

Phil Norrey
Chief Executive

To: The Chair and Members of the
Procedures Committee

County Hall
Topsham Road
Exeter
Devon
EX2 4QD

(See below)

Your ref :
Our ref :

Date : 30 October 2018
Please ask for : Karen Strahan 01392 382264

Email: karen.strahan@devon.gov.uk

PROCEDURES COMMITTEE

Wednesday, 7th November, 2018

A meeting of the Procedures Committee is to be held on the above date at 10.30 am in the Committee Suite - County Hall to consider the following matters.

P NORREY
Chief Executive

A G E N D A

PART I - OPEN COMMITTEE

1 Apologies for absence

2 Minutes

Minutes of the meeting held on 10 September 2018.

3 Items requiring urgent attention

Items which in the opinion of the Chair should be considered at the meeting as a matter of urgency.

MATTERS FOR DECISION

4 Scheme of Delegation Review (Pages 1 - 18)

Report of the County Solicitor (CSO/18/33) on the recent review of the Scheme of Delegation and proposed amendments contained therein, attached.

- 5 Risk Assessment Process for Councillor Disclosure and Barring Service (DBS) Checks (Pages 19 - 24)

Report of the County Solicitor (CSO/18/34) outlining a process for the Risk Assessment and Management of Councillor Disclosure and Barring Service (DBS) Checks, attached.

- 6 Health and Wellbeing Board - Extended Membership (Health and Wellbeing Board - Minute 75)

The Health and Wellbeing Board at its meeting on 13th September 2018 received a [Task Group Report](#) on the development of the Devon Health and Wellbeing Board following discussions about the role and priorities of the Board at the June 2018 Stakeholders Conference.

It was highlighted that the Board should focus on health and not just healthcare, with a tiered approach to geography and democratic accountability at all levels. Other suggestions included closer working across all three Health and Wellbeing Boards in the Devon area, a specific role for the Board in joint commissioning of health and care, a stronger emphasis on the wider determinants of health, a focused role for the Board in holding the wider system to account and the development of links with stakeholders and local areas.

The Board RESOLVED that the objectives for Board development and the action plan be approved.

Procedures is therefore asked to endorse the aspect of the action plan relating to the extended membership of the Board to incorporate Devon Fire and Rescue Service and SWAST.

- 7 Scrutiny Best Practice (Pages 25 - 34)

In accordance with Standing Order 23(2) Councillor Wright has requested that the Committee consider this matter in particular the Governments response to the Communities and Local Government Select Committee Report 'Effectiveness of Local Authority Overview and Scrutiny Committees'.

A copy of the Governments response to the report is attached and an update report from the Centre for Public Scrutiny and Association of Democratic Services Officers on progress with the new Guidance, anticipated in December 2018.


MATTERS FOR INFORMATION

NIL

PART II - ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED

NIL

Members are reminded that Part II Reports contain confidential information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s). Members are also reminded of the need to dispose of such reports carefully and are therefore invited to return them to the Democratic Services Officer at the conclusion of the meeting for disposal.

Membership
Councillors C Chugg, J Hart, S Hughes, S Aves, F Biederman, A Connett, R Hannaford, N Way and C Wright
Declaration of Interests
Members are reminded that they must declare any interest they may have in any item to be considered at this meeting, prior to any discussion taking place on that item.
Access to Information
Any person wishing to inspect any minutes, reports or lists of background papers relating to any item on this agenda should contact Karen Strahan 01392 382264. Agenda and minutes of the Committee are published on the Council's Website and can also be accessed via the Modern.Gov app, available from the usual stores.
Webcasting, Recording or Reporting of Meetings and Proceedings
The proceedings of this meeting may be recorded for broadcasting live on the internet via the 'Democracy Centre' on the County Council's website. The whole of the meeting may be broadcast apart from 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/ In addition, anyone wishing to film part or all of the proceedings may do so 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. 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 or the Democratic Services Officer in attendance so that all those present may be made aware that is happening. Members of the public may also use Facebook and Twitter or other forms of social media to report on proceedings at this meeting. An open, publicly available Wi-Fi network (i.e. DCC) 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 Officer identified above.
Emergencies
In the event of the fire alarm sounding leave the building immediately by the nearest available exit, following the fire exit signs. If doors fail to unlock press the Green break glass next to the door. Do not stop to collect personal belongings, do not use the lifts, do not re-enter the building until told to do so.
Mobile Phones
Please switch off all mobile phones before entering the Committee Room or Council Chamber
If you need a copy of this Agenda and/or a Report in another format (e.g. large print, audio tape, Braille or other languages), please contact the Information Centre on 01392 380101 or email to: centre@devon.gov.uk or write to the Democratic and Scrutiny Secretariat at County Hall, Exeter, EX2 4QD.
 Induction loop system available

NOTES FOR VISITORS

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SatNav – Postcode EX2 4QD

Walking and Cycling Facilities

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Access to County Hall and Public Transport Links

Bus Services K, J, T and S operate from the High Street to County Hall (Topsham Road). To return to the High Street use Services K, J, T and R. Local Services to and from Dawlish, Teignmouth, Newton Abbot, Exmouth, Plymouth and Torbay all stop in Barrack Road which is a 5 minute walk from County Hall. Park and Ride Services operate from Sowton, Marsh Barton and Honiton Road with bus services direct to the High Street.

The nearest mainline railway stations are Exeter Central (5 minutes from the High Street) and St David's and St Thomas's both of which have regular bus services to the High Street. Bus Service H (which runs from St David's Station to the High Street) continues and stops in Wonford Road (at the top of Matford Lane shown on the map) a 2/3 minute walk from County Hall, en route to the RD&E Hospital (approximately a 10 minutes walk from County Hall, through Gras Lawn on Barrack Road).

Car Sharing

Carsharing allows people to benefit from the convenience of the car, whilst alleviating the associated problems of congestion and pollution. For more information see: <https://liftshare.com/uk/community/devon>.

Car Parking and Security

There is a pay and display car park, exclusively for the use of visitors, entered via Topsham Road. Current charges are: Up to 30 minutes – free; 1 hour - £1.10; 2 hours - £2.20; 4 hours - £4.40; 8 hours - £7. Please note that County Hall reception staff are not able to provide change for the parking meters.

As indicated above, parking cannot be guaranteed and visitors should allow themselves enough time to find alternative parking if necessary. Public car parking can be found at the Cathedral Quay or Magdalen Road Car Parks (approx. 20 minutes walk). There are two disabled parking bays within the visitor car park. Additional disabled parking bays are available in the staff car park. These can be accessed via the intercom at the entrance barrier to the staff car park.



NB   Denotes bus stops

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First Aid

Contact Main Reception (extension 2504) for a trained first aider.

Report of the County Solicitor

Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.

Recommendation

To review the proposed changes to the Constitution (General and Specific Delegations), as attached as an appendix to the Report (with changes annotated) and ask the Committee to recommend those changes to the Council.

1. Introduction

- 1.1 The postholders listed in the scheme of delegation are authorised to exercise the functions of the County Council and Cabinet (executive and non-executive) relating to the service area or management responsibilities and to make all the day-to-day decisions which relate to the efficient discharge of those functions.

2. Background

- 2.1 The reason for the review of the Scheme of Delegation (Section 3e of the Constitution) was, in the main, in light of the large-scale review of financial regulations, which Members discussed, amended and approved at the Procedures Committee on the 18th April 2018. This was subsequently endorsed by the Council on 24 May 2018.
- 2.2 In that financial regulations review, some of the financial limits were amended which meant a potential impact on some of the delegations outlined in section 3e.
- 2.3 Heads of Service and Chief Officers were therefore asked to work with their lead accountant, to undertake this check and advise of any revisions required to ensure compliance with the financial regulations.
- 2.4 The second reason for the review is that documents like the Constitution do not always keep up to date with terminology used within service areas, legislation or even statutory guidance, so again the accuracy and appropriateness of these issues needed to be qualified.
- 2.5 Finally, a review hadn't been undertaken for a number of years so it was an opportune time to do so.

3. Review

- 3.1 Heads of Service and Chief Officers have worked on the document over the last few weeks and a revised scheme is attached, clearly showing any deletions and / or additions and in some cases simply movement to another Chief Officer's or Head of Service's area.

4. Next Steps

- 4.1 When all of the individual and specific delegations have been agreed and then formally approved, a second piece of work will commence.

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- 4.2 In line with the scheme, a Chief Officer / Head of Service may authorise any other officer to make any such decision(s) on his/her behalf (sub delegation for want of a better word), for example, allow some senior managers to sign contracts or chief planners to sign off highways consultations to name but a few.
- 4.3 This has been done over many years, and the records held in Democratic Services are potentially not reflective of all the current practices. There could also be new ones that need to be considered.
- 4.4 Following the necessary, a communication will be sent to all Chief Officers / Heads of Service which lists their current delegations and any sub delegations that are held. It will be an opportunity for review whether any of the functions are undertaken by other officers and then advising the Head of Democratic Services accordingly, the aim being a composite schedule which can be kept centrally.
- 4.5 This latter part of the review also needs to be conducted due to it being raised as part of a Devon Audit Partnership audit into good governance. Whilst the report concluded that our standards were high, it was felt in light of the financial regulations review, that it would be an opportune time to review this aspect also.

5. Conclusion / Summary

- 5.1 Chief Officers and Heads of Service have embraced this review as it has given an opportunity to reflect and ensure the scheme is accurate and fit for purpose in light of changing legislation and priorities.

6. Financial considerations

- 6.1 No financial implications have been identified.

7. Risk management considerations

- 7.1 No unimaginable risks have been identified. The inherent risk is that of the Constitution not being updated in line with new and relevant legislation and the risk of decisions being made which are not compliant with the budget and policy framework, which has the potential for decisions being challenged.

8. Equality, Environmental Impact and Public Health Considerations.

- 8.1 No equality, environmental impact or public health implications have been identified.

JAN SHADBOLT

Electoral Divisions: All

Local Government Act 1972: List of Background Papers:

None

Contact for enquiries: Karen Strahan 2264

Room No: G31, County Hall

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.

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 'One Plan' process incorporating planning for change and continuing delivery of services within one framework.

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

CHIEF OFFICER FOR ADULT CARE & HEALTH

Jointly responsible with the Chief Executive and other Chief Officers 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.

~~The Chief Officer for Adult Care and Health will~~ To provide strategic leadership in the **commissioning and delivery of services to individuals and families including safeguarding adults and harm reduction services for adults, support and reablement services for older people, support to those with physical disabilities, learning disabilities, special needs, sensory impairments and mental health needs problems, and where appropriate working jointly with statutory partners** including ~~services integrated with health.~~

~~The Chief Officer for Adult Care and Health will be responsible for promoting prevention, early intervention and a culture that is person-centred, supporting choice and control and tackling inequalities.~~

The Council's statutory Director of Adult Social Services (s6, Local Authority Social Services Act 1970) with overall responsibility for services for Adults Social Care.

More information on the role of a DASS can be found in [national guidance on the Statutory Chief Officer Post of the Director of Adult social Service.](#)

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CHIEF OFFICER FOR CHILDREN'S SERVICES
Jointly responsible with the Chief Executive and other Chief Officers 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 overall responsibility for services for Children's Social Care.
CHIEF OFFICER FOR COMMUNITIES, PUBLIC HEALTH, ENVIRONMENT & PROSPERITY
Jointly responsible with the Chief Executive and other Chief Officers 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 infrastructure and place shaping and universal population services in Devon including economic development, highways, planning, transport, environmental functions (e.g. countryside management) and regulatory functions (e.g. libraries, trading standards, community safety and resilience) and an integrated youth service, post 16 education & skills, community strategies, performance improvement and cultural services.
Responsible also for leading and managing the development of strategic planning for and commissioning 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 public health, public health protection and health improvement; promote healthy lifestyles and better health, 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 Children's 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)
The Council's Senior Responsible Officer for RIPA under the Regulation of Investigatory Powers Act 2000 (RIPA).
CHIEF OFFICER FOR HIGHWAYS, INFRASTRUCTURE DEVELOPMENT & WASTE
Jointly responsible with the Chief Executive and other Chief Officers 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 and a healthy lifestyle. 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 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.

COUNTY SOLICITOR

The Council's Monitoring Officer (Section 5, LG&HAct 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), Communications, Democracy, Scrutiny, Registration and Coroners Services.

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.

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

The Council's Responsible Person under the Corporate Homicide and Manslaughter Act 2007.

COUNTY TREASURER

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.

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.

HEAD OF DIGITAL TRANSFORMATION & BUSINESS SUPPORT

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, procurement and business performance and asset strategy and for developing and delivering the Council's Customer Services Strategy and managing the Council's Helpdesks and Customer Service Centre.

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 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, the Highways Agency, Network Rail and Train Operating Companies, the Homes & Communities Agency and with other appropriate private and public sector partners and maximise the benefit from engagement in EU activity.

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Responsible for managing the delivery of directly delivered regulatory services including trading standards, adult & community learning and post 16 education & skills.

HEAD OF PLANNING, TRANSPORTATION & ENVIRONMENT

Responsible for establishing, managing and integrating the County Council's strategic information, assessment and policy functions for communities and places; determining the strategic intelligence, interpretation and needs assessments for the Council and 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.s.

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. 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.

DEPUTY CHIEF OFFICER / CHILDREN'S SERVICES AND HEAD OF SOCIAL CARE

Responsible for the strategic direction, operational commissioning, policy and practice of the Council in relation to the safety and protection of individual children and young people at risk of abuse; 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 ~~Unit~~ **Secure Children's Home** and fostering and adoption services 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.

DEPUTY CHIEF OFFICER / HEAD OF EDUCATION & LEARNING

Responsible for the Council's functions in relation to schools including partnerships and new provision, admissions, school meal eligibility, **attendance**, ~~School Quality & Improvement and commissioning for special needs and alternative education provision~~, 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**. ~~School Improvement and Inclusion Services~~

HEAD OF ADULT COMMISSIONING & HEALTH

Responsible for leading and managing the development of strategic planning for and commissioning services across the full range of social care services for ~~children, young people,~~ adults and older people, carers and ~~young carers and~~ people with special needs and for 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.

HEAD OF ADULT CARE OPERATIONS & HEALTH

Responsible for 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; developing preventative and early intervention approaches working across agencies and professional groups while maintaining and developing robust joint agency partnership arrangements.

Responsible for 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 and 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 delivery models.

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.

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.
TO THE COUNTY SOLICITOR
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 institute proceedings in respect of any breach of the Public Library Bye-Laws.
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.
Legal Executives and Trainee Solicitors: 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 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 under section 40 of the Local Government (Miscellaneous Provisions) Act 1982 against persons unlawfully causing or permitting nuisance or disturbance on school or college premises.
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 issue authorisations under s15 of the Local Government (Miscellaneous Provisions) Act 1976
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.

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To amend the lodging allowance and the base rate of removal allowances annually according to changes in the retail price index.
TO THE CHIEF FINANCE OFFICER (COUNTY TREASURER)
<i>[The County Treasurer 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 reinstate pensions in exceptional circumstances.
To exercise discretions contained in the Local Government Pensions Schemes Rules.
To determine requests for early release of deferred pension benefits on compassionate grounds (with a right of appeal available to the Personnel Panel).
To amend the lodging allowance and the base rate of removal allowances annually according to changes in the retail price index
To appoint one or more outside providers of "in-scheme" additional benefits for those members who wish to pay AVC's.
To sign schedules relating to vehicles supplied under the master agreement signed by the County Solicitor and to reach agreement with employees of the County Council for the use of Contract Hire Vehicles under the Devon County Vehicle Contract Hire Scheme.
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 approve bridging loans and car loans for staff.
To keep a loans register in accordance with Section 46 of the Local Government & Housing Act 1998.
To determine the application of the Crombie Regulations.
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 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 below the value of exceeding 2.5% or £1,000, whichever is the greater, on any one item revealed at on the occasion of the annual stocktaking exercises or otherwise
To write off any debt below the value of £10,000.
TO THE COUNTY SOLICITOR AND CHIEF FINANCE OFFICER (COUNTY TREASURER)
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 THE HEAD OF DIGITAL TRANSFORMATION & BUSINESS SUPPORT
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 and develop a prioritised programme of work to progress Expressions of Interest received suitable for development with local communities, 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.

<p>TO THE CHIEF OFFICER FOR COMMUNITIES, PUBLIC HEALTH, ENVIRONMENT & PROSPERITY (PUBLIC HEALTH FUNCTIONS)</p> <p>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</p> <p>To exercise the Council's public health response as a responsible authority under the Licensing Act 2003 and to make representations about licensing applications</p> <p>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.</p> <p>To make disbursements in accordance with the Council's Museums Policy and the Devon Museums Lifelong Learning Initiative.</p> <p>To respond to Pharmacy Consolidation Applications following consultations with the Chair of the Health and Wellbeing Board Cabinet Member whose remit includes responsibility for public health and the local county councillor.</p>
<p>TO THE HEAD OF EDUCATION & LEARNING</p> <p>To approve, in consultation with the Director of Finance County Treasurer, deficit budgets set by governing bodies (such approval to be granted for the maximum length of two years to repay the deficit. one year only and. In very exceptional circumstances and only by agreement with the County Treasurer can this be extended to three years).</p> <p>To take decisions on financial assistance to costs of boarding education within agreed criteria (Report EO/87/119).</p> <p>To review, in accordance with Section 11 Education (No.2) Act 1986, Section 19 of the Education Act 2002, the composition of a maintained school governing body consequent upon a significant change in character of the school concerned.</p> <p>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. in consultation with the Chief Executive;</p> <p>To establish an IEB in accordance with Section 72 of the Education and Inspections Act 2006</p> <p>To prepare revised Instruments and Articles of Government for Devon Maintained Schools and make any necessary Orders.</p> <p>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.</p> <p>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.</p> <p>In accordance with section 446 Education Act 1996, to approve the instigation of legal action under either 443 or 444 Education Act 1996.</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 Magistrates Court 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 in order to explain why the LA is not applying for an Education Supervision Order when so directed by a Magistrates Court as required by section 447 (3) Education Act 1996</p> <p>To administer the day to day affairs of educational charities for which the County Council is trustee.</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 34 521(1) of the Education Act 1944 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 agree enhancements of the number of 3 year olds in a nursery unit where no other solution is deemed practicable and where it is necessary to maintain the viability of the unit.</p> <p>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.</p>

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<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 THE DEPUTY CHIEF OFFICER, CHILDREN'S SERVICES AND HEAD OF SOCIAL CARE <i>The Deputy Chief Officer, Children's Services and Head of Social Care shall exercise 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 (arrangements approved by the Cabinet on 11 April 2018 (Minute 163 refers) and endorsed by County Council on 24 May 2018 (Minute 97 refers)).</i></p>
<p>To approve bodies or persons employing school children under Section 37(3) of the Children and Young Persons Act 1933.</p>
<p>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.</p>
<p>Under the Adoption Act 1976 and Adoption Agency Regulations 1983:</p> <ul style="list-style-type: none">(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.
<p>To appoint independent members of Adoption Panels in consultation with the appropriate Cabinet Member(s).</p>
<p>TO THE CHIEF OFFICER CHILDREN'S SERVICES AND THE HEAD OF EDUCATION AND LEARNING</p>
<p>To approve appropriate support packages 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. 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.</p>
<p>TO THE CHIEF OFFICER CHILDREN'S SERVICES AND THE DEPUTY CHIEF OFFICER CHILDREN'S SERVICES AND HEAD OF SOCIAL CARE</p>
<p>To approve individual social care, education or support contracts (in a range of settings) 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.</p>
<p>TO THE CHIEF OFFICER FOR ADULT CARE AND HEALTH <i>To approve and agree packages of care of up to £5,000 per week.</i></p>
<p>HEAD OF ADULT CARE OPERATIONS & HEALTH</p>
<p>To provide welfare services pursuant to Section 2 of the Chronically Sick and Disabled Persons Act 1970 within the current policies of the Council</p>
<p>To refuse to issue certificates in accordance with Regulation 10 under the Disabled Persons (Badges for Motor Vehicles) Regulations 1982.</p>

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'
HEAD OF ADULT COMMISSIONING & HEALTH
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.
TO THE CHIEF OFFICER FOR HIGHWAYS, INFRASTRUCTURE DEVELOPMENT & WASTE
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 and (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 immediately 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 operational procedures of the highway winter service policy/practice
TO EITHER CHIEF OFFICER FOR HIGHWAYS, INFRASTRUCTURE DEVELOPMENT & WASTE OR COUNTY SOLICITOR IN RESPECT OF HIGHWAYS AND TRAFFIC ORDERS FUNCTIONS
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 'Processes for Implementation of the Local Transport Plan' 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 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.
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.

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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 £25,000 £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.	
TO THE HEAD OF PLANNING, TRANSPORTATION & ENVIRONMENT	
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.	
Transport Co-ordination Service	
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.	
TO THE CHIEF TRADING STANDARDS OFFICER	
<i>[The Chief Trading Standards Officer shall exercise all Trading Standards functions in relation to both Devon and Somerset County Councils and Torbay 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) and 27 April 2017 (Minute 98 refers)(in respect of Torbay)</i>	
Chief Inspector of Weights and Measures for purposes of the Weights and Measures Act 1985.	
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 & 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	
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.	
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 and Somerset County Councils and Torbay Council, as appropriate, in respect of the Trading Standards Service's legal responsibilities.	
To inspect, enter, investigate, enforce or institute legal proceedings 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:	
Accommodation Agencies Act 1953	Gambling Act 2005
Administration of Justice Acts 1970 and 1985	Hallmarking Act 1973
Agriculture Act 1970	Health and Safety at Work Etc Act 1974
Agriculture (Misc. Provisions) Act 1968	Housing Act 2004
Animal Health Acts 1981 and 2002	Insolvency Act 1986
Animal Health and Welfare Act 1984	Intellectual Property Act 2014
Animal Welfare Act 2006	Knives Act 1997
Animals Act 1971	Legal Services Act 2007
Anti-Social Behaviour Act 2003	Licensing Act 2003
Anti-Social, Behaviour Crime & Policing Act 2014	Magistrates Courts Act 1980

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Architects Act 1997	Malicious Communications Act 1988
Business Protection from Misleading Marketing Regulations 2008	Medicines Act 1968
Cancellation of Contracts made in a Consumer's Home or Place of Work etc, Regulations 2008	Motor Cycle Noise Act 1987
Cancer Act 1939	Motor Vehicles (Safety Equipment for Children) Act 1991
Charities Acts 1992 & 2006	Offshore Safety Act 1992
Children and Young Families Act 2014	Olympic Symbol etc; (Protection) Act 1995
Children and Young Persons Act 1933	Package Travel, Package Holidays and Package Tours Regulations 1992
Children & Young Persons (Protection from Tobacco) Act 1991	Performing Animals (Regulation) Act 1925
Clean Air Act 1993	Pesticides (Fees & Enforcement) Act 1989
Companies Acts 1985 and 2006	Petroleum (Consolidation) Regulations 2014
Companies Directors Disqualification Act 1986	Poisons Act 1972
Companies (Trading Disclosures) Regulations 2008	Prices Act 1974
Consumer Contracts (Information, Cancellation & Additional Charges) Regulations 2013	Proceeds of Crime Act 2002
Consumer Credit Acts 1974 and 2006	Protection from Harassment Act 1997
Consumer Protection Act 1987	Protection of Animals Act 1911
Consumer Protection from Unfair Trading Regulations 2008	Psychoactive Substances Act 2016
Consumer Rights Act 2015	Registered Designs Act 1949
Consumers, Estate Agents & Redress Act 2007	Regulatory Enforcement & Sanctions Act 2008
Control of Pollution Act 1974	Road Traffic Acts 1988 and 1991
Copyright, Designs and Patents Act 1988	Road Traffic (Consequential Provisions) Act 1988
Courts and Legal Services Act 1990	Road Traffic (Foreign Vehicles) Act 1972
Crime & Disorder Act 1988	Road Traffic Offenders Act 1988
Criminal Attempts Act 1981	Safety of Sports Grounds Act 1975*
Criminal Justice Act 1988	Scotch Whisky Act 1988
Criminal Justice & Police Act 2001	Solicitors Act 1974
Criminal Law Act 1977	Telecommunications Act 1984
Crossbows Act 1987	Theft Acts 1968 & 1978
Customs and Excise Management Act 1979	Theft (Amendment) Act 1996
Development of Tourism Act 1969	Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010
Dogs Act 1906	Tobacco Advertising & Promotion Act 2002
Dogs (Amendment) Act 1928	Tobacco Products Duty Act 1979
Education Reform Act 1988	Trade Descriptions Act 1968
Employment Agencies Act 1973	Trade Marks Act 1994
Energy Act 1976	Trading Representations (Disabled Persons) Acts 1958 & 1972
Energy Conservation Acts 1981 and 1996	Trading Schemes Act 1996
Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015	Unsolicited Goods and Services Act 1971
Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2012	Unsolicited Goods and Services (Amendment) Act 1975
Enterprise Act 2002	Video Recordings Acts 1984 & 2010
Environment Act 1995	Weights and Measures etc., Act 1976
Environmental Protection Act 1990	Weights and Measures Act 1985
Estate Agents Act 1979	Welfare of Animals at Slaughter Act 1991
Explosives Acts 1875 and 1923*	
Explosives (Age of Purchase) Act 1976*	and all relevant legislation made under the European Communities Act 1972
Fair Trading Act 1973	
Farm and Garden Chemicals Act 1967	(* not in Torbay)
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	

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<p>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.</p>	
<p>TO THE HEAD OF ECONOMY, ENTERPRISE & SKILLS</p>	
<p>To support projects involving applications for National Lottery Funds requiring LEA endorsement to external funding sources requiring endorsement, but without commitment to additional resources on behalf of the County Council.</p>	
<p>To assess eligibility of projects for external funding.</p>	
<p>To respond as matter of urgency to any invitations to the County Council to co-operate in an overseas development contract subject to the Council's interests being adequately protected.</p>	
<p>TO THE HEAD OF PLANNING, TRANSPORTATION & ENVIRONMENT AND/OR THE COUNTY SOLICITOR IN RESPECT OF PLANNING POLICY, INFRASTRUCTURE AND DEVELOPMENT MANAGEMENT FUNCTIONS</p>	
	Officer
1.	Land Use Planning Functions
<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. amendments; Section 73 variations of conditions; submissions (including determination of pursuant schemes) under s96 (Schedules 13 and 14) of the Determination of applications made under the Environment Act 1995 for the initial and periodic review of Old mineral permissions.</i></p> <p><i>Determination of prior approval applications when these are required by the provision of the Listed Building Consent; demolition consent; applications classed as permitted development requiring 'prior approval' under the General Permitted Development Order. and The discharge of Habitats & 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 determination of County Matters or County Council Development planning applications, or review of mineral permission applications ROMPs 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>HoPTE</i></p>	
(a)	<p>In cases where an application falls to be determined by the County Council (a "County Matter" or County Council Development application 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 the appropriate Local Planning Authority or Parish/Town Council a statutory consultee.</p> <p style="text-align: right;">HoPTE</p>
(b)	<p>In cases where an application falls to be determined by the County Council (a 'county matter' or County Council Development application 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;">HoPTE</p>

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(c)	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. and the local County Councillor	HoPTE
(d)	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 or by the Secretary of State on planning applications , except in those cases, which because of their nature, size or significance are thought by the Head of Service to require consideration by the Development Management Committee.	HoPTE
(e)	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;	HoPTE
(f)	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;	HoPTE
(g)	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;	HoPTE
(h)	To process and issue consents under the Planning (Hazardous Substances) Act 1990 (where these relate to County Matters)	HoPTE
(i)	To make directions requiring an application for planning permission in respect of certain minerals permitted development rights proposals for mineral exploration and removal of material from mineral working deposits (Directions under Article 7 5 of the General Permitted Development Order 1995 Town and Country Planning (General Permitted Development) (England) Order 2015).	CS or HoPTE
(j)	To prepare attend and give evidence for planning appeals . at Public Inquiries, and in particular, where appropriate, to give evidence on behalf of the authority in the light of amended circumstances;	HoPTE
(k)	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.	HoPTE or CS

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(l)	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.	HoPTE
(m)	To issue screening and scoping opinions and offer scoping advice in respect of Environmental Impact Assessment requirements of County Matter and County Council development planning applications and reviews of Old mineral planning permissions (ROMP) applications ; as required by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and the Amendment Regulations 2000 2017 .	HoPTE
(n)	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 .	HoPTE
(o)	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	HoPTE
(p)	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.	HoPTE
2. Highway Planning Functions:		
(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 Development Management Committee consideration.	HoPTE
(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	HoPTE
(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.	HoPTE
(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 & 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 Development Management Committee for consideration.	HoPTE
(e)	To administer the Advance Payment Code, the private street works procedure and the making of highway agreements arising from development proposals.	HoPTE

3. Enforcement & Monitoring Functions		
(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	CS & HoPTE
(b)	To determine applications for certificates of lawful use and development under s191 and s192 of the Town & Country Planning Act 1990.	CS
(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	HoPTE
4. Legal Agreements		
(a)	To execute agreements pursuant to s106 of the Town & Country Planning Act 1990 and related powers including Sections 4, 6, 38, 171, 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 Development Management Committee's consideration.	CS
(b)	To execute Planning Performance Agreements with applicants for development consent as necessary to deliver decisions within an agreed timetable	HoPTE
©	To prepare and enter into Section 171/184 (Highways Act 1980) Agreements	HoPTE
(d)	To provide instructions to the County Solicitor on Section 106 Agreements and Section 4, 6, 38, 171, 184, 228 and 278 Agreements (Highways Act 1980) including negotiated contributions and works	HoPTE
(e)	To provide instruction to the County Solicitor on management agreements under S39 of the Wildlife and Countryside Act 1981.	HoPTE

TO THE HEAD OF PLANNING, TRANSPORTATION & ENVIRONMENT AND/OR THE COUNTY SOLICITOR 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	HoPTE
(b)	Power to investigate flooding events, publish a report and ensure that other Flood Risk Management Authorities are fulfilling their roles.	HoPTE
(c)	Power to designate an asset when, under the opinion of Devon County Council, the asset is considered to have significant flood defence benefits.	HoPTE or CS
(i)	To designate an asset.	HoPTE
(ii)	To respond on behalf of the County Council to any dispute arising from a designation.	HoPTE or CS
(iii)	To approve any future maintenance or improvements on the designated structure.	HoPTE
(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.	HoPTE

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(ii)	a record of information about each of those structures or features, including information about ownership and state of repair.	HoPTE
(e)	To fulfil the requirements of Sections 29 and 33 34 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.	HoPTE or CS
(i)	To utilise powers of entry under Section 64 of the Land Drainage Act 1991.	HoPTE or CS
(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.	HoPTE
(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	HoPTE or CS
(iv)	To enforce the issue of flow impediment within a watercourse under section 25 of the Land Drainage Act 1991.	HoPTE or CS
(f)	To establish a Sustainable Drainage Systems (SuDS) Approval Body (SAB) 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.	HoPTE
(i)	To review and approve or refuse an application for the provision of a suitable SuDS to review and provide advice on the suitability of the proposed surface water management for the development (ie. sustainable drainage system).	HoPTE
(ii)	To inspect and approve or reject a constructed SuDS to ensure compliance with the approved design. To provide guidance and best practice on the national non-statutory technical standards and local requirement.	HoPTE
(iii)	To act on behalf of the County Council to resolve any dispute following the rejection of a SuDS.	HoPTE or CS
(iv)	(iv) To adopt and maintain a suitably constructed and approved SuDS	HoPTE
(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).	HoPTE

Report of the County Solicitor

Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.

Recommendation

To review and agreed the proposed Disclosure and Barring Service (DBS) Risk Assessment, attached as an appendix to this Report, incorporating the Risk Assessment process into the Safeguarding Guidance Note for Councillors, and ask that the Committee recommends the changes to the Constitution to the Council.

1. Introduction and Background

- 1.1 At the meeting of the Audit Committee on 27 July 2018 (Minute *33), in considering the matter of a DBS check for all Members, it was RESOLVED that the issue of a DBS check for all Members be considered by the Procedures Committee.
- 1.2 The Procedures Committee therefore considered the matter on 10th September 2018 (Minute *44) and, to aid discussion, a factual briefing paper was prepared which outlined the position of a Councillor in respect of DBS checks and when it was appropriate to carry them out (Basic and Enhanced checks), in line with legislation.
- 1.3 The Committee noted that the role of 'Councillor' was not one named in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, therefore there was no eligibility for a DBS certificate solely on the basis of being a Councillor (there would have to be further activities undertaken as prescribed in the legislation).

2. Procedures Committee

- 2.1 The Procedures Committee RESOLVED that the Council adopt a policy of conducting a Basic DBS check for all Members of the Council, notwithstanding a Councillor may undertake certain roles which, in line with the legislation, required 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.
- 2.2 The Committee also asked that representations be made to Government regarding the current criteria which excludes the position of Councillor as named in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (meaning there was currently no eligibility in law for requiring a DBS certificate, solely on the basis of being a Councillor). To date, no response has been received.
- 2.3 It was also agreed that Officers prepare a Risk Assessment that could be used to assess and record the risks of a Councillor in their role, where a DBS certificate shows relevant convictions or other relevant information.

3. Review

- 3.1 The attached Risk Assessment is proposed to form part of the Safeguarding Guidance for Councillors, which although published in the Constitution, doesn't technically form part of it. For ease of reference, the document is attached.

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3.2 The content of the Risk Assessment has been consulted upon with colleagues in both Legal Services and Human Resources.

3.3 The aim of the Assessment is to be light touch, but also safeguarding and protecting both vulnerable children and adults and also the reputation of the Council.

4. Next Steps

4.1 Once the Risk Assessment process has been agreed and determined, the Council will start to progress the DBS checks for all Members of the Council, in line with the newly agreed policy.

5. Financial considerations

5.1 No financial implications have been identified.

6. Risk management considerations

6.1 No unimaginable risks have been identified that have not been considered as part of the risk assessment process.

7. Equality, Environmental Impact and Public Health Considerations.

7.1 No equality, environmental impact or public health implications have been identified.

JAN SHADBOLT

Electoral Divisions: All

Local Government Act 1972: List of Background Papers:

None

Contact for enquiries: Karen Strahan 2264

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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 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 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 '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 or on 01392 383000]

DBS Checks and Risk Assessment

In line with current policy (Procedures Minute 44 of 10 September 2018), the Council will conduct a Basic DBS check for all Members of the Council, notwithstanding a Councillor may undertake certain

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roles which, in line with the legislation, required 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, undertake Reg 44 visits and the relevant Cabinet Members with responsibility for Adults and Children's Services.

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 Council's 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.

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.

October 2018

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	
Was this a 'one-off' offence? or repeat offending?	

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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

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).



Government Response to the Communities and Local Government Committee First Report of Session 2017-19 on the Effectiveness of Local Authority Overview and Scrutiny Committees

Presented to Parliament
by the Secretary of State for
Housing, Communities and Local Government
by Command of Her Majesty

March 2018

CM 9569

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Government Response to the Communities and Local Government Committee First Report of Session 2017–19 on the Effectiveness of Local Authority Overview and Scrutiny Committees

Introduction

In September 2017, the Communities and Local Government Select Committee relaunched the inquiry into the effectiveness of local authority overview and scrutiny committees that had been started by its predecessor earlier that year. The Select Committee published its report on 15 December 2017: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/369/36902.htm>.

The Government will be looking at further ways to extend and improve transparency and is grateful both to the Committee for its consideration of the effectiveness of overview and scrutiny committees and to all those organisations and individuals who provided oral and written evidence.

Scrutiny can play a vital role in ensuring local accountability on a wide range of local issues. It is one of the key checks and balances in the system and the Government is committed to ensuring councils are aware of its importance, understand the benefits effective scrutiny can bring and have access to best practice to inform their thinking.

The Government firmly believes that every council is best-placed to decide which scrutiny arrangements suit its individual circumstances, and so is committed to ensuring that they have the flexibility they need to put those arrangements in place.

The Government is pleased the Select Committee acknowledges overview and scrutiny is functioning effectively in many local authorities and that committees are playing a key role in helping executives develop and review policy. The Government accepts, however, that in some councils scrutiny is not functioning as well as might be expected.

The Select Committee has made a number of recommendations, most, but not all, of which are for the Government to consider. The response in the following pages addresses only those recommendations aimed at the Government.

Recommendation 1: Proposed revisions to Government guidance on scrutiny committees (Page 7)

- a) That overview and scrutiny committees should report to an authority's Full Council meeting rather than to the executive, mirroring the relationship between Select Committees and Parliament.**
- b) That scrutiny committees and the executive must be distinct and that executive councillors should not participate in scrutiny other than as witnesses, even if external partners are being scrutinised.**
- c) That councillors working on scrutiny committees should have access to financial and performance data held by an authority, and that this access should not be restricted for reasons of commercial confidentiality.**

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- d) That scrutiny committees should be supported by officers that are able to operate with independence and offer impartial advice to committees. There should be a greater parity of esteem between scrutiny and the executive, and committees should have the same access to the expertise and time of senior officers and the chief executive as their cabinet counterparts.**
- e) That members of the public and service users have a fundamental role in the scrutiny process and that their participation should be encouraged and facilitated by councils.**

Government Response:

The Government acknowledges that the current guidance was issued in 2006 and is happy to ensure it is updated. New guidance will be published later this year.

- a) The Government notes the evidence supplied to the Committee. Updated guidance will recommend that scrutiny committees report to the Full Council.
- b) The Government accepts the need to limit the executive's involvement in the scrutiny meetings. Updated guidance will make clear that members of the executive should not participate in scrutiny other than as witnesses.
- c) Scrutiny committees already have powers to access documents and updated guidance will stress that councils should judge each request to access sensitive documents on its merits and not refuse as a matter of course. We will also have discussions with the sector to get a better understanding of the issues some scrutiny committees appear to have in accessing information and whether there are any steps the Government could take to alleviate this.
- d) Updated guidance will make clear that support officers should be able to operate independently and provide impartial advice. It will also stress the need for councils to recognise and value the scrutiny function and the ways in which it can increase a council's effectiveness. However, the Government believes that each council should decide for itself how to resource scrutiny committees, including how much access to senior officers is appropriate to enable them to function effectively.
- e) The Government fully believes that local authorities should take account of the views of the public and service users in order to shape and improve their services. Scrutiny is a vital part of this, and scrutiny committees should actively encourage public participation. Updated guidance will make this clear.

Recommendation 2: That DCLG works with the Local Government Association and Centre for Public Scrutiny to identify willing councils to take part in a pilot scheme where the impact of elected chairs on scrutiny's effectiveness can be monitored and its merits considered (Paragraph 35).

Government Response:

The Government will give further consideration to this recommendation.

The Government fully accepts that the chair of a scrutiny committee can have a great impact on its effectiveness. As the then Minister told the Select Committee at the oral evidence session on 6 November 2017, a chair needs to have the requisite skills, knowledge and acumen to take on the functions and achieve the outcomes that the scrutiny committee needs to achieve.

The Government also accepts that, in some instances, the election, rather than the appointment, of a chair might help ensure that the right individual is ultimately selected, but feels that this is a decision for every council to make for itself - we note that the Select Committee is “wary of proposing that [election] is imposed upon authorities by Government”.

A local authority is already free to elect a chair if it wishes, and the updated guidance will recommend that every council bears this in mind when deciding on a method for selecting a chair.

The Government is happy to explore with the sector how best to establish the impact of elected chairs on scrutiny committees’ effectiveness, but is not yet convinced that running pilot schemes is the best way to achieve this. The Government will therefore discuss this recommendation with the sector, including the Local Government Association and Centre for Public Scrutiny, and write to the Select Committee on this matter when we publish updated guidance.

Recommendation 3: Councils should be required to publish a summary of resources allocated to scrutiny, using expenditure on executive support as a comparator (Paragraph 62)

Government Response:

The Government does not accept this recommendation.

Many councils do not have dedicated scrutiny support staff - officers work on issues and engage with committees as part of the flow of business - so this would make quantifying the support that scrutiny committees receive very difficult. In the Government’s view, the quality of the support is the more important issue.

The Government firmly believes that each individual authority is best-placed to decide for itself how to support scrutiny most effectively.

Recommendation 4: That the Government extend the requirement of a Statutory Scrutiny Officer to all councils and specify that the post-holder should have a seniority and profile of equivalence to the council’s corporate management team. To give greater prominence to the role, Statutory Scrutiny Officers should also be required to make regular reports to Full Council on the state of scrutiny, explicitly identifying any areas of weakness that require improvement and the work carried out by the Statutory Scrutiny Officer to rectify them (Paragraph 65).

Government Response:

The Government does not accept this recommendation.

As the then Minister outlined during the oral evidence he gave to the Select Committee, decisions about the allocation of resources for the scrutiny function are best made at a local level. Each council is best-placed to know which arrangements will suit its own individual circumstances. It is not a case of one size fits all.

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The key requirement for effective scrutiny is that the culture of the council is right. Where councils recognise the benefits effective scrutiny can bring, and put in place suitable arrangements, it is working well. Local authorities with a strong culture of scrutiny may invite regular reports to full council on the state of scrutiny in the council and this idea will be reflected in the updated guidance.

Recommendation 5: The Department to put monitoring systems in place and consider whether the support to committees needs to be reviewed and refreshed. We invite the Department to write to us in a year's time detailing its assessment of the value for money of its investment in the Local Government Association and on the wider effectiveness of local authority scrutiny committees (Paragraph 76).

Government Response:

The Government does not accept this recommendation. Local authorities are independent bodies and it is for them to ensure that their scrutiny arrangements are effective.

The Government firmly believes that every council should be able to access the training it needs to carry out its functions effectively, and recognises that Government itself has a role to play in making this happen. That is why we provide funding to the Local Government Association for sector-led improvement work. It should be noted that this funding is to support local authorities on a wide range of improvement work. It is not purely to assist with overview and scrutiny.

The funding is determined annually and for 2017/18 is £21 million. The package of work that is funded from the grant is set out in a jointly agreed Memorandum of Understanding between the Department and the Local Government Association, which is refreshed annually to ensure that it remains relevant to the sector's needs.

The Government is, of course, very keen to ensure that this funding provides value for money and that local authorities feel that the training on offer serves their needs. To this end, the Department has quarterly performance monitoring and review meetings with the Local Government Association, which are chaired by the Director-General for Local Government and Public Services.

The Government notes that not all the councillors who provided evidence to the Select Committee felt that the scrutiny training provided was as effective as they would have liked, and that the Local Government Association wrote to the Committee on 20 December 2017 to provide more information on the feedback it received on its support work.

The Government will ensure that the 2018/19 Memorandum of Understanding with the Local Government Association clearly sets out our expectation that they remain responsive to feedback they receive to ensure all training, including scrutiny training, remains relevant and effective.

Recommendation 6: Scrutiny committees must be able to monitor and scrutinise the services provided to residents. This includes services provided by public bodies and those provided by commercial organisations. Committees should be able to access information and require attendance at meetings from service providers and we call on DCLG to take steps to ensure this happens (Paragraph 90).

Government Response:

Updated guidance will remind councils of the requirements set out in regulations that allow scrutiny members to access exempt or confidential documents in certain circumstances. As mentioned in response to the Select Committee's recommendation on guidance, the Department will also have discussions with the sector to get a better understanding of the issues some scrutiny committees appear to have in accessing information and whether there are any steps the Government could take to alleviate this.

In terms of service providers' attendance at meetings, when councils are tendering contracts with external bodies they should carefully consider including requirements to ensure they are as open and transparent as appropriate. Ultimately, however, it is up to each council to decide how best to hold to account those who run its services.

Recommendation 7: The Government to make clear how LEPs are to have democratic, and publicly visible, oversight. We recommend that upper tier councils, and combined authorities where appropriate, should be able to monitor the performance and effectiveness of LEPs through their scrutiny committees. In line with other public bodies, scrutiny committees should be able to require LEPs to provide information and attend committee meetings as required (Paragraph 96).

Government Response:

The Government agrees on the importance of clear and transparent oversight of Local Enterprise Partnerships (LEPs). The Industrial Strategy made clear the continuing important role of LEPs in delivering local economic growth.

The MHCLG Non-Executive Director Review (published in October 2017), looked at a range of governance issues for LEPs. The Review made a series of recommendations that we have accepted in full and are now implementing. As part of this we have published guidance for LEPs on a range of issues including publication of agenda and papers for LEP Board meetings. This will make the proceedings of LEPs more transparent for local people.

The National Assurance Framework for LEPs states that democratic accountability for the decisions made by the LEP is provided through local authority leader membership of LEP Boards. In places where not all local authorities are represented directly on the LEP board it is important that their representatives have been given a mandate through arrangements which enable collective engagement with all local authority leaders. Many LEPs already go much further in allowing democratic scrutiny of their decision making.

The MHCLG Non-Executive Director Review into LEP governance and transparency explored the extent to which scrutiny was embedded into LEP decision making. The review acknowledged that each LEP had their own arrangements to reflect: legal structure, the complexity and needs of the locality and local requirements to ensure value for money; engagement; and democratic accountability. The Review concluded that it was not appropriate to be prescriptive on the specific arrangements that all LEPs needed to adopt due to the variation in LEP operating models.

The Government committed in the Industrial Strategy White Paper to reviewing the roles and responsibilities of LEPs and to bringing forward reforms to leadership, governance, accountability, financial reporting and geographical boundaries. Working with LEPs, the Government committed to set out a more clearly defined set of activities and objectives in early 2018. MHCLG will write to the Select Committee following the conclusion of this Ministerial review into LEPs to provide an update.

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Recommendation 8: We are concerned that effective scrutiny of the Metro Mayors will be hindered by under-resourcing, and call on the Government to commit more funding for this purpose. When agreeing further devolution deals and creating executive mayors, the Government must make clear that scrutiny is a fundamental part of any deal and that it must be adequately resourced and supported. (Paragraph 104)

Government Response:

The Government accepts this recommendation.

At the Budget it was announced that the government will make available to mayoral combined authorities with elected mayors a £12 million fund for 2018-19 and 2019-20, to boost the new mayors' capacity and resources. Combined Authorities could use some of this resource to ensure that scrutiny and accountability arrangements within the CAs are effectively resourced and supported.

Further to this, the recent Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017, developed with assistance from the Centre for Public Scrutiny and the National Audit Office, provides for the rules of operation for local overview and scrutiny and audit committees to robustly hold combined authorities and mayors to account. The order ensures that there are strong scrutiny arrangements in place consistently across every combined authority area and sets out clear requirements, strengthened appropriately to match the new powers and budgets being devolved, for the arrangement of overview and scrutiny and audit committees in all combined authorities.

Combined authorities are subject to existing relevant legislation applying to local authorities, including the strong finance and audit requirements around ensuring value for money and sustainability. Local democratic accountability, including through the scrutiny of directly-elected mayors, is a crucial and fundamental aspect of devolution.

Scrutiny guidance: things to think about

The Government is preparing new statutory guidance on overview and scrutiny in local government. This will be published in December 2018. The Centre for Public Scrutiny has been commissioned by the Ministry for Housing, Communities and Local Government (MHCLG) to draft parts of the guidance.

It is important that the guidance reflects the needs of councils (particularly scrutiny practitioners), of local people, and of local democracy more generally. Those at local level are likely to have the best sense of the kinds of guidance which is likely to help, or hinder, the way that overview and scrutiny operates.

For this reason, the Centre for Public Scrutiny and the Association of Democratic Services Officers are working together to encourage officers and councillors to discuss the guidance's content, and to feed back on what they might need.

We have prepared this document to assist councils, and other interested people, to have discussions at local level that they can feed back to inform the drafting of the guidance.

What's the background?

The last guidance from Government on scrutiny was issued in 2006. The role of scrutiny has changed significantly since then – just as local government has changed. In 2017, the Communities and Local Government Select Committee conducted an inquiry into overview and scrutiny. The Committee said,

“The role of scrutiny has evolved since its inception. The 2000 Act empowers committees to review decisions made by the executive and to make reports and recommendations for the executive's consideration. In the seventeen years since, the way in which scrutiny committees perform their function has understandably changed. One such way has been an increase in scrutiny of external bodies, most notably health bodies. Councils have delivered services through increasingly varied partnership arrangements - including contracting to private companies, creating arms-length bodies or working with other public bodies - and scrutiny has responded by adjusting how it scrutinises the issues that matter to local residents.”

Because of this evolving role, the Committee recommended that Government issue revised guidance to councils on how scrutiny should be supported. In doing so, the Committee highlighted the importance that “organisational culture” (how people act and behave, and their values) has on the success of scrutiny.

The Government issued a response in early 2018 in which they committed to producing guidance this year.

What is to be covered?

Government's view is that each council is best placed to decide which arrangements best suit its own individual circumstances. With this in mind:

- **How can the guidance help by making it clear to council executives / senior officers the kind of support that should be given to scrutiny (in a cultural sense)?**
- **In a more general sense how might the guidance help scrutiny to build a positive relationship with the executive, emphasising the need for scrutiny's independence?**
- **Should the guidance highlight the need for a greater profile and respect for scrutiny by the executive?**
- **Should the guidance go into detail on issues around work planning – recommending focus and prioritisation?**
- **How can the guidance help scrutiny with access to and use of information?**

- **Local councillors are best placed to understand the needs of local people, but how can the guidance help scrutiny councillors to ensure that scrutiny is supported to engage with the public in this way?**
- **How can the guidance help scrutiny more generally to develop a positive profile for itself at local level?**
- **Are there sections / elements that you think might be particularly helpful – or unhelpful?**

There are three specific issues where Government is keen that the guidance provides some further detail. These are:

- **Scrutiny of “external bodies”** (this might be bodies operating under contract, commissioned partners, alternative delivery vehicles, more traditional partners and so on)
- **Access to information** (access to, and use of, information effectively by scrutiny having been a challenge for many practitioners)
- **Scrutiny of financial resilience and sustainability of councils** (recognising the recent, and continuing, pressures on the sector and scrutiny’s role in helping to understand them)

What will the status of the guidance be?

The guidance will be statutory guidance, issued under section 9Q(1) of the Local Government Act 2000. This means that councils will have to “have regard to” the guidance in the way that they work and the decisions they make. The phrase “have regard to” has a particular legal meaning, which is essentially that a body subject to such guidance has to have a clear reason for departing from it. Your council’s Monitoring Officer is the best person to provide further advice on what this might mean for how you interpret the guidance locally.

The status of the guidance means that it is particularly important that it is supportive of arrangements that promote and support strong independent scrutiny however that might be carried out – and that it does not risk putting in place barriers, however inadvertent, to this happening. Hence the importance of speaking to practitioners.

How can you make your voice heard?

Scrutiny practitioners have already – through the Select Committee’s inquiry – had an opportunity to comment and discuss a range of issues relating to the function and its future. Government has access to the fruits of this work, so we are not suggesting that practitioners take this opportunity to talk again about scrutiny in general terms – hence our outlining of the main issues in the section above.

We are suggesting that you talk over these issues in a range of ways:

- At a regional scrutiny network meeting. There are a number of regional scrutiny networks, which meet periodically. The Centre for Public Scrutiny can provide information about forthcoming meetings in your area.
- At an ad-hoc meeting which might draw together practitioners from an area where there is not currently a scrutiny network. So you might want to get together with colleagues from neighbouring councils to talk things through.
- Through the membership networks within the Association of Democratic Services Officers.
- At a formal scrutiny committee meeting, or a workshop that you organise in your own council.

Timescales for this work are quite challenging. Government is seeking to draft the guidance in early October. For this reason, the conversations above will need to happen **over the course of September**.

You can send your thoughts directly to Ed Hammond (Director of Research, CfPS) at ed.hammond@cfps.org.uk and Graham Knapper (LG Stewardship, MHCLG) at graham.knapper@communities.gsi.gov.uk