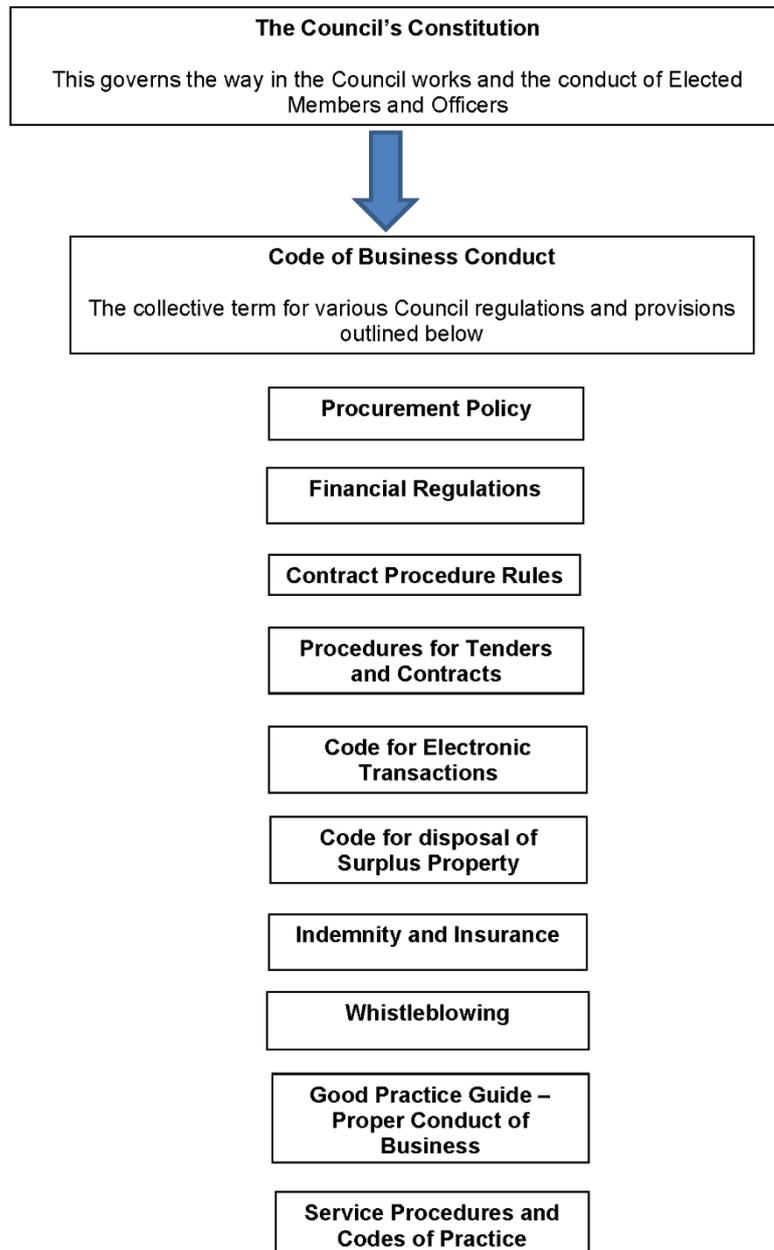
## **Generally**

The principles in the foregoing paragraph may also apply, at the Committee's discretion, in other circumstances or relevant occasion relating to a tenancy or future occupation of a holding.



## HOW THE ELEMENTS OF THE CODE ARE ARRANGED

The "Code of Business Conduct" is a collective term for various County Council Regulations and provisions. The code is referred to in the Council's Standing Orders and it is important that staff and members adhere to the requirements of the various documents it contains. The contents of the Code are shown in the following diagram:





## THE PROCUREMENT POLICY

### Background

Procurement means to acquire or obtain and is a term used as a general description for the process of sourcing, agreeing terms and acquiring goods, services or works from an external source, via a competitive process. The Council currently spends around £300 million p.a. (over one third of its total budget) on procuring goods, services, supplies and works. In addition to this extensive procurement activity, the Council is now faced with austerity measures which may result in further procurement from external suppliers.

The policy will be available to all members of staff via Devon's website and will help develop a broad understanding of the Council's procurement arrangements. It will be supported by the Minimum Standards and Procedures for Tenders and Contracts, the CIPFA code of practice on commissioning local authority works and services and by other supplementary detailed guidance which will be issued from time to time as necessary.

### Policy

The Council relies heavily on procurement for the delivery of its various services and responsibilities. It is committed to setting high quality standards and achieving value for money in whatever it procures. The Council requires all of its Services to adhere to and promote the following principles of Best Value procurement.

#### (i) Procurement Generally

The Council requires all Services to:

- be driven by desired outputs and results;
- generate most commercially advantageous balance of quality and cost;
- ensure more efficient administrative and monitoring processes;
- expedite simple or routine transactions, particularly through e-commerce;
- allow a flexible approach to developing procuring and partnering arrangements;
- encourage competition;
- encourage the continuing participation of high quality service providers;
- promote sustainability and equality;

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- demonstrate transparency and accountability;
- exercise due diligence

All services will be required to demonstrate:

- commitment to service users;
- value for money;
- due diligence
- compliance with Service aims and objectives;
- continuous improvement;
- commitment to quality and project whole life costing;
- effective management, systems and procedures;
- commitment to the County Council's strategic goals;
- compliance with the regulatory and financial framework of the Council, Government and UK Law;
- consultation with employees and their representatives;
- an even handed approach between private, voluntary and in-house providers;
- appropriate risk management within its procurement activities to protect the interests of the Council and those of the community of Devon.

## **(ii) In-House Services**

The Council believes that in-house services can provide a high quality flexible and value for money framework for developing and delivering services, whilst acknowledging that there are other methods of service delivery. It expects in-house providers to demonstrate an appropriate balance between being best on quality, value for money, sustainability, service and employment practices. The Council will support in-house providers only where they offer value for money and operate in the best interest of service users, or where it is in the Council's strategic interest to do so.

## **(iii) Partnerships**

The Council acknowledges the importance of partnerships in delivering Best Value with the private and voluntary sectors, other public bodies acting locally and with central Government itself. The

# Item 5b

Council will encourage the development of such new methods and approaches to procurement to secure the delivery of services more efficiently, effectively and economically.

The four Cs of Best Value — Challenge, Consult, Compare and Compete — are considered an integral part of this procurement policy.

## **(iv) Competition**

Competition may often provide the desired solution to procurement unless issues of risk, long term disadvantage or strategic importance make it inappropriate. The Council will make this decision by reference to a set of published criteria available from the Chief Finance Officer.

The objective of the Council's procurement policy is to provide a means to drive performance by harnessing competition. This policy aims to use competitive forces to achieve Best Value:

Through indirect Competition (i.e. benchmarking) the Council will assess the competitiveness of different functions by reference to other bodies including best value authorities and private and voluntary sector providers. Services provided in-house will be supported and encouraged to achieve equivalent levels of performance or better.

Through direct competition (i.e. alternative means of procurement). The Council will consider, having regard to current performance and suitability whether an alternative means of procurement is appropriate. Contracts will be awarded to the provider offering the most economically advantageous balance of quality and cost.

Where direct competition is deemed appropriate and the in-house provider is competing, the in-house provider will be given the opportunity to compete on equal terms with external providers.

The following will be considered essential elements of competition irrespective of whether indirect or direct:

- Staff and their representatives will be consulted
- Performance standards and monitoring strategies will be developed
- Cost information will be properly identified and collected
- Innovation will be encouraged

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- Strategic values and the Council's policy objectives will be protected
- Probity, accountability and competitive neutrality will be ensured
- The responsibilities and accountabilities of all parties must be explicit
- Periodic re-tendering of activities must take place unless contract extensions are expressly authorised by the appropriate Cabinet Member

Services already subject to direct competition will be continually reviewed against the requirements of this policy, to ensure that the manner in which the service is provided remains the most appropriate to deliver Best Value.

## (v) Due Diligence

Prior to any arrangements where a financial relationship will exist between DCC and external organisation(s) or where any organisation is to be given permission to use DCC's name, logo, e-mail or telephony system is put into place, the following minimum due diligence checks must be carried out to ensure the validity of that organisation(s):

- Validity of declared Company House data including company number, status and returns to Companies House including:
  - company information, e.g. registered address and date of incorporation
  - current and resigned officers
  - document images
  - mortgage charge data
  - previous company names
  - insolvency information

Company House information can be found at: <https://www.gov.uk/get-information-about-a-company>

Validity of declared VAT Registration number: VAT Registration information can be found at: <https://www.gov.uk/check-uk-vat-number>

In terms of Charities, appropriate due diligence checks might include the following:

- Check Charity Registered number exists and is current;
- Ensure validity of VAT registration
- Verify bank account information
- Check relevant insurances are in place;

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- Check Data Protection matters are covered
- Check charity References from that charity's other clients
- Ensure appropriate value for money is to be achieved through the proposals, regardless of whether the provider is a charity, or any other organisation type.
- Undertake Disclosure and Barring checks of relevant personnel, dependent on the service being delivered
- Ensure proposals for services to be delivered are clear, specifications are fit for purpose, documented and agreed, with suitable contract management performance monitoring in place.

All the above need to be proportionate, as always, to the subject matter, financial value and levels of risk involved with the service to be delivered.

Validity of declared Charity number: Charity number registration can be found at:

<http://apps.charitycommission.gov.uk/showcharity/registerofcharities/RegisterHomePage.aspx>

Should you require to undertake enhanced due diligence checks because of risk, value or where the basic checks indicate that there is an anomaly, please contact Procurement.

## **(vi) Procurement as a Strategic Enabler**

- The Council is committed to the principle and practice of sustainability in all of its operations. In furtherance of this, and in consultation with local businesses, the Council will take a number of steps to promote sustainability in the local economy.
- to publicise electronically and through other mechanisms its procurement intentions;
- to publicise how local firms can do business with the Council;
- to foster close working between the procurement and economic development activities of the Council;
- to publicise the Council's expectations of quality and terms of trade.
- The Council will promote the use of environmentally friendly products and activities as far as possible within its resource constraints
- The Council will use its procurement influence to promote best practices throughout its supply chain in relation to sustainability,

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diversity and equality issues. Where appropriate, conditions of contract will be incorporated to cover these matters

- The Council is concerned about the impact of the UK procurement law and regulation requirements on procuring locally. Wherever possible, the Council will source locally within the framework of rules within which it operates.
- The Council will work with partners where appropriate to deliver community strategies and other elements of the Government's Modernisation Agenda.

## **(vii) Procurement Planning**

The Council requires Services to develop forward looking and innovative procurement plans, consistent with the Medium Term Financial Planning Framework. These shall be translated into annual Procurement Plans consistent with the Revenue Budget and Capital Programme.

### **Where The Procurement Policy fits in**

The hierarchy of guidance on procurement activity is shown below:

- **STANDING ORDER** – State that officers and members to comply with code of business conduct.
  - **Code of Business Conduct** – the banner under which various codes exist e.g. financial regulations.
    - **The Procurement Policy** – The policy set out in this document.
      - **Minimum Standards and Procedures for Tenders and Contracts and other supplementary guidance** – detailed procedures to underpin the procurement policy.
        - **CIPFA Code of Practice** – external code of practice adopted by DCC.

## **ANNUAL PROCUREMENT PLAN**

### **Role of the Plan**

The Annual Procurement Plan will serve as a statement of purchasing intentions for the County Council and is intended to allow a holistic view to be taken on procurement activity. The overall plan will be constructed from Service Procurement Plans and will enable the Council to identify packaging

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and aggregation opportunities in order to benefit from economies of scale, reduce the costs of competition and, where appropriate, to develop markets. It will also enable the Council to identify opportunities for using innovative procurement methods.

The plan will be used to share knowledge on procurement activities to ensure the Council achieves maximum benefit from its considerable purchasing power. The plan will be used to advise elected members on procurement matters and will also enable the Council to manage risks associated with large scale purchasing.

The plan will be prepared annually at the start of the financial year but will need to be updated regularly as changes to procurement intentions become known. Whilst predominantly focusing on the year ahead the plan will also have a "rolling" element and will show the continuing contracts from previous years and, as far as possible, look ahead to the following two years to facilitate planning.

## **Contents of the Plan**

Goods/Services/Works/Utilities to be procured:

- Description of each main purchase area
- Monetary value or budget

Distinguish between:

- New purchases/works
- Existing contact extensions
- Existing contact variation
- Re-tendering of existing contracts
- Spot contracts

Date when procurement will take place

Preferred method of procurement following option evaluation

Comment on state of the market (based on best available information)

Contract period

Location of works, goods or service delivery

Innovative features

Monitoring arrangements

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List of continuing contracts from earlier periods and their annual value

In addition to this content Services will be required to indicate expected major variations from the plan in the following two years. This outline of the medium term will facilitate planning beyond the coming year and may be viewed alongside the Council's longer-term budget strategy.

## **Strategic Procurement Service**

Within the context of the Council's regulatory procedures in respect of procurement the Strategic Procurement Service will:

- Review Service Annual Procurement Plans and make recommendations on the methods of procurement through the Corporate Leadership Team to the Cabinet, where appropriate, having taken a holistic view of these plans for the Council, with a view to obtaining optimum value for money.

These reviews to include consideration of the use of these methods of procurement where Services consider open competition to be inappropriate:

- Contract extensions or renewal without re-tendering
- Single tenders from specialist or solitary traders
- Negotiated tenders
- Partnership/PFI arrangement

In addition to considering the use of these particular methods, the service will have an on-going interest in the use of open competition:

- To consider packaging and aggregation opportunities within the Council's planned procurement activity.
- To act in an advisory capacity to service managers on procurement matters (e.g. market development).
- To consider and advise on innovative arrangements for procurement.
- To periodically review the Council's framework for procurement, the Procurement Process and its Minimum Standards and Procedures for Tenders and Contracts and issue other supplementary detail guidance as necessary.
- To bring together the network of skills, experience and knowledge of all Services for the benefit of the County Council and the community of Devon.

# Financial Regulations

Devon County Council

# Item 5c

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## INTRODUCTION

### The Purpose of Financial Regulations

1. Devon County Council (the Authority) is responsible for many millions of pounds of public money and has a number of statutory responsibilities in relation to its financial affairs.
2. The Local Government Act 1972 directs that Authorities shall make arrangements for the proper administration of their financial affairs and that one of their officers be responsible for the administration of those affairs. The Constitution of the Authority designates the Director of Finance and Public Value as the Chief Finance Officer and the Section 151 Officer and therefore the officer responsible for establishing and maintaining the Authority's Financial Regulations and the Financial Procedures which set out how the regulations will be implemented. The Financial Regulations set out the financial policies of the Authority. The Chief Finance Officer is responsible for presenting all updates which must be approved by the Council and any breaches of these regulations must be reported to Cabinet.
3. The Chief Finance Officer is also responsible for the accounting system, ensuring, by maintaining an effective and adequate internal audit, that all accounting records are satisfactorily maintained.
4. For employees, these regulations form part of the Corporate Employee Code of Conduct, so a breach will be considered a disciplinary offence which will invoke those procedures (and can lead to dismissal).
5. For Members, adherence to these regulations form part of the Members' Code of Conduct ([The Constitution](#) see 6a) so any breach of the Code will be reported to the Monitoring Officer and Standards Committee in line with agreed processes who will make an appropriate decision on actions to be taken.

### Status of Financial Regulations

1. Financial regulations provide the framework for managing the Authority's financial affairs. They apply to every Member and Officer of the Authority and anyone acting on its behalf.
2. The regulations identify the financial responsibilities of the Council, Cabinet and Scrutiny Members, the Head of Paid Service (the Chief Executive), Directors, the Monitoring Officer (Director of Legal and Democratic Services), the Chief Finance Officer (Director of Finance and Public Value) and other Heads of Service.
3. All members and officers have a responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these

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resources is legal, properly authorised, provides value for money, and achieves best value.

4. Directors are responsible for ensuring that all staff in their directorates are aware of the existence and content of these Financial Regulations and of the Financial Procedures and that they comply with them.
5. The authority's detailed financial procedures which officers must follow, are contained in Financial Procedures documentation which fall under the jurisdiction of the Chief Finance Officer and are accessible to all officers.

## Where Financial Regulations fit in

1. Financial Regulations are linked to other internal regulatory documents forming part of the Authority's Constitution ([The Constitution](#)). The Financial Regulations are Part 5c of the Code of Business Conduct ([The Constitution](#), Part 5) which is the collective term for various Authority regulations and provisions such as Procurement Policy (5b), Financial Regulations (5c), Contract Procedure Rules (5d), Electronic Transactions (5f), Disposal of Surplus Property (5g), and Insurance (5h). It also encompasses the Good Practice Guide (5j) and Procedures for Tenders and Contracts (5e).

## Financial Principles

1. The Authority is responsible for the stewardship of public money and will make arrangements to safeguard the interests of taxpayers and other stakeholders.
2. The Authority expects its members and officers to exercise high standards in financial management and administration and aims to stimulate openness and a climate of frankness that it will support through policies and regulations, such as the Whistleblowing Policy ([The Constitution](#) 5i). The Authority upholds the [Nolan Principles](#) and its [Best Value Duty](#).

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## A FINANCIAL MANAGEMENT

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*Financial Management covers all financial accountabilities in relation to the running of the Authority, including the policy framework and budget. Below are set out the main areas of responsibility of financial management.*

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### A1. The Council

1. The Council is responsible for adopting [The Constitution](#) and Members' Code of Conduct (6a) and for approving the Budget and Policy Framework (4b) and borrowing within which the Cabinet operates. The functions are set out in [Article 4 of the Constitution](#). It is also responsible for approving and monitoring compliance with agreed policy and reporting decisions taken.

### A2. The Cabinet

1. The Cabinet is responsible for proposing the policy framework (see B1 below) and budget to the Council. Within the approved policy and budget frameworks the Cabinet is responsible for day-to-day direction of the Council's affairs. The Constitution provides for the necessary decision-making at three levels (Article 13 describes the below):
  - a. Key Decisions - decisions which by reason of their financial, strategic, or corporate importance are taken by the whole Cabinet.
  - b. Cabinet Member Decisions – each member of the Cabinet is assigned a particular area of service responsibility (a Cabinet Remit) and can take decisions within that remit after the proposal has been notified to all members of the Council.
  - c. Director & Heads of Service Decisions – decisions taken within a Director's professional or management role or in accordance with specific delegated powers.
2. The decision making protocol and delegations are described in the Scheme of Delegation ([The Constitution](#) 3c).

### A3. Committees

1. [Scrutiny Committees](#) are responsible for scrutinising Cabinet decisions and for holding the Cabinet to account.
2. The [Audit Committee](#) has delegated authority from the Council. It has the right of access to all of the information it considers necessary and can consult directly with internal or

external auditors. The Committee's remit is internal control and governance. It is responsible for reviewing and approving the Annual Governance Statement and Statement of Accounts on behalf of the Authority. It reviews the external auditor's plans and reports for the Authority and the Pension Fund and the internal audit's annual plan and report. The Audit Committee also receives reports regarding the Authority's risk management arrangements and risk register.

3. The [Standards Committee](#) is responsible for advising the Council on the adoption and revision of the Members Code of Conduct and for monitoring the operation of the code.

## A4. Statutory Officers

1. The Head of Paid Service is responsible for the corporate and overall strategic management of the Authority as a whole. They must report to and provide information for the Cabinet, the Council, Scrutiny Committees, and other Committees. They are responsible for establishing a framework for management direction and standards and for monitoring the performance of the organisation.
2. The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and for reporting any actual or potential breaches of the law or maladministration and for ensuring that the procedures for recording and reporting key decisions are operating effectively. The Monitoring Officer is responsible for advising all members and officers about who has the authority to take a particular decision and whether a decision is likely to be considered contrary to the policy framework. The Monitoring Officer and the Chief Finance Officer are also responsible for advising the Cabinet or Council if a decision could be considered contrary to the budget.
3. The Chief Finance Officer has responsibility for the proper administration of the Authority's financial affairs. This includes ensuring compliance with the Detailed Standards, with key financial controls, providing financial advice and advising on the corporate financial position, advising on preparation of revenue and capital budgets, and treasury management.
4. The Chief Finance Officer is also responsible for ensuring lawfulness and the financial prudence of decision making. After consulting with the Head of the Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council or to the Cabinet in relation to a Cabinet function and the Authority's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Authority is about to enter an item of account unlawfully. The Chief Finance Officer, in conjunction with the Chief Executive and after consultation with the Leader of the Council, shall have the powers to take any action necessary to safeguard the interests of the Authority.

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5. The Chief Finance Officer is responsible for advising Committees on all financial matters. They must be consulted on all financial matters and given adequate opportunity to provide written comment in any report with financial implications. All reports to the Cabinet or Committees with significant financial implications are to be made under the joint names of the Head of Service concerned and the Chief Finance Officer.
6. Where the urgency procedures (pt. 8) set out in the Authority's Constitution are to be invoked, the Chief Finance Officer must first be consulted on financial and other resource implications.
7. Revenue budgets delegated to schools under DfE Regulations are outside the scope of these regulations and are subject to the conditions set out in the Scheme for Financing Schools updated annually.
8. The Money Laundering Reporting Officer is responsible for notifying the National Crime Agency (NCA) of any suspected cases of money laundering committed within the accounts of the Authority, the Pension Fund, or any other funds for which the Authority is the Accountable Body, as soon as possible and fulfil other duties as defined by legislation or regulation related to the post. Simultaneously, the Cabinet Member for Finance will be kept informed of any notifications to NCA and of any issues arising from them.
9. The Deputy S151 Officer is appointed as the Money Laundering Reporting Officer and the Head of Devon Audit Partnership is appointed as the Deputy Money Laundering Reporting Officer.

## A5. Financial Control

1. Directors must operate efficient systems of financial control and are responsible for:
  - a. ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.
  - b. ensuring that Cabinet members are advised of legal implications of all proposals and that the legal implications have been agreed with the Monitoring Officer.
  - c. the signing of contracts on behalf of the Authority (except where the seal of the Authority is applied). Directors may, however, delegate authority to sign contracts below £1,000,000 to Heads of Service or an Officer to whom they have specifically delegated authority to sign contracts within their area of responsibility. In all cases before signing a contract the officer concerned must be satisfied that the necessary approval to award the contract has been obtained. Where contract variation could increase the value of the contract to be in excess of £1,000,000, approval from the Director must be sought.

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- d. Consulting with the Chief Finance Officer and seeking his/her approval on any matter that could materially affect the Authority's financial position before any commitments are incurred.

## A6. Accounting Arrangements

1. The Chief Finance Officer is responsible for keeping the accounts and financial records of the Authority. They must also approve accounting and other systems with a financial function and accounting records of directorates.
2. Accounting procedures will reflect recommended professional practices, and follow accounting principles as determined by the Chief Finance Officer. Accounting procedures will be reviewed as necessary by the Chief Finance Officer in consultation with Directors and Heads of Service to ensure that they provide the information required by both without duplication of records.
3. No change to existing accounting procedures must be made without prior consultation with the Chief Finance Officer.
4. The Chief Finance Officer must examine and certify where required any submission, estimate, or claim for payment of grant by a Government Department or funding from any other body. Officers responsible for the administration of such grants, funds and spending associated with them must ensure compliance with the conditions of the grant/funding and where appropriate adhere to the (internal document) Authority's Minimum Standards for External Funding.
5. The Chief Finance Officer, where required, must examine, and certify any financial return to a Government Department or other body.

## A7. Year-end accounting

1. The Chief Finance Officer is responsible for ensuring that the Annual Statement of Accounts is prepared in accordance with the "Code of Practice on Local Authority Accounting in the United Kingdom," (CIPFA/LASAAC). The Cabinet is responsible for approving the annual Revenue and Capital Outturn and for agreeing procedures for carrying forward under and overspending on budget headings. The Authority's final financial position as presented in the Annual Statement of Accounts will be approved by the Audit Committee on behalf of the Council.

## A8. Use of Consultants

1. If any person is to be engaged either as interim manager, consultant, professional or to fulfil the position of an Office Holder they shall be engaged under the (internal) Hiring Temps, Agency Workers, Interims & Consultants Policy. They will be subject to

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approvals in line with those of procurement & purchasing as set out in the Constitution and to comply with Tax Legislation. Any waivers of this regulation shall be in line with that of waivers for Tenders. For engagements at Director level, approval shall be sought through the Appointments Committee.

2. Directors, in consultation with the Leader and the service Cabinet Member may appoint specialist consultants up to the total contract value of £100,000 per consultant. Where the total required value is over £100,000 approval must be obtained from the Chief Executive and the appropriate cabinet member.

## B. FINANCIAL PLANNING AND CONTROL OF EXPENDITURE

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*Sound budget management is crucial to informing good decision making and achieving value for money and best value in the use of the Authority's resources.*

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### B1. Policy Framework

1. The Council is responsible for agreeing the Authority's policy framework and budget that will be proposed by the Cabinet. In terms of financial planning the key elements are:
  - a. The Strategic Plan
  - b. The medium-term financial plan
  - c. The annual revenue budget
  - d. The capital strategy
  - e. The multi-year capital programme budget
  - f. The Treasury Management Strategy

### B2. Revenue Budget Preparation

1. The Chief Finance Officer is responsible for ensuring that a revenue budget for the coming year and a medium-term financial plan for the four subsequent financial years is prepared annually for consideration by the Cabinet.
2. The Chief Finance Officer is responsible for providing guidance on the general format of the budget.
3. The Cabinet is responsible for setting a target budget for each service area.
4. Subsequently Directors will prepare, in consultation with the Heads of Service and relevant Cabinet Member and in accordance with the framework set down by the Chief Finance Officer an estimate of income and expenditure for the ensuing financial year within the spending targets set by the Cabinet.
5. The Cabinet will then submit a 'final budget' to the Council which is recommended for approval.
6. The Chief Finance Officer is responsible for reporting to the Council on the robustness of estimates contained within the budget proposed by the Cabinet and the adequacy of reserves allowed for in the budget proposals.

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## B3. Resource Allocation

1. The Chief Finance Officer is responsible for developing and maintaining a resource allocation process that ensures that both capital and revenue expenditure plans take account of the Authority's policy framework (B1.1) and changing priorities within that.
2. It is the responsibility of Directors to ensure that the revenue and capital budget estimates reflect agreed service plans, are in line with the medium-term financial plan, the capital strategy and that they follow any guidance issued by the Cabinet. The guidance will take account of the following:
  - a. Legal requirements
  - b. Medium term planning prospects
  - c. The Strategic Plan
  - d. Available resources and spending pressures
  - e. Value for money and best value
  - f. Other cross cutting issues

## B4. Maintenance of Reserves

1. It is the responsibility of the Chief Finance Officer to provide the Cabinet with a written report on levels of reserves that are considered prudent. This advice to be based on an annual risk assessment of the Authority.
2. The Authority's medium term financial plan should, in part, be based on how to either reach or maintain the recommended level of reserves.

## B5. Revenue Budget Monitoring and Control

1. Management and control of a Service budget (or part where appropriate) is the responsibility of the appropriate Director.
2. Directors must ensure that there are designated senior officers accountable to them for the detailed management of their budget and notify the Chief Finance Officer of those so designated.
3. Directors and the Chief Finance Officer will jointly carry out regular budget monitoring and reporting to identify financial problems and key issues and to recommend the action necessary to resolve them. Responsibility for the delivery of such actions rests with the Director.
4. Monitoring reports defining service financial problems and key issues with recommended action will be made to the Cabinet on a regular basis.

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5. With the explicit approval of the Cabinet in each case, and subject to the overall outturn position, at the end of each financial year any net under-spending within a Service's revenue budget may be carried forward into the following year.
6. The Authority's final financial position as presented in the Annual Statement of Accounts will be approved by the Audit Committee.

## **B6. Authority to Incur Revenue Expenditure**

1. No expenditure shall be incurred or any reduction in income authorised by any officer or Committee unless such expenditure or reduction in income is:
  - a. covered by the annual or supplementary budgets approved by the Cabinet.
  - b. the benefit of a carried forward under-spending (See B5.5)
  - c. covered by a virement (see B7)

## **B7. Virements**

1. Where a virement represents a major change in policy and is greater than £100,000, the Director and the Chief Finance Officer need to prepare a brief report for the Cabinet seeking its approval to the policy change and the associated virement.
2. All other virements should be approved by the Director or nominated representative and the Chief Finance Officer informed in writing.

## **B8. Capital Expenditure and Leasing**

### **Preparation of the capital programme**

1. The Chief Finance Officer is responsible for ensuring a five-year capital programme is prepared and submitted to Cabinet for approval.
2. Before items are included in the proposed capital programme a business case must be produced. Programmes of work may be aggregated, but where the programme or the project has a cost of greater than £100,000 a separate business case must be produced and included within the proposed capital programme.
3. The Capital Programme Group will evaluate capital projects and programmes that require internal funding and make recommendations to the Chief Finance Officer.
4. The Chief Finance Officer is responsible for ensuring that the proposed capital programme aligns with the Strategic Plan and the Estates Strategy.
5. The Chief Finance Officer will then recommend the capital programme to Cabinet.
6. Cabinet may delegate approval of targeted programmes of work to Directors or Committees.

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7. Any capital expenditure wholly or partially financed by external borrowing must always be approved by Cabinet.
8. Where a capital project or programme has a revenue implication, approval must be sought in line with the regulations set out in section B2 (above).

## Control of existing capital projects and programmes

1. The Chief Financial Officer is responsible for ensuring that any amendments to the capital programme align with the Strategic Plan and the Estates Strategy.
2. Approval for amendments to the capital programme, including revisions to existing projects, should be obtained in line with the table below and should include both the amendment to the approved capital programme and its financing.

<b>Limit for new projects or amendment to existing projects</b>	<b>Authorisation required</b>
Any project involving the acquisition of land and/or buildings	The Cabinet member for Policy Corporate and Asset Management in conjunction with the authorisations set out below
For all other projects	The procedures below are for programmes and projects which are internally funded or funded through external grants or contributions. ALL programmes and projects which require external borrowing must go to Cabinet for approval.
Up to £49,999	Head Accountant for Capital & Technical Finance in conjunction with relevant Head of Service
£50,000 to £199,999	Chief Finance Officer with recommendation from: <ul style="list-style-type: none"> <li>• the relevant Head of Service</li> <li>• the Capital Programme Group where the project involves the use of corporate funds</li> </ul>

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Limit for new projects or amendment to existing projects	Authorisation required
£200,000 to £999,999	<p>Chief Finance Officer, with recommendation from:</p> <ul style="list-style-type: none"> <li>• the relevant Head of Service</li> <li>• the Capital Programme Group where the project involves the use of corporate funds</li> </ul> <p>will seek approval from the relevant Cabinet Member/s via a letter</p>
£1,000,000 and above	<p>For projects wholly externally funded:</p> <p>Chief Finance Officer in conjunction with the relevant Head of Service will seek approval from the relevant Cabinet Member/s via a letter.</p> <p>For projects funded (wholly or partially) internally:</p> <p>Cabinet, based on recommendation from Chief Finance Officer in conjunction with the following:</p> <ul style="list-style-type: none"> <li>• the relevant Head of Service</li> <li>• the Capital Programme Group</li> <li>• Strategic Leadership Team</li> </ul>

3. New approvals and variations approved in year must be reported to the Chief Finance Officer as part of the budget monitoring cycle.
4. Capital items purchased must be recorded in the appropriate register or inventory.

## Capital receipts

1. The Chief Finance Officer must be informed of all proposed sales of land and buildings so that the effect on financial and property management can be assessed.
2. The procedures for declaring properties surplus to requirements are set out in the [Council's Code of Practice for the Disposal of Surplus Property](#).(5g)
3. The Director of Transformation and Business Services will be responsible for the negotiations of all such sales, with the exception of those relating to the industrial estate, including skills provision, which will be the responsibility of the Head of Economy,

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Enterprise & Skills. Approval must be sought from the Chief Finance Officer on the sale of assets at less than full market value.

4. Capital receipts are defined in legislation, and must be accounted for separately from revenue income, in accordance with the Local Government Act 2003. Officers banking these monies must ensure accurate use of capital analysis codes, as well as compliance with the other regulations concerning income, banking, and Tax.
5. All capital receipts will be treated as corporate capital receipts unless specific approval is obtained from the Cabinet for an alternative treatment.

## **Leasing: Property and other assets**

1. All vehicle, plant, furniture, and equipment leasing must be negotiated in conjunction with the Chief Finance Officer. Provision for the acquisition of leased items must be included in the capital programme.
2. All property leases must be notified to the Chief Finance Officer, who will seek the approval of the Cabinet Member for Policy, Corporate and Assets, before a commitment is entered into.

## C. RISK MANAGEMENT AND INTERNAL CONTROL

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*It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Authority. Equally, regulations are needed to ensure arrangements are in place to protect the assets and resources of the Authority.*

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### C1. Risk Management

1. The Audit Committee is responsible for approving the Authority's Risk Management Strategy and for reviewing the overall effectiveness of the strategy.
2. The Chief Finance Officer, in conjunction with Directors and Heads of Service, is responsible for preparing the Authority's Risk Management Policy statement and for promoting it throughout the Authority and updating it.

### C2. Internal Control

1. Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient, and effective use of resources and that the Council's assets and interests are safeguarded and the best value duty is upheld.

#### **Systems of internal control**

1. The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice.
2. It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising, and controlling their operations to achieve continuous improvement, economy, efficiency, and effectiveness and for achieving best value and their financial performance targets.
3. Directors and Heads of Service are responsible for ensuring staff receive appropriate training to undertake their financial responsibilities, in accordance with any standards set by the Chief Finance Officer.
4. The Chief Finance Officer will prepare an annual statement on the effectiveness of the Authority's system of internal control. This statement will be published as part of the Annual Statement of Accounts and will be approved by the Audit Committee.

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## C3. Retention of Records

1. Accounting and other records must be retained for periods that comply with the Authority's [Record Retention Schedule](#)

## C4. Investments and Treasury Management

1. The Authority adopts the key recommendations of the CIPFA's Treasury Management in Public Services Code of Practice: The Code. Accordingly, the Authority will create and maintain, as the cornerstone for effective treasury management:
  - a. a treasury management policy statement, stating the policies, objectives, and approach to risk management of its treasury management activities.
  - b. suitable treasury management practices (TMP), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
  - c. Prudential indicators as shown in the Prudential Code for Capital Management (limits for external borrowing, other long-term liabilities, and related matters).
2. The Council is required to approve certain maximum borrowing levels before the start of each financial year based on the recommendations of the Chief Finance Officer.
3. The Council will receive reports on its treasury management activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in the TMP.
4. The Council delegates responsibility for the implementation and regular monitoring of its treasury management to the Cabinet, and for the execution and administration of treasury management decisions to the Chief Finance Officer.
5. The Corporate Infrastructure and Regulatory Services Scrutiny Committee will be responsible for ensuring the effective scrutiny of the treasury management strategies and policies.
6. The Chief Finance Officer is empowered to make decisions regarding the premature repayment of debt, the acquisition of new debt and debt rescheduling within the borrowing limits set by the Cabinet. All such decisions will be in line with the TMP. A full analysis of the budgetary implications of the debt rescheduling will be undertaken before any decision is reached. This analysis will include an assessment of all risk factors affecting the current and future cost implications of the debt rescheduling.
7. All of the following shall be made in the name of the Authority or in the name of nominees approved by the Cabinet.
  - a. Investments
  - b. Securities

- c. Title deeds to all property
  - d. Borrowings
  - e. Stocks, bonds, and mortgages
  - f. Funds held in trust
8. All officers acting as trustees or controlling funds by virtue of their official position have a duty to exercise due care over the custody of valuables and documents and the administration of funds.

## C5. Fraud and Corruption

1. It is considered that all Officers and Members occupy a position in which they are expected to safeguard, or not to act against, the financial interests of the Authority.
2. All Officers and Members are responsible for giving immediate notification to the Head of Internal Audit / Counter Fraud Services Manager where there are grounds to suggest or there is any suspicion of fraudulent activity, financial impropriety or irregularity concerning cash, stores or other property of the Authority or held by the Authority.

## C6. Audit Requirements

1. In accordance with delegated powers and the Accounts and Audit Regulations 2015 the Chief Finance Officer shall ensure that the Authority maintains effective arrangements for internal audit to evaluate the effectiveness of its risk management, control, and governance processes, taking into account public sector internal auditing standards and guidance.
2. The Authority is responsible for the appointment of their own external auditor under the provisions of the Local Audit and Accountability Act 2014. Any such appointment must be approved by Council.
3. The Authority may, from time to time, be subject to audit, inspection, or investigation by external bodies such as HM Revenue and Customs who have statutory rights of access.

## C7. Staffing

1. The Chief Executive in consultation with the Leader is responsible for determining how officer support for the Cabinet and Executive Members and for all other Member roles within the Council will be organised.
2. Directors are responsible for the operation of the following controls over staffing:
  - a. A staffing strategy is in place that matches staffing requirements and budget allocations
  - b. Appropriate methods are used to forecast staffing requirements and related costs.

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- c. Staffing establishments specified as full time equivalents are approved alongside the annual budget and the budget includes the costs for the staffing establishment at the grades designated.
  - d. For any subsequent increases in establishment levels, funding must exist and approval is required from the Head of Service, Chief Finance Officer, and appropriate Cabinet member
  - e. Procedures are in place to ensure that only properly authorised vacancies are advertised.
  - f. Monitoring of full-time equivalents against budget is undertaken on a quarterly basis.
  - g. Corporate minimum standards on recruitment and selection are followed at all stages of the recruitment process.
- 3. The payment of all salaries, wages, pensions, compensation and other emoluments to all employees or former employees shall be made in accordance with the Financial Procedures as issued by the Chief Finance Officer.
  - 4. The Director of People and Culture is responsible for the correct payment of all salaries, wages, compensation, and other emoluments to all employees of the Authority.
  - 5. The Chief Finance Officer is responsible for the correct payment of pensions to ex-employees of the Authority.

## C8. Guarantees

Where there is a need for the issue of a guarantee which has potential financial or resource implications, this must be agreed with the Chief Executive or relevant Director, as appropriate, and agreed with the Chief Finance Officer.

## D. INCOME, BANKING AND TAXATION

### D1. Income and Banking

#### Income

1. Heads of Service/Directors are responsible for accurately identifying the sums due to the Authority.
2. [Scales of charges](#) for services and allowances and any variations thereof (except where fixed by statute) must be reviewed annually by the Chief Executive or the relevant Director, as appropriate. Any proposed variations must be agreed with the Chief Finance Officer and Cabinet Member via a delegated decision. Any new schemes for fees and charges must be reviewed by the Chief Executive or the relevant Chief Officer, as appropriate, and agreed with the Chief Finance Officer and submitted to Cabinet for approval.
3. New fees, charges and allowances must be reviewed by the Chief Executive or the relevant Director, as appropriate, and agreed with the Chief Finance Officer and submitted to Cabinet for approval.

#### Banking arrangements

1. The Chief Finance Officer is the sole officer authorised to make arrangements regarding the Council's bank accounts in accordance with the detailed standards.
2. The Chief Finance Officer will make arrangements for regular overall bank reconciliation.

### D2. Taxation

1. The Chief Finance Officer is responsible for advising Directors of guidance issued by appropriate bodies and relevant legislation as it applies, on all matters relating to taxation of both revenue and capital items including the treatment of VAT and employee related taxation issues that affect the Authority and ensuring compliance with relevant legislation.
2. The Chief Finance Officer is responsible for maintaining the Authority's VAT records, making all VAT payments, receiving VAT credits, and submitting VAT returns by their due date as appropriate.

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## E. COLLABORATIVE AND AGENCY ARRANGEMENTS, EXTERNAL FUNDING AND SERVICE CHANGES

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*The Authority has a distinctive leadership role for the community, bringing together contributions from various stakeholders, optimising funding opportunities and achieving best value whilst minimising the risk to Devon ratepayers.*

*This may involve the establishment of collaborative arrangements (formal or informal partnerships), joint ventures, joint operational models (such as pooled budgets) or providing an agency service.*

*It is essential that the responsibilities, obligations, and commitment attached to such arrangements are properly assessed and understood prior to any commitments being made, and then managed and accounted for appropriately.*

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### E1. Collaborative Arrangements, Joint Ventures, and Joint Operational Models

1. The Chief Finance Officer must be consulted on the financial and probity implications of all proposed arrangements before any such agreements are finalised. Final arrangements must then be approved by the Chief Finance Officer.
2. Formal joint ventures will be subject to Cabinet approval. All proposals for formal joint ventures must be assessed through robust options analysis and appraisal with the preferred option being recommended by the Chief Finance Officer to the Cabinet for approval. Approval must be gained in advance of the signing of any agreements or formal commitment of the Authority.

### E2. External Funding

1. Any proposal for the Authority to be the Accountable and/or Lead body must be approved by the Chief Finance Officer.
2. Prior to the submission of any bid for external funding, the Chief Finance Officer must be consulted on the financial and probity implications of the project, except for projects with a gross spend of less than £50,000 which require approval from the Head of Service. This covers all funding which is competitively bid and/or where funding bodies are

extending current funding proposals or allocating new funds. External Funding Minimum Standards describe the process for committing to external funds.

## E3. Work for Third Parties (Agency arrangements)

1. The relevant Director is responsible for approving the contractual arrangements for any work for third parties or external bodies. The Chief Finance Officer must be consulted on any proposed arrangements to ensure that proposals are costed properly before an agreement is reached.

## E4. Alternative Commissioning/Delivery Models

1. The Director must seek approval from the Chief Finance Officer and Director of Legal and Democratic Services on the financial and probity implications of proposals which change the mode of delivery for a service or significant part thereof.
2. All options considered should be fully costed and appraised to lead to the selection of a business case based on the preferred option. Consideration must be given to the financial impact of the transfer of pension rights and liabilities arising as a result of any insourcing or outsourcing proposals.
3. The business case must then be approved by Cabinet.

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## GLOSSARY OF TERMS

Term	Description
(the) Authority	The statutory organisation that is Devon County Council
Best Value	The consideration of overall value, including economic, environmental, and social value, of any project or planned expenditure.
Capital expenditure	<p>Capital expenditure includes the following:</p> <ol style="list-style-type: none"><li>1. the acquisition of land, buildings, furniture, equipment, plant, and vehicles.</li><li>2. the construction of new buildings or improvements to existing buildings.</li><li>3. road improvements, bridgeworks, and traffic management and waste disposal schemes.</li><li>4. internal or external professional fee costs on the above.</li><li>5. grants and advances for a capital purpose.</li><li>6. property leases for more than three years duration.</li></ol> <p>Other expenditure may be brought within the definition of capital expenditure by Central Government Regulations.</p>
Capital receipt	The sale of land, buildings and leases of land or buildings of more than three years duration, are capital receipts. Particular rules must be observed in dealing with the proceeds.
Council	This refers to the strategic decision-making body which consists of the democratically elected members.
Directors and Heads of Service	The Leadership Team as described within the <a href="#">Authority's Constitution</a>
Value for Money	The optimal use of resources to achieve the intended outcomes. This does not mean the cheapest price.
Virement	Movements of budget provisions between budget headings.

## **CONTRACTS PROCEDURE RULES**

### **Minimum Standards for Tenders and Contracts**

- 1.0 These minimum standards apply to all contracts, including arrangements for the carrying out of works, the supply of goods and services, and the acquisition and disposal of assets.
- 2.0 Procurement exercises and any contract arising out of such exercises must comply with all relevant statutory obligations including relevant UK procurement regulations, the Council's Constitution including the Procurement Policy, the Procedures for Tenders and Contracts and these Contracts Procedure Rules.
- 3.1 Before seeking tenders or quotations the Heads of Service must be satisfied that adequate financial provision for the contract has been identified in the County Council's approved budget (capital and / or revenue as appropriate). If overall spending cannot be contained within the service budget approval of the Cabinet Member whose remit includes Finance and Resources must be obtained before awarding the contract.
- 3.2 Where tenders or quotations exceed the estimate, or contract variations are required which will result in a variation to the estimate, the Heads of Service must identify funding for any increase and, where it exceeds approved tolerances as defined in the Procedures for Tenders and Contracts (see para 2.18), Cabinet Member approval must be obtained before awarding, or varying, the contract.
- 4.1 For all contracts entered into, the Heads of Service must be able to demonstrate the selection of the most appropriate contractor to complete the works, provide a service or supply a product on time, to the required quality, at the best price and within the approved financial estimate. For most contracts it will be necessary to operate a competitive process to meet these requirements.
- 4.2 The estimated value of the contract, which must be assessed by the appropriate technical officer, will determine whether quotations or tenders are to be used in the procurement process (see para 2.1 of Procedures for Tenders and Contracts). A quotation is a firm price submitted either in writing or verbally by a contractor to provide specified work, goods or services. Verbal quotations must be recorded in writing by the officer who receives them. A tender is a written offer, containing a price, submitted by a contractor. by a specified time and date. All tenders received prior to the closing date shall be opened at the same time and place and then assessed. All quotations and tenders must be treated in confidence.
- 4.3 Any relevant in-house unit must be invited to quote or tender.

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- 5.1 All tenders and any formal quotation following a competitive procedure will be advertised on the Council e-tendering system.
- 5.2 Arrangements for the receipt, custody and opening of tenders are delegated to the County Council's Procurement Officer ("Procurement Officer") who must ensure that tenders are held securely, that late tenders are not considered and that proper arrangements are made to safeguard staff and the County Council from fraud or corruption in this process. Save in exceptional circumstances the e-tendering system shall be used for the issue and receipt of tender documentation and formal quotations, Any departure from the use of the e-tendering system must first be approved by the Strategic Procurement Manager.
- 5.3 Heads of Service are responsible for the receipt, custody and opening of quotations not received via the Council's e-tendering system and they must observe the same standards as outlined in paragraph 5.2 above.
- 5.4 Heads of Service may use an electronic auction process as part of the overall tendering process subject to the Procurement Officer authorising such process. The electronic auction process must use software and procedures approved by the Procurement Officer.
- 6.1 Tenders and formal quotations selected for evaluation must be evaluated in accordance with criteria and weightings notified to the tenderers as part of the Invitation to Tender and in the case of tenders subject to UK procurement regulations in accordance with such regulations. The evaluation criteria and weightings must be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.
- 6.2 All contracts except where lowest price was predetermined to be the appropriate criteria will be awarded on the basis of the offer which is the most economically advantageous to the Council as demonstrated by a documented quality /price evaluation procedure. The Heads of Service may accept a tender or quotation without reference to the Cabinet Member provided it falls within the approved tolerances for estimates (see para 2.18 of Procedures for Tenders and Contracts).
- 6.3 No favour should be shown to any persons or businesses, including those run by or employing persons such as relatives, partners or friends connected with members or officers or other persons subject to these standards.
- 7.0 Every contract shall be in writing and in the name of Devon County Council.
- 8.0 Where an appropriate British Standard Specification or Code of Practice issued by the British Standards Institution, or an equivalent, is current at the date of the tender, each contract shall require that all

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goods and materials used or supplied and all workmanship will be at least of the standard required by that specification or code of practice. Every contract shall comply with any relevant environmental requirements.

- 9.0 All contract payments must be made only in accordance with the contract terms and conditions. All payments on account to contractors for building and civil engineering work will be made only on a certificate issued in accordance with the terms of contract. Before a final certificate is issued, a detailed statement of account must be prepared in a form which enables comparison to the approved estimate, and which details claims, variations and changes (where appropriate) in quantities.
- 10.1 The appropriate Head of Service must maintain a schedule of committed capital costs for the current and next financial year in respect of all contracts let or orders placed. This should be in a format which compares such commitments to the approved planning levels for the relevant Services, and must be available to the Chief Finance Officer.
- 10.2 Arrangements for the form and maintenance of a Contracts database are delegated to the Procurement Officer. Heads of Service will ensure that details of all contracts with a value of £10,000 or more are recorded on this corporate system.
- 10.3 Heads of Service will discuss their procurement strategy with the Strategic Procurement Manager and their appropriate Cabinet Member.



## PROCEDURES FOR TENDERS AND CONTRACTS

### 1.0 General

- 1.1 These procedures apply to all contracts, including arrangements for the carrying out of works, the supply of goods and services and the acquisition and disposal of assets. These procedures must be read in conjunction with the Contract Procedure Rules - Minimum Standards for Tenders and Contracts and any procurement guidance notes issued by the Procurement Officer.
- 1.2 Codes of Conduct dealing with Interests of Members and Officers apply to all contracts.
- 1.3 The Schools' Fair Funding Scheme (Scheme of Delegation) governs the management by each school of its delegated and devolved budget as determined in Section 48 of the School Standards and Framework Act 1998.
- 1.4 Due Diligence: for all arrangements where a financial relationship exists between DCC and external organisation(s) or an organisation uses DCC's name, logo, e-mail or telephony system the minimum due diligence checks must be applied (see Constitution Part 5 Code of Business Conduct, Procurement Policy (i) page 128 and (v) page 130)

### 2.0 Quotation and Tendering Procedures

- 2.1 Apart from particular types of contract specified in section 3, the minimum required numbers of tenders or quotations to be invited from appropriate contractors for a given estimated value of contract are:
  - Above £1,000 and up to £2,500 (£5,000 for works) two oral quotations;
  - Above £2,500 (£5,000 for works) and up to £10,000, Invite three organisations to submit written quotations;
  - Above £10,000 and up to £100,000, Invite three organisations to submit written formal quotations submitted by a specified date and time and based on a written specification and evaluation criteria (referred hereafter as "formal quotation");
  - Above £100,000, and up to Public Procurement thresholds, invite four organisations to submit tenders;
  - Over Public Procurement thresholds, invite organisations to submit tenders in accordance with the requirements of the Public Contract Regulations.

The values are for single items or groups of items, which must not be disaggregated artificially.

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From 1 January 2022 the sterling equivalents of Public Procurement thresholds (including VAT) are £213,477 for supplies and services, £5,336,937 for works and £663,540 for contracts falling within the light-touch regime and £4,551,413 for concession contracts. The Public Procurement thresholds are changed on 1 January of each even-dated year. The Procurement Officer will advise Heads of Service of these changes.

A light-touch procurement regime applies to certain health, social and education services that are above the applicable Public Procurement threshold and listed within Schedule 3 of the Public Contracts Regulations 2015. A Find a Tender Service (FTS) notice is required but there is greater flexibility with the procurement process to be followed.

- 2.2** Where quotations apply, they should be sought from contractors selected from a standing list if one exists but if not from suitable contractors or, for a formal quotation, through open competition.
- 2.3** Where formal quotations are required, they should be sought from organisations selected from a standing list. Where there is no standing list, formal quotations may be sent directly to a minimum of three organisations who have been selectively invited to bid without recourse to open advertisement of the opportunity or they may be selected through open competition.
- 2.4** Where tenders are required, Heads of Service have a choice of tendering procedures. For contracts up to Public Procurement thresholds, organisations may be selected from a standing list. Where there is no standing list, and for contracts over Public Procurement thresholds, appropriate advertisement must be undertaken inviting suitable organisations to express an interest in tendering. Alternatively, a suitable Framework Agreement can be used (see para 3.3 below). Tenders may be received from either all who respond to an advertisement (open competitive tendering) and, for contracts over Public Procurement thresholds, from a selection of suitable contractors who have expressed an interest and who are invited by the Council to tender (selective tendering). The number of tenderers to be invited to tender will depend on the particular market and the individual project procurement strategy.
- 2.5** If selection is to be from standing lists, arrangements for standing list compilation, maintenance, review and use must be approved in advance by the Director of Legal and Democratic Services.

## **Procurement Notification Process**

- 2.6** Officers planning to carry out any procurement exercise with a value of £10,000 or more must submit an electronic procurement notification form to the Procurement Officer. This will be used to create an initial entry in the Contracts Database.

## **Appropriate Advertising**

- 2.7** Tenders up to the Public Procurement thresholds where there have been no selective invitations to quote or tender, and all tenders above the Public Procurement thresholds, will be advertised on the Council e-tendering system. Any opportunities that are advertised on the Council's e-tendering system must also be advertised on the government's Contract Finder website.
- 2.8** For services, supplies and works where the total contract value, including any options to extend the initial term of the contract are expected to exceed Public Procurement thresholds, a Find a Tender Service (FTS) notice must also be placed and must follow Public Contract Regulations (PCR 2015) requirements with particular regard to be given to the timescale for such tenders.
- 2.9** Any formal quotation following the open competition procedure will be advertised on the Council's e-tendering system. Any opportunities that are advertised on the Council's e-tendering system must also be advertised on the government's Contract Finder website. The Head of Service will determine, if further advertising in relevant local newspapers and trade publications is also required.
- 2.10** The Procurement Officer will ensure that the e-tendering system website address is publicised appropriately. [[www.supplyingthesouthwest.org.uk](http://www.supplyingthesouthwest.org.uk)]

## **Selective Tendering**

- 2.11** Following advertisement of tenders above the Public Procurement thresholds for goods and services (whether in relation to goods, services or works), invitations shall be sent to the prospective tenderers who are best qualified to bid.

## **Invitation to Tender**

- 2.12** Every invitation to tender must specify that the Council e-tendering system will be used to issue and receive tender documentation. The invitation must state the date and time by which the tender must be received by the e-tendering system and that the tender will be held in the secure area of the e-tendering system and cannot be accessed until after the deadline. Adequate time must be allowed for the preparation and return of tenders ensuring compliance where appropriate with the Public Contract Regulations (PCR 2015). Any exceptions to using the e-tendering system must be approved by the Procurement Officer.

## **Invitation to Quote**

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**2.13** The e-tendering system must be used for a formal quotation, save for any exceptions approved by the Procurement Officer. For quotations below £10,000 the e-tendering system may be used but if paper processes are used, the invitation must state the place, date and time by which the quotation must be returned. Adequate time must be allowed for their preparation and return.

## **Certification notice by Tenderers**

**2.14** Tenderers shall certify and give undertakings that:

- the tender is genuine and intended to be competitive;
- they have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person\*;
- they have not done and will not do, at any time before the time and date specified for the return of the tender, any of the following:
  - inform any person\* the amount or approximate amount of the proposed tender, except where the confidential disclosure of the approximate amount of the tender was necessary to obtain insurance premium or other quotations necessary for tender preparation;
  - enter into any agreement or arrangement with any other person\* with the aim of preventing tenders being made or as to the amount of another tender or the conditions on which the tender is made;
  - offer to pay or give or agree to pay or give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender for the Council any of the actions specified and described in this section;
  - cause or induce any person to do any of these things.

\* outside the consortium if a consortium tender,

## **Receipt, Custody and Opening of Tenders and Formal Quotations**

**2.15** The Council's e-tendering system will record the date and time of receipt of all tenders and formal quotations. Any tender or formal quotation not received via the Council's e-tendering system (as a result of an exception approved under paragraphs 2.12 or 2.13)) must be marked with the date and time of receipt and the initials of the receiving officer, and recorded. Any tender or formal quotation received after the specified time shall be recorded as such but must not be considered.

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- 2.16** Tenders and any formal quotation not received via the Council's e-tendering system shall be opened at one time and in the presence of at least two officers who shall be independent of each other and shall sign a complete record of all tenders or formal quotation opened, showing the date and time of opening and the value of each tender or formal quotation.

## **Use of e-auction functionality**

- 2.17** An e-auction process may form part of the overall tender process. The Procurement Officer must approve any proposal to use this process, and such approval will include consideration of all software, systems and procedures to be used. The invitation to tender must state that an e-auction will form part of the tender process.

## **Acceptance of Single Quotation or Tender Received**

- 2.18** This section deals with situations where either a single quotation or tender is received. It does not apply to social care contracts for which specific provision is made at paragraph 3.9. For contracts up to £10,000, the Head of Service will determine whether or not to accept the quotation. For contracts over £10,000, the Procurement Officer and the Head of Service shall jointly consider whether or not, in their professional judgement, best value would be obtained. The following provisions shall then apply:-

- a) where the estimated value of the contract is between £10,000 and £100,000 if in their view best value would be obtained then the Head of Service may accept the formal quotation. If in their view value for money would not be obtained, or if there is any doubt, the tendering exercise should either be repeated or the matter referred to the appropriate and relevant Cabinet Member for consideration and decision.
- b) where the estimated value of the contract is over £100,000 the matter must be referred to the appropriate and relevant Cabinet Member for consideration and decision taking into account the views of the Procurement Officer and Head of Service as to whether to accept the tender or repeat the tendering exercise.

## **Financial Provision for Contracts**

- 2.19** Where tenders or quotations received vary from the approved estimate, the Head of Service must identify funding for any increase. Where the increase exceeds the greater of 5% or £25,000, the funding must be approved by the Chief Finance Officer before awarding the contract. Approval of the Cabinet

# Item 5e

Member whose remit includes Finance or Resources must also be obtained before awarding the contract where the variation exceeds £100,000.

## **Maintaining the Contracts Database**

**2.20** Upon the award of a contract with a value of £10,000 or more, the Heads of Service will update and complete the entry in the Contracts Database.

## **Exemption from the Tendering and Formal Quotation Process**

**2.21** Where the subject matter of a contract is of a specialised nature with only one or a limited number of possible contractors or where exceptional circumstances have arisen, the Head of Service shall submit a written report requesting an exemption from normal tendering or formal quotation rules to the Procurement Officer.

The authorisation requirements for exemption requests are as follows:

- The Procurement Officer may determine such requests in respect of formal quotations up to £50,000.
- The Procurement Officer in conjunction with the Director of Finance and Public Value may determine such requests between £50,000 to £100,000.
- The Director of Finance and Public Value may determine such requests above £100,000 up to the relevant legal threshold in line with Part 3 of the Constitution following consultation with the Cabinet Member whose remit includes Procurement.

Tenders subject to the Public Contracts Regulations shall be subject to exemptions contained within those Regulations. Exemptions in regard to [Social Care Contracts] are set out below in paragraphs 3.2 – 3.6.

## **3.0 PARTICULAR TYPES OF CONTRACT**

### **Acquisition of Property**

**3.1** In order to ensure compliance with capital rules, Heads of Service must obtain approval of the Cabinet Member whose remit includes Finance or Resources before giving instructions for property acquisition to NPS (SW Ltd). The arrangement and terms of all contracts for the acquisition of land or buildings and

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for property leases must be in line with the Property Transaction process approved by the Council's Executive on 15 January 2008.

## **Individual Social Care, Support or Education Contracts**

- 3.2** The following paragraphs 3.2 – 3.7 cover exemptions from the normal tender processes for contracts which provide for the delivery of social care, support or education to an individual under a statutory duty, or where the service is needed to meet an urgent need. Such exemptions are required because the services are typically of undefined duration; the individual, or their family or carer has a right to express a choice in who provides the service (under government guidance); and there are either defined eligibility criteria that mean the service has to be provided, or there is a presenting need that must be met urgently. Once in place, the services must be supplied consistently and without interruption.
- 3.3** The Heads of Service set out at Part 3 of this Constitution are responsible as identified therein for purchasing social care, support and education services that are delivered to individuals and which fall within the scope of paragraph 3.2. By virtue of the eligibility criteria which are required, these are by definition vulnerable people who may receive a service over a protracted period of time and who rely on services being delivered consistently and without interruption. This places an additional consideration within the commissioning process which is to ensure that the provider market is stable and that long-term relationships between service providers and service users are maintained where this is appropriate.
- 3.4** The aforementioned consideration will on occasion be at variance with the commissioning process required under the Contract Procedure Rules - Minimum Standards for Tenders and Contracts and these Procedures for Tenders and Contracts. Accordingly, it is not appropriate to adhere strictly to the general requirement to tender on every occasion.
- 3.5** In the circumstances described in 3.4 above the following criteria must be satisfied before awarding any individual social care, support or education contract:-
- i) the service provider selected must have a proven, successful track record in the provision of similar services,
  - ii) the service provider must be able to demonstrate that they can achieve the level of quality required in the provision of the service,

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- iii) the service provider must be able to demonstrate that they can provide the service at a price which represents good value for money,
- iv) where more than one service provider would be able to meet the criteria listed above then the officer dealing with the procurement must be able to demonstrate that the service provider selected was the most appropriate in relation to the service specification.

**3.6** The approval process for awarding an individual social care, support or education contract is as follows:-

- value of contract below £5,000 per week – approval must be by Head of Service or in line with delegated approval levels set out in the service Scheme of Delegated Financial Approval;
- value of contract £5,000 per week or more – approval must be obtained from the Chief Officer or if not available the Chief Executive.

Monthly reports on placement mix, including high cost placements, will be scrutinised by the Cabinet Members with responsibility for Resources and Children's Services.

## **Non Individual Social Care, Support or Education Contracts**

**3.7** When social care, support or education contracts other than for an individual, for example block contracts or other contracts not specifically focussing on an individual, are due for renewal, tendering will take place in accordance with the Minimum Standards for Tenders and Contracts and these Procedures for Tenders and Contracts. It is recognised, however, that in certain circumstances, it will be appropriate to seek an exemption from tendering in accordance with paragraph 2.21 above.

**3.8** The following factors are examples of circumstances which might justify an exemption for this type of contract:-

- i) there are no other providers who would be able to provide the service at the time of renewal; or
- ii) the service is provided by a voluntary, charitable or not-for-profit organisation that has made a substantial investment in the service and where market testing has established that there is no other provider who could offer similar investment and that there would be no financial advantage to the Council in tendering the service, or
- iii) the funding which is provided to a voluntary, charitable or not-for-profit organisation through a contract helps

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support the general activity of the organisation without which the organisation's viability might be at risk, and its closure would be to the detriment of the local community, or

- iv) disruption to service users and/or the market would result from a tendering exercise which would outweigh any financial advantage to be gained from undertaking such an exercise, and

**3.9** In all cases where such an exemption is sought evidence will need to demonstrate that the contract is providing good value for money.

## **Framework and Joint Procurement Arrangements**

**3.10** Framework Agreements will be established in accordance with these Procedures for Tenders and Contracts. Framework Agreements set up by government offices or other public bodies may be used after consultation with the Procurement Officer. The relevant Head of Service is responsible for the performance management of the Framework Agreements. Call off contracts under a Framework Agreement will be governed by the terms of the Framework Agreement.

**3.11** Joint procurement arrangements with other local authorities or public bodies may take place where they represent best value. The Procurement Officer must be notified at the start of the procurement of all such proposed arrangements irrespective of whether the County Council is acting as the lead authority.

## **Nominated Sub-Contractors and Suppliers**

**3.12** Unless a sub-contractor is subject to an existing County Council framework contract or the sub-contract type is covered elsewhere in this section, where a sub-contractor or supplier is to be nominated to a main contractor, tenders shall be invited from the minimum number of tenderers or all such persons if fewer than the minimum number of sub-contractors or suppliers are considered suitable. Tenders need not be invited if, in the opinion of the Head of Service, it is not reasonably practicable to obtain competitive tenders and the opinion is recorded on the contract file.

**3.13** All invitations to tender shall require an undertaking by the tenderer that if selected they will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his own obligations under the main contract in relation to the works, goods or services included in the sub-contract.

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- 3.14** The Head of Service shall nominate to the main contractor the person whose tender in his opinion provides the best value; provided that where the tender is other than the lowest received the circumstances shall be reported to the appropriate and relevant Cabinet Member for information.

## **Disposal of Assets**

- 3.15** Disposals of surplus property will follow procedures set out in the separate Code of Practice for the Disposal of Surplus Property. This includes a requirement for the local County Councillor to be made aware of any proposal to dispose of land or premises in his/her Division. Land and premises shall be disposed of by the Strategic Property Manager. The method of disposal shall ensure fairness and propriety. Except for special categories or cases approved by the Cabinet Member whose remit includes Finance or Resources, the Strategic Property Manager will arrange advertising for:

- a) land with an estimated value over £20,000, or
- b) leases for over seven years, or
- c) rentals of over £5,000 p.a. (excluding business rates or Council Tax).

## **3.16 Payments to Secure Local Bus Services**

### **3.16.1** De minimis provisions may be used for:

- i) existing and new community-based transport schemes developed in partnership with the County Council;
- ii) experimental local bus services up to a maximum of 12 months;
- iii) experimental local bus services where there is a quantifiable shared capital or revenue risk by the County Council and the operator (revenue risk must be demonstrated by, for example, declining support payments or calculated difference between payments and estimated revenue shortfall, based on contractually binding calculations with clawbacks in the event of early termination);
- iv) extending and enhancing existing services by way of frequency enhancements, route alterations, extensions or diversions of services and investment in buses which have been registered commercially - including Kickstart schemes based on joint investment with the operator - subject to the scale of the supported section, in vehicle resource terms, not exceeding that of the commercial core.

**3.16.2** Any Quality Bus Partnerships with operators per se should not bring any special exemption from the tendering process or best value assessment, but within the Quality Bus Partnership framework circumstances may arise which, judged on their merits using the above guidelines, may justify a de minimis arrangement.

**3.16.3** The award of de minimis contracts for £50,000 or more per year will need to be approved by the Cabinet Member with responsibility for transportation matters.

## **4.0 CONTRACTS**

### **Contents of Contract**

- 4.1** Heads of Service shall obtain the advice of the Director of Legal and Democratic Services on the contract terms to be agreed, including the Council's terms and conditions of contract.
- 4.2** Every contract shall be in writing or confirmed in writing and shall specify:
- (a) the work, materials, supplies or services to be provided;
  - (b) the quality standards and or service specification to be adhered to;
  - (c) the price to be paid, with a statement of discounts or other deductions;
  - (d) the time or times within which the contract is to be performed;
  - (e) the procedures for variations, termination, or penalties for non-compliance, or security for the due performance of any contract including liquidated damages where works are not completed in the time specified
  - (f) a suitable VAT clause and ensure that the Council is fully indemnified in respect of any penalties/interest charges which arise where the contractor treats their supply incorrectly for VAT purposes;
  - (g) invoicing and payment arrangements as specified by the Chief Finance Officer;
  - (h) that the Council shall pay valid and undisputed invoices within a 30 day period, consider and verify invoices in a timely fashion and impose a contractual obligation on the contractor to ensure that they abide by these conditions in relation to their own sub-contractors; and

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- (i) such other terms and conditions as are deemed necessary by the Heads of Service having taken advice from the Director of Legal and Democratic Services.

**4.3** Contracts shall be signed (except where the seal of the Council is to be applied) in accordance with A5c of Financial Regulations.

## **Cancellation of Contracts**

**4.4** All written contracts shall contain a clause enabling the Council to cancel the contract and recover from the contractor the amount of any resulting loss if:

- (a) the contractor has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for:

- i) doing or not doing, or for having done or not done, any action in relation to the obtaining or execution of the contract or any other contract with the Council;
- ii) showing or not showing favour or disfavour to any person in relation to the contract or any other contract with the Council.

- (b) the same things have been done by any person employed by the contractor or acting on his behalf (whether with or without the knowledge of the contractor);

- (c) in relation to any contract with the Council the contractor or any person employed by them or acting on their behalf has:

- i) given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972;
- ii) committed an offence under the Bribery Act 2010.

**4.5** Every contract that has been tendered via the Find a Tender Service (FTS) must also contain the right for the Council to terminate the contract where:

- (a) there has been a modification of the contract which falls outside one of the permitted categories specified in Regulation 72 of the Public Contracts Regulations 2015 and which are summarised at paragraph 4.5 below;

- (b) the contractor should have been excluded on mandatory grounds under Regulations 57(1) and /or 57(2) of the Public Contracts Regulations 2015
- (c) the contract should not have been awarded in view of a serious infringement under UK Law which has been declared as such by the Court of Justice.

## Variation of Contracts

**4.6** All orders given to a contractor directing them to vary in any respect the subject of the contract must be in writing, signed by the supervising officer and quote an agreed value (if any). The written agreement of the Head of Service must be obtained before variation orders are issued if the total value of the accepted tender will be exceeded by more than £5,000, or if the value of specified elements within the tender total will be exceeded by more than £5,000. Written agreement will not be required for:

- (a) price fluctuations in respect of wages, plant and materials;
- (b) variations resulting from statutory obligations;
- (c) agent authority works subject to equivalent external controls;
- (d) urgent construction arrangements;

but supervising officers must inform Heads of Service in advance of all significant cost increases so that they can ensure that their budgets are not exceeded without appropriate approvals.

In addition to the above requirements, where a contract has been tendered via the Find a Tender Service (FTS) (i.e. a contract above the relevant value threshold), a variation to the original contract terms will trigger a new procurement process unless it falls within one of the following permitted changes:-

- Modifications that are clearly provided for in the original procurement and contract documents; or
- Necessary modifications where a change of contractor cannot be made due to economic or technical reasons and would cause significant inconvenience or substantial duplication of cost and does not result in an increase in price of more than 50% of the original contract value; or
- Modifications to deal with unforeseen circumstances where the modification does not alter the overall nature of the contract and does not result in an increase in price of more than 50% of the original contract value; or
- Modifications to deal with a new contractor replacing the original contractor where the replacement is due to corporate restructuring and the new contractor meets the pre-qualification criteria and there are no other substantial amendments to the contract, or

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- Modifications that are not substantial. The following will be considered substantial modifications:-
  - modifications that render the contract materially different in character,
  - modifications that could have resulted in a different outcome in the procurement;
  - modifications which shift the economic balance in favour of the contractor;
  - modifications which extend the scope of the contract considerably, and
  - where a new contractor replaces the old contractor other than in the circumstances permitted above.
- Low value modifications where the value attributable to the modification falls below the relevant Public Procurement threshold **and** is less than 10% of the initial contract value for supplies and services or 15% for a works contract.

Where a contractor notifies a change in their company structure which results in a change of VAT treatment of their supply then advice should be sought internally from the VAT team before the contract is novated.

Heads of Service must seek the approval of the Director of Legal and Democratic Services in relation to any proposed variation of a contract which has been tendered via the Find a Tender Service (FTS) for all other variations of contracts the Head of Service must first seek the advice of the Director of Legal and Democratic Services.

## **Payment for Contracts for Building or Civil Engineering Work**

**4.7** Each certificate for payment must show

- (a) contract sum (usually tender total);
- (b) value of work to date;
- (c) total amount of certificates previously paid;
- (d) amount of the certificate;
- (e) retention amount (if any);
- (f) value of price fluctuations;
- (g) Value Added Tax (if any).

## **Monitoring of Contracts**

**4.8** Heads of Service must monitor all contracts and report to appropriate and relevant Cabinet Member(s) any significant exceptions to normal progress exceeding £100,000. Significant exceptions include delay or advance in expenditure by more than £100,000 compared with expectations within a financial year and critical delay in meeting target completion dates.





## **CODE OF PRACTICE FOR ELECTRONIC TRANSACTIONS**

### **Background and status of this code**

Financial Regulations have for some time recognised aspects of e-transactions particularly relating to the use of the Council finance system (FINEST). The range of electronic systems and procedures has and continues to expand particularly as a result of the e-government programme. In order to ensure existing financial regulations relating to Systems and Procedures (Section D) remain relevant in supporting and guiding staff they need to be amended and developed. Not all staff have access to electronic systems and some developments still need to be rolled out. As a result, regulations relating to manual procedures need to remain. Rather than expand the existing regulations, the opportunity has been taken to develop a “Code of Practice relating to Electronic Transactions”. This code forms an appendix to the existing financial regulations.

It incorporates those existing regulations that cover e-procedures such as the FINEST electronic approval procedures, together with changes and additions as appropriate. The major changes reflect developments allowing electronic ordering, internet purchases, procurement cards and the receipt of electronic invoices. In the case of the latter, the code incorporates new procedures to cover developments such as electronic “one Bills” and self billing. The use of electronic systems also means that documentation previously held on paper may now be stored electronically thereby significantly reducing the need to print and store information in hard copy formats. The code also covers developments allowing electronic returns to enable income to be allocated to accounting codes.

### **Code of Practice relating to Electronic Transactions**

Within the code references are made to staff and line managers. The responsibilities identified are set within the accountability frameworks of directorates for which Service Directors take overall responsibility.

#### **1. Overall Electronic controls**

User IDs and passwords are individual and must be kept secure. Passwords give access to functions that equate to signatures and must not be disclosed to anyone else.

#### **2. Orders for goods and services**

The Council’s preferred method of ordering is the issuing of an order in electronic format from FINEST or through an approved electronic interface with an approved supplier.

##### **2.1. Control of access to ordering systems**

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Heads of Service are responsible for the control of access to systems which generate orders in accordance with the detailed standards below.

Heads of Service are responsible for determining limits of personal authority to order, i.e. setting spending limits and purchasing areas; the budgets against which orders may be committed; the suppliers which may be used; ensuring that staff issuing orders have received appropriate purchasing training.

Electronic orders shall include sufficient details to ensure that the standards, quality and quantity of goods and services required are clearly specified the agreed price, contract terms and times of delivery are stated; where appropriate, the contract number is stated to ensure preferred rates or discounts are obtained.

## **2.2. Authorisation process**

Heads of Service are responsible for authorising orders entered to the system; ensuring that budget provision exists for all purchases and any commitments created are reflected in future decision making and ensuring that goods and services which are ordered are required for service delivery.

## **2.3. Manual orders**

Manual ordering is not to be used to circumvent limits on spending authority or lack of budget provision.

## **3. Payment of Accounts**

The Councils' preferred method for receipt of invoices is electronic. The Chief Finance Officer will determine the detailed requirements and maintain these having regard to developments in the available technology. All payments for supplies and services will be made in accordance with legislation and the Council's policy for payment of invoices within terms. The Chief Finance Officer will maintain arrangements for the receipt of all invoices in electronic formats. In broad terms the following will apply;-

### **3.1. Continuous supplies**

Invoices for continuous supplies – such as energy, water, telephony services will, where electronic systems have been developed, be dealt with centrally and posted to FINEST as certified claims. Responsible Officers will be advised of the arrival of the claim and will be responsible for verifying the accuracy of the claim. Any discrepancies will be raised by the responsible officer with the supplier for correction in the next billing cycle. The claim will, subject to credibility checks, be paid automatically on the due date. Responsible Officers must ensure that any errors are

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corrected and credits are received. Where difficulties are experienced, for example expected credits are not processed by the supplier, the Director of Finance or his nominated officer must be notified.

## **3.2. Discrete supplies to be input to FINEST**

Electronic Invoices in respect of goods or services supplied in response to a FINEST order will be imported to FINEST as claims, automatically matched against the order and the originator notified of the invoices' arrival. Managers are responsible for ensuring that arrangements are in place so that pending claims are checked and certified promptly.

Certification in FINEST will signify that the goods or services have been received and are of the quality and quantity ordered all departmental procedures have been followed; the prices are correct; and where appropriate, entries have been made in inventories, stores records, and stock books.

A certified invoice will be authorised in FINEST which shall signify that the account has been properly checked and certified by an appropriate officer; where an invoice is subject to dispute then the reason for the dispute and the action taken shall be recorded in FINEST.

## **3.3. Discrete supplies to be input to departmental systems**

Where approved departmental systems (such as TRAMS, CAREFIRST, GALAXY) are in place which allow transactions with suppliers the same principles and policies which apply to transactions through FINEST shall apply to the departmental system.

## **3.4. Manual invoices**

Managers are responsible for making arrangements to ensure that all incoming invoices shall be endorsed with the date of receipt. The manager whose staff issues the order shall be responsible for ensuring the examination, certification and either entry to FINEST for payment or submission for central payment of the related invoice.

## **3.5. Self billing**

Certain internal electronic management systems may provide the capacity to calculate and generate payments due to suppliers. Where this is the case consideration should be given to the use of self billing. Arrangements for self billing must be approved by the Chief Finance Officer who in turn will obtain the agreement of HM Revenue & Customs (HMRC). The option to self bill cannot legally be effected without agreement of HMRC.

## **4. Purchasing cards / Corporate Charge Cards**

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The Chief Finance Officer will make arrangements for the administration of purchasing cards/corporate charge cards and will issue them where circumstances require. Cardholders are responsible for the security of the cards and associated passwords, pass numbers and PIN numbers.

Heads of Service are responsible for ensuring that such cards used in their Directorate are only held by appropriate staff and are used strictly in compliance with the specific rules issued by the Chief Finance Officer.

## **5. Debit cards**

These may be made available to the holders of Council imprest bank accounts. The Chief Finance Officer will make arrangements for the administration of debit cards and will issue them where circumstances require. Cards will only be issued to signatories to imprest accounts. Cardholders are responsible for the security of the cards and associated passwords, pass numbers and PIN numbers.

Heads of Service are responsible for ensuring that debit cards used in their Directorate are used strictly in compliance with the specific rules issued by the Chief Finance Officer.

## **6. Internet purchases**

The Internet provides the opportunity to obtain goods and services. Trading over the Internet allows opportunity and risk. To minimise risk the following precautions should be taken:-

- only give card details on secure websites;
- ensure only reputable suppliers are involved;
- ensure that the amounts of such payments are appropriate to be paid in advance and do not present unnecessary risk;
- ensure all other reasonable steps are taken to protect the Council from risk and potential loss;
- purchasing & charge cards are preferred over debit cards as the contractual arrangements with the card issuer provide enhanced security.

More detailed requirements will be contained in the arrangements associated with each type of card.

### **6.1. Web portals and suppliers websites**

Arrangements for transacting business with nominated suppliers through web portals will be under arrangements approved by the Chief Finance Officer. Access to such websites shall be controlled by user ID and passwords which shall not be disclosed to anyone else.

## **7. Income**

### **7.1. Payment by charge/ credit /debit cards**

All arrangements for the collection of payments by credit and debit cards using “PDQ machines” shall be coordinated by the Chief Finance Officer. All arrangements for the collection of payments by Inter-active Voice Response (IVR) transactional website and other e-payment methods including telephone shall be under secure arrangements approved by the Chief Finance Officer.

### **7.2. Web sales**

All arrangements for selling goods and services by the council shall be under arrangements approved by the Chief Finance Officer. All such sales shall be subject to the Council’s standard conditions of business and the Council’s privacy policy.

### **7.3. Banking arrangements**

Information to allocate payments shall where-ever possible be collected by web forms or other approved electronic method. The arrangements for web forms shall be controlled by the Chief Finance Officer.



## **CODE OF PRACTICE FOR THE DISPOSAL OF SURPLUS PROPERTY**

### **1.0 General**

**1.1.** Chief Officers/Heads of Service should seek to identify property that will become surplus to requirements and arrange for it to be declared permanently surplus to requirements at the earliest possible date. This is;

- (i) to avoid unnecessary expenditure on repairs, rates, security and other outgoings
- (ii) to allow NPS(SW) Ltd the maximum time to obtain any planning permissions for alternative use / development prior to offering properties for sale
- (iii) to minimise the length of time property is held by the authority after it is vacated.

**1.2.** Property forming part of the County Council's industrial estates portfolio which has been identified for disposal following a best value review and property which has been identified for disposal under the Finance Plan for the reorganisation of the County Farms Estate are deemed to have been declared permanently surplus to requirements. These properties do not require further approvals prior to disposal.

**1.3.** All capital receipts will be treated as corporate capital receipts unless specific approval is obtained from the Cabinet for an alternative treatment e.g. "in/out schemes". Heads of Service should forward any such proposals to the Capital Receipts Working Party at an early stage for consideration as to whether they meet the necessary criteria to be recommended for approval by the Cabinet.

### **2.0 Procedure for Declaring Property Permanently Surplus to Requirements**

**2.1** Heads of Service should seek approval to dispose of property in accordance with the Property Transaction Process established by the Corporate Asset Group. That approval should indicate the likely timescales for releasing the property. A copy of the approval will be sent to the Local Member for information.

**2.2** Heads of Service remain liable for the costs of holding property until such time as the County Council's interest is disposed of.

**2.3** All revenue budgets associated with property which has been declared surplus to requirements will be transferred to Business Strategy and Support to contribute to the County Council's budget reduction targets.

### **3.0 Disposal process for 'assets of community benefit'**

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- 3.1** This process applies to all assets that have been included in the statutory list of assets of community value, which will be managed by the appropriate District Council.
- 3.2** The authority may also consider community interest in surplus assets that are not included on this list at the discretion of Cabinet.
- 3.3** The County Council must notify the District Council when any asset which has been included in the list is declared surplus. The District Council will then notify the nominating organisation of any planned disposals of listed assets.
- 3.4** Any expression of community interest must be made by a 'qualifying organisation' as defined within the Act and determined by the Regulations.
- 3.5** The Act provides an initial moratorium on disposal of six weeks from the notification of intention to dispose within which local organisations may make a written request to the County Council to be treated as a potential bidder.
- 3.6** At the end of the initial 6 week period, if no expressions of community interest are received, the property will be placed on the open market.
- 3.7** If a written expression of interest is received within the initial period the full six month moratorium on disposal will be applied, starting from the date of receipt of notification to dispose, to allow the organisation to prepare a bid.
- 3.8** Where more than one organisation makes an expression of interest, the County Council would encourage them, through the Local Member, to prepare a joint bid.
- 3.9** The County Council will consider any proposals for a discount on Open Market Value from the qualifying organisation during the six month moratorium. These bids will be evaluated according to the process which will be agreed by Cabinet from time to time; the County Council may reach an agreement to sell at undervalue at or before the end of this period.
- 3.10** In this instance, Open Market Valuation is defined as the highest value that the authority could reasonably expect to achieve for the property and not necessarily the current use value. The Market Value will be assessed by NPS SW Ltd, as the Council's property services provider, based on the Valuation Standards of the Royal Institution of Chartered Surveyors.
- 3.11** Interested parties are advised that they must seek their own valuation when preparing their bid.

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- 3.12** At the end of the full moratorium, if no acceptable bids are received from a qualifying organisation the property may be placed on the open market and the authority will be free to dispose of the property.
- 3.13** Where appropriate the sale would be subject to a covenant to ensure that the premises would be used for no other purpose than the specified use or that any discount would be repaid or overage payable if the premises were sold and/or use changed within a defined period.
- 3.14** Following any transfer of a former County Council premises to any local community organisation or Parish Council, the County Council will have no continuing interest in or responsibility for the upkeep of the property. No additional funds will be made available for on-going maintenance, including any unforeseen liabilities.
- 3.15** In some cases, properties are held in trust by the County Council and cannot be sold or have restrictions on the sale or use of the building. In these instances, transfer to local community organisations may offer a realistic way for the property to remain in the community when it is no longer required for the provision of County Council services. However it should be borne in mind that such disposals may be subject to obtaining the prior approval of the Charity Commission.

## **4.0 Role of NPS**

- 4.1** The County Council has established a joint venture partnership with NPS (SW) Ltd whereby the latter is authorised to exercise a broad range of property related powers on behalf of the Council.
- 4.2** The County Council's capital programme is dependent upon capital receipts from the sale of surplus property and the Council is under a statutory duty to obtain the best price reasonably obtainable on the sale of property. The timing of sales is often important in achieving the capital programme and in the case of "in/out schemes". It is anticipated that in most case properties will be offered for sale on the open market.
- 4.3** Prior to formally declaring a property surplus to the authority's requirements, NPS will notify any groups entitled to prior notification under current legislation and government guidance, for example Previous owners where land was acquired under a Compulsory Purchase Order in accordance with the Crichel Down procedures recommended by the Commission for Local Administration in England.
- 4.4** Where the property is held on the list of Assets of Community Value, NPS will notify the relevant district authority immediately following the decision to declare the property surplus to the authority's requirements and the authority will implement the process for disposal of assets of community value set out in section 3 of this code, which meets the regulations for Part 5 chapter 3 of the Localism Act 2011 'Assets of Community Value'.

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- 4.5** Where the property is not held on a list of Assets of Community Value, in advance of the property being offered for sale on the open market the authority may offer properties or land to individuals or organisations who fall within one or more of the following categories.

Special Category	Justification
Sales or leases to existing occupiers including freehold reversions	Such sales are likely to achieve values in excess of open market value i.e. the benefits of any marriage / merger value accrue to the County Council.
Sales or leases to adjoining owners/occupiers or superior landlords subject to all adjoining owners being approached and invited to bid	Such sales are likely to achieve values in excess of open market value i.e. the benefits of any marriage / merger value accrue to the County Council.
Exchanges of land.	In accordance with Good Neighbour principles where there is mutual benefit.
Sales to other public bodies	To assist other public bodies to achieve their objectives in providing services to the people of Devon.
Sales to help secure the promotion or improvement of the economic, social or environmental well-being of its area within the meaning of Section 2 of the Local Government Act 2000	To assist the County Council and other public bodies achieve their objectives to improve the social, economic and environmental wellbeing of the people of Devon – for example affordable housing.
Property held for employment generation purposes.	To achieve the County Council's employment generation objectives

- 4.6** NPS is authorised to notify the following organisations of the availability of surplus property in advance of offering it on the open market:
- (i) Other Councils, Devon and Cornwall Police Authority, Devon and Somerset Fire and Rescue Service, Health Care Trusts, Community Council of Devon.
  - (ii) Housing Associations nominated in writing by District Councils
  - (iii) Community Associations to assist with the provision of community facilities where there is proven need
  - (iv) Other relevant public bodies including appropriate signatories to the Devon Partnership Agreement
  - (v) Adjoining owners or occupiers where they can be identified.

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**4.7** NPS cannot be expected to know of all the organisations which may potentially be interested in acquiring surplus properties and discretion will be used as to with whom and in respect of which properties it is appropriate to consult prior to offering properties on the open market. Local Members will often be aware of community needs and aspirations and NPS should consult them when handling the sale of properties that have the potential to be of interest for community use. County Locality Development Officers might also be consulted in appropriate cases.

**4.8** Parties will be asked to express interest within 21 days. Any sale to an organisation within category (iii) would be subject to the approval of the Cabinet. Sales will be at open market value. If terms are not agreed, or a transaction is not concluded within the period required to meet the County Council's objectives, the offer to sell the property will be withdrawn.

## **5.0 Methods of Sale in Other cases**

**5.1** In all other cases property shall be offered for sale on the open market following public advertisement using such method as will in the opinion of the NPS achieve the best price.

**5.2** When property (other than small areas of non-operational land e.g. boundary adjustments and verges) is being sold NPS will notify the Local Member at the following stages:

(i) if a planning application is about to be made and again if an appeal is submitted against refusal of planning permission

(ii) when property is about to be put on the market

(iii) in the event of any significant or contentious event

## **6.0 Disposal for other than Full Market Value**

**6.1** Section 123 of the Local Government Act 1972 (General Disposal Consent) requires the Authority to obtain 'best price' for any property that is sold.

**6.2** In some limited circumstances it may be that benefits other than the cash value of the sale may be taken into account. When a disposal at "undervalue" is proposed the following procedures must be followed.

(i) a certified valuation of the property be prepared by NPS and placed on the relevant file

(ii) a full economic appraisal of the proposed non-cash benefits must be prepared

(iii) a statement should be prepared comparing the certified valuation with the cash consideration and the capital value of any other benefits

## Item 5g

(iv) that the Chief Finance Officer be consulted on the sale of assets at less than Full Market Value

(iv) Any proposed disposal for other than full cash value must be approved by the Cabinet Member whose Remit includes Finance and Property.

## **INDEMNITY AND INSURANCE FOR MEMBERS AND OFFICERS**

### **Indemnity for elected members**

1. The Council gives the following indemnities to its elected members subject to paragraphs 2-13 below:-

(a) That if any act or omission of an elected member in the course of exercising his/her proper powers and duties as a member of the Council does or may give rise to any liability of the Council or the elected member to any third party the Council will indemnify the elected member against all loss or damage or other legal expenses arising and the Council will not make any claims against the elected member for any loss or damage or legal or other expenses.

(b) That if any act or omission of an elected member in the course of exercising his/her proper powers and duties as a member of the Council does or may give rise to any liability of the member to the Council then the Council will not make any claims against the member for any loss or damage or legal or other expenses.

2. That, subject to paragraph 3, the indemnities shall apply to all actions undertaken, or failures to act, which forms part of or arises from the duties of the elected member on behalf of the Council whilst the elected member is acting within the scope of their authority which shall include when they are acting as the Council's representative on other bodies providing that they act with the written consent of the Council and in accordance with the terms of that consent.

3. That the indemnities shall apply to all actions undertaken, or failures to act, in pursuit of the duties of the elected member on behalf of the Council whilst the elected member is acting outside the scope of their authority which shall include when they are acting as the Council's representative on other bodies providing that;

(a) They act with the written consent of the Council and in accordance with the terms of that consent, and providing further that the elected member reasonably believed that the action, or failure to act, in question, was within the power of the authority, and was also within his or her powers at the time at which the elected member acted.

(b) Where the action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the authority, or any statement that certain steps have been taken or requirements fulfilled, they believed that the contents of the statement were true, and it was reasonable for them to hold that belief at the time when they acted or failed to act.

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4. That, subject to paragraph 11, the indemnities shall apply to the defence of any criminal proceedings.
5. That, subject to paragraph 11, the indemnities shall apply to the defence of any proceedings in connection with the Code of Conduct for Elected Members, pursuant to Part 3 of the Local Government Act 2000 and Part 1 of the Localism Act 2011.
6. That the indemnity shall apply to any loss or damage or legal or other expenses arising from any civil liability which arises as a consequence of any action or failure to act which also constitutes a criminal offence, providing that such liability has not arisen in whole or in part from any fraud, deliberate wrongdoing or recklessness on the part of the elected member.
7. That the indemnities shall not apply to loss or damage or legal or other expenses arising directly or indirectly from:-
  - (i) Fraud, dishonesty or a criminal offence, or other deliberate wrongdoing or recklessness on the part of the elected member (save as provided for by paragraph 6)
  - (ii) Liability in respect of losses certified by the Council's external auditor as caused by wilful misconduct or where unlawful expenditure has been knowingly or recklessly authorised.
  - (iii) Circumstances in which the elected member has not acted in good faith.
8. In relation to loss or damage or expenses relating to the actions of an elected member when they were acting as the Council's representative on other bodies the following additional limitations will apply:-
  - (i) Where the management committee or its equivalent is jointly and severally liable the indemnity to the elected member will be limited to a sum equivalent to the amount for which the member would be liable if all members of the management committee or its equivalent paid an equal amount to discharge the liability.
9. The Council may in its absolute discretion withdraw the indemnities if: -
  - (i) The elected member does not notify the Legal Officer (i.e. Director of Legal and Democratic Services or equivalent) and Chief Finance Officer (Director of Finance and Public Value or equivalent) immediately they are notified of a claim
  - (ii) The elected member makes any admission to or negotiates or agrees any settlement with a third party without the prior written consent of the Legal Officer (i.e. Director of Legal and

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Democratic Services or equivalent) and Chief Finance Officer (Director of Finance and Public Value or equivalent).

10. The indemnities shall not apply in respect of all claims falling within the cover provided to elected members under any policy of insurance taken out by the Council or any motor vehicle insurance policy taken out by the elected member.
11. The elected member shall reimburse the Council, or its insurer, for any sums expended by the authority or the insurer in relation to any criminal proceedings, or any proceedings under Part 3 of the Local Government Act 2000 and Part 1 of the Localism Act 2011 where;
  - (a) In the case of criminal proceedings, if the elected member in question is convicted of a criminal offence, and that conviction is not overturned following an appeal;
  - (b) In the case of proceedings under Part 3 of the Local Government Act 2000, and Part 1 of the Localism Act 2011 if the elected member admits that he has failed to comply with the Code of Conduct, or if there is a finding in those proceedings that that the elected member in question has failed to comply with the Code of Conduct, and that finding is not overturned following any appeal.
12. The indemnities shall continue in force for as long as the elected member remains liable in law for the act or omission in question.
13. The indemnities shall not extend to any situation where it would be unlawful for the Council to give an indemnity to elected members.

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## Indemnity for employees

1. The Council gives the following indemnities to its employees subject to paragraphs 2 –12 below:-
  - (a) That if any act or omission of an employee in the course of his/her employment by the Council does or may give rise to any liability of the Council or the employee to any third party the Council will indemnify the employee against all loss or damage or legal or other expenses arising and the Council will not make any claim against the employee.
  - (b) That if any act or omission of an employee in the course of his/her employment by the Council does or may give rise to any liability of the employee to the Council then the Council will not make any claim against the employee for any loss or damage or legal or other expenses.
2. That, subject to paragraph 3, the indemnities shall apply to all actions undertaken, or failures to act, which forms part of or arises from, the duties of the employee on behalf of the Council whilst the employee is acting within the scope of his/her employment or authority which shall include when they are acting in relation to work undertaken by the Council for other bodies and work undertaken by the employee for or on behalf of another body providing that his/her Chief Officer has authorised the work in question.
3. That the indemnities shall apply to all actions undertaken, or failures to act, which forms part of or arises from the duties of the employee on behalf of the Council whilst the employee is acting outside the scope of his/her authority which shall include when they are acting as the Council's representative on other bodies providing that
  - (a) They act with the written consent of the Council and in accordance with the terms of that consent, and providing further that they reasonably believed that the action, or failure to act, in question was within the power of the authority, and was also within their powers at the time at which they acted
  - (b) Where the action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the authority, or any statement that certain steps have been taken or requirements fulfilled, they believed that the contents of the statement were true, and it was reasonable for them to hold that belief at the time when they acted or failed to act.
4. That, subject to paragraph 10, the indemnities shall apply to the defence of any criminal proceedings.

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5. That the indemnity shall apply to any loss or damage or legal or other expenses arising from any civil liability which arises as a consequence of any action or failure to act which also constitutes a criminal offence, providing that such liability has not arisen in whole or in part from any fraud, deliberate wrongdoing or recklessness on the part of the employee.
6. That the indemnities will not apply to loss or damage or legal or other expenses arising directly or indirectly from:-
  - (i) Fraud, dishonesty or a criminal offence, or other deliberate wrongdoing or recklessness on the part of the employee (save as provided for by paragraph 5)
  - (ii) Liability in respect of losses certified by the Council's external auditor as caused by wilful misconduct or where unlawful expenditure has been knowingly or recklessly authorised.
  - (iii) Circumstances in which the employee has not acted in good faith.
7. In relation to loss or damage or expenses relating to the actions of an employee when they are acting as the Council's representative on other bodies the following additional limitations will apply -
  - (i) Where the management committee or its equivalent is jointly and severally liable the indemnity to the officer will be limited to a sum equivalent to the amount for which the officer would be liable if all members of the management committee or its equivalent paid an equal amount to discharge the liability.
8. The Council may in its absolute discretion withdraw the indemnities if:-
  - (i) The employee does not notify the Director of Legal and Democratic Services immediately they are notified of a claim
  - (ii) The employee makes any admission to or negotiates or agrees any settlement with a third party without the prior written consent of the Legal Officer (i.e. Director of Legal and Democratic Services or equivalent) and Chief Finance Officer (Director of Finance and public Value or equivalent).
9. The indemnities shall not apply in respect of all claims falling within the cover provided to employees under any policy of insurance taken out by the Council or any motor vehicle insurance policy taken out by the employee.
10. The employee shall reimburse the Council, or its insurer, for any sums expended by the authority or the insurer in relation to any criminal

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proceedings where the employee in question is convicted of a criminal offence, and that conviction is not overturned following an appeal.

11. The indemnities shall continue in force for as long as the employee remains liable in law for the act or omission in question.
12. The indemnities shall not extend to any situation where it would be unlawful for the Council to give an indemnity to employees.

## A “WHISTLEBLOWING” POLICY

### 1.0 INTRODUCTION

- 1.1 The Public Interest Disclosure Act 1998 was enacted to ensure a climate of greater frankness between employers and workers so that irregularities can be identified and addressed quickly and to strengthen employment rights by protecting responsible workers who blow the whistle about wrongdoing or failures in the work place. The policy set out in this document applies those statutory provisions to the administration of the County Council.
- 1.2 This policy also applies to LA schools and where appropriate “Governing Body” should be substituted for Council and “headteacher” for “line manager”.
- 1.3 Employees are often the first to realise that something wrong may be happening within the Council. However, they may not express their concerns either because they feel that speaking up would be disloyal to their colleagues or to the Council or because they fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern than to report what may just be a suspicion of malpractice.
- 1.4 The Council is committed to the highest possible standards of openness, probity and accountability as is shown in its’ separate Policy Statement of the Proper Conduct of Business (Good Practice Guide). In line with that commitment it encourages employees and others with serious concerns about any aspect of the Councils work to come forward and voice those concerns. It recognises that certain cases will have to proceed on a confidential basis. This policy makes it clear that staff can do so without fear of reprisal and is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or publicly disclosing the matter.
- 1.5 This policy has been discussed with the relevant trade unions and professional organisations and has their support. Seeking advice from, and being represented by, your trade union may be the best course of action to raise any issue under this policy. The Council recognises and endorses the role which trade unions and their officers play in this process.

### 2.0 Aims and Scope of this Policy

- 2.1 This policy aims to:
  - provide avenues for you to raise concerns
  - provide mechanisms for you to receive updates and feedback on any action taken

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- provide a mechanism for you to receive a written response detailing the outcome of the process
- allows you to take the matter further if you are dissatisfied with the Councils response.

**2.2** This policy covers concerns that fall outside the scope of other procedures. It is not intended as recourse against financial or business decisions made by the Council or its committees under procedures set out in the constitution. Nor is it an alternative to well-established disciplinary or grievance procedures. It may however overlap with other corporate policies for dealing with complaints, with Member or Officer Codes of Conduct and with protocols for good working relationships within the Authority.

Concerns raised under the Whistleblowing Policy should be about something that is in the public interest and is or may be:

- unlawful or a criminal offence; or
- a breach of a legal obligation (but not a personal contractual breach unless such breach involves a matter of public interest); or
- a miscarriage of justice; or
- mistreatment or abuse of a client or a member of the public for whom the Council has a responsibility; or
- likely to endanger the health and safety of an individual; or
- seeking undue favour over a contractual matter or a job application; or against the Council's Financial Regulations; or
- amounts to improper conduct or unauthorised use of public funds;
- has led to or could lead to damage to the environment; or
- deliberately covers up information tending to show any of the above.

## **3.0 Safeguards**

### **3.1 Harassment or Victimisation**

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will take action to protect you when you raise a concern in good faith. It will not tolerate any resulting harassment or victimisation (including informal or indirect pressures) and will treat this as a serious disciplinary offence which will be dealt with under the appropriate procedures.

**3.2** Any investigation into an allegation of malpractice will not influence or be influenced by any disciplinary or redundancy procedures which already affect you. If allegations of malpractice arise during a disciplinary or redundancy procedure

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those allegations will be investigated at the same time as the disciplinary procedure.

## **3.3 Confidentiality**

All concerns will be treated in confidence and the Council will do its best to protect your identity if you do not want your name to be disclosed. If investigation of a concern discloses a situation which is sufficiently serious to warrant disciplinary action or police involvement then your evidence may be important. Your name will not however be released as a possible witness until the reasons for its disclosure at this stage have been fully discussed with you.

## **3.4 Anonymous Allegations**

This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful but they will be considered at the discretion of the Council against the following criteria.

- the seriousness of the issues raised
- the likelihood of confirming the allegation from attributable sources
- the County Councils' best interests
- the protection of the Councils' assets.

**3.5** You should also bear in mind that if you do choose to raise a concern anonymously it will be more difficult for the matter to be investigated and for you to be provided with feedback. For this reason, where you wish to raise your concerns anonymously, this may best be done through your trade union.

## **3.6 Untrue Allegations**

If you make an allegation in good faith but it is not confirmed by the investigation, no reprisals will be taken against you. If, however, you make malicious or vexatious allegations, disciplinary action may be taken against you.

## **4.0 How to Raise a Concern**

**4.1** Initially, you should raise your concerns, by discussing the matter with either:

- for corporate staff, with your immediate manager or their superior.
- for school staff, with the headteacher or a governor

If this is not appropriate due to the nature of your concerns you should initially raise them with:

- with a Head of Service or
- a member of the Corporate Leadership Team.

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**4.2** To ensure that allegations are considered consistently your concerns should then be progressed to one of four officers:

- Director of Legal and Democratic Services (Monitoring Officer)
- Director of People and Culture
- Head of the Devon Audit Partnership
- Director of Finance and Public Value

These Lead Officers will then liaise to ensure that the concern is properly investigated. If the allegations arise from a disciplinary matter, they will be investigated as part of the disciplinary investigation.

**4.3** Alternatively, if your complaint is that something seriously wrong is occurring at a senior management level within the Council you may prefer to approach the Chief Executive.

**4.4** Concerns can be raised orally but it is good practice for the concern to be recorded in writing at an early stage to ensure that all the details are correctly understood.

**4.5** A written allegation should set out the background and history of the concern (giving names, dates and places where possible) and the reason why you are particularly concerned about the situation. It is preferable for you to record this in writing yourself. However, where the person to whom you voice your concerns writes these down, a copy will be sent to your home address or via your representative (paragraph 4.8) to give you an opportunity to agree this as a correct record.

**4.6** The earlier you express the concern, the easier it is to take action.

**4.7** Although you are not expected to prove the truth of your allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

**4.8** You may of course wish to seek advice from your trade union representative on how best to raise your concern. Where you wish to raise your concern anonymously this may be done through your trade union.

## **5.0 How the Council will respond**

**5.1** The action taken by the Council will depend on the nature of the concern. After initial enquiries to assess the seriousness of the matter it may be investigated internally (employing specific procedures where these are applicable – for example in child safeguarding issues) or referred to the Care Quality Commission

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or the Police or to the District Auditor to be examined externally. Thereafter it may form the subject of an independent inquiry or a reference to the Council's own Standards Committee if it concerns a member of the Council. There are however specific rules to be followed if you wish to complain about a Councillor. In the first instance you must contact the Director of Legal and Democratic Services.

- 5.2** If urgent action is required in response to a concern this may well be taken before a full investigation is conducted.
- 5.3** Some concerns may be resolved by action agreed with you without the need for investigation or it may be that an investigation can be completed without the person or persons under investigation being aware of the process.
- 5.4** In any event within five working days of a concern being received, the Council will write to you at your home address:
  - acknowledging that the concern has been received
  - indicating how it proposes to deal with the matter
  - giving an estimate of how long it will take to provide a final response
  - telling you whether any initial enquiries have been made, and
  - telling you whether further investigation will take place, and if not, why not
  - naming an independent Support Officer to support you during any investigation.
- 5.5** This named Support Officer, will be a trained Designated Officer and, will make contact with you immediately, deal with all confidentiality issues, agree frequency of contact and explain their role to you, which is to:
  - keep you informed about the progress of the investigation
  - inform the Investigating Officer of any further issues you may have
  - raise any concerns you may have about the conduct of the investigation
  - take appropriate steps to support you in the workplace
  - support you if you are required to give evidence at any criminal or disciplinary proceedings that arise from your concern.
- 5.6** If you wish to retain your anonymity you will need to nominate a representative to whom correspondence may be directed in order to keep you informed.

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- 5.7** The amount of contact between Investigating Officers and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.
- 5.8** When any meeting is arranged, you have the right, if you so wish, to be accompanied by a trade union or professional association representative or a friend (who need not be associated with the County Council).
- 5.9** The Council accepts that you need to be assured that the matter has been properly addressed. Accordingly, subject to legal constraints, the Lead Officer will ensure that you are provided with information about the outcome of any investigations and/or proceedings.

## **6.0 Detriment**

The Council is committed to ensuring that an employee who makes an allegation in good faith suffers no detriment from doing so.

## **7.0 How the matter can be taken further**

**7.1** This policy is intended to provide you with a way to raise concerns within the Council. The Council hopes you will be satisfied by its response. If you are not you may wish to raise the matter with your local County Councillor, if you live in the area of the Council.

**7.2** Alternatively, you may feel it is right to take the matter outside the Council and, if so, the following are possible contact points:

- the District Auditor
- relevant professional bodies or regulatory organisations
- your trade union
- your solicitor or legal adviser
- the Police
- the Local Government Ombudsman
- the Health and Safety Executive
- 'Public Concern at Work' – Registered Charity

## **8.0 The Monitoring Officer**

The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. They ensure that a central record is kept in such a way as to not endanger your confidentiality and it is their duty to ensure that the County Council acts lawfully.

The Monitoring Officer will ensure that, throughout the process and when the process is completed:

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- a record of all concerns raised under this policy is maintained
- the outcomes of any investigations are communicated to you by the Lead Officer,
- the outcome is reported to the Council as necessary.



## **THE GOOD PRACTICE GUIDE**

### **Policy Statement on the Proper Conduct of Business Introduction**

1. The County Council is a large public authority which expects the highest standards of conduct and integrity from everyone who has dealings with it. It is determined that the culture and tone of the organisation embodies honesty, and opposition to corruption and dishonesty. Elected members and employees are expected to lead by example.
2. The purpose of this policy statement is to:
  - encourage prevention of dishonesty
  - promote its detection
  - identify a clear path for investigation.
3. Acts of dishonesty within the Council are rare and this is testimony to the skills, dedication and decency of elected members, employees and others with whom the Council deals. Constant vigilance will ensure that this continues and the Council, including elected members, will be robust in dealing with malpractice.

### **Reporting Malpractice**

4. The public are encouraged to report any concerns. They may ring the Devon Audit Partnership (the Council's Internal Audit) on Exeter (01392) 382438 or report through their elected representative. Elected members may also report direct to Devon Audit Partnership or through the Director of Finance or the Chief Executive.
5. Employees are an important element in the Council's stance on dishonesty. They have a duty to protect public assets and a responsibility to report any concerns. They can do this without fear of recrimination and in the knowledge that this will be treated in confidence and properly investigated. If any dishonesty, or a loophole or a systems weakness that could result in theft or fraud, is detected it must be reported immediately to Devon Audit Partnership (telephone Exeter (01392) 382438 or via the Internet or e-mail: [audit@devon.gov.uk](mailto:audit@devon.gov.uk)). Managers must make their staff aware of these expectations.

### **Action following reporting**

6. Senior managers are responsible for following up any allegation of malpractice, fraud or corruption by:

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- (i) immediately reporting directly to Devon Audit Partnership or through the Director of Finance who will:-
    - deal promptly with the matter;
    - record all evidence;
    - ensure evidence is sound and adequately supported;
    - report any evidence of criminal offences to the police;
    - report the findings promptly to senior management;
  - (ii) fully co-operating with internal audit, personnel and other staff during any investigation;
  - (iii) notifying the Council's insurers of any possible insured losses;
  - (iv) implementing the Council's disciplinary procedure where appropriate;
  - (v) speedily and effectively correcting any weaknesses discovered;
  - (vi) dealing swiftly, fairly and firmly with those who offend against the Council.
7. The reporting and investigation process must not be misused. Any abuse, such as raising unfounded malicious allegations, may be dealt with as a disciplinary matter.

## **Corruption**

- 8. It is a criminal offence for members and employees corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any one in an official capacity. If an allegation is made, the member or employee must co-operate fully to help demonstrate that any rewards have not been obtained corruptly.
- 9. Members and employees must ensure that they use public funds in a responsible and lawful way. They must strive to ensure value for money to local communities and avoid legal challenge to the Council. They must have regard for legislation and the Council's Standing Orders, Financial Regulations, minimum standards, code of practice and procedures.

## **Register of Interests and Gifts**

- 10. The Director of Legal and Democratic Services maintains a register of declared interests and the receipt and persistent offer of gifts and hospitality.

## **Personal Interests**

11. Members' and employees' non-financial interests that could bring about a conflict with the Council's interests (e.g. acting as a school governor within a school maintained by the Council, involvement with an organisation receiving grant aid from the Council, membership of a National Health Service Trust Board) must be declared to the Director of Legal and Democratic Services. Any financial interests, direct or indirect, which could conflict with the Council's interests should be declared.

## **Hospitality**

12. Members and employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of community life or where the Authority should be represented. It should be properly authorised and recorded.
13. When hospitality has to be declined, those making the offer should be courteously but firmly informed of the Authority's procedures and standards.
14. Members and employees should not accept significant personal gifts from contractors and outside suppliers, although the Authority will allow employees to keep insignificant tokens such as pens, diaries, etc.
15. When receiving authorised hospitality, members and employees should be sensitive to the timing of decisions which the Authority may be taking affecting those providing the hospitality.

## **Relationships with Contractors**

16. Employees who engage, supervise or have an official relationship with contractors and have had or currently have a private or domestic relationship should declare it to the Director of Legal and Democratic Services and line manager and have no further involvement in the contract. Orders and contracts must be awarded on merit by fair competition and no favour will be shown to any person or businesses, especially those run by or employing relatives, partners or friends.

## **Prevention of Malpractice**

17. The Council's regulations, codes of conduct, statements of best practice, minimum standards, systems and procedures are designed to

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ensure the integrity of all its activities, and must be observed at all times.

18. Arrangements are in place to encourage the exchange of information between the Council and other agencies on fraud and corruption in relation to local authorities.

19. The Council recognises that the continuing success and creditability of its anti-fraud and corruption strategy will depend largely on the effectiveness of training and responsiveness of employees throughout the organisation. The Chief Finance Officer is required to ensure, with Chief Officers and Heads of Service, that appropriate education and training is provided for all those involved in financial procedures which have a bearing on the financial standing of the Council. This will ensure that the highest standards of financial management are achieved and minimise the Council's risks.

## **Conclusion**

20. The Council has a network of systems and procedures to help in the fight against fraud and corruption. It is determined that the highest standards of probity will apply to all its activities. This will depend on the integrity of those providing and using these services. Devon has an excellent record which the Council wants to maintain so it is vital that everyone remains vigilant.

## **What should YOU do if you suspect a fraud?**

### **Employee's Checklist**

#### **DO**

- Make an immediate note of your concerns;
- Tell someone, with proper authority and experience, about your suspicions;
- Deal with the matter promptly, if you feel your concerns are warranted;

#### **DON'T**

- Do nothing;
- Be afraid of raising your concerns;
- Approach or accuse anyone directly;
- Try to investigate the matter yourself;

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- Tell anyone, other than those with proper authority, about your suspicions.

## **Manager's Checklist**

### **DO**

- Be responsive to staff concerns;
- Note details;
- Evaluate the allegation objectively;
- Advise the appropriate person;
- Deal with the matter promptly, if you feel your concerns are warranted.

### **DON'T**

- Ridicule suspicions raised by staff;
- Approach or accuse anyone directly;
- Try to investigate the matter yourself;
- Tell anyone, other than those with the proper authority, about your suspicions.



## MEMBERS' CODE OF CONDUCT

### Foreword, Statement and Purpose

*(this Foreword, Statement and Purpose does not form part of the Members' Code of Conduct. It is intended to set out the background, purpose, and importance of the Code)*

The role of Councillor is a vital part of democracy and it is important that Councillors can be held accountable and adopt the behaviours and responsibilities associated with the role.

Councillors represent local residents, work to develop better services and deliver local change. The public trust Councillors to represent the local area and take decisions fairly, openly, and transparently. There is both an individual and collective responsibility to meet the expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, Councillors should be able to undertake their role without intimidation, abuse, bullying or threatening behaviour from anyone, including the general public.

The Council's Code is designed to encourage good conduct and safeguard the public's trust in local government.

The Council will undertake an annual review of its Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation.

The **purpose of the Code of Conduct** is to assist Councillors in modelling the behaviour that is expected, to provide check and balance, and to set out the type of conduct that could lead to action being taken. The Code is also there to protect Councillors, the public, fellow Councillors, Local Authority Officers and the reputation of Local Government. It sets out general principles of conduct expected of all Councillors and specific obligations in relation to standards of conduct.

Induction and training on Governance issues, including this Code of Conduct is important and the Council will provide this with updates as required. It is incumbent on Councillors to endeavour to attend.

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## **PART 1: GENERAL PROVISIONS**

### **Public Duty and Private Interests: An introduction**

1.1. This Code applies to you as a Member or a Co-opted Member of Devon County Council (*For the purposes of this Code, a “Co-opted Member” means a person who is not a member of Devon County Council but who:*

*(a) is a member of any committee or sub-committee of Devon County Council; or*

*(b) is a member of, and represents Devon County Council on, any joint committee or joint sub-committee of Devon County Council,*

*irrespective of whether or not that person is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.)*

1.2. When acting in your capacity as a Member or Co-opted Member of the County Council, you should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal judgment, Respect for others, Duty to uphold the law, Stewardship and Leadership.

1.3. When acting in your capacity as a Member or Co-opted Member of the County Council –

(a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate or relevant person;

(b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;

(c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;

(d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;

(e) you must be as open as possible about your decisions and actions and the decisions and actions of the County Council

# Item 6a

and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the County Council or contained in its Constitution,

- (f) you must declare any private interests, whether disclosable or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;
  - (g) you must declare any offered gift or hospitality over the value of £25 and whether this was accepted or declined, in line with the Council's Policy Statement on the Proper Conduct of Business and [Financial Regulations](#). Declarations will be published on the Council's website.
  - (h) you must, when using or authorising the use by others of the resources of the County Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the County Council's reasonable requirements;
  - (i) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the County Council;
  - (j) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
- 
- 1.4. Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.
  - 1.5. Do nothing as a Member which you could not justify to the public.
  - 1.6. The reputation of the County Council depends on your conduct and what the public believes about your conduct.
  - 1.7. It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.
  - 1.8. It is your responsibility to comply with the provisions of this Code and also any formal Standards processes, investigations or sanctions that may occur.

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## Definitions

2. In this Code –

- *“interest or interests”* have the meanings set out in Part 2 of this Code
- *“Relevant person”* means:
  - you or
  - your spouse or civil partner, or
  - a person with whom you are living as husband and wife or as if they were civil partners or in a same sex marriage and you are aware that that other person has an interest
- *“relevant period”* means a period of 12 months ending with the date on which you notified the Monitoring Officer of an interest
- *“meeting”* means any meeting of –
  - the County Council;
  - the Cabinet of the County Council;
  - any of the Council’s or the Cabinet’s, Committees, Sub-Committees, Joint Committees, Joint Sub-committees or Area Committees;
  - one or more Members, formal or informal and with or without officers, relating to the discharge of the County Council’s functions where a formal record is made by a Council Officer.
- *“member”* includes a co-opted member

## Scope

3. You must comply with this Code.....

3.1. whenever you are acting in your official capacity, when:

- (a) you are engaged on the business of the County Council; or
- (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the County Council.

3.2 noting that the Code applies to all forms of communication and interaction, including;

- face-to-face
- online / telephone meetings
- written / verbal communication
- non-verbal communication and electronic & social media communication, posts, statements and comments

## General obligations

### 4. You **must** –

- (a) treat others with courtesy and respect, including the public, fellow Councillors, Local Authority employees and also employees and representatives of partner organisations and those volunteering for the local authority; and
- (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the County Council.

*(Respect means politeness and courtesy in behaviour, speech, and in the written word. Having different views is part of a healthy democracy and Councillors can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. However, there should be no subjecting individuals, groups of people or organisations to personal attack.*

*Contact with the public should always be polite and courteous.*

*In return, you have a right to expect respectful behaviour from the public. If this is not the case and Councillors are being subjected to abusive, intimidatory or threatening behaviour, they should seek support and assistance from the Monitoring Officer)*

### 5. You **must not** –

- (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) do anything which may cause the County Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010, which places specific duties on Local Authorities);
- (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear. It can happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be noticed by others);

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- (d) harass any person (the Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence. It must involve such conduct on at least two occasions and can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person).
- (e) intimidate or attempt to intimidate any person who is or is likely to be –
  - i) a complainant,
  - ii) a witness, or
  - iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct; or

- (f) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the County Council;
- (g) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where–
  - i) you have the consent of a person authorised to give it;
  - ii) you are required by law to do so;
  - iii) the disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
  - iv) the disclosure is:
    - a. in the public interest; and
    - b. made in good faith and
    - c. in compliance with the reasonable requirements of the Council;
- (h) prevent another person from gaining access to information to which that person is entitled by law;
- (i) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

*[NB: A complaint may be made to the Monitoring Officer or Standards Committee where any person thinks they have evidence which they think shows that a councillor has not followed the Council's Code of conduct; see [http://www.devon.gov.uk/index/councildemocracy/county\\_councillors/councillorcomplaints.htm](http://www.devon.gov.uk/index/councildemocracy/county_councillors/councillorcomplaints.htm)]*

## **PART 2: INTERESTS**

### **Registration of Interests**

6. You must, within 28 days of—

- (a) this Code being adopted by, or applied to, the County Council;  
or
- (b) your taking office as a Member or Co-opted Member of the County Council,

whichever is the later, and annually thereafter, provide written notification to the County Council's Monitoring Officer of:

- i) any disclosable pecuniary interest as defined by Regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife; and
- ii) any other personal interest laid down by the County Council, as set out at paragraph 7 below;

which will be recorded in the County Council's Register of Members' Interests and made available for public inspection including on the Council's website.

- 6.1. Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the County Council's Monitoring Officer.
- 6.2. Whether or not an interest within paragraphs 7.1. and 7.2 below has been entered onto the County Council's register, you must disclose any interest to any meeting at which you are present in any matter being considered, in line with paragraph 8 below, where the matter is not a 'sensitive interest'.
- 6.3. Following any disclosure of an interest not on the County Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- 6.4. In relation to disclosable pecuniary interests, in this Part of the Code the expressions in the left hand column below have the meanings attributed to them in the right hand column:

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“body in which the relevant person has a beneficial interest”	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest
“director”	includes a member of the committee of management of an industrial and provident society
“land”	excludes an easement, servitude, interest, or right 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 income
“relevant authority”	means the authority of which you are a member
“relevant person”	means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are 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

## 7. The interests you **must** register are:

7.1. - those disclosable pecuniary interests defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464) as set out below, namely:

- (a) any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;
- (b) any payment or provision of any other financial benefit (other than from Devon County Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) any contract which is made between you or, so far as you are aware, a relevant person (as defined at Para 2 above) (in which the relevant person has a beneficial interest) and the County Council:
  - 1) under which goods or services are to be provided or works are to be executed; and
  - 2) which has not been fully discharged

# Item 6a

- (d) any beneficial interest in land held by you, or so far as you are aware, a relevant person which is within the administrative area of the County Council;
  - (e) any licence (alone or jointly with others) to occupy land in the administrative area of the County Council for a month or longer
  - (f) any tenancy where (to your knowledge):
    - 1) the landlord is Devon County Council; and
    - 2) the tenant is a body in which you or, so far as you are aware, a relevant person has a beneficial interest.
  - (g) any beneficial interest that you or, so far as you are aware, a relevant person has in securities of a body where:
    - 1) that body (to your knowledge) has a place of business or land in the administrative area of the County Council and
    - 2) either:
      - a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
      - b) 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.
- 7.2. - those other personal interests laid down by the County Council, namely your membership of any body to which you have been appointed by the County Council or exercising functions of a public nature directed to charitable purposes or whose principal purposes include influence of public opinion or policy, your membership of any other local Authority and of any political party or trade union.
- 7.3. In addition to those interests listed at 7.1 and 7.2 above which you are required to register, you may wish also to declare membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a County Councillor, such as membership of the Freemasons or any similar body, including any unpaid Directorships.
- 7.4. Where the County Council's Monitoring Officer agrees that any information relating to your interests is "*sensitive information*" namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.

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- 7.5. You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the County Council's Monitoring Officer asking that the information be included in the County Council's Register of Members' Interests.

## Declaration of Interests

8. Unless a dispensation has been granted\*, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by Regulations referred to at Para 6(b)(i) and you must also observe any restrictions the County Council may place on your involvement in matters where you have any interest as defined by the Council and shown at Para 7 above.

*[\*See explanatory note appended to this Code, below].*

- 8.1. Where you have any interest in any business of the County Council and you attend any meeting at which that business is to be considered, you must:
- (a) disclose to that meeting the existence and nature of that interest but where your interest is sensitive you are not required to disclose the interest but merely the fact that there is a disclosable pecuniary interest in the matter concerned;
  - (b) disclose any interest in accordance with the Council's reasonable requirements, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
  - (c) where you have a disclosable pecuniary interest, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you; and
  - (d) not seek to influence improperly any decision about that business.
- 8.2 You also have an interest where a reasonable person with knowledge of the relevant facts would regard you, your relative, or your close friend as having an interest in any business of the County Council that is being considered at a meeting that you attend where the matter affects the financial interest or well-being of yourself, your relative or your close friend to a greater extent than it affects the financial interests of the majority of residents of the area affected by the decision such that it is likely to prejudice your view of the wider public interest.

unless you have obtained a dispensation from the County Council's Monitoring Officer.

## A COUNCILLORS' SAFEGUARDING GUIDANCE NOTE AND DBS CHECKS

*[NB: This Guidance Note does not form part of the Constitution or the Members' Code of Conduct but is reproduced here for convenient reference].*

A Councillor's behaviour is in effect already covered by the Council's Code of Conduct (as required under the Localism Act 2011) - which provides recourse to any member of the public wishing to make a complaint against a Members behaviour - that Code, however, does not make specific mention or reference to allegations about safeguarding.

The Code of Conduct, in the main, only applies to the conduct of a Councillor when acting or giving the impression that they are acting in their official capacity; it may not therefore always cover them in their 'private' life. Moreover, while the Council's Monitoring Officer has a duty to advise and consult an Independent Person appointed under s28(7) of the Localism Act 2011 on any action to be taken arising from a complaint on the conduct of members under the Code of Conduct it would be inappropriate to do so in any case where safeguarding issues had been raised without first referring to the Council's safeguarding procedures.

Councillors should operate within a safe working environment for children (and adults) at all times. If Councillors adhere to common sense principles of safe working this will not only benefit the work and reputation of the Council but help protect them (Councillors) as well.

Councillors, in their role as a Councillor, should therefore ensure that they do not have – or are not put in the position of having - unsupervised contact with children and young people or adults. Avoiding any such circumstances/unsupervised contact wherever possible with vulnerable persons will help prevent the risk of any allegation of inappropriate behaviour being made.

Any suspicions of poor practice, abuse or inappropriate behaviour observed or reported **of a County Councillor** (by whatever means or route) should in the first instance be reported to the County Council's Monitoring Officer, who shall take all necessary steps as indicated below including all appropriate notifications.

If the allegation is in relation to potential safeguarding concerns relating to the individual in their capacity, either as a councillor, or in any other working or volunteering role with children, the County Council's Monitoring Officer will make a referral to and liaise directly with the Local Authority Designated Officer (LADO), who is responsible for managing and overseeing allegations against adults working with children.

If the allegation relates to safeguarding concerns regarding the individual's behaviour with children in their personal life (e.g.: as a parent or relative or friend), the County Council's Monitoring Officer will ensure a referral is made to the Devon Multi-Agency Safeguarding Hub (MASH). In these circumstances, Children's Services would undertake any assessment as appropriate and, if following this, concerns remain which could impact on the individual's role as a Councillor, also make a referral for LADO consideration.

It is recognised that not all Councillors will have direct contact with children and young people (or vulnerable adults) as part of their role although some may – either by virtue of their day-to-day representative role or as a Member with

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'special responsibilities' (e.g. a Cabinet Member or Chair of Committee) - in which case they may have been the subject of a criminal records check.

[NB: The County Council's LADO can be contacted at: [ladosecure-mailbox@devon.gcsx.gov.uk](mailto:ladosecure-mailbox@devon.gcsx.gov.uk) or on 01392 383000]

## **DBS Checks and Risk Assessment**

In line with current policy (Procedures Minute 44 of 10 September 2018 and Procedures Minute 51 of 1 February 2024)), the Council will conduct a Basic DBS check for all Members of the Council, notwithstanding a Councillor may undertake certain roles which, in line with the legislation, requires them to undergo an enhanced DBS check in relation to their contact with vulnerable adults or children or both or, is a member of a Committee which discharges a relevant function, for example those who sit on Foster Panels and / or undertake Reg 44 visits.

In line with the decision of the Procedures Committee on 1 February 2024 (and following Government recommendation), all Members of the Cabinet (decision making body for Adults and Childrens services) will undergo an enhanced DBS check.

DBS checks will be undertaken for all Members after quadrennial elections and for any Member elected following a by-election.

In the event of a DBS check of an employee resulting in a positive disclosure, the Council's Disclosure & Barring Service Policy (<https://inside.devon.gov.uk/task/disclosure-barring-service/disclosure-policy/>) outlines the action to be taken.

Whilst this Policy does not make specific reference to Councillors, should a DBS check of a Councillor result in a positive disclosure then - and in the spirit of the Councils Disclosure & Barring Service Policy - the following course of action must be undertaken in line with the approved Risk Assessment, attached as appendix 1.

It is the responsibility of the Council's Monitoring Officer to ensure all appropriate actions, guidance and notifications are taken in such cases.

The Monitoring Officer will first undertake an assessment\* of the risk to both vulnerable adults and / or children and the reputation of the Council, the risk of the Councillor (the subject member) continuing to exercise any existing or proposed role - either on a conditional basis or with additional safeguards in place - or whether it would be incompatible with the circumstances of the case for the subject member to continue in a particular role at all.

The Monitoring Officer will also review the circumstances of the case with reference to the Code of Conduct to determine whether there are any political and/or standards issues involved and any case to answer.

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Thereafter and following consultation with the Head of the Paid Service (and Chief Officer for Adult and/or Child Protection, if necessary) the Monitoring Officer will subsequently advise the Leader of the Council and the Leader of the relevant Party Group of any proposed course of action to be taken and will then also discuss that proposed course of action with the subject member and explain the reasons therefor.

*(\*Any such risk assessment must necessarily require an objective common-sense approach, having regard not only to the Council's responsibilities for safeguarding and corporate parenting but the need for Councillors to maintain the highest standards of conduct in both their personal and professional lives. Also important is the need for any person in public life and holding a position of special responsibility to be extra vigilant.*

*The Monitoring Officer can also consider the withdrawal of facilities/access and, exceptionally, any action required to ensure the continued protection of others as a result of the disclosure or of any action the Council may decide to take as a result of that risk assessment, including confidential notification to a third party to ensure that continued protection of others, consulting with the Standards Committee as appropriate.*

*For Councillors who may be carrying out Regulated Activity (activity in Regulated Establishments such as schools), if the Councillor has a conviction for a relevant (autobar) offence, or if they are barred, this would prevent them from carrying out Regulated Activity. Additionally, in these circumstances the Council would have a duty to refer to the DBS for a potential barring decision. The Monitoring Officer will seek HR advice in these circumstances.*

*If a Basic or Enhanced check reveals that a Councillor has been sentenced to prison for 3 months or more (including suspended sentences) during the last five years or has been convicted of a corrupt or illegal practice by an election court, then their seat would be lost.*

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## Appendix 1

### DBS Risk Assessment Checklist

Disclosure Certificate No:												
Full Name:												
Position check undertaken for:	Councillor											
Level of Check	Basic / Enhanced											

### RISK ASSESSMENT

#### Monitoring Officer / Questions to Consider as part of the Risk Assessment

Question	Comments
Does the Councillor confirm that the information disclosed in the DBS Disclosure is accurate?	
What is the individual's attitude to the offence now?	
Will the Councillor be working unsupervised?	
What preventative measure(s) could be put in place to reduce the risk?	
Have circumstances changed since committing the offence(s)? What has the individual done to reduce the risk of re-offending i.e. rehabilitation, improved education, moved location, changed associates etc	
At the time of the offence were there any mitigating circumstances? (ie financial / domestic / alcohol / drugs	

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Was this a 'one-off' offence? or repeat offending?	
What level of contact is there with children or vulnerable adults i.e., unsupervised.	
What level of personal contact is there with the public.	
Describe what preventative measure(s) could be put in place to reduce risk?	

## **PART B – MONITORING OFFICER – ANY FURTHER ACTIONS**

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Please state any additional safeguarding measures required such as building restrictions, or additional safeguards to be implemented by the Council and / or referral to the Standards Committee. Examples below .....

*(NB; Notwithstanding the guidance relating to Regulated Activity and Sentencing referred to earlier)*

- Speak to Leader of the Council and / or Group Leader
- Consideration of Committee / Sub Committees / outside bodies appointments
- Exclude or restrict the Subject Member's access to some or all County Council premises;
- Any training required
- Withdraw facilities (e.g. computer access).

## **SEXUAL HARASSMENT - ACCEPTABLE CONDUCT AND GUIDANCE NOTE**

*This note is intended to provide additional information and guidance for Members and should be read alongside the Members' Code of Conduct and the Council's Acceptable Behaviour Policy.*

Devon County Council is committed to providing a workplace that is free from sexual harassment, bullying or victimisation. We encourage the highest possible standards of conduct from all those that represent the council.

Sexual harassment in the workplace is against the law and will not be tolerated. The Council will take all complaints of this nature extremely seriously and when it finds instances of sexual harassment have taken place, it will always take prompt and appropriate corrective action.

What is sexual harassment?

Sexual harassment takes place when someone is subjected to unwelcome and unwanted sexual behaviour or other such conduct related to their gender.

Sexual harassment is defined in law in the Equality Act 2010 as *'unwanted conduct [related to a person's sex] which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'*.

Behaviour that constitutes sexual harassment includes:

Unwelcome advances – physical, written and verbal.

Inappropriate, lewd or suggestive remarks.

Indecent comments, sexist or lewd jokes or innuendos relating to a person's physical appearance or private life.

Unwanted physical contact such as hugging, kissing or touching.

Requests for sexual favours.

Pestering someone for a relationship (for example, repeatedly asking a person to socialise outside work when the person has said no or indicated they are not interested) or following them around (stalking).

Sharing personal information about your sex life.

Giving gifts or leaving objects that are sexually suggestive.

Sharing sexually inappropriate images or videos, such as pornography with colleagues.

Making or displaying inappropriate sexual images or posters in the workplace.

Making inappropriate sexual gestures.

Leering or staring in a sexually suggestive or offensive manner, or 'wolf whistling'.

Making sexual or suggestive comments about appearance, clothing, or body parts.

Inappropriate touching including pinching, patting, rubbing, or purposefully brushing up against another person.

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Asking sexual questions, such as questions about someone's sexual history or their sexual orientation.

Making offensive comments about someone's gender identity.

A victim of sexual harassment can be a man or woman. The victim can be the same sex as the harasser.

Often this kind of behaviour may be brushed off by the harasser as 'banter', harmless flirting and not intending to cause offence. However, it is important to remember that it is the impact on others that matters most and whether offence is caused to them by such conduct.

An elected member will have regular contact with a broad range of people in the course of their duties. This includes officers and other employees of the Council, representatives of partner agencies, service users, and members of the public. This guidance, alongside the Code of Conduct, can therefore apply both within the workplace and wherever someone is acting in a representative capacity.

The Council's responsibilities

If the Council receives an allegation of sexual harassment or has reason to believe sexual harassment is occurring, it will take the necessary steps to ensure the matter is promptly investigated and addressed.

Where it is found that someone has been subjected to unwelcome behaviour, the Council will take immediate and effective measures to end that unwelcome behaviour and/or take action against the perpetrator.

The Council is committed to take action if it learns of possible sexual harassment, even if the individual does not wish to make a formal complaint. This will also apply to retrospective or historic allegations.

Concerns expressed anonymously will be considered by the Council taking account of the following criteria:

- the seriousness of the issues raised
- the likelihood of confirming the allegation from attributable sources
- the protection of the County Councils' staff and Members
- the Councils' best interests

The Council has a responsibility for investigating or overseeing investigations of alleged sexual harassment or other breaches of the Code of Conduct and for ensuring these are conducted in a prompt, thorough, and impartial manner, and carried out with sensitivity and due respect for the rights of all parties concerned.

The Council will always seek to protect the identities of the complainant and alleged harasser. Where allegations are made in confidence we will not disclose the complainant's name until the reasons for any disclosure have been fully explained to them. Allegations may be raised anonymously and

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that anonymity will be respected. It is acknowledged that maintaining the anonymity of the complainant will make it more difficult to investigate the allegations of sexual harassment that are made.

Members will note that complainants will be protected from victimisation by Members or other officers under employment legislation. If a Member is informed that they have had a complaint of harassment lodged against them, they should not seek to contact the complainant or, if the allegation is made anonymously, whoever they think made the complaint.

For more information on the process to be taken by the council see the guide to [Making a Complaint against a Devon County Councillor](#) and for information on the protection of both a complainant and the person accused see the [Acceptable Behaviour](#) Policy.

## Member's rights and responsibilities

Any Member who believes he or she has been the target of sexual harassment can, if they wish, inform the offending person orally or in writing that such conduct is unwelcome, offensive and must stop immediately. It is recognised that the Member may not wish to communicate with that person.

If that is the case or if such communication has been ineffective, there are multiple avenues for reporting allegations and/or pursuing a resolution – whether via a Members' own political party or via the County Council.

Furthermore, all elected Members have a responsibility to take all appropriate measures to prevent or stop sexual harassment by others.

If a Member wishes to confidentially discuss any matter of concern, report an incident, or make a formal complaint, they are advised to consult the following guides [Feedback and complaints](#); and [Making a Complaint against a Devon County Councillor](#), which set out the council's resolution and complaint processes.



## LOCALISM ACT: CONFLICT OF INTERESTS

The Local Authorities (Executive Arrangements) (Meetings & Access to Information) (England) Regulations 2012 requires any Member of an Executive (Cabinet) to declare any conflict of interest when taking a decision, either collectively (at Cabinet) or individually under existing procedures, and any dispensation by the Council.

While Cabinet Members have always been required to declare any personal or conflict of interests when making decisions it appears the greater emphasis being given to this term in the Regulations is as a consequence of the Government's dictats on the revised Standards Arrangements introduced earlier this year. While, under the new Standards arrangements, Members were required to declare a 'Disclosable Pecuniary Interest' there was no continuing requirement on Members to declare personal interests as was the case previously ... which are, to all intents and purposes, no more and no less than conflicts of interest!

The County Council's decision when adopting its Code of Conduct to retain the need for Members to declare personal interests seems, in retrospect, even more sensible! In essence the position is no different from that which existed both before and after the Council adopted its latest Code and - in relation to this new requirement - the declaration by Members of personal interests as set out below will hopefully achieve the desired objective and avoid the introduction of another layer of bureaucracy.

Thankfully, however, should there nonetheless be a circumstance in which a Cabinet Member has a conflict of interest that is not capable of being declared as a personal interest then the Regulations also allow dispensations to be granted to that Cabinet Member to allow them to continue to speak and/or determine and the power to grant such dispensation has been delegated to me as the Council's Monitoring Officer, I hope the following aide memoire will be helpful.

- 1. If any member of the Cabinet has, in his/her opinion (and in addition to any personal interest they are required to declare under the Members' Code of Conduct [see below], any other conflict of interest relating to a matter to be decided by the Cabinet or in their capacity as a Cabinet member in accordance with para 11.1 of the Council's Scheme of Delegation then they shall must disclose it and may remain and speak and vote on and determine the matter provided the disability to discuss and determine that matter has been removed by the Monitoring Officer exercising powers delegated to them by the Head of the Paid Service in accordance with Regulations 12 and 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.**

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2. Members are expected to put service to the public and their constituents ahead of their own personal interests or self-interest and should, wherever possible, avoid taking decisions in circumstances that could reasonably be perceived as contradicting that basic tenet of public service ethos. The pitfalls of 'conflict of interest' is acknowledged in the Members' Code of Conduct adopted by the Council which recognises the potential conflict between Public Duty and Private Interests and the need to embrace and observe the Principles of Public Life and, inter alia, Members acting solely in the public interest and not placing themselves under an obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties. It is nonetheless acknowledged that members and their constituents should have a communion of interests inasmuch as elected members may share and understand the problems of their electors – but it is also necessary to distinguish between a Members' own special interests and the general interests of all constituents. Failure to do so could not only call into question the integrity of the member and his/her observance of the Members' Code of Conduct but could create the perception of impropriety and possibly leave the Council open to challenge and, ultimately, result in a decision taken being invalidated.
3. While there is no clear definition as to what is meant by a conflict of interest, the following advice may be of assistance to Members.
4. A Member of the Cabinet may be regarded as having or being perceived to have a conflict of interest that would be incompatible with their general duty to take decisions in accordance with the general principles of decision-making set out in the County Council's Constitution (Article 13) and in the public interest where, for example;
  - they may have two or more differing interests held by or entrusted to them in a particular matter and or which are incompatible with each other or are incompatible with the general principles of the Members' Code of Conduct and the Principles of Public Life;
  - they may profit personally from decisions made in their official capacity';
  - they may owe separate duties to act in the best interests of two or more constituents in relation to the same or related matters and those duties conflict or there is a significant risk that those duties may conflict;
  - their duty to act in the best interest of any constituent in relation to a matter conflicts or there is a significant risk that it may conflict with their own interest in relation to that or a related matter.
5. Notwithstanding the above, the need to declare any 'conflict of interest' can necessarily only apply where any such conflict has not already

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been declared as is required to be declared as a personal interest in accordance with the Members' Code of Conduct.

6. **Where a member of the Cabinet is of the opinion that they may have a conflict of interest over and above any personal interest they are already required to declare under the Members' Code of Conduct, then they are advised to consult the Monitoring Officer with a view to determining whether or not a Dispensation is required and may be granted to enable them to continue to speak and vote at the meeting or determine the matter.**
7. However, where a member of the Cabinet has a conflict of interest which is significant or does not meet the criteria above, such that a Dispensation cannot be granted, then they shall withdraw from the meeting or refer the decision to the Leader or Deputy Leader of the Council in accordance with paragraph 11.3 of Part 3 of the Council's Constitution (Scheme of Delegation).

*\* A personal interested is defined in the County Council's Members Code of Conduct as:*

- 7.2. *Those other personal interests laid down by the County Council, namely your membership of any body to which you have been appointed by the County Council or exercising functions of a public nature directed to charitable purposes or whose principal purposes include influence of public opinion or policy, your membership of any other local Authority and of any political party or trade union.*
- 7.3. *In addition to those interests listed at 7.1 and 7.2 above [of the Code] which you are required to registered, you may wish also to declare membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a County Councillor, such as membership of the Freemasons or any similar body.*

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## DEVON PENSION BOARD - CONFLICTS OF INTERESTS

*[NB: This Guidance Note does not form part of the Constitution or the Members' Code of Conduct but is reproduced here for convenient reference].*

- 1.1. If any member of the Board has a Disclosable Pecuniary or Personal Interest in any matter before the Board within the meaning of Standing Order 34 and the Devon County Council Member's Code of Conduct then they must declare it in the prescribed manner.
- 1.2. In establishing a Pension Board, the Administering Authority (the County Council) must satisfy itself that Local Pension Board members do not have overriding conflicts of interest on appointment or whilst they are members of the Board.
- 1.3. Notwithstanding 1.2 above, it is important to note that the issue of conflicts of interest must be considered in light of the Local Pension Board's role, which is to assist the Administering Authority. The Local Pension Board does not make decisions in relation to the administration and management of the Fund: these rest with the Administering Authority. As a result, it is not anticipated that significant conflicts will arise in the same way as would be the case if the Board were making decisions on a regular basis. Nonetheless, if any member of the Board has, in his/her opinion (and in addition to any personal interest they are required to declare under the Members' Code of Conduct), any other conflict of interest relating to a matter to be decided by the Board or in their capacity as a Board member then they must disclose it and may remain and speak and vote on and determine the matter.
- 1.4. Section 5(5) of the Public Service Pensions Act 2013 Act defines a conflict of interests as '*a financial or other interest which is likely to prejudice the person's exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme)*'.
- 1.5. A Pension Board Member may also be regarded as having or being perceived to have a conflict of interest that would be incompatible with their general duty to take decisions in accordance with the general principles of decision-making set out in the County Council's Constitution (Article 13) and in the interests of Fund Members where, for example.
  - 1.5.1. a finance officer appointed as a member of a Local Pension Board may, from time to time, be required to take or scrutinise a decision which may be, or appear to be, in opposition to another interest or responsibility. For example, they may be required as a member of the Local Pension Board to take or scrutinise a decision which

involves the use of departmental resources to improve scheme administration, whilst at the same time being tasked, by virtue of their employment, with reducing departmental spending.

- 1.5.2. a member representative who works in the Administering Authority's internal audit department may be required as part of his work to audit the Fund. For example, the employee may become aware of confidential breaches of law by the Fund which have not yet been brought to the attention of the Local Pension Board.
- 1.5.3. an employer representative from the private sector may also have a conflict of interest as a decision-maker in their own workplace. For example, if an employer representative is drawn from a company to which the Administering Authority has outsourced its pension administration services and the Board are reviewing the standards provided by it.



## **GUIDANCE ON APPLYING FOR AND DETERMINATION OF REQUESTS FOR DISPENSATIONS**

*[NB: This Guidance Note does not form part of the Constitution or the Members' Code of Conduct but is reproduced here for convenient reference].*

The Council's Monitoring Officer is authorised by the Council (Procedures Committee Minute 57(a)(ii)(c)/17 April 2012) to determine requests from Members for dispensations, where it is appropriate in the circumstances, following consultation with the Chair of the Standards Committee.

The general dispensation (over) has been granted to allow Members of the Council and co-opted Members of Committees during the life of this Council (2013/17) to speak and vote in any debate on the setting of the Council Tax or Precept by virtue of being a resident of or a land or property owner in the administrative County of Devon or by being a parent or guardian of a child in a school on any matter relating to school meals and school transport or in relation to the setting of any allowances, generally.

Under s33 of the Localism Act a dispensation may be also granted to one or more Members where:

- over half the Council, Cabinet or a Committee would be prevented from taking part in any discussion, or
- the representation of political groups (i.e. the political balance) of a meeting would be upset so as to impede or affect the likely outcome of the transaction or vote upon a particular item of business, or
- where the number of members affected would mean the meeting was inquorate, or
- all members of the Cabinet or a Cabinet Committee would be excluded, or
- where it was in the interests of the inhabitants of the area for Members to take part (so as to represent their constituents views), or
- where member of the Cabinet may have a conflict of interest over and above any personal interest they are already required to declare under the Code of Conduct, that would be incompatible with their general duty to take decisions in accordance with the general principles of decision-making set out in the County Council's Constitution (Article 13) and in the public interest, as set out in the guidance on conflicts of interest at paragraph 12 of the Cabinet Procedure Rules at Part 4 of the Constitution.

**If a Member believes they may have an interest or a conflict of interest as described above then they are advised to consult the Monitoring Officer - with a view to determining whether or not an interest should be disclosed and, if so, whether a Dispensation is required and may be granted to enable them to continue to speak and vote at the meeting or determine the matter.**

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## DISPENSATION FOR MEMBERS & CO-OPTED MEMBERS OF DEVON COUNTY COUNCIL - 2021/2025

In accordance with Part 3 of the County Council's Constitution (Responsibility for Functions - Scheme of Delegation) I hereby declare that, for the period 6<sup>th</sup> May 2021 to the date of the ordinary County Council elections in 2025, all Members and Co-opted Members of the County Council shall not be regarded as having a disclosable pecuniary interest as defined in the Council's Code of Conduct and have been granted a dispensation to permit them to speak and vote at meetings of the County Council, its Cabinet or any Committee, Sub-Committee, Joint Committee or Working Party thereof if the matter relates to any of the following functions of the County Council, namely:

- if a Member or Co-opted Member is a parent or guardian or carer of a child in full-time education, on any matter relating to **school meals or school transport** unless it relates specifically to the school a Member's child attends;
- If a Member or Co-opted Member is an approved **foster parent**, providing placements for the Council's Children in Care unless it relates specifically to a placement with that Member.
- any **allowance, travelling expenses, payment or indemnity** for Members or Co-opted Members of the Council;
- If a Member or Co-opted Member is a Member of another public authority (or their spouse or partner) and who have a Disclosable Pecuniary Interest only by virtue of the fact they or their spouse / partner **receives an allowance from that other Authority**:
  - where the issue is a matter of dispute between the County Council and the other authority, and the matter would affect the financial position of that other authority, the County Councillor may speak on the matter provided s/he immediately withdraws from the meeting room; and
  - in relation to other matters affecting that other authority, the Councillor may speak and vote.
- if you are receiving or eligible to receive **statutory sick pay**, under Part X1 of the Social Security and Benefits Act 1992, as amended;
  - if a Member or Co-opted Member is in receipt of a **pension** unless it relates specifically to that Member's entitlements or payments;

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- any **ceremonial honour** to be given to Members;
- the **setting of the Council Tax or Precept** or fees and charges arising therefrom by virtue, for example, of any of the above and as a consequence of a Member being a land, business or property owner in the administrative County of Devon;
- if any Member or Co-opted Member is a land, business, property owner or leasee in the administrative County of Devon, unless the matter relates directly to that land, business or property;
- if a Member is a representative of the County Council on an outside body or any County Council **wholly owned, controlled or joint local authority company or Joint Venture Partnership** on any matter relating thereto unless it relates to any personal remuneration or involvement therein.

*Jan E Shadbolt*  
(Proper Officer of the Council of the County of Devon)  
Dated this 3 December 2021

*[NB: The Council's Monitoring Officer is authorised, following consultation with the Chair of the Standards Committee, to determine requests from Members for dispensations where it is appropriate in the circumstances of the case or where, for instance, a significant number of members would be prevented from participating in any item of business or the representation of political groups would be upset so as to impede or affect the likely outcome of the transaction or vote upon that item of business or where it would be in the interests of the inhabitants of the area].*



## MEMBERS' CODE OF CONDUCT GENERAL NOTICE OF REGISTERABLE INTERESTS (YEAR)

being a Member/Co-opted Member of Devon County Council, give notice below of those interests which I am required to declare under the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and Devon County Council's Code of Conduct:

I understand that in so doing I must declare any interest of my spouse or civil partner or of any person with whom I am living as a husband or wife and also, in relation to categories 3 - 6, and so far as you are aware of any or relevant person, as defined in the Council's Code of Conduct.

NB: You do not need to differentiate your interests from those of your spouse or civil partner nor do you need to put in their names. For the purpose of this declaration their interest is regarded as your interest.

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## 1. Employment, Office, Trade, Profession or Vocation

Please give details of (i) every employment, job, trade, business or vocation you have, for which you receive any benefit or gain (i.e. profit, salary or benefit in kind) including a short description of the activity e.g. 'Accountant' or 'Farmer' and (ii) the name of any employer or body, firm or company which you own or in which you have any beneficial interest.

Description of employment, job, vocation, trade or business.

*(if you rent property or land then please declare that you are a private landlord)*

Name of Employer, body, firm or company by which you are employed or in which you are a partner or a Director (remunerated) in which you have a beneficial interest

## 2. Sponsorship

Please give details of any person or body (other than the County Council) who has made any payment to you in respect of your election or any expenses you have incurred in carrying out your duties as a County Councillor.

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## 3. Securities: Interests in Companies

Please give details of body which has a place of business or owns land in the County Council's area and in which you have a beneficial interest (a shareholding) of more than £25,000 (nominal value) or more than 1/100<sup>th</sup> of the total share issue of that body (whichever is the lower) or if there is more than one class of share, the total nominal value of shares in any class of that body of more than 1/100<sup>th</sup> of the total shares of that class

*Note: It is not necessary to declare the nature or size of the holding, simply the name of the company or other body.*

## 4. Contracts: for Goods, Works or Services with the Council

Please give details of any current, existing contracts for goods, works or services between the County Council and you or any body, firm or company by which you are employed or which you own or in which you have a beneficial interest, as referred to at 3 above.

## 5. Landholdings and Licenses in the Area

Please give the address or other description (sufficient to identify the location) of any land or property in the County Council's area in which you have a beneficial interest, indicating whether you are the owner, lessee or tenant, including land in which you may have a licence, alone or with others, to occupy for a period of one month or longer.

You must include the land and house you live in and for example any allotments you own or use.

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<p>6. Corporate Tenancies: Land leased from Devon County Council</p> <p>Please give the address or other description (sufficient to identify the location) of any land leased or licensed from the County Council by a you or any body firm or company by which you are employed or which you own or in which you have a beneficial interest (specified at 3 above).</p>	
<p>7. Membership of Other Bodies</p> <p>Please give details of your membership of, or any position of general control or management, of any bodies in the categories listed below.</p>	
<p>Any Body or Organisation to which you have been appointed or nominated by the County Council as its representative.</p>	
<p>Any other body exercising functions of a public nature  <i>(e.g. District or Parish Council; Health, Police, National Park or Fire Authority or Quasi Autonomous Non-Governmental Body)</i>            -----            Do you receive an allowance from each of these bodies (yes / no)</p>	
<p>Any body directed to charitable purposes  <i>(e.g., an Industrial and Provident Society or any Charitable Body such as the Rotary Club, Freemasons or similar body)</i></p>	

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Any unpaid Directorships	
<p>Any Organisation / Body whose principle purpose is to influence public opinion or policy <u>or any other body</u> which, in your view, might create a conflict of interest in carrying out their duties as a County Councillor.</p> <p><i>(e.g. Political Party; Trade Union, Professional Association, Local Action Forum, Civic Society or Interest Group (e.g. National Trust; RSPB: Greenpeace)</i></p>	
<b>DECLARATION</b>	
<p>I recognise that if I fail to comply with the Code of Conduct for Members of Devon County Council or:</p> <ul style="list-style-type: none"> <li>(i) omit any information that should be included in this Notice;</li> <li>(ii) give false or misleading information; or</li> <li>(iii) do not tell the County Council of any changes to this Notice or new interests I acquire,</li> </ul> <p>that may be a criminal offence and/or the matter may be referred to the Council's Standards Committee for investigation.</p> <p>Signed.....</p>	
<b>FOR OFFICE USE ONLY</b>	
<p>Received.....Update</p> <p>.....</p>	



## **JOB PROFILES FOR ELECTED MEMBERS**

### **1.0. Leaders of Groups**

- 1.1. To assume overall political responsibility for guiding the development and formulation of corporate priorities and strategic policy direction; presenting those policies to the Council and the wider community and providing political guidance to the Chief Executive and the Council's Leadership Team (or equivalent) on the implementation of the Council's priorities and objectives and revenue and capital budgets.
- 1.2. To ensure a co-ordinated and coherent approach is taken to policy development and the delivery of services and also, where relevant and taking into account any advice from the Chief Executive or the Councils Monitoring Officer or Financial Officer, to ensure that proposals are made to the County Council for decision within appropriate timescales.
- 1.3. To ensure that policies reflect the Councils' commitment to best value in:
  - developing corporate policies and programmes;
  - delivering high quality services to the people of Devon;
  - monitoring performance;
  - preparing and monitoring revenue and capital budgets;
  - reviewing the effectiveness of the Council's organisation and management processes;
  - developing policies to promote the social, economic and environmental wellbeing of the administrative County of Devon.
- 1.4. To represent the Council at all levels, liaise with government and other relevant agencies where appropriate and act as ambassadors for the County Council in advocating and explaining its roles and functions and promoting it as a listening and accessible organisation.

### **2.0. For a Cabinet Member**

- 2.1. To provide political guidance to the relevant Chief Officer or Head of Service on the development and implementation of the Council's priorities and objectives in relation to the service area

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or area of responsibility designated by the County Council working, as necessary, with other Members of the Cabinet Members to ensure a co-ordinated and coherent approach is taken to the formulation of plans and priorities and the delivery of services where Cabinet Remits overlap, having regard to the Councils corporate policies and objectives.

- 2.2. To guide relevant policy development or proposals through the Council and ensure the Cabinet is informed of all relevant issues, matters, activities, proposals or events relating to that service area.
- 2.3. To represent the Council at all levels and to undertake an ambassadorial role, promote the work of the Council in that area and liaise with appropriate government departments and all relevant agencies on behalf of the Cabinet and County Council for the area of responsibility designated by the Council.
- 2.4. To be involved in the consideration and determination of all matters requiring a collective decision by the Cabinet.
- 2.5. To maintain effective channels of communication with other members of the Council and to appear before a Scrutiny Committee if so requested.

## **3.0. For a County Councillor/Backbencher**

- 3.1. To be familiar with and represent the views and needs of their constituents and the people of Devon; to act as an advocate for groups with particular interests; to help their constituents raise issues of importance or concern; to represent the views of the community at large and to provide advice to the Council and the electorate on matters within their constituency and the implications of any courses of action by either the Council or their constituents.
- 3.2. To promote the social, economic and environmental wellbeing of their local area having regard also to the impact of any such actions on other communities.
- 3.3. To familiarise themselves with the County Council's policies, plans and priorities.
- 3.4. To promote the Council and its actions locally to achieve a fuller understanding by the community of the Council's role and work and promote it as a listening and accessible organisation.

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- 3.5. To attend meetings of the County Council and any committees or working parties to which they may have been appointed, as necessary, and to:
- participate in the consideration and formulation of the Council's plans, priorities and budgets and take part in the final decision making process on the revenue and capital budgets; to chair meetings of Committees, Sub-Committee or Working Parties as may be required from time to time and to undertake such other official duties or represent the Council, if authorised so to do;
  - scrutinise and monitor the Council's policies and decisions to ensure that highest quality services are consistently delivered in the most cost-effective way to meet the needs of both users and charge-payers in the administrative County of Devon, having regard to the principle of best value and any external financial constraints imposed upon the Council;
  - fulfil those quasi-judicial/regulatory functions exercised by the County Council (e.g. Development Management, Appeals, Registration etc.)
- 3.6. To act in accordance with the highest standards of probity in public life, serving the community without thought of personal gain and to abide by the provisions of the Members' Code of Conduct and any other relevant national or local codes established by Government or the Council.



## **OFFICERS' CODE OF CONDUCT**

[NB: The County Council has adopted its own Acceptable Behaviour Code which is available at:

<http://staff.devon.gov.uk/pp/er/healthsafetywellbeing/healthsafety/acceptablebehaviour.htm> ]



## **PROTOCOL ON MEMBER/OFFICER RELATIONS**

### **1.0. Introduction**

- 1.1. The purpose of this protocol is to guide members and officers of the Council in their relations with one another.
- 1.2. Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped however that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- 1.3. This protocol is to a large extent no more than a written statement of current practice and convention. In some respects however, it seeks to promote greater clarity and certainty.
- 1.4. This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to members and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.
- 1.5. Councillors and Officers are servants of the public and they are indispensable to one another but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council. Their job is to give advice to Councillors, the Council and Cabinet and to carry out the Council's work under the direction and control of the council, the Cabinet, Committees and Sub-Committees.
- 1.6. Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage this relationship and prove embarrassing to other councillors and officers.
- 1.7. It is also important that any dealings between members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

### **2.0. Officer advice to Political and Party Groups**

- 2.1. There is now statutory recognition for political groups and party groups are a well established feature of modern local government. It is common practice, particularly for party groups, to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making

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body. Officers may properly be called upon to support and contribute to the deliberations by both political and party groups.

- 2.2. The support provided by officers can take many forms, ranging from a briefing meeting with a Chair or Spokesperson prior to a Cabinet or Committee meeting to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, it is an important principle that such support is available to all political or party groups.
- 2.3. Certain points must however be clearly understood by all those participating in this type of process, members and officers alike. In particular:
  - (a) officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed;
  - (b) party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
  - (c) similarly, where officers provide information and advice to a political or party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee when the matter in question is considered; and
  - (d) Members often seek officers' assistance in drafting resolutions or amendments which they wish to move at a meeting. It is proper for an officer to advise on the wording of such a proposal to ensure it is accurate, practical and lawful but there can be no inference that the officers supports the substance or merits of the proposition.
- 2.4. Special care needs to be exercised whenever officers are involved in providing information and advice to a political or party group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able

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to provide the same level of information and advice as they would to a members only meeting.

- 2.5. Officers must respect the confidentiality of any political or party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group. It follows that whilst there is no reason why other such groups should not be aware that a Group has sought and received officer advice or be inhibited from requesting officer support themselves no political point should be made of that fact.
- 2.6. Any particular cases of difficulty or uncertainty in this area of officer advice to political or party groups should be raised with the Chief Executive who will discuss it with the relevant group leader(s).

## **3.0. Support services to members and political or party groups**

- 3.1. The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, transport, etc.) to members is to assist them in discharging their role as members of the Authority. Such support services must only therefore be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes unless full payment for this use is made.

## **4.0. Members' access to information and to Council documents**

- 4.1. Members are free to approach any council service area to provide them with such information, explanation and advice (about that services' functions) as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a service's activities to a request for specific information on behalf of a constituent. Such approaches should however normally be directed to a Chief Officer or Head of Service for the service activity area concerned.
- 4.2. As regards the legal rights of members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 4.3. Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not however apply to documents relating to items which may appear in Part II of agenda for meetings. The items in

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question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

- 4.4. The common law right of members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is commonly referred to as the “need to know” principle.
- 4.5. The exercise of this common law right depends therefore upon the member’s ability to demonstrate that they have the necessary “need to know”. In this respect a member has no right to “a roving commission” to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know.” This question must initially be determined by the particular Chief Officer whose Directorate holds the document in question (with advice from the Director of Legal and Democratic Services). In the event of dispute, the question falls to be determined by the relevant Committee — i.e. the Committee in connection with whose functions the document is held.
- 4.6. In some circumstances (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee) a member’s “need to know” will normally be presumed. In other circumstances (e.g. a member wishing to inspect documents which contain personal information about third parties) a member will normally be expected to justify the request in specific terms.
- 4.7. Whilst the term “Council document” is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one party group will not have a “need to know”, and therefore a right to inspect, a document which forms part of the internal workings of another party group.
- 4.8. Further and more detailed advice regarding members’ rights to inspect Council documents may be obtained from the Director of Legal and Democratic Services as Monitoring Officer.
- 4.9. Finally, any Council information provided to a member must only be used by the member for the purpose for which it was provided i.e. in connection with the proper performance of the member’s duties as a member of the Council, as emphasised below.
- 4.10. As a councillor or a committee or sub-committee member, you necessarily acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. You should never disclose or use confidential information

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for the personal advantage of yourself or of anyone known to you, or to the disadvantage or the discredit of the council or anyone else.

## **5.0. Confidentiality of Reports**

- 5.1. All Chief Officers have a duty to satisfy themselves that Committee reports to which they are signatories are only classified as 'exempt information' when the statutory criteria for confidentiality are met. The Chief Executive and the Director of Legal and Democratic Services (Monitoring Officer) have an overriding responsibility to determine this compliance.
- 5.2. Once a report has been issued within Part II of the agenda for a meeting and until the Cabinet or Committee decides that it should not be discussed in the absence of the press and public a member must respect the confidentiality of the report and not disclose it to a third party.
- 5.3. It does not however follow that all the contents of the report must be regarded as secret. It may only be certain items of information or terms of negotiations that justify the inclusion of that report within Part II: other aspects may already be within the public domain or otherwise outside the definition of 'exempt'. A member may accordingly refer to these aspects in discussions with third parties but must exercise proper care and judgement not to reveal those elements of the paper which are protected but it will always be prudent for that member to consult the Director of Legal and Democratic Services before doing so.

## **6.0. Officer/Chair Relationships**

- 6.1. It is clearly important that there should be a close working relationship between a Chair of a Committee or Cabinet Member and a Chief Officer, Head of Service or other senior officer(s) of an service activity area who report to that Committee or Member. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other members and other party groups.
- 6.2. Whilst the Chair of a Committee (other than the Cabinet, where the responsibility is the Leader's) may be consulted in drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations a Chief Officer or Head of Service will be under a duty to submit a report on a particular matter. Similarly, a Chief Officer or Head of Service will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Chair and a Chief Officer or Head of Service in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

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6.3. Part 3 of this Constitution (Scheme of Delegation) provides that:

(a) a Cabinet Member has delegated powers to take any decision (other than a key decision) in respect of the functions of the Cabinet; or

(b) in the case of any other Committee, a Chief Officer may, in consultation with the Chair (or in his or her absence, the Vice-Chair) of that Committee take any urgent decision in respect of that Committee.

When this process is used, a report of the action taken must be made to the Director of Legal and Democratic Services who will arrange for it to be reported to all members and made available for public inspection.

6.4. Finally, it must be remembered that officers within a service activity area are accountable to their Head of Service and that whilst officers should always seek to assist a Chair (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by the Head of Service.

## **7.0. Correspondence**

7.1. Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member. Where exceptionally it is necessary to copy the correspondence to another member, this should be made clear to the original member. In other words, a system of “silent copies” must not be employed.

7.2. Official letters on behalf of the Council should normally be sent out over the name of the appropriate officer, rather than over the name of a member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a member, but this should be the exception rather than the norm. Letters which for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a member.

## **8.0. Involvement of Local Councillors**

8.1. Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the Divisions affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the local member(s) should be notified at the outset of the

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exercise. Wherever practicable, local members should be consulted on dates for such meetings.

- 8.2. County Councillors will also be notified of any visits by the Chair or Vice-Chair of the Council or Committee Chairs or Cabinet Members to County Council sites or establishments in their electoral divisions.
- 8.3. Officers must at all times keep members fully informed about issues which affect their divisions or bodies on which they represent the Council including, for example, correspondence with other public bodies, members of parliament or matters affecting county council establishments or services in their divisions and development proposals.
- 8.4. In addition to the general responsibility at 8.3 above, Chief Officers and Heads of Service shall ensure that members are alerted at the earliest possible stage to any proposals that might require consideration by a Committee of the Council and arrange to:
  - notify a member that a report on any such matter is being tabled or discussed as soon as the decision to place that item on the agenda of a Committee is taken;
  - ensure that this report is subsequently sent to the member as soon as it is published.
- 8.5. There may be occasions when Members are aware of issues or proposals affecting their divisions or of interest to them or which affect the Council about which the Council has not been advised. In those cases Members are asked to alert the Council, through the appropriate officer, in order that action may be taken.
- 8.6. County Councillors will also be notified of all decisions taken by the Cabinet or by Cabinet Members and will have the opportunity to have certain decisions reconsidered by the Cabinet or called in by a Scrutiny Committee as provided for in Article 7.2 (d) of the Council's Constitution.
- 8.7. There may be occasions on which Members are approached by constituents for advice and help on employment matters. Where such constituents are employees of the County Council it is important to avoid any potential conflict of interest and all such requests should be referred automatically to the Director of Legal and Democratic Services or the Director of People and Culture.

## **9.0. Bullying**

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- 9.1. Any act against an individual may be regarded as a form of bullying, intimidation or harassment if it is intended to influence unfairly that person's actions, thoughts or deeds. While no policy statement can give guidance on every instance where such behaviour may occur the Council is committed to promoting standards of behaviour which reflect the proper, professional, working relationship which should exist between members and officers at all times and to ensure normal standards of courtesy and behaviour between individuals. It is unacceptable for members or senior officers to seek to take unfair advantage of their position within the organisation. The separate policy document on Acceptable Behaviour sets out, in more detail, how members or officers may raise such issues or instances.

## **10.0. Attendance by Members at Meetings Arranged by Officers**

- 10.1. Within the Council, members are free at any time to meet officers to discuss all aspects of the Authority's business and to ask officers to set up local meetings to resolve specific issues arising in their divisions.
- 10.2. From time to time Committees will also resolve that member level meetings will take place with other local authorities or outside bodies. Once convened the appropriate officers will be in attendance. Conversely, members of the public or representatives of external organisations will occasionally ask to meet the Chair and spokespersons of a Committee. One or more suitably briefed officers will normally be present but if the Chair decides that the meeting should take place without officers in attendance they should explain the reasons for that decision to the relevant Head of Service in advance of the meeting.
- 10.3. Additionally, the officers will arrange many meetings with colleagues or third parties to discharge the routine business of the Council or to action its decisions. The convention is that members will not be present at these meetings but will be advised either informally or through reports to committees, of any relevant discussions and/or outcome.

## **11.0. Breaches of the Code**

- 11.1. Specific breaches of this code may ultimately be the subject of either grievance or disciplinary procedures but potential problems may be resolved by early discussion between a Member and a Chief Officer or a Head of Service or, if necessary, between a Leader of a Party Group and the Chief Executive. More general concerns about relationships between Members and Officers or perceived breaches of the principles embodied in this Code can be discussed with or the Chair of the Council's Standards Committee or the Monitoring Officer.

## Local Member Protocol

### Informing elected members – Think Local Councillor

Councillors (“Members”) are elected representatives of their communities. They need to be kept informed of developments in their division, and in relation to their specific areas of interest or responsibility, at the earliest possible stage and throughout the process. Officers have a responsibility to tell Councillors what the Council is doing or plans to do in their area. Councillors also have detailed knowledge of their electoral division and are in a good position to assess the effectiveness and quality of service delivery at the local level and this can help officers do their jobs better.

Keeping Councillors informed is vital for good communications, effective decision-making and service delivery.

Councillors must be informed **at the earliest stage about all significant Council events and issues affecting their electoral division and their constituents**. As a ‘rule of thumb’, a significant development is anything that may cause a constituent, a local organisation, or the press to contact the Councillor. So, inform Members early but in a way which is appropriate to the circumstances. By phone? By email? Is a briefing or consultation meeting necessary?

The Council and Officer Scheme of Delegation requires local Councillors to be consulted before formal decisions are taken which affect localities and also to be informed of the decision taken.

Circumstances when it is essential for Officers to inform Members about local impacts include:

- Changes to Council services
- Buildings and Property
- Council decisions (before and after the decision is taken)
- Controversial issues (local campaigns / planning applications etc)
- Council Consultations including, but not exclusively, service reconfigurations, highways issues and planning matters
- Events such as opening or closing of premises.

Key rules:

- Think about informing local Councillors at the earliest possible stage in the development of a proposal or as soon as an issue becomes apparent.
- If the public are being informed, tell the Councillor too – ideally before.
- Individual service areas are responsible for keeping Councillors informed. Communications and Democratic Services teams cannot do it for you.

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- Newly elected Councillors may not be aware of the history of local issues and may need additional briefings from the outset.
- If in doubt consult with senior managers – but assume that it's better to tell the Councillor than not. Democratic Services Managers can also advise.

Most local Councillor notifications relate to site or area/locality specific proposals and usually only affect a single electoral division. However, some proposals have a wider impact and Officers will need to judge whether to inform other local Councillors. Specific consideration to this should be given when proposals are close to adjoining / adjacent wards. Examples of matters involving a wider area could be the closure of a secondary school, road closures and changes to library services. In the case of Exeter, you need to alert all Exeter Members.

Please note that although general information is made available to Councillors in a variety of ways including electronically through the Council website and the fortnightly Members' Bulletin, this does not guarantee that a Councillor will pick up information relating to their local area and is not a substitute for direct contact.

## **Councillor roles**

Councillors have an important role to play in policy and decision-making and it is important that their views and the views of their local communities are heard and taken into account by decision-makers - whether that is Full Council, the Cabinet, Cabinet Members, Committees or Officers.

Members are encouraged to inform relevant Officers of significant local issues which they become aware of and may have an impact on the Council and its services and to give feedback from their communities.

Councillors have a responsibility to ensure that they are able to receive communications from officers by DCC email and by phone.

Councillors are required by the Members' Code of Conduct not to breach confidentiality. Therefore, an issue being confidential does not in itself prevent the sharing of it with the local Councillor, but the Councillor must be made aware that it is confidential.

Councillors must ensure that when asked questions by the media requiring them to release information that they know to be or suspect may be confidential, they should have regard to the requirements of the Members' Code of Conduct, make no comment and refer the reporter to an officer in the Communications team.

## Pay Policy Statement (April 2024 - March 2025)

### 1. Introduction and purpose

- 1.1. Under section 112 of the Local Government Act 1972, the Council has the “power to appoint officers on such reasonable terms and conditions as authority thinks fit”. This Pay Policy Statement sets out the County Council’s approach to the pay policy in accordance with the requirements of Section 38 of the Localism Act 2011. The purpose of the statement is to provide transparency with regard to the Council’s approach to setting the pay of its employees (excluding those working in local authority schools) by identifying:
  - the methods by which salaries of all employees are determined,
  - the detail and level of remuneration of its most senior staff i.e., ‘Chief Officers’, as defined by the relevant legislation.
- 1.2. The Appointments, Remuneration and Chief Officer Conduct Committee are responsible for ensuring the provisions set out in this statement are applied consistently throughout the Council and recommending any amendments to the Full Council.
- 1.3. This policy statement has been approved by the County Council for the period 1 April 2024 to 31 March 2025. It will be subject to review annually and in accordance with new or proposed legislation to ensure that it remains relevant and effective.

### 2. Accountability and decision making

- 2.1 In accordance with the constitution of the Council, the Appointments, Remuneration and Chief Officer Conduct Committee are responsible for decision making in relation to the recruitment, pay, terms and conditions and severance arrangements in relation to Chief Officers and Heads of Service of the County Council.

### 3. Responsibility and scale

- 3.1. The County Council is directly responsible for a budget of £608 million (2023/24) and provides services to a total population of over 750,000 residents.
- 3.2 The County Council employs 5,281 corporate staff and 6,352 schools’ staff. These figures are based on headcount as of 31 October 2023.

### 4. The Council’s pay strategy

- 4.1 In determining the pay and remuneration of its employees, the County Council will comply with all relevant employment legislation. This includes the Equality Act 2010, Part Time Employment (Prevention of Less Favourable Treatment) Regulations 2000, The Agency Workers Regulations 2010 and where relevant, the Transfer of Undertakings (Protection of Earnings) Regulations.
- 4.2 With regard to the Equal Pay requirements contained within the Equality Act, the County Council ensures that all pay arrangements can be objectively justified through the use of Job Evaluation methods.
- 4.3 This Pay Policy Statement outlines the information required to meet our statutory obligations in line with the Localism Act 2011 and so, provides information on staff remuneration in a hierarchical format, **Page 325** Appendix 2. However, in practical terms this is

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not reflective of the culture and operating model the County Council are working toward in relation to achieving a stronger and more inclusive council.

- 4.4 The County Council takes the following approach to assessing individual and overall pay levels.

**Defining the role** – through a job description that describes the activities, responsibilities and accountabilities which relate to each job and helps ensure that the role and its requirements are fully understood by the individual and the manager.

**Determining the job size** – this process ranks all the County Council's jobs by using job evaluation techniques to ensure fairness and transparency and to allow for direct comparison between roles.

**Determining overall pay levels** – which takes account of:

**Affordability** – ensuring remuneration policies represent value-for-money for the taxpayer,

**Fairness** – ensuring remuneration policies are fair to all employees, ranging from the most senior post to the most junior post and,

**Market Awareness** – ensuring due regard is taken of the market, both nationally and locally in the Southwest, and that this policy is in line with Councils of a similar size and/or in a similar labour market.

**Determining pay structure** – pay is frequently made up of a number of elements. The County Council has adopted an approach which includes basic pay and for officers Grade A – T, incremental progression related to service. The County Council uses fixed point salaries and grades (where there is no pay progression) for Chief Officers/Heads of Service and Senior Officers graded L0 – L9. Where different pay arrangements apply to different groups of staff the reasons are clearly evidenced and documented. The County Council's approach to pay is detailed below and where different arrangements are in place these are explained.

**Recruiting the right staff** – where necessary the County Council may apply market supplements or other individual pay levels for specific roles to ensure that it can recruit the best staff. This approach will only be adopted where there is clear evidence of recruitment difficulty, and any such payments will be time limited and in accordance with Council policy.

## 5. Job Evaluation

- 5.1 The County Council operates two job evaluation schemes for roles within the scope of this pay policy statement. For Chief Officers (Directors) and Heads of Service it uses the Hay Job Evaluation scheme (Grades L0 – L9 inclusive). For officer roles (those on National Joint Council Terms and Conditions (NJC)) it uses the Greater London Provincial Council (GLPC) Job Evaluation scheme (Grades A - T inclusive).

## 6. Remuneration for Chief Officers (Directors) and Heads of Service

- 6.1 Chief Officers (Directors) and Heads of Service are defined as follows:

6.1.1 Chief Officers (Directors) are defined as those on Grades L0-L3.

6.1.2. Heads of Service – are either holders of posts defined locally who comprise the Council's Leadership Team or appointed by the Appointments, Remuneration and

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Chief Officer Conduct Committee and the Local Government and Housing Act 1989 or who are within the category of non-statutory officer (as set out in the Local Government and Housing Act 1989), on Devon County Council Grades L2-L4.

- 6.2 All Chief Officers (Directors) / Heads of Service are employed under Joint Negotiating Committee for Chief Executive or Chief Officer (JNC) terms and conditions unless noted otherwise.
- 6.3 The County Council operates a local Tiered Pay Scale for Chief Officer (Directors) / Heads of Service posts, see appendix 2. Each tier has a fixed, spot salary and there is no incremental progression. The Hay job evaluation scheme is used to determine an employee's position on the scale (and therefore their pay level).
- 6.4. The Appointments, Remuneration and Chief Officer Conduct Committee will consider and recommend the appointment, remuneration and terms in the event of the cessation of employment of any substantive posts of Chief Officers (Directors) / Heads of Service, in line with its Terms of Reference, the Pay Policy Statement, Chief Officer Employment Procedure Rules [Part 6](#), the Council's employment policy and statutory regulations and guidance.
- 6.5 Salaries are fixed for the duration of this policy and reviewed annually by the Appointments, Remuneration and Chief Officer Conduct Committee. Any variation from the fixed salary during the period of this policy (either for an existing Chief Officer (Director) / Head of Service or for the appointment of a new Chief Officer (Director)/Head of Service) requires approval from the County Council, except in the case of any annual pay awards which are determined by national JNC agreement.
- 6.6 The Director for Legal and Democratic Services is also the County Returning Officer and Monitoring Officer. Fees paid are in line with the guidance stipulated from the Ministry of Justice for the relevant elections.
- 6.7 The County Council complies with the Local Government Data Transparency Code (2015) in respect of its approach to publication of, and access to, information relating to the remuneration of Chief Officers (Directors) / Heads of Service. Pay levels for all Chief Officers (Directors) / Heads of Service posts are published on the County Council's [Senior Salaries webpages](#) and in the [Annual Statement of Accounts](#).

## 7. Remuneration for Senior Officers

- 7.1 Senior Officers are defined as those on grades L9 - L5 for non-Head of Service posts.
- 7.2 Senior Officers are employed under Joint Negotiating Committee for Chief Officer (JNC) terms and conditions unless noted otherwise.
- 7.3 The Hay Job Evaluation scheme is used to determine an employee's position on the local pay scale (and therefore their pay level).
- 7.4 The County Council operates a Tiered Pay Scale for Senior Officers, see appendix 2. Each tier has a spot salary and there is no incremental progression or salary increase, other than any annual pay awards which are determined by national JNC agreement.

## 8. Remuneration for Officers (including Lowest Paid Employees)

- 8.1 Officers are defined as those on Grades A – T.
- 8.2 The lowest paid employees at the County Council are defined as employees paid on Spinal Column Point 2.
- 8.3 The majority of Officers are employed under NJC terms and conditions except those outlined in 8.9.
- 8.4 The adoption of the NJC Pay Scale was jointly agreed by the County Council and NJC recognised Trade Unions as part of Single Status implementation.
- 8.5 The County Council uses the Greater London Provincial Council (GLPC) job evaluation scheme to determine an employee's position on the NJC pay scale (and therefore their pay level).
- 8.6 Where the pay grades provide incremental progression, officers are eligible for annual

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incremental increases up the NJC pay scale until they reach the top of their grade.

- 8.7 Any annual pay awards are determined by the relevant national pay agreement.
- 8.8 Officer appointment, remuneration and terms in the event of the cessation of employment are in line with [Part 4](#) of the Chief Officer Employment Procedure Rules, the Council's employment policy and statutory regulations and guidance and NJC Terms and Conditions of Employment.
- 8.9 Certain staff groups, defined as 'Officers' within this Pay Policy Statement, are employed on different terms and conditions which reflect alternative national agreements, this includes Centrally Employed Teachers, Soulbury and NHS (Agenda for Change). There is also a small number of staff who have TUPE transferred in whose terms and conditions are not linked to a national agreement.

## 9. Pay multiple

- 9.1 As described above the Council uses an established process of defining roles, determining job size and salary levels. This process determines the relationship between the rate of pay for the lowest paid and Senior Manager posts, including Chief Officers / Heads of Service, described as the pay multiple.
- 9.2 The Hutton Review recommends a maximum ratio of the highest remunerated post compared with the lowest remunerated post of 20:1. The County Council has adopted this recommendation. It is the Council's policy that this ratio will not exceed 20:1 and it will be reviewed annually by the Appointments, Remuneration and Chief Officer Conduct Committee
- 9.3 The current ratio of the highest paid post to the lowest paid post at the County Council is 10:1, based on the highest paid post being L0 and the lowest paid post being Grade A, spinal column point 2.
- 9.4 The ratio of the median average pay level to the highest paid post at the County Council is 8:1 The ratio of the mean average pay for Chief Officers (Directors) / Heads of Service to non-Chief Officers (Directors) / Heads of Service is 4:1.

## 10. Other employment-related arrangements

### 10.1 Local government pension scheme

Subject to qualifying conditions, employees have a right to belong to the Local Government Pension Scheme. The employee contribution rates are defined by statute and are dependent on full time equivalent salary levels. The Employer contribution rates are set by Actuaries advising each of the 89 local LGPS funds and reviewed on a triennial basis to ensure the scheme is appropriately funded.

The County Council does not augment pensionable service. The Council's employer severance and pension discretions, allowed under the LGPS regulations, apply to all employees.

### 10.2 Benefits schemes

The County Council believes that it has a responsibility to help support the health, wellbeing and welfare of its employees in order to ensure they are able to perform at their best. As part of this approach and to support the local economy, the County Council has adopted a Benefits Platform that provides employees with health, fitness and wellbeing benefits and discounts from local providers.

### 10.3 Arrangements for Chief Officers/Heads of Service

The organisational structure for the [Chief Officers and Heads of Service](#) is published on the

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County Council's webpages.

Due to the nature and responsibilities of their role, Chief Officers / Heads of Service are normally employed on full time permanent employment contracts. The County Council's policy and procedures with regard to recruitment of Chief Officers is set out within the [Constitution - Part 6j Code of Personal Conduct Chief Officer Employment Rules](#).

When recruiting to all posts the County Council will take full and proper account of its own Equality, Recruitment and Redeployment Policies. The determination of the remuneration to be offered to any newly appointed Chief Officer/Head of Service, will be in accordance with the pay structure and relevant policies in place at the time of recruitment. Where the County Council is unable to recruit to a post at the designated grade, it will consider the use of temporary market forces supplements in accordance with its relevant policies.

In exceptional circumstances, where the County Council remains unable to recruit to a Chief Officer / Head of Service post or where there is a need for interim support to provide cover for a vacant post, the Council may consider engaging an individual through a 'contracts for service'. Such arrangements can be advantageous because they can reduce employment costs and are flexible because they can be used for short periods of time without the need to pay termination payments. Where these arrangements are used the Council will use relevant procurement processes to ensure that it can demonstrate value for money. Such arrangements will be kept under regular review by the Appointments, Remuneration and Chief Officer Conduct Committee. Any Interim roles for Chief Officers/Heads of Service and Senior Officers are reported on the County Council's [Senior Salaries](#) webpages.

## 11. Terms and Conditions for all employees

- 11.1 The County Council does not operate a performance-related pay scheme for any employee.
- 11.2 The County Council does not pay bonuses to any employee.
- 11.3 The County Council may pay a market supplement in circumstances where it is not possible to recruit or retain particular staff or categories of staff, subject to the principles set out in the County Council's Market Supplement Policy. The market supplement is a temporary addition to the basic pay of the role and is reviewed annually. Market supplements paid to the highest paid employees will be published in accordance with the Data Transparency Code and can be found on the County Council's [Senior Salaries](#) webpages.
- 11.4 Travel and subsistence expenses incurred on County Council business are reimbursed to employees. Reimbursement of expenses is governed by the principle that employees should not be financially advantaged or disadvantaged in carrying out their duties and all employees are subject to the same policy. Expenses and any benefits-in-kind for the highest paid employees will be published in the [Annual Statement of Accounts](#).
- 11.5 The County Council does not pay fees on behalf of any employees, though this is subject to change in exceptional circumstances where there is an appropriate business case. Any fees paid to the highest paid employees will be published in the [Annual Statement of Accounts](#).
- 11.6 Allowances are paid in line with the applicable terms and conditions i.e., NJC for the majority of Officers and JNC for Senior Officers and Chief Officers (Directors) /Heads of Service, or by local agreement where appropriate. Any allowances paid to the highest paid employees will be published in the [Annual Statement of Accounts](#).

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- 11.7 During the year the County Council will continue to explore and consult upon, with the aim of agreeing, changes to employee terms and conditions, to ensure they are fit for purpose for a changing council.

## 12. Payments on termination of employment

- 12.1 The Council's approach to statutory and discretionary payments on termination of employment of Chief Officers, prior to reaching normal retirement age, is set out within its policy statement in accordance with Regulations 5 and 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006.
- 12.2 All employees are subject to the same terms and conditions in respect of termination of employment. The only exception to this is Chief Officers (Directors) / Heads of Service who are subject to a modified disciplinary procedure which is outlined in [Part 9](#) of the Chief Officer Employment Procedure Rules.
- 12.3 Any other payments falling outside of the provisions, or the relevant periods of contractual notice are subject to a formal decision made by the Full Council or relevant elected Members, Committee or panel of elected Members with delegated authority to approve such payments and will be determined on a case-by-case basis.
- 12.4 The Appointments, Remuneration and Chief Officer Conduct Committee would not normally recommend the re-employment of individuals to Chief Officer / Head of Service positions who have recently left the Council (either as an employee, consultant or contractor). If this does occur, it will be subject to exceptional circumstances where their specialist knowledge and expertise is required or under the provisions of the Modification Order.

## 13. Publication of pay statement

- 13.1 Upon approval by the Full Council, this statement will be published on the Council's Open Data website. In addition, for posts where the full-time equivalent salary is at least £50,000, the Council's [Annual Statement of Accounts](#) will include a note setting out the total amount of:
- salary, fees or allowances paid to or receivable by the person in the current and previous year,
  - any bonuses so paid or receivable by the person in the current and previous year,
  - any sums payable by way of expenses allowance that are chargeable to UK income tax,
  - any compensation for loss of employment and any other payments connected with termination,
  - any benefits received that do not fall within the above.
- 13.2 As the policy covers the period April 2024 to the end of March 2025, amendments may need to be made to the policy throughout the relevant period. Any amendments will need to be reported to the Appointments, Remuneration and Chief Officer Conduct Committee for recommendation to the Full Council.

The table sets out the current Senior Officer salary levels and Chief Officer/Heads of Service roles and salary levels. The salaries do not take account of the 2024/25 pay award which is yet to be agreed.

### Leadership Grades 2023/24

Senior Officer Grades		
L9	£55,124	
L8	£61,683	
L7	£68,477	
L6	£75,249	
L5	£89,631	
Chief Officer/Head of Service Grades		
L4	£101,315	Area Coroner for Exeter & Greater Devon*
L3	£113,000	Director of People and Culture Director of Legal and Democratic Services Director of Transformation and Business Services Deputy Director – Children’s Services and Head of Social Care** Deputy Director Children’s Services Education and Schools Deputy Director Adult Commissioning & Health Deputy Director Integrated Adult Social Care – Operations Deputy Director or Public Health* Head of Economy, Enterprise & Skills
L2	£122,280	Director of Finance and Public Value Director of Public Health, Communities and Prosperity Director of Climate Change, Environment & Transport HM Senior Coroner Exeter & Greater Devon*
L1	£150,913	Director of Children and Young People’s Futures** Director of Integrated Adult Social Care
L0	£182,397	Chief Executive and Head of Paid Service*
<p>* Special Salary ** Market Supplement applied Please see <a href="#">Senior Salaries</a> data for further information.</p> <p>The rates of pay in the table reflect the 2023/24 nationally agreed 3.5% JNC pay award for Chief Officers which took effect from 1st April 2023. Any national pay award for 2024/25 would impact the above figures but is yet to be agreed.</p> <p>In addition to the Salary table above, the Council employs Senior Officers &amp; Chief Officers that have TUPE transferred across to the County Council from the NHS on Agenda for Change (AfC) pay rates or who are in NHS partnership roles. These include the following:</p> <p>AfC Band 8D - £83,571 - £96,376.</p> <ul style="list-style-type: none"> <li>• Head of Public Health Nursing,</li> <li>• Assistant Director – Adult Social Care,</li> <li>• Public Health consultant.</li> </ul>		

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## CHIEF OFFICER EMPLOYMENT PROCEDURE RULES

1. These Rules shall be regarded as Standing Orders of the Council for the purposes of The Local Authorities (Standing Orders) (England) Regulations 2001 ('the 2001 Regulations').
2. An Appointments, Remuneration and Chief Officer Conduct Committee will make recommendations, as appropriate, to the Council in conjunction with any Independent Panel appointed, as necessary, under s102(4) of the Local Government Act 1972 with regard to the appointment, remuneration, conditions of service and cessation of employment (including any terms upon cessation) of any substantive post of Chief Officer (Director) and Head of Service, as defined in the Council's Pay Policy Statement (set out above) and the Committee's [Terms of Reference](#). The Committee will comprise of the Leaders of the Party Groups (or any Member appointed by them) and two Cabinet Members nominated by the Leader of the Council (one of whose remits shall, normally, be responsible for the relevant service area within which the Officer would be employed).
3. In addition to the requirements of paragraph 2 above, the Council will have due regard to guidance issued by [the Faculty of Public Health and Public Health England](#) on the appointment and remuneration of the Director of Public Health.
4. The appointment, remuneration, conditions of service and cessation of employment (including any terms upon cessation) of all other officers, including senior officers, as defined in the Council's Pay Policy Statement (set out above), shall be the responsibility of the Head of Paid Service or his/her nominee in line with the Pay Policy Statement and shall not be made by members, except in circumstances where terms upon the cessation of employment require Council approval, in line with statute or guidance issued by the Secretary of State, where paragraphs 8.2 and 8.3 will apply.
5. The appointment, remuneration, conditions of service and cessation of employment (including any terms upon cessation) of an assistant to a political group shall be made in accordance with the wishes of that political group.
6. In all cases, due regard will be given to the Council's employment policies and statutory regulations and guidance.
7. The Chief Executive is authorised to make decisions regarding:
  - acting up arrangements for Chief Officer (Director) positions (other than that of the Chief Executive) to cover periods of temporary planned or unplanned absence,
  - emergency cover arrangements for the statutory Chief Officer roles (other than the Chief Executive),

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- the placement of interims at Chief Officer (Director) /Head of Service level, based on a clear business case;

in accordance with the Council's Pay Policy Statement, Chief Officer Employment Procedure Rules, Contract Standing Orders and relevant employment, procurement, legal and financial regulations and with any such decisions being reported to the Appointments, Remuneration and Chief Officer Conduct Committee, in line with normal procedures, within 6 months of that decision.

## **8. Recruitment and Appointment**

### **8.1. Declarations**

8.1.1. The application of any candidate for appointment shall state whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of a member or another officer of the Council or is the partner of such a person. Partners include husbands, wives and civil partnerships.

### **8.2. Seeking support for appointment**

8.2.1. The Council will disqualify any applicant who directly or indirectly seeks the support of any member for an appointment with the Council. The content of this paragraph shall be included in any recruitment information.

8.2.2. No member shall lobby on behalf of a candidate for an appointment with the Council.

### **8.3. Appointment of Chief Officers (Directors) and Heads of Service**

8.3.1. The Appointments, Remuneration and Chief Officer Conduct Committee will:

8.3.1.1. draw up a job description and specification setting out the duties of the post and the experience, knowledge, skills and qualifications to be sought in the person to be appointed;

8.3.1.2. determine the remuneration and other terms and conditions for the post, taking into account the Pay

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Policy Statement, employment policy and statutory regulations and guidance

8.3.1.3. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it and for a copy of the job description and approved terms and conditions of the post to be sent to every applicant

8.3.1.4. undertake a selection process for all qualified applicants

8.3.1.5. make a recommendation to the Council upon an appropriate appointment.

8.3.2. The Appointments, Remuneration and Chief Officer Conduct Committee will normally be advised by the Head of Service responsible for Human Resources or Officer nominated by them provided that in relation to remuneration issues where appropriate it will be advised by the Director of South West Provincial Employers, or other suitably qualified person or organisation.

8.3.3. In the event that the Committee is unable to make an appointment, it will be responsible for agreeing what alternative arrangements will be made.

## 8.4. **Determination of the pay and remuneration in the event of the cessation of employment for Chief Officers and Heads of Service (see also paragraphs 9 and 10 below)**

8.4.1. The Appointments, Remuneration and Chief Officer Conduct Committee will:

8.4.1.1. make recommendations to the full Council on pay and remuneration, in line with the Council's Pay Policy Statement;

8.4.1.2. for the Director of Public Health, make recommendations in line with national Director of Public Health pay levels;

8.4.1.3. determine any requirement for a formal review of the relevant pay market;

8.4.1.4. where necessary, commission relevant research and analysis and make recommendations thereon.

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## 9. Employment Procedures for Chief Officers (Directors) and Heads of Service

9.1. Matters relating to redundancy, permanent ill-health, expiration of fixed term contracts and/or grievances will be dealt with under established local policies and processes.

9.2. Matters relating to capability/performance will also be dealt with under established local policies and processes, up to the point where dismissal may be considered, when the matter will then be referred to the [Disciplinary and Dismissal Policy for Chief Officers and Heads of Service](#), subject also to 9.3.2. and 9.3.3. below.

### 9.3. Disciplinary Action

9.3.1. Any decision to take disciplinary action against or to dismiss any employee of the County Council shall be in line with the Council's Disciplinary Policy subject also to 9.3.2 and 9.3.3 below and, in the case of the Director of Public Health only, in line with Public Health England national policy.

9.3.2. No action may be taken by the Appointments, Remuneration and Chief Officer Conduct Committee - except for suspension - relating to the dismissal of either the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer other than in accordance with The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015) (No 881) and as set out below. Any such suspension shall be on full pay and terminate no later than the expiry of two months from the day on which the suspension takes effect unless the Committee has directed that it may continue beyond that period.

9.3.3. Where a Chief Officer (Director) is being dismissed, such dismissal must be approved by the Council and in the case of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer only, following consideration of those matters and any views or advice from an Independent Panel required under The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015) (No.881), as set out a paragraph 10 below.

9.3.4. Where a Chief Officer (Director) has had sanctions imposed by the Appointments, Remuneration and Chief Officer Conduct Committee (short of dismissal), there is a right of appeal to the Appeals (Chief Officer) Committee. It will hear appeals against action taken by the Appointments, Remuneration and Chief Officer Conduct Committee and then decide whether to confirm the sanction; impose no sanction; or impose a lesser sanction. The decision of the Appeals (Chief Officer) Committee is final.

## 10. Terms upon the cessation of employment

- 10.1. In respect of the proposed dismissal of either the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, the Appointments, Remuneration and Chief Officer Conduct Committee may appoint an Independent Investigating Officer (IIO) to examine the circumstances of the case and to advise the Committee on any action to be taken. That Committee will thereafter make a recommendation to the Council for consideration, including any terms for cessation of employment as set out below, in conjunction with the Independent Panel; thereby enabling the Council to have regard at the same time to any further advice or views of the Independent Panel established in accordance with The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015 (No 881) and the outcome of the aforementioned investigation and any views from the relevant Chief Officer.
- 10.2. An Independent Panel shall include at least two Independent Persons who have consented so to serve from amongst those previously appointed by the County Council or by another Council under s28(7) of the Localism Act 2011 and shall meet at least 20 working days before any meeting of the County Council at which any proposed dismissal is to be considered.
- 10.3. In all other cases of any disciplinary action against or dismissal of any other Chief Officer (Director) and on ceasing employment, the Appointments, Remuneration and Chief Officer Conduct Committee will determine and make recommendations to the Council whether any payments should be made. Such payments will only be made:
  - a) in circumstances where compensation is justified (for example on the grounds of redundancy) and
  - b) in accordance with statutory regulations and guidance and
  - c) in accordance with the Council's employment policies including the policy statement on employer severance and pension discretions allowed under the Local Government Pension Scheme and/or
  - d) where they comply with the specific term(s) of a Settlement Agreement.
- 10.4. In making recommendations the Committee shall take account of any data, advice, evidence or views collected from appropriate sources, including the Council's HR function, National and/or Regional Employers' Organisations, independent external pay data and submissions made by the Association of Local Authority Chief Executives on behalf of their members.



## **PART 7: MEMBERS' ALLOWANCES SCHEME**

This document sets out the range of allowances payable to Members of the County Council. It is intended to help Members understand which allowances may be claimed and in what circumstances.

Members are not obliged to claim allowances. If any member wishes to waive their right to claim all or some of the allowances payable they should write to the Council's Democratic Services & Scrutiny Secretariat explaining their wishes.

Members may also be entitled (if they wish to take advantage of any salary sacrifice scheme administered by the Council) to receive their allowances through a combination of direct payment and benefits by sacrificing a proportion of those allowances in return for a non-cash benefit; provided again that they give notice in writing to the Council's Democratic Services & Scrutiny Secretariat of their intention to forego that proportion or amount of allowance required under the sacrifice scheme.

The Devon County Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 1991, as amended, hereby makes the following scheme:

1. This scheme amends the existing Devon County Council Members' Allowances Scheme and shall have effect from May 2023 (from the annual meeting)
2. In this scheme:
  - "*Councillor*" means an Elected Member of Devon County Council;
  - "*year*" means the 12 months ending with 31 March.

### **3. Basic Allowance**

Subject to paragraph 8, for each year an allowance (the basic allowance) reflecting the figure agreed by the County Council in May 2005 and subsequently updated in line with paragraph 5(h) below (currently £14,025) shall be paid to each Councillor.

It is intended to recognise the time commitment of all Councillors, including the inevitable calls on their time at various meetings of the Council, with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs, such as the use of home for council business, postage, telephone rental and broadband charges.

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It is also intended to cover travel expenses incurred within the Councillors Ward, unless the event or meeting is one listed under schedule 1 or 2.

It will be paid automatically to members in twelve monthly instalments.

## 4. Special Responsibility Allowance

a) Subject to d) below, in each year a Special Responsibility Allowance calculated in line with the basic allowance multiplier or as otherwise shown shall be paid to those members who hold the responsibilities listed below:

<b>Special Responsibility/Designated Role</b>	<b>£ 2023/2024</b>	<b>Basic Allowance Multiplier</b>
Leader of the Council	35,063	2.5
Deputy Leader of the Council	28,050	2
Cabinet Members	21,038	1.5
Chairs, Scrutiny Committees	10,238	0.73
Vice-Chairs, Scrutiny Committees	5,119	0.365
Chair of the County Council	11,220	0.8
Vice- Chair of the County Council	3,906	0.2785
Chair, Development Management Committee	7,013	0.5
Vice Chair, Development Management Committee	3,506	0.25
Chair, Investment & Pension Fund Committee	7,013	0.50
Chair, Appeals Committee	3,506	0.25
Chair, Farms Estate Committee	3,506	0.25
Chair, Public Rights of Way Committee	3,506	0.25
Chair, Audit Committee	3,506	0.25
Leader, Liberal Democrat Group <i>(recognising duties undertaken for and by Members of that Group)</i>	7,013	0.5
Leader, Labour Group <i>(recognising duties undertaken for and by Members of that Group)</i>	7,013	0.5
Leader, Independent or Non Aligned Group <i>(recognising duties undertaken for and by Members of that Group)</i>	3,506	0.25

b) These allowances will be paid automatically to designated members in twelve monthly instalments;

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- c) In addition, a Special Responsibility Allowance of £50 per meeting shall be payable for attendance by members at meetings of Stage III Review Panels convened under the Social Services Complaints Procedure;
- d) Excepting c) above, an individual member may not claim more than one Special Responsibility Allowance at any time and unless otherwise notified only the higher Allowance will be payable.

## 5. Travelling and Subsistence Rates

- a) Those duties set out in Schedule 1 will attract payment of travelling and subsistence allowances, including travel costs for journeys between a member's home address and County Hall, in recognition of the fact that they undertake County Council work at their place of residence; provided that Members may not claim any cost of car parking incurred at County Hall or any other administrative offices of the County Council where the Council itself levies a charge for car parking. Those duties listed in Schedule 2 will be eligible for travelling allowances only.

b)

- i) Where travel within the County of Devon is in the member's own private vehicle the rates of travelling allowance payable will be equivalent to the Commercial rate laid down from time to time by Her Majesty's Revenue & Customs (HMRC), currently 45p per mile for the first 10,000 miles and 25p per mile thereafter. This also applies to electric and hybrid vehicles.

A supplement of 1p per mile for each passenger carried will also be paid.

- ii) Where a member undertakes official duties within the geographical counties listed below and travels in their own car, they may claim actual mileage in line with the above rate:

Cornwall, Devon, Dorset, Gloucestershire, Hampshire, Somerset, Wiltshire and the area of the former Avon County Council

- c) When the performance of an approved duty involves an absence (not involving an overnight absence from the normal place of residence) a member may also claim subsistence in line with the following rates, but for out of County events only.

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An absence of more than 4 but less than 8 hours	£10.16
An absence of more than 8 but less than 12 hours	£16.27
An absence of more than 12 hours	£20.34

- d) For absence overnight (from usual place of residence) — £81.06 £153.00 in London (PWC)). Where accommodation cannot be found within these price parameters, the Council can adopt a more flexible approach but obtaining best value for money, taking account all relevant other factors (safety, proximity to venue, availability, convenience and location), with agreement being sought from the Head of Democratic Services.
- e) Subject to (b) above, where travel is outside the County of Devon standard class rail fare or ordinary fare for other public conveyance only will be payable. Where it is impractical for members to travel by public transport they may travel by car and claim mileage.
- f) The rate for travel within the County of Devon, including the areas of Plymouth and Torbay, by a Member's own motor cycle will be 24 pence per mile, irrespective of the engine capacity of the motor cycle.
- g) An allowance of 20 pence per mile shall be payable to those members using pedal cycles to undertake official duties.
- h) The rates of allowance at paragraphs 3 and 4 above shall be increased only with the express approval of the County Council having regard to any increase in line with NJC Pay Awards. The rates at sub-paragraphs [5] (c), (f) and (g) above shall be increased automatically in line with NJC Pay Awards.

## 6. Carer's Allowance

- a) When a carer has been engaged to enable a Member to carry out an approved duty listed in Schedule 1 or those bodies listed in Schedule 3 where such bodies are unable to pay Carer's Allowance:
  - i) where charges are levied on an hourly basis, Members may claim actual and necessary costs incurred for the period of the approved duty (including time traveling time taken by a Member to 'drop-off' or 'pick-up' a dependent or by a carer engaged by a member to look after a dependant in the member's home) up to the maximum of the UK Real Living Wage rate currently £12.00 per hour (as may be amended from time to time) for each dependent, or;
  - ii) where charges are levied by a provider for a fixed period or session, Members may claim the cost of any such fixed period/session or periods/sessions incurred for the period of

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the approved duty (including time traveling time taken by a Member to 'drop-off' or 'pick-up' a dependent) up to the maximum of the UK Real Living Wage rate currently £12.00 per hour (as may be amended from time to time), for each dependent;

- b) A carer will be any responsible adult who does not normally live with the member as part of his/her family;
- c) An allowance will be payable if the dependent being cared for:
  - i) is a child under the age of 14; or
  - ii) is an elderly person; or
  - iii) has a recognised physical or mental disability who is the responsibility of the Member and should not be left unsupervised.

## 7. Co-optee's Allowance

An allowance of £500 per annum shall be paid to co-opted Members of the Standards Committee and the Independent Member of the Devon Pension Board.

## 8. Part-Year Entitlements

This scheme incorporates the provisions in the 1991 Regulations or any superseding rules which provide for the apportionment of an allowance when a member serves for less than a whole year either as a councillor or in a capacity of special responsibility or when the Scheme is amended during a year. Essentially, all adjustments to payments are done pro-rata to the number of days in year.

## 9. Claims

- a) All claims for allowances under this scheme shall be made on electronically via iTrent supported by receipts as appropriate. A separate claim must be submitted for each month by the following dates - <https://inside.devon.gov.uk/task/payroll-deadlines/> if payment is to be made by the due date. Claims which are submitted late may need special Council approval before payment.
- b) All claims should be made via the iTrent system regularly each month - <https://inside.devon.gov.uk/task/itrent-self-service/access-itrent/>.

## 10. Payments

- a) Payments shall be made on the last working day of each month and shall include, subject to sub-paragraph (b), one-twelfth of the amounts specified in this scheme for any basic or special responsibility allowances to which a member may be entitled.

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- b) Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic or special responsibility allowance would result in the member receiving more than the amount to which, by virtue of paragraph 8, they are entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which they are entitled.
- c) Payments will normally be made direct into a bank account. Appropriate details should be given to the Council's Democratic Services & Scrutiny Secretariat.

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## SCHEDULE 1 - APPROVED DUTIES, CONFERENCES OR MEETINGS QUALIFYING FOR THE PAYMENT OF TRAVELLING AND SUBSISTENCE ALLOWANCES

1. Approved Conferences/Delegates, viz:

Local Government Association Annual Conference	Representatives appointed by the County Council to the LGA General Assembly
National Children's and Adults Services Conference <i>[NB: This replaces the former separate LGA Education and Social Services Annual Conferences]</i>	Cabinet Members for Children's Services and Schools; Adult Social Care and Health Services and the Chair of the Children's Scrutiny Committee and Health & Adult Care Scrutiny Committee
County Councils Network Annual Conference	Representatives appointed by the County Council to the CCN Council

### NOTES:

Attendance by the delegates (or a substitute nominated by the identified member or office holder) listed at any of the above 'approved' conferences shown is automatically approved for the payment of allowances.

Any variation thereto will require the approval of the budget holder, the Head of Democratic Services, in liaison with the Leader of the Council as appropriate, in accordance with framework outlined in Procedures [Minute 33](#) (5/6/18)

Attendance at any other conference(s) will require the specific approval of the Leader of the Council with a presumption that attendance will not be permitted unless a case is made.

In determining whether or not a case has been made for a specific approval or to Conferences being added to the approved list consideration will be given to:

the views of the relevant Cabinet Member and Chief Officer on the desirability/relevance of attendance at the event;

the significance of the event;

all party representation being appropriate; or

representation rotating between groups on an annual basis;

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attendance being authorised but with a 'lesser' category of allowances payable (e.g. travelling & subsistence only).

Conference fees, accommodation and allowances are all payable by claim to the Chief Executive. In most cases however the booking and payment of the fee and for accommodation will normally be made direct by the Council's Democratic Services & Scrutiny Secretariat.

2. LGA Policy Boards – In line with the [report considered by the Procedures Committee](#) and the review in 2021 - [Procedures Committee - 16th November, 2021](#) in relation to LGA Policy Boards, Members are expected to seek approval before they accept the appointment as to whether the Council will pay for the travel expenses for the meetings of the Board. This would be via approval of the budget holder, the Head of Democratic Services, in liaison with the Leader of the Council. Members would be expected to make a case, outline the expected costs and frequency and also demonstrate the benefits to the Council.
3. Meetings of the County Council, Cabinet, Committees, Joint Committees, Fora, Working Parties and Panels properly constituted by the County Council under Standing Orders where the Councillor
  - (a) has been appointed by the Council as a member, a substitute or a representative; or
  - (b) is exercising a constitutional right to attend and/or to speak; or
  - (c) is attending as Local Member relating to a matter on the agenda.(a claim cannot be made for attendance in an observer capacity only)
4. Ad hoc formally constituted working groups/panels/task and finish groups, convened by the Council, where the Councillor is (a) a named member of the body or (b) is formally invited to attend and/or participate.
5. Formal meetings convened by other authorities where the member has been appointed as the Council's representative.
6. Duties necessarily undertaken by the Chair of the Cabinet, Cabinet Members or Chairs, Vice-Chairs of Committees or Working Parties/Panels.
7. Meetings of those National, Regional and County-wide bodies to which representatives have been appointed by the County Council, except where the body itself pays allowances.

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8. Seminars, briefings or training events arranged for the benefit of Members of the Council.
9. Attendance at a community event where the Local Member is invited by virtue of contribution of Locality Budget Funding.
10. Meetings of the following bodies:
  - AONB Advisory Committees
  - Dame Hannah Rogers School (Ivybridge)
  - Devon School & Local Admissions Fora
  - Governing Bodies of Maintained Special Schools
  - Grand Western Canal Advisory Committee
  - Inshore Fisheries & Conservation Authority
  - National Association of Standing Advisory Council on Religious Education
  - Northbrook Community Trust
  - Royal School for the Deaf (non county councillors only)
  - St Loyes College Council
  - Standing Advisory Conference on Religious Education
  - School Admission Appeals Committees (non-county councillors only) and Independent Remuneration Panels
  - West of England School for Children with Little or No Sight
11. Single member duties:

in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise inspection of premises;

in connection with arrangements for the attendance of pupil at a school approved for the purpose of section 188 (Special Schools) of the 1993 Education Act.
12. An annual visit by the County Councillor for the Bideford South and Hartland Electoral Division to the Island of Lundy to visit his constituents, subject to prior agreement with the Council's Democratic Services & Scrutiny Secretariat.

## **SCHEDULE 2 - OTHER BODIES: TRAVELLING ALLOWANCES ONLY**

1. Members attending and participating in site visits or other meetings properly convened by or with the knowledge of the Chief Executive, for example, site visits for development management and / or scrutiny task group investigation work.

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2. Any Civic or Ceremonial event at the invitation of the Chair of the Council or the Chief Executive (e.g official openings of Council premises, launches of Council services, road schemes etc.
3. Meetings of Town or Parish Councils in the electoral division of the Member concerned

## **SCHEDULE 3 - OTHER BODIES: WHERE PAYMENT IS MET BY THE BODY ITSELF**

- Dartmoor National Park Authority
- Somerset & Devon Fire Authority
- Exmoor National Park Authority
- Regional Flood and Coastal Committees
- Traffic Commissioners
- War Pensions Committees
- Governing Bodies of Schools

If any member requires advice on the application of any part of the members' allowances scheme, Karen Strahan (01392 382264) in the Democratic Services & Scrutiny Secretariat will be pleased to advise and help on eligibility or interpretation of the scheme and the Finance Section (01392 382982) on claims procedure or payments.

## **GENERAL NOTES**

### **1. Dual Membership: Claiming**

A Member who is both a County Councillor and a District Councillor may claim allowances from both authorities should they undertake two separate duties — one for each authority — on the same day. The same position would apply to any member who also serves on any other body from which allowances may be claimed direct such as a National Park Authority.

A Member who is both a County and District Councillor may not however claim from both Councils for undertaking the same duty. Members must take particular care to avoid duplication or overlap of claims for travelling and subsistence expenses when, as may happen, they attend two separate events on the same day one as a County Councillor and one as District Councillor both of which take place at the same venue. Claims for the full return journey should not be made to both Councils. To avoid the impression that a Member may be seeking to maximise income in such instances it is suggested that Members should either claim the cost of the whole journey from the Council paying the lesser rate(s) or claim

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for one single journey (from home to meeting) from one Council and the other single journey (from meeting to home) from the other Council.

Similarly, where a Member attends a meeting of the County Council or one of its Committees and then later that day attends a meeting of, say, an outside body to which they have been appointed as a County Council representative care should be taken in submitting any subsequent claims. In some instances allowances for attending meetings of an outside body will be paid by the County Council whilst in others allowances will be paid by the body concerned. The same principles as set out above should be adopted where meetings take place at the same venue. Where allowances are paid by the County Council (a full list of which is set out elsewhere in these Notes of Guidance) only one allowance will be payable in any twenty four hour period and (if both meetings taking place in the same location) then the member concerned may only claim for one return journey.

Claims for allowances, particularly those involving travelling and subsistence, should reflect the span of time of meetings and journey times regardless of when the journey is actually made. In other words a member should not claim allowances during any period before or after an official duty where they have chosen to arrive earlier or leave later, unless travelling by public transport. If a Member is in any doubt about entitlement they are urged to seek advice from the Council's Democratic Services & Scrutiny Secretariat before submitting a claim.

## **2. Rail Travel**

Members who are eligible to hold a senior citizens rail card can purchase them and be reimbursed by the County Council through the normal expenses' claim mechanism. The Council has decided that rail travel for Members shall be provided at standard class rates. Members are only therefore able to claim second class rail fare or if travelling by car, the equivalent amount.

## **3. Taxation**

### **Basic and Special Responsibility Allowances**

Members Basic and SRAs will be treated as emoluments of the office and subject to Tax and National Insurance contributions (NIC) by the PAYE process operated by the Council

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## **Mileage Allowances**

These are taxed according to the profit element, which is calculated by comparing the amounts paid per mile with the Inland Revenue's Authorised Mileage Rates, which are reviewed annually. Amounts paid in excess of these figures will be included on the annual return of expenses and benefits to the Inland Revenue on form P11D. Any assessable tax will be recovered by adjustment to the Members' tax code in the following year. NIC deductions are made during the course of the year through the Payroll in the month in which the payments are made. Any mileage paid for travel from a Members external employer or site where the Member has not attended on DCC official business will be taxable and subject to NIC. This excludes travel for home to County Hall as for this purpose these journeys are deemed to be between bases within the employment.

## **Other Expenses**

In addition to the above payments, Members may be entitled to claim other expenses incurred in accordance with the Council's policy for the reimbursement of expenses. These will be claimed through the appropriate channels and will be subject to Income Tax and NIC in accordance with tax law. Deductions from payments should occur at the time the payment is made.

Charges for car parking incurred at County Hall or any other administrative offices of the County Council (where the Council itself levies any such charges) will be deducted from their monthly allowances/expenses payments, calculated in line with the agreed scale of charges as may be amended from time to time.

## **Other Benefits**

Members may be permitted to make use of the Council's assets for incidental personal use or benefit from facilities which give rise to a taxable benefit. Where this occurs, Members, via the Council's Democratic Services & Scrutiny Secretariat, will be required to declare benefits of this nature for inclusion the annual P11D return to the Inland Revenue.

## 4. Dispensations

The Council has agreed with the Inland Revenue that in certain instances payments of expenses and benefits should not give rise to a Tax or NIC liability as there is no profit element involved. Details of these dispensations or any further advice on Allowances, Tax and Social Security Benefits can be obtained from Devon Finance Services.

The Basic Allowance payable to members is intended to recognise and offset a proportion of the routine costs of correspondence and telephone calls. However, historically, Members have also been offered the loan of County Council ICT equipment when elected. That remains the Councils property and is not a disbursement, allowance or form of reimbursement of expenses. No alternative, monetary or financial provision is made for any Member who declines the loan of such equipment. It is not a universal offer (i.e the same equipment provided to all members) and the Independent Allowances Remuneration Panel has consistently taken the view that this is an operational matter and falls outside the scope of the Allowances Scheme. Full details of equipment lent to Members are kept and are available for inspection.

5. Any reference to 'Chair of a Committee' shall be taken to include the Chair of the Cabinet.



# Item 7a

## **Part 7a - COUNCILLORS MATERNITY, PATERNITY, SHARED PARENTAL AND ADOPTION LEAVE**

This Policy sets out Member's entitlement to maternity, paternity, shared parental and adoption leave and relevant allowances. It refers to the period of absence taken following the birth or adoption of a child. Individual political groups can make arrangements to cover Member's roles to ensure no democratic deficit to the electorate and constituents. Its objective is to enable Members to take appropriate leave and that reasonable arrangements are in place to provide necessary cover.

Improved provision will contribute towards increasing the diversity of experience, age and background of its Elected Members as well as retaining experienced, and particularly female, Councillors, making public office more accessible.

There is currently no legal right to parental leave for Elected Members, but this policy conforms with current legal requirements.

### **1. Requirements**

- (a) Members are required to comply with S85 of the Local Government Act 1972 (attend at least one meeting of the authority in any six month period). The Council will provide information on qualifying meetings and dispensations.
- (b) The Council may exercise its right to waive expulsion if non-presence relates to Parental Leave, constituting 'some reason approved by the authority before the expiry of that period' with prior agreement between the Councillor and the Council.
- (c) Absences from meetings during Parental Leave will be recorded as such (not attributed to general absence).

### **2. Leave Periods**

- (a) Members giving birth / adopting through an approved adoption agency shall be entitled to take up to six months maternity / adoption leave from the due or placement date, with the option to extend up to 52 weeks by agreement.
- (b) Where a birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months' period. Any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.
- (c) Members are entitled to take a minimum of 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).

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- (d) A Member who has made Shared Parental Leave arrangements through their employment should advise the Council. The Council will endeavour to replicate such arrangements.
- (e) Where both parents are Members, leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks.
- (f) Any Member taking leave should comply with the notice requirements of the Council (both when the leave starts and when they return), should respond to reasonable requests for information and keep the Council informed of intended return dates and requests for extensions.

### **3. Basic Allowance during Maternity, Paternity, Shared Parental or Adoption Leave**

- (a) All Members will receive their Basic Allowance in full throughout the agreed period of leave.

### **4. Special Responsibility Allowances (SRA's) during Maternity, Paternity, Shared Parental or Adoption Leave**

- (a) Members entitled to a Special Responsibility Allowance (SRA) will continue to receive this in full.
- (b) Where a replacement is appointed to cover the period of leave, that person will receive an SRA on a pro rata basis for the period of the temporary appointment.
- (c) The payment of SRA's (to the primary SRA holder or replacement), shall continue for six months, or until the date of the next Annual Council Meeting, or the date when the Member is up for election (the soonest). At that point, the position will be reviewed, and will be subject to a possible extension for a further six-month period.
- (d) Should a Member appointed to replace the Member on leave already hold an SRA position, the ordinary rules relating to one SRA payment shall apply.
- (e) Unless the Member taking leave is removed from their post at an Annual Meeting whilst on leave, or unless their Party loses control of the Council during their leave period, they shall return after their leave period to the same post if possible.

### **5. Resigning from Office and Elections**

- (a) If a Member decides not to return at the end of their leave, they must notify the Council immediately (allowances will cease from the effective resignation date).

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- (b) If an election is held during the leave period and they are not re-elected, or do not stand for re-election, the basic allowance (and any SRA) will cease from the Monday after the election date when they would technically leave office.

## **6. Support / Other**

- (a) The Council will ensure Members have adequate IT provision to allow them to work from home and also keep in touch while on Parental Leave and upon returning to their role.
- (b) The Council will periodically review its Member Allowance Scheme to ensure adequate provisions relating to Parental Leave and Carers' Allowance. Members will be provided with information on the allowances available and the process for claiming.<sup>1</sup>
- (c) Members shall use reasonable efforts to ensure arrangements are in place to cover roles and / or workload. The Council can help to facilitate such arrangements.

<sup>1</sup> Legislation.gov.uk, The Local Authorities (Members' Allowances) (England) Regulations 2003, link.



## PART 8 MANAGEMENT STRUCTURE

<b>THE COUNTY COUNCIL</b>
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<b>LEADERSHIP TEAM</b>
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<b>Donna Manson</b> Chief Executive (Head of the Paid Service)		
<b>Tandra Forster</b> Director of Integrated Adult Social Care	<b>Stuart Collins</b> Director of Children and Young People’s Futures	<b>Steve Brown</b> Director of Public Health, Communities and Prosperity
<b>Matthew Jones</b> Director of Transformation & Business Services	<b>Meg Booth</b> Director of Climate Change, Environment and Transport	<b>Angie Sinclair</b> Director of Finance and Public Value (Chief Finance Officer)
<b>Maria Price</b> Director of Legal and Democratic Services	<b>Maria Chakraborty</b> Director of People and Culture	

<b>Director Finance and Public Value</b>	Financial Strategy, Management, Transformation and Compliance Capital and Technical Devon Audit Partnership Pensions Procurement Services
<b>Director of Transformation &amp; Business Services</b>	Digital Transformation ScoMIS Business Services Land, Property and Corporate Assets (Facilities Management) Customer Relations / CSC Policy Integration Team

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<p><b>Director of People &amp; Culture</b></p>	<p>People Strategy and Performance            HR Operations            Payroll            Recruitment            Health and Safety            HR helpline and Management Systems            Organisational Change</p>
<p><b>Director of Climate Change, Environment and Transport</b></p>	<p>Capital Programmes            Waste Management            Highways and Traffic Management, Operations and Enforcement            Engineering and Transport            Public Rights of Way            Planning, Transport and Environment Functions (Climate Change, Minerals and Waste Planning, Development Management, Natural and Historic Environment, Flood Risk Management, Public Transport, Transport Co-ordination &amp; School Transport and School Place Planning)</p>
<p><b>Director of Public Health, Communities and Prosperity</b></p>	<p>Public Health and Active Devon            Domestic / Sexual Violence &amp; Abuse / MARACS Communities            Emergency Planning            Communications and Media            Research &amp; Community Intelligence            Heritage, Arts, Culture, Library and Archive            Youth Services            Economy, Enterprise &amp; Skills (Economic Development, Regeneration Training &amp; Development of Employability Skills, Trading Standards, Post 16 Education &amp; Adult Learning)</p>
<p><b>Director of Children and Young People's Futures</b></p>	

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**Children's Social Care**  
(Deputy Director, Children's Services)

Children's Social Work  
Early Help  
Young People's Services  
Atkinson Unit

**Children's Health and Wellbeing**  
(Deputy Director, Children's Services)

Commissioning Services  
Placement Services and Adoption & Fostering Services  
Public Health Nursing  
Children's Safeguarding / Quality Assurance

**Education & Learning**

School and Educational Performance  
Inclusion Services  
School Admissions  
Special Educational Needs (SEND)  
Alternative Educational Provision  
School Improvement Services  
Early Years Services and Childcare  
Virtual School

**Director of Integrated Adult Social Care**

**Deputy Director - Adult Commissioning & Health**

Strategic Planning & Commissioning of Social Care Services  
Quality Assurance & Improvement  
Prevention and Early Intervention Services  
Direct Payments, Personal Brokerage & Targeted Support

**Head of Service - Adult Care Operations and Health**

Adult Care Management (including older people, & disability services, adult mental health and adult learning disabilities)  
Adult Safeguarding  
In-house Service Provision  
Residential, Day & Enabling Provision for older people / adults with disabilities

**Director Legal and Democratic Services**

Legal Services  
Democratic Services & Scrutiny  
(*Designated Head of Scrutiny: Camilla de Bernhardt Lane*)  
Registration Service (Births, Marriages & Deaths)  
HM Coroners  
Lord Lieutenancy  
EDI



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## PART 9: JOINT ARRANGEMENTS

The Council has made arrangements under section 101 of the Local Government Act 1972, with the local authorities indicated below, for the exercise of the functions shown.

The membership and names of addresses of any joint committee established under these arrangements are set in the Register of Committee Appointments maintained by the Chief Executive.

The Committees are administered by and operate under the Standing Orders of Devon County Council where indicated or by the Council denoted by an asterisk. Where no such notation occurs the Committee operates under separate working arrangements or protocols copies of which may be obtained from the Chief Executive of Devon County Council.

Committee/Function	Other Local Authority	Scope/Terms of Reference
Devon Authorities Strategic Waste (Joint) Committee	East Devon District Council Exeter City Council Mid Devon District Council North Devon District Council South Hams District Council Teignbridge District Council Torbay Council Torridge District Council West Devon Borough Council	<p>To promote sustainable, cost effective and efficient service delivery through a shared approach to resource and waste management in Devon.</p> <p>To take ownership of and be responsible for the development, implementation and review of the Resource and Waste Management Strategy for Devon Action Plan.</p> <p>To exercise those responsibilities delegated to the Committee and to make recommendations to the respective Authorities including through the Chief Executives and Leaders group on matters of strategic importance including future strategy, collection, treatment and disposal of wastes; and to implement and further develop initiatives as requested by this group and joint consultative committees.</p> <p>To share resources wherever practicable, having due regard to the opportunities for economies of scale to ensure effective use of resources including joint procurement opportunities to deliver savings to the public purse.</p>

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		<p>To continue to develop and implement behavioural change &amp; education initiatives to ensure that communities are well informed and are actively encouraged to maximise their opportunities for waste minimisation, reuse and recycling &amp; composting.</p> <p>To consider and adopt funding policies for the Committee's Budget.</p> <p>To administer payments from the Committee's Budget in accordance with the County Council's Financial Regulations to finance waste management activities; to receive accounts relating to Joint Schemes; and to consider the annual budget for the Committee.</p>
Joint Health Overview/Scrutiny Committee	Other local authorities with health/overview scrutiny powers affected by a proposed development or variation in service	To represent the Council on any joint committee established with other council pursuant to the Health and Social care Act 2001 Directions to Local Authorities (Overview and Scrutiny Committees, Health Scrutiny Functions) [In line with the South West Regional Joint Health Scrutiny Committees Protocol endorsed by the County Council on 25 June 2009]
Devon Audit Joint Partnership Committee	Torbay Council Plymouth City Council, Mid Devon District Council, North Devon District Council, Torridge District Council, Devon and Somerset Fire and Rescue	To oversee the discharge by the Devon Audit Partnership of those functions with regard to the internal audit of constituent members of the Partnership
Exeter Strategic Board	Exeter City Council	To share data and information about strategic issues affecting the city , to identify an annual work programme around key strategic themes of interest to both City and County Councillors that are not the focus of other groups or committees, to take an analytical, evidenced based approach to the examination of the key themes/issues with

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		<p>the aim of identifying priorities for joint action, to make recommendations to the City and County Councils about policy or practice that could have a positive impact for the city including opportunities for joint action, to contribute to effective partnership working across the City, to support and engage with communities and neighbourhoods in identifying priorities and finding ways to meet local needs, to enable groups and communities to influence and shape local public services and strategies and to allocate community funding to projects of community or citywide relevance.</p>
<p>Locality (County) Committees</p>	<p>East Devon District Council  Mid Devon District Council  North Devon District Council  South Hams District Council  Teignbridge District Council  Torridge District Council  West Devon Borough Council</p>	<p>To receive briefings from and discuss with the relevant Locality Development Officer (who will act as Lead Officer to the Committee) and with other officers as necessary specific service and community issues and projects within the district and to make recommendations to the Cabinet on appropriate action.</p> <p>To improve information and communication with the public about its access to County Council services in the area and to monitor its performance in the delivery of these services.</p> <p>To develop and ensure effective partnership working with the City, District or Borough Council (as the case may be) and other partners in the discharge of local functions.</p> <p>To undertake any additional responsibilities and allocate budgets which may be delegated by the Cabinet from time to time. To consider, if required, any grant or award proposed by individual members from locality budget funds allocated by the Cabinet in line with the Locality Budget Operating Principles set out at Section Four hereunder.</p> <p>To express a vision for the areas reflecting cohesion principles and community views, demonstrate understanding of the make-up of the community and champion the participation of under-represented groups and promote integration of different groups.</p>

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		To administer those educational trusts in the Committee's area for which the County Council is Trustee.
Highways and Traffic Orders Committees	<p>East Devon District Council</p> <p>Exeter City Council</p> <p>Mid Devon District Council</p> <p>North Devon District Council</p> <p>South Hams District Council</p> <p>Teignbridge District Council</p> <p>Torridge District Council</p> <p>West Devon Borough Council</p>	<p>Within the general strategy, policies and operating procedures of the Council to exercise the following powers of the Highway Authority delegated by the Cabinet:</p> <p>(1) To develop, approve details and monitor and implement the Statutory Devon Local Transport Plan local area improvement programmes, up to a value [works costs] of £250,000.</p> <p>(2) To approve details and implement improvement schemes from the Statutory Devon Local Transport Plan, countywide, sub-regional and local safety scheme programmes, up to a value [works costs] of £250,000.</p> <p>(3) To approve details and implement Traffic Regulation Orders, and schemes for the control of parking on the highway and to be involved in the development of proposals for park and ride schemes.</p> <p>(4) To comment on proposals by third parties to stop up or divert highways and stop up private means of highway access.</p> <p>(5) To control the use of highways by the granting of consents, approvals, licences, minor property rights in connection with operations, uses or activities on, under, over or adjacent to the highway.</p> <p>(6) To ensure the effectiveness of the maintenance of highways, bridges and street lighting.</p> <p>(7) To consider and approve proposals for the making up of private streets.</p> <p>(8) To maintain an overview on issues relating to repeated obstruction of the highway and advise when action to enforce public rights of way may be considered appropriate.</p> <p>(9) To approve the establishment or deletion of school crossing patrol sites, within the criteria and budget defined by the Council.</p> <p>(10) To approve the revocation of New Street Orders.</p> <p>(11) To approve applications to the</p>

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		<p>Magistrates' Court for the stopping-up or diversion of a public highway.</p> <p>(12) To make all the Orders required to implement a highway or transportation scheme approved by the Cabinet recognising that if, following public advertisement of such an Order, a HATOC has concerns about a proposal it should refer it to the Cabinet for final determination.</p> <p>(13) To make Gateway Orders under the Clean Neighbourhood Act 2005.</p>
District/Parish Clusters	All District & Parish Councils in Devon	Where establishment of such arrangements is agreed in a locality, to improve information and communication about and access to Councils services and allocate community funding to support local ideas and projects that will make a difference locally
Devon & Cornwall Police & Crime Panel	All Councils in the Devon & Cornwall Constabulary area	To scrutinise the actions and decisions of the Police & Crime Commissioner, supporting and challenging the Commissioner in the exercise of his/her functions
Heart of the South West Trading Standards Service	Devon and Somerset County Council, Torbay Council and Plymouth City Council	The exercise of all Trading Standards functions in relation to Devon and Somerset County Councils, Torbay Council and Plymouth City Council in accordance with the Joint Trading Standards Service arrangements (Devon County Minute 200m of 25 April 2013 and (Minute 98 of 27 April 2017 (Torbay) and Minute 307 of 1 October 2020 (Plymouth)
Regional Adoption Agency	Devon, Cornwall and Somerset Councils, Torbay Council and Plymouth Council	The exercise of all adoption functions in relation to both Devon and Somerset County Councils, Plymouth City Council and Torbay Council in accordance with the Regional Adoption Agency arrangements (the arrangements approved by the Cabinet on 11 April 2018 (Minute 163 refers) and endorsed by the County Council on 24 May 2018 (Minute 97 refers]). The inclusion of Cornwall Council agreed by Cabinet ((8 November 2023) (Minute 414)) and Council (7 December 2023 (Minute 240).

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## **PART 10: WORKING PRACTICES**

The Council's procedures are governed by its Constitution. This is supplemented by the approved Working Practices explained below which affect the operation of the Committee process or impact upon individual members. These Working Practices do not form part of the Constitution but are reproduced here for convenient reference.

### **CABINET MEMBER REMITS**

The functions of Cabinet Members (including their powers of individual decision making) are set out in detail in Part 3 of the Constitution. There are also arrangements for the taking of Cabinet decisions in the absence of the assigned Cabinet Member.

### **PRE-AGENDA/BRIEFING MEETINGS**

Pre-agenda meetings with a Chair or Vice-Chair of a Committee to determine the business to be considered at a meeting are not permitted.

Briefing meetings are only to be held — to which the Chair and Vice-Chair should be invited — to discuss administrative arrangements for the meeting and should normally be held on the same day as the meeting in question.

This arrangement does not apply to briefing meetings for the County Council to which the Party Group Leaders, Secretary and Whips will be invited. Nor does it preclude an Cabinet Member or the spokesperson of any group from seeking his/her own personal briefing from a Chief Officer/Head of Service.

This Working Practice does not apply to any Joint Committee.

### **ARRANGING AND CANCELLING MEETINGS**

Arrangements for convening meetings of committees or working parties or for varying the date or time of any meeting included in the Council's approved calendar must be agreed by the Chair and the Vice-Chair. Before seeking the agreement of the Chair and Vice-Chair, Officers will attempt to seek the views of opposition groups represented on that body. In the case of the Standards Committee only, the Vice-Chair should also be consulted.

This Working Practice does not apply where the revised date is agreed at a meeting of the committee or working party itself, provided all groups are present, nor does it apply to any Joint Committee or to any Group convened by an Cabinet Member .

### **CABINET AGENDA**

In line with the Council's Constitution, the Leader has responsibility for approving the running list (the 'Forward Plan') of matters to be considered by the Cabinet and for determining the agenda for meetings of the Cabinet.

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In so doing the Leader will consult with other Cabinet Members to ensure that all relevant matters requiring a decision of the Cabinet are considered at the appropriate time. The Forward Plan will be submitted to and agreed by the Cabinet at each meeting.

The Constitution provides for non- Cabinet Members of the Council to ask the Leader to include an item on the agenda for a meeting of the Cabinet. The Leader will normally accede to such a request provided they are persuaded that the item is not intended simply to elicit information or to facilitate the making of a presentation.

## **MOVING, SECONDING AND RECORDING OF MOTIONS/AMENDMENTS**

The wording of any motion or amendment proposed by a member at a committee or working party which is not accepted may be recorded in full in the minutes of that meeting if the Member so requests by completing the appropriate form provided for that purpose.

When at any meeting of the Council, the Cabinet or a committee or working party a member who has moved a motion or amendment fails to secure a seconded, the Chair of that meeting will, as a matter of course, formally second the motion or amendment in order to facilitate debate.

## **STARRING OF MINUTES**

The minute of a decision which is within the delegated powers of a committee will be starred. For Committees other than the Cabinet, the Council may only amend or agree a different course of action if the starred minute has not yet been acted upon. In order to remove a star that has been properly applied to a minute 20 members must be in favour of doing so at the Council meeting, as is required by Standing Order 13(5).

In the case of the Development Management Committee there is an expectation that an individual planning application should be dealt with by that Committee and not referred to full Council for determination. Decisions which involve the formulation of new policy or the variation of existing policy will however be unstarred.

## **PARTY WHIPS AND SECRETARIES**

There are two commonly used terms to describe Members Groups on the Council. These are 'Political Groups' and 'Party Groups'.

Political Groups are established in accordance with the Local Government and Housing Act 1989 for the purpose of appointing members to committees and allowances. The Council has in addition delegated to the Whips and Secretaries of those Groups responsibility for:

- the appointment of members to outside bodies;
- the filling of vacancies on Committees and Working Parties; and

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- seating arrangements at meetings of the County Council.

The term Party Group is used to describe a Group of Members of the same political persuasion only. Presently that description only applies to the Conservative, Liberal Democrat and Labour Groups on the Council.

The distinction between a Political Group referred to above as defined by the 1989 Act (*for the purposes of political balance on committees and allocating special responsibility allowances*) and a Party Group (*a number of members of a particular political persuasion*) cannot be over emphasised.

## **SEATING ARRANGEMENTS**

At meetings of the County Council members are seated in accordance with a formal seating plan agreed with the Party Whips and Secretaries which respects each Group's political integrity.

At Committees, different seating arrangements apply for different types of meeting to reflect the work they do. However, it is nearly always the case that Members of the same group will sit in close proximity to each other though that is not a requirement.

Members attending committee meetings under Standing Order 25(2) are expected to sit, where possible, at the back of the room coming forward to sit at the table to speak to the Committee (if invited to do so).

## **PRESS RELEASES/COMMUNICATIONS**

Press releases will be prepared in line with the Council's Communications Protocol, as approved by the Procedures Committee, reflecting the Council's current political arrangements and consistent with the Government's Code of Practice for Local Authority Publicity.

In addition:

- Chief Officers/Heads of Service are responsible for ensuring that Members representing the Council on European, National or Regional Bodies are properly briefed on issues relating to Devon;
- Where the Press Office prepare a statement on any matter of civic or national significance it should be made by the Chair of the County Council alone and any personal statement by any other member in response to a direct approach by the media is
- made at that member's individual discretion.

## **REPRESENTATIONS**

Copies of all representations sent on behalf of the County Council to outside bodies including Ministers, Government Departments, the Local Government Association, the European Community/Union and MPs or MEPs will —

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together with any responses received — be made available in the Members' Lounge and in each of the Party Group Rooms prior to their being reported to the relevant Committee(s).

Copies of responses shall also be sent as a matter of course to all Members of the Council, via email.

Representations made to the County Council or Committee about a matter to be considered will be reported by the Chief Officer (in writing or orally, indicating the number and nature of the representations received) who will also ensure that copies of any such letters or representations received are available for inspection by members.

If a decision is referred to another Committee or the full Council then any representations reported to the "original" meeting must also be reported in writing.

A Scrutiny Committee may invite representatives of another organisation to make a presentation. Schemes already operate for Members of the public to ask questions or make submissions to the Cabinet or Development Management Committee. Over and above these, individuals or deputations should not address a committee.

Where notification is received of a deputation wishing to present a petition (or other form of representation) to a Committee the Democratic Services Officer will consult with the Chair of that Committee, or the relevant Cabinet Member, and spokespersons for that committee about arrangements for representatives of all Groups to meet the deputation to accept the petition or other representation before or during the Committee meeting.

Where, in accordance with Article 3 of the Constitution, a petition is received the Cabinet, Committee or relevant Head of Service will respond to the issues raised in that petition within a period of 15 days, in line with the Council's Petition Scheme set out at Part 4 of the Constitution.

## **INVOLVING MEMBERS**

All Councillors will be sent electronically, by email, the agenda sheets for meetings of all Committees and will be informed of individual items which are identified as affecting an area or matter within their electoral division.

Members can also be provided with any other reports referred to therein, on request. The agenda and reports of all of the Cabinet and major committees of the Council will be published on the 'Democracy Centre' in the Council's website.

Where a Member is unable to attend any meeting of a Committee of the Council they may submit their views in writing and these will be reported to the meeting.

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County Councillors will be notified of any site inspection or formal member meeting taking place in their electoral division arranged by the Council and may attend, if they so wish, and take part.

County Councillors will also be notified of any visit by the Chair of the Council, a Committee Chair or Cabinet Member to a County Council site or establishment in their area and where a Chair or Cabinet Member is taking part in an official function, formal visit or public event organised by the Council in his or her capacity as Chair or Cabinet Member.

Where such a meeting is arranged by a third party every effort will be made to ensure the local member is made aware of the event and, if possible, invited.

This does not apply where a Chair/Cabinet Member is visiting an area or establishment informally or on a casual basis or as part of a 'familiarisation' or 'getting to know you' process or attending a routine or calendared meeting of a Council Committee at County Hall or any other of its administrative offices.

Officers will also keep members informed about any issues or services which affect their divisions and will alert members at the earliest possible stage of any matter or development proposal that is likely to be submitted to a Committee of the Council.

## **PROTOCOL FOR SENDING EMAIL ATTACHMENTS TO COUNTY COUNCILLORS**

The Council's current code of practice (for employees) stipulates that files/documents should not normally be sent electronically as attachments but that alternative methods, such as links to webpages or shortcuts, should be used which allows the recipient to see the document but does not create multiple copies and fill up the Servers.

It is acknowledged that this practice is only effective where recipients are working on-line or have access to specific parts of the network. That is not currently the case for Councillors and when working off-line (as the majority of Councillors do) the most effective means of sending files/documents is as an attachment.

Incorporating the file/document into the email itself will neither solve the problems encountered by Councillors in the time taken to log-on/synchronise or in managing their Mail Boxes nor will it necessarily reproduce the document in its original form, which may itself create difficulties.

In the present circumstances, the following protocol for sending emails/attachments to County Councillors has been adopted:

- The length of any emails sent to County Councillors should be kept to a minimum;
- A file/document should only be sent as an attachment to an email when it is absolutely necessary by virtue of the timescale of the matter or issue

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concerned and it is not possible to get that file/document to the Councillor by an acceptable alternative means within that timescale;

- Any file/document sent as an attachment should not normally exceed 4 A4 pages of text and should be a text only version (i.e. it should not include graphics or pictures).

Where Members of the Council all receive an identical approach from a third party it would be prudent to reply indicating that to avoid conflicting or confusing answers the query/correspondence would be passed direct to the Director of Legal and Democratic Services to respond on behalf of the Council.

## **DISTRIBUTION OF INFORMATION TO MEMBERS OF THE COUNCIL**

In addition to the rights of members set out in the Access to Information Procedure Rules (para 13.3 of the Council's Constitution) and the Member/Officer Protocol (Part 4 of the Council's Constitution), the County Council has agreed the following principles to be followed in distributing information to members of the Council.

### **When Information is asked for by a Member**

If it is purely a local constituency problem or question of fact a reply will only be sent to the member raising the question.

If the issue raised impinges on the policy of a specific Cabinet Member holder or Committee the member will be advised that, unless they have asked that the exchange of correspondence be confidential, a copy of the correspondence will be sent to the appropriate Cabinet Member/Committee Chair and spokespersons.

### **Information Prepared by an Officer for a Cabinet Member or Chair of a Committee**

If the information is provided at the request of the Cabinet Member or Chair it will not be further distributed. If the information being provided also raises questions of appointments or nominations by a Committee, the Group Whips/Secretary will be advised. If the information provided for an Cabinet Member /Chair is general information relating to a particular area of the County then a copy will be sent to the Local Member(s) for information and that Officers be reminded of the need to maintain confidentiality of information provided to a local member, in line with the protocol, where so requested.

### **Information Prepared by a Cabinet Member or Chair of a Committee**

Where information is prepared for distribution by or on behalf of a Cabinet Member or a Chair it should be sent out under the appropriate Officers name in line with paragraph 7.2 of the Protocol on Member/Officer Relations. The general principles of right to know shall apply and where it communicates

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information about council services or any matter affecting council services it shall be sent to all members and that Officers be reminded of the need to maintain confidentiality of information provided to a local member, in line with the protocol, where so requested.

## **Rights Under the General Law**

A Member also has a right to see papers where they genuinely have a "need to know" in connection with their duties as a County Councillor. This test is easily satisfied if they are a Member of the Committee to which the issue relates but less so in other cases. Applications should be made to the Chief Officer/Head of Service who will refer the request to the Monitoring Officer in doubtful cases.

## **Conventions Adopted Constraining the Legal Rights set out above**

The following Code of Guidance has been adopted by the Council:

- (i) a member who has a right to inspect documents should consider whether they have a personal or prejudicial interest in the matter covered by the document and whether any action contemplated in the light of the information obtained might conflict with the Members' Code of Conduct;
- (ii) a member requiring information should make application to a senior officer of the Department holding that information. Applications should not be made direct to junior officers;
- (iii) an application must allow the officer time to satisfy themselves that records do not contain exempt information which a member cannot have access to. If they do, such material may have to be removed;

## **Code of Conduct for Members Concerning the Disclosure of Confidential & Exempt Information**

The Council has adopted the following guidelines in relation to the code of conduct concerning the disclosure of confidential and exempt information:

- (i) that where a member during the course of discussion of a Part II item (where the press and public are excluded from a meeting because of the confidential nature of the business) is aware that they would wish to make a statement to the press or communicate information to a third party, they should advise the Committee of their intention and at that time seek guidance as to the extent to which it would be proper for them to do so and, if possible, determine a text or form of words which would not breach the responsibility for maintaining confidentiality;
- (ii) that where after the meeting has closed, a member is approached either by press or media or a member of the public for information they should, before making any comment, contact either the Director of Legal and Democratic Services or the Cabinet Member/Chair of the Committee (who

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in turn may wish to contact the Director of Legal and Democratic Services) to seek advice, when it will be possible for the text of any statement that the member may wish to make to be agreed;

- (iii) that, alternatively if the member so wishes, they should refer the person inquiring to the Cabinet Member/Chair of the Committee for the Chair to make a statement on the matter after consultation with the Director of Legal and Democratic Services.

## VISITS TO COUNTY COUNCIL ESTABLISHMENTS

The following table outlines the protocol to be followed, in the instances described.

### COUNTY COUNCIL PROTOCOL FOR VISITS BY MINISTERS, MPS, MEPS AND PARLIAMENTARY CANDIDATES

When	Who	What	Action
At the time of an election  [NOTE: For a general election, from the date of the announcement by the Prime Minister until the date of the election. For local elections, from the date of the publication of the notice of election until the date of the election]	MPs and MEPs	Visiting any establishment in <u>any</u> constituency	Consent of the Head or Officer in charge required.  The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief Executive who will then advise the Chair of the relevant Committee or Cabinet Member and Group spokespersons.  The Chief Executive in consultation with the Chief Officer will advise on those persons who should be invited to accompany the visitor and who should invite them.
	Government Minister or Shadow Spokesman	Visiting any establishment	Consent of the Head or Officer in charge required.  The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief Executive who will then advise the Party Group Leaders and the Chair

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			<p>of the relevant Committee or Cabinet Member and Group spokespersons.</p> <p>The Chief Executive in consultation with the Chief Officer will advise on those persons who should be invited to accompany the visitor and who should invite them.</p>
	Parliamentary candidate	Visiting an establishment in the constituency they are contesting	<p>Consent of the Head or Officer in charge required.</p> <p>The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief Executive who will then advise the relevant Cabinet Member or Committee Chair and Group spokespersons.</p> <p>The Chief Executive in consultation with the Chief Officer will advise on those persons who should be invited to accompany the visitor and who should invite them.</p>
At any other time	MPs and MEPs	Visiting an establishment in their <u>own</u> constituency	<p>Consent of the Head or Officer in charge required.</p> <p>The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief and the relevant Cabinet Member holder or Committee Chair and Group spokespersons.</p>
	MPs and MEPs	Visiting any establishment in <u>another MP's or MEP's</u> constituency	<p>Consent of the Head or Officer in charge required.</p> <p>The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn</p>

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			advise the Chief and the relevant Cabinet Member or Committee Chair and Group spokespersons.
	Parliamentary candidate	Visiting an establishment in the constituency they are contesting.	Consent of the Head or Officer in charge required.  The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief and the relevant Cabinet Member or Committee Chair and Group spokespersons.
		Visiting an establishment in any other constituency	Not normally advisable to allow! Refer to Chief Executive. Only if premises were of countywide significance should permission be countenanced
	Government Minister or Shadow Spokesman	Visiting any establishment	Consent of the Head or Officer in charge required.  The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief Executive, the Party Group Leaders and the relevant Cabinet Member or Committee Chair and Group spokespersons.  The Chief Executive in consultation with the Chief Officer will advise on those persons who should be invited to accompany the visitor and who should invite them.

## OFFICERS OF THE COUNCIL

Officers are employed by the Council as a whole and their overriding responsibility is to the Council and not to any one party or political group. An Officer may, if invited, attend a Group Meeting of any of the groups.

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Any Officer who does attend a group meeting must maintain strict neutrality. An Officer should not attend such a meeting other than as normally constituted although it is recognised that at such meetings there may be one or two persons present who are neither elected Members nor Officers of the Council but who customarily attend those meetings.

The Council has adopted a separate Protocol for Member/Officer Relations the purpose of which is to guide members and officers of the Council in their dealings with one another which is included in the Council's Constitution.

## **OPENING OF COUNTY COUNCIL ESTABLISHMENTS**

For any opening, launch or event, the Chair of the County Council will normally be invited to attend and perform the ceremony. In the event of the Chair or the Vice-Chair being unable to do so the local County Councillor will be invited to perform the ceremony, but in all instances the relevant Cabinet Member should be invited, wherever possible, to play a part in the event.

Detailed guidelines outlining procedures to be followed and the involvement of local members can be obtained from the Committee Secretariat & Member Services Unit.

## **PROTOCOL RELATING TO APPOINTMENT OF DEVON COUNTY COUNCIL (DCC) MEMBERS TO DCC JOINT VENTURE COMPANIES OR ANY DCC COMPANY**

*[NB: The Procedures Committee on 7 July 2014 considered a report from the Director of Legal and Democratic Services in relation to the recent appointment of a DCC Member to a joint venture company. The purpose of this protocol (dated 11 August 2014) is to put in place arrangements in relation to the appointment process of such a Member to such a company.]*

If in future a Member of Devon County Council should apply for a position in relation to any joint venture company or a Devon County Council company of the Council then no existing Member of Devon County Council shall be party to the appointment procedure or appointments committee.

Any officer of the Council invited to participate in any appointments process shall be of such seniority as to be a head of service or above and shall before commencing any involvement in the appointment process seek advice of the Director of Legal and Democratic Services to determine whether or not the relationship between themselves and the Member involved is such as to prejudice the officer from any further involvement in the process. In such circumstances, should the officer need to withdraw from the process then the Council shall be represented on the panel by one of the statutory officers, namely the Chief Executive, the Director of Finance and Public Value or the Director of Legal and Democratic Services.

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## **CONTACTING OFFICERS: GIVING NOTICE**

Standing Orders now provide that Members may submit questions or notices to the Chief Executive by email other than by letter or handwritten note.

Any email message to a member of staff in the Committee Secretariat and Members Services Unit will be regarded as having been sent to the Chief Executive.

Members are encouraged to use the email facility provided to them – as this is now the primary means of communication.

## **PART 11: CORPORATE GOVERNANCE FRAMEWORK**

The Council's Framework of Corporate Guidance also includes:

### **Devon County Council Strategies, Plans etc..**

Devon County Council's Strategic Plan  
Devon County Minerals and Waste Development Framework and associated Plans  
Devon Local Transport Plan  
Devon School Organisation/Infrastructure Plans  
Admission and Education Transport Policies  
Education Infrastructure Plan (2016-2033)

Climate Change and Energy Strategy  
Devon County Council Environmental Policy (Waste, Procurement and Countryside and Heritage) & Annual Performance Statement  
Household Waste: Recycling Centres Chargeable Waste Scheme, Community Composting. Trailer Restrictions and Non-acceptable Waste Policy  
Winter Maintenance Emergency Plan  
Highway Maintenance Plan  
Highway Safety Policy  
Highway Infrastructure and Asset Management Policy and Strategy  
Municipal Waste Management Strategy

Annual Report / Stewardship Report  
Annual Financial Statements/Budgets  
Annual Outturn Reports  
Medium Term Financial Plan  
Annual Statement of Accounts  
Annual Efficiency Statement  
The Council's Annual Governance Statement  
Standards Committee Annual Report  
Local Flood Risk Management Strategy and Action Plans

Organisation Performance Plan  
Business/Service Area Plans  
Corporate Risk Management and Assessment and Annual Reports  
Corporate Communications Strategy  
Corporate Consultation Strategy  
Equality Objectives  
Procurement Policy  
Member Development Strategy  
Human Resources Policies and Guidance  
Health & Safety Policies and Guidance  
Policy on Unacceptable Customer Behaviour  
Pay Policy Statement/Chief Officer Employment Rules

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Complaints and Feedback Procedure  
Corporate Parenting Pledge

Council/Cabinet Forward Plan  
Scrutiny Committee Work Programmes

## **Other Strategies, Plans.**

External Auditors - Annual Management Letter  
Devon Audit Partnership Annual Report  
Internal and External Audit Plans  
Audit Strategy

Voluntary Sector Compacts

Annual Public Health Report

Devon Children's Safeguarding Board Annual Report  
Annual Childcare Sufficiency Report  
The Devon Children and Families Partnership: Constitution and Governance Arrangements  
The Devon Single Local Authority Hosted Regional Adoption Agency: Constitution, Governance Arrangements and inter-authority agreement

The Devon Adults Safeguarding Board Annual Report  
Vision and Five-year plan – Adult Social Care including various policies to promote independence (TECS)  
Joint Strategy for Learning Disabilities

Communities Strategy (*Devon Strategic Partnership*)

The Heart of the South West Devolution and Joint Committee: (Constitution & Governance Arrangements)