

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 : 1 July 2019
Please ask for : Karen Strahan 01392 382264

Email: karen.strahan@devon.gov.uk

PROCEDURES COMMITTEE

Tuesday, 9th July, 2019

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 17th April 2019.
- 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 Amendments to Financial Regulations (Pages 1 - 52)

Report of the County Treasurer (CT/19/66) with proposed amendments to financial regulations.

- 5 Ministry of Housing, Communities and Local Government: Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities (Pages 53 - 58)

Report of the County Solicitor (CSO/19/15) on the revised statutory guidance for Scrutiny, the impact on working practices, the Constitution and future working arrangements, attached.

The full guidance was also available on the web at

<https://www.gov.uk/government/publications/overview-and-scrutiny-statutory-guidance-for-councils-and-combined-authorities>.

In November 2018 (minute *51), at the request of Councillor Wright, the Committee considered the Government's response to the Communities and Local Government Select Committee Report 'Effectiveness of Local Authority Overview and Scrutiny Committees'. At that meeting it was agreed that the item be deferred until such time that the new guidance was received.

- 6 Model Disciplinary Procedure and Guidance - Joint Negotiating Committee for Chief Executives (Conditions of Service Handbook) (Pages 59 - 66)

Report of the County Solicitor (CSO/19/16) on the structures required to manage model disciplinary procedure as outlined in the Conditions of Service Handbook for Model Disciplinary Procedure and Guidance by the Joint Negotiating Committee for Chief Executives, attached.


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

<p><i>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.</i></p>

Membership
Councillors J Mathews (Chair), 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.
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Please switch off all mobile phones before entering the Committee Room or Council Chamber
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 Induction loop system available

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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).

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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.



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

Changes to the Constitution

Report of the County Treasurer

Please note that the following recommendation is subject to confirmation by Committee before taking effect.

Recommendation: that Members approve the proposed changes to the Constitution as outlined below.

1. Background

- 1.1. Part 5 of the Constitution relates to the Code of Business Conduct. Various elements of the Code are now in need of updating.
- 1.2. Procedure and approval limits were updated in April last year. An annual review of operational procedures within Finance has indicated some areas where the procedures could benefit from revision. Proposed changes are outlined in the following sections of this report and highlighted in detail in the attached appendices.
- 1.3. Consultation has been undertaken with Procurement where appropriate.

2. Part 5a Elements of the Code

- 2.1. This is an introduction to the Code of Business Conduct. It is proposed that the chart which shows how elements of the code are arranged be updated to remove and/or replace obsolete elements e.g. the Financial Standards Manual which now forms part of, and is embedded into, financial regulations on a section by section basis.

3. Part 5c Financial Regulations

- 3.1. Capital expenditure & Leasing (B12.4) – we have highlighted part of this for added emphasis as follows; ‘Cabinet may also delegate approval of targeted programmes of work to member led Committees for schemes in excess of this amount’. We have also sought to clarify the wording in B12.5, which states that the amount of capital expenditure to be financed by external borrowing must be approved by the full Council. This is also further highlighted in B12.7 (for revised project approvals) and B12.8 (for new capital items).
- 3.2. Authority to incur, and control of, Capital expenditure (B12.7) – The table which sets out authorisation limits for revised project approvals has been updated in order to clarify specific individual responsibilities and the process to be followed. For example, the term ‘responsible finance officer’ is replaced by ‘Head of Capital & Technical Finance’. The table which sets out authorisation limits for new capital approvals has also been updated in the same way (B12.8).

Agenda Item 4

- 3.3. External Audit (C16.4) - this section has been updated to reflect changes in the Audit and Accountability Act 2014 which established a new framework for appointing external auditors.
- 3.4. Other review bodies (C16.5) – this is amended to correctly reference HM Revenue & Customs (HMRC), thus replacing the old reference.
- 3.5. Payment of Accounts (D5.14) – additional reference has been added in respect of credit notes issued to the authority in respect of accounts payable by us. It also sets out the proposed treatment of unapplied credit notes, and associated write-off procedures in line with write-off procedures followed elsewhere in financial regulations e.g. Income write-offs in section D10.1.6.
- 3.6. Pensions (D8.2) – the link to detailed standards has been corrected to D8.1. There are no changes to the detailed standards, this is merely updating the reference.
- 3.7. External Funding (E2) – this has been updated to enable the Head of Service to approve bids with a gross spend of less than £50,000. However, Chief Finance Officer approval must be sought for any proposal for DCC to be the accountable and/or lead body (E2.2).

4. Part 5e Procedures for Tenders and Contracts

- 4.1. Selective Tendering (2.11) is a two-stage process; the first stage requires the completion of a Selection Questionnaire, the results of which are then evaluated by way of a defined evaluation procedure. This determines a short list of suppliers who are then invited to tender in stage 2 of the tendering process. Given that Procurement Contract Regulations 2015 require that this process be followed, we are now proposing to remove reference to a requirement for subsequent Cabinet Member approval in section 2.11, as this is no longer relevant and would be contrary to Procurement Contract Regulations.

Mary Davis

County Treasurer

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Background Paper Date File Ref

Nil

There are no equality issues associated with this report.

Financial Regulations

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Glossary

INTRODUCTION

Why do we have Financial Regulations?

The County Council is responsible for many millions of pounds of public money and has a number of statutory responsibilities in relation to its financial affairs.

The Local Government Act 1972 directs that Authorities shall make arrangements for the proper administration of their financial affairs and that one of their officers be responsible for the administration of those affairs. The Constitution of the County Council designates the County Treasurer the Chief Finance Officer and hence the section 151 officer.

Under powers contained in the Local Government Finance Act 1982 (s23 and 35) the Secretary of State also makes regulations as to the accounts themselves and requires them to be audited by the Audit Commission. The "Accounts and Audit Regulations" require that the "Responsible Financial Officer" must determine and be responsible for the accounting systems and the form of both the accounts and all supporting records of the authority. They must further ensure (by maintaining an effective and adequate internal audit) that rules so made are observed and that all records are maintained in a satisfactory manner. To conduct its business efficiently, a local authority needs to ensure that it has sound financial management policies in place and that they are adhered to. Part of this process is the establishment of financial regulations that set out the financial policies of the Authority.

Status of Financial Regulations

Financial regulations provide the framework for managing the authority's financial affairs. They apply to every Member and Officer of the Authority and anyone acting on its behalf.

- The regulations identify the financial responsibilities of the full Council, Cabinet and Scrutiny Members, the Head of Paid Service, Chief Officers, the Monitoring Officer, the Chief Finance Officer and other Heads of Service.

All members and officers have a responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.

The Chief Finance Officer is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the full Council for approval. They are also responsible for reporting, where appropriate, breaches of these Financial Regulations to the Council and/or to the members of the Cabinet.

The authority's detailed financial procedures, setting out how these Regulations will be implemented, are contained in the Financial Standards manual.

Chief Officers and Heads of Service are responsible for ensuring that all staff in their departments are aware of the existence and content of the authority's financial regulations.

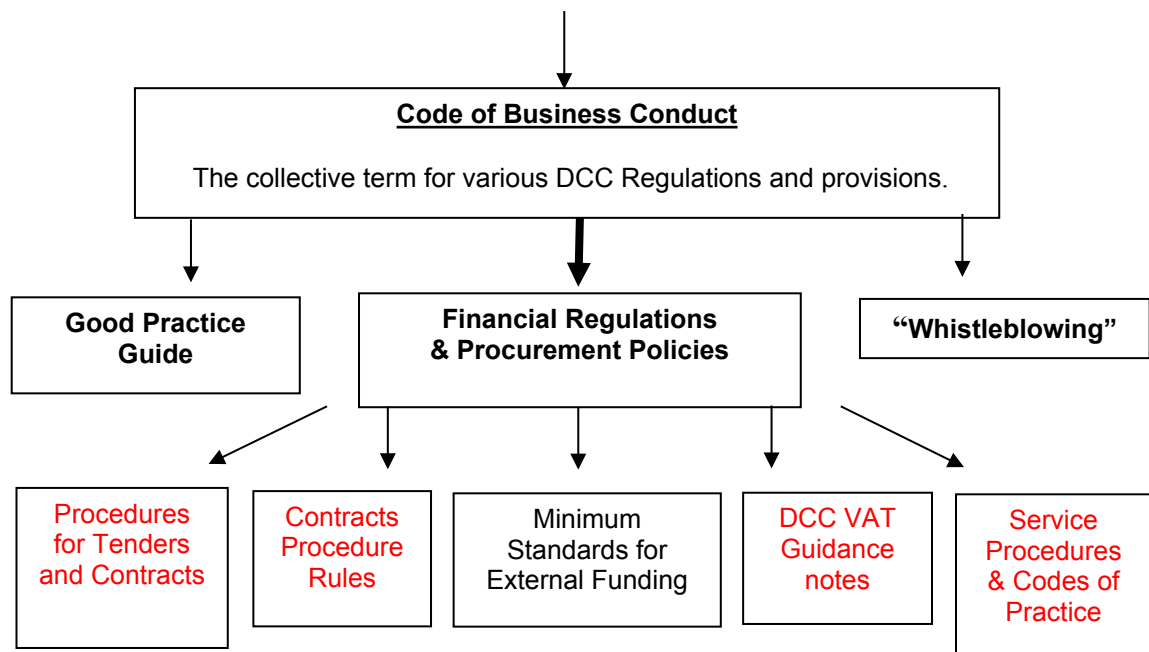
The Chief Finance Officer is responsible for issuing advice and guidance to underpin the financial regulations.

Where Financial Regulations fit in

Financial Regulations are linked to other internal regulatory documents forming part of the Council's Constitution. The following illustration shows where Financial Regulations fit in the hierarchy of the County Council's Codes and Standards and their relationship to other documents.

The Council's Constitution

These govern the way in which the County Council works & the conduct of elected Members and Officers.



What areas are covered in Financial Regulations?

Financial Regulations are set out under a number of broad sections. Each section contains an explanation of the importance of the area, a set of regulations and, where necessary, supporting detailed standards. Where appropriate, reference is made to other appropriate guidance throughout. A glossary is provided at the back of the document.

STATEMENT OF PRINCIPLES

The Council expects high standards of conduct from its members and officers and those with whom it has dealings and this expectation is set out in the Council's policy statement on the Proper Conduct of Business - The Good Practice Guide.

Further to this, the Council expects honesty, openness and integrity to be the values which underpin its financial affairs and all those involved with the Council's finances should work with these values in mind. An extension of this is the Statement of Principles below which provide the basis for the detailed guidance in Financial Regulations.

The Principles

The Council is responsible for the stewardship of public money and will make arrangements to safeguard the interests of taxpayers and other stakeholders.

The Council expects its members and officers to exercise high standards in financial management and administration and aims to stimulate openness and a climate of frankness that it will support through policies and regulations, such as the “whistleblowing” policy.

The importance of planning, monitoring and controlling the use of resources is of vital importance to the Council and it will make arrangements for these activities to be undertaken effectively.

Issues of probity will be dealt with effectively and the Council will work to meet its duty to maintain proper accounts and related records.

Value for money is at the core of the Council's financial activity and the way in which it administers its financial affairs.

Compliance with statutory requirements, accounting standards and appropriate codes of practice will be inherent in the Council's arrangements for financial matters.

Allocation of responsibility and authority in relation to financial matters will be clearly identified.

The Council is a large organisation and is mindful of the need for consistent standards in financial administration and management across all its operations and will set in place guidance to be adhered to by all its directorates. In particular, it expects staff to consult with and use all of the expertise in financial matters that it has available and act on advice from such sources.

The assets and resources of the Council must be protected from loss, damage and theft.

Identifying and quantifying risks to the Council is of key importance and arrangements must be made to reduce, eliminate or insure against them as appropriate.

The accurate, appropriate and timely payment and collection of monies forms much of the routine financial business of the Council and arrangements will be made for its proper administration. National, Government targets for invoice payment are reflected in the Council's payment policy at:

http://www.devon.gov.uk/index/economyenterprise/doing_business_with_us/paymentsfromthecouncil/payment_invoices.htm

A FINANCIAL MANAGEMENT

Importance of this area

Financial Management covers all financial accountabilities in relation to the running of the Council, including the Policy Framework and budget. Below are set out the main areas of responsibility of financial management.

A 1 The Full Council

The Full Council is responsible for adopting the Council's constitution and Members code of conduct and for approving the policy framework, budget and borrowing within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Authority's overall framework of accountability as set out in its constitution and is responsible for monitoring compliance with agreed policy and reporting decisions taken.

A 2 The Cabinet

The Cabinet is responsible for proposing the policy framework and budget to the full Council. Within the approved policy and budget frameworks the Cabinet is responsible for day to day direction of the Council's affairs. The Constitution provides for the necessary decision-making at three levels:

- (a) Key Decisions – decisions which by reason of their financial, strategic or corporate importance are taken by the whole Cabinet;
- (b) Cabinet Member Decisions – each member of the Cabinet is assigned a particular area of service responsibility (a Cabinet Remit) and can take decisions within that Remit after the proposal has been notified to all members of the Council;
- (c) Chief Officer & Heads of Service Decisions – decisions taken within a chief officer's professional or management role or in accordance with specific delegated powers.

A 3 Committees

A 3.1 Scrutiny Committees are responsible for scrutinising Cabinet decisions and for holding the Cabinet to account.

A 3.2 The Audit Committee is an advisory body that reports to the full Council. It has the right of access to all of the information it considers necessary and can consult directly with internal or external auditors. The Committee is responsible for reviewing the external auditor's reports, the annual audit letter and the internal audit's annual plan and report.

A 3.3 The Standards Committee is responsible for advising the council on the adoption and revision of the Members code of conduct and for monitoring the operation of the code.

A 4 Statutory Officers

A 4.1 The Head of Paid Service is responsible for the corporate and overall strategic management of the Authority as a whole. They must report to and provide information for the Cabinet, the full Council, Scrutiny Committees and other Committees. They are responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation.

A 4.2 The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and for reporting any actual or potential breaches of the law or maladministration and for ensuring that the procedures for recording and reporting key decisions are operating effectively. The Monitoring Officer is responsible for

advising all members and officers about who has the authority to take a particular decision and whether a decision is likely to be considered contrary to the policy framework. The Monitoring Officer and the Chief Finance Officer are also responsible for advising the Cabinet or full Council if a decision could be considered contrary to the budget. An example of such a decision would be promoting a new policy without thought as to the budget implications.

A 4.3 County Treasurer (The Chief Finance Officer)

Lawfulness and Financial Prudence of Decision Making

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

The Chief Finance Officer, if necessary in conjunction with the Chief Executive and after consultation with the Leader of the Council, shall have the powers to take any action necessary to safeguard the interests of the Council.

Administration

The Chief Finance Officer has responsibility for the proper administration of the Council's financial affairs. This includes setting and monitoring compliance with financial management standards, advising on the corporate financial position and on key financial controls, providing financial advice, advising on preparation of revenue and capital budgets, and treasury management.

These responsibilities are set out in statute such as section 151 of the Local Government Act 1972. They refer to the totality of the financial affairs of the Council in all its dealings. The rights and responsibilities of the Chief Finance Officer in relation to school delegated budgets are constrained, in part, by the provisions of the Education Reform Act 1988 and the School Standards and Framework Act 1998. Details are provided in the Devon Scheme for the Financing of schools.

Advice

The Chief Finance Officer is responsible for advising committees on all financial matters. They must be consulted on all financial matters and given adequate opportunity to provide written comments in any report with financial implications. All reports to the Cabinet or Committees with a significant financial implication are to be made under the joint names of the Head of Service concerned and the Chief Finance Officer.

Where the urgency procedures set out in the Council's Constitution are to be invoked, the Chief Finance Officer must first be consulted on financial and other resource implications.

A 4.4 Money Laundering Reporting Officer

The Deputy s151 Officer is appointed as the Money Laundering Reporting Officer and the Head of Audit Services is appointed as the Deputy Money Laundering Reporting Officer.

They will be responsible for notifying the National Crime Agency (NCA) of any suspected cases of money laundering committed within the accounts of Devon County Council as soon as possible and fulfil other duties as defined by legislation or regulation related to the post. Simultaneously, the Cabinet Member for Finance & Property will be kept informed of any notifications to NCA and of any issues arising from them.

A5 Chief Officers must operate efficient systems of financial control and are responsible for

- (a) ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.
- (b) ensuring that Cabinet members are advised of legal implications of all proposals and that the legal implications have been agreed with the Monitoring Officer.
- (c) the signing of contracts on behalf of the Council (except where the seal of the council is applied). Chief Officers may, however, delegate authority to sign contracts below £1,000,000 to Heads of Service or an Officer to whom they have specifically delegated authority to sign contracts within their area of responsibility. In all cases before signing a contract the officer concerned must be satisfied that the necessary approval to award the contract has been obtained.
- (d) Consulting with the Chief Finance Officer and seeking his/her approval on any matter that could materially affect the authority's financial position before any commitments are incurred.

Other Financial Accountabilities

A6 Accounting Arrangements

- A 6.1 The Chief Finance Officer is responsible for keeping the accounts and financial records of the Council. They must also approve accounting and other systems with a financial function and accounting records of directorates.
- A 6.2 Accounting procedures will reflect recommended professional practices, and follow accounting principles as determined by the Chief Finance Officer. Accounting procedures will be reviewed as necessary by the Chief Finance Officer in consultation with Chief Officers and Heads of Service to ensure that they provide the information required by both without duplication of records.
- A 6.3 No change to existing accounting procedures must be made without prior consultation with the Chief Finance Officer.
- A 6.4 The Chief Finance Officer must examine and certify where required any submission, estimate or claim for payment of grant by a Government Department or funding from any other body. Officers responsible for the administration of such grants, funds and spending associated with them must ensure compliance with the conditions of the grant/funding and where appropriate adhere to the Council's Minimum Standards for External Funding.
- A 6.5 The Chief Finance Officer must examine and certify where required any financial return to a Government Department or other body.

A7 Year end accounting

- A 7.1 The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the "Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice" (CIPFA/LASAAC). The Cabinet is responsible for approving the annual Revenue and Capital Outturn and for agreeing procedures for carrying forward under and over-spending on budget headings. The County Council's final financial position as presented in the Annual Statement of Accounts will be approved by the Audit Committee on behalf of the Council.

A8 Financial training

- A 8.1 Chief Officers and Heads of Service are responsible for ensuring staff receive appropriate training to undertake their financial responsibilities, in accordance with any standards set by the Chief Finance Officer.

A9 Grants and subscriptions

- A 9.1 Service Cabinet Members (advised by the relevant Chief Officer) will approve all grants or subscriptions exceeding £50,000. Grants or subscriptions below this level will be approved by the relevant Chief Officer (where this payment exceeds £10,000 the Cabinet Member will be kept informed).
- A 9.2 Officers must satisfy themselves that organisations to be grant-aided are financially viable for the duration of the appropriate project or activity. The Head of Service must give local members a month's notice of any grant they propose to make or withdraw.
- A 9.3 The Officer must ensure that any grant or contribution is not a supply of service by checking with the VAT section, and that the payment does not contravene the State-Aid rules for Local Government.

A10 Use of Capital Receipts

- A 10.1 All capital receipts will be treated as corporate capital receipts unless specific approval is obtained from the Cabinet for an alternative treatment.

A11 Use of Consultants

- A11.1 If any person is to be engaged either as interim manager, consultant, professional or to fulfil the position of an Office Holder they shall be engaged under the Hiring Temps, Agency Workers, Interims & Consultants Policy. They will be subject to approvals in line with those of procurement & purchasing as set out in the Constitution and to comply with Tax Legislation. Any waivers of this regulation shall be in line with that of waivers for Tenders. For engagements at Chief Officer level, approval shall be sought through the Appointments Committee.
- A11.2 If any professional person is to be engaged as a lead consultant for a major organisational review or to lead a major project on behalf of the County Council the written approval of the Cabinet Member must first be obtained.
- A11.3 For projects and activities under their control, Chief Officers, in consultation with the leader and Chief Executive, may appoint specialist consultants up to the value of £100,000 per consultant. Where the total requirement value is over £100,000 approval is required from the Chief Executive and the Cabinet Member (Organisational Development & Digital Transformation).

A12 Commercial units

- A 12.1 The management and control of the Commercial Units is the direct responsibility of the relevant Heads of Service who must ensure they operate within the requirements and constraints of public accountability required by law and embodied in Financial Regulations.
- A 12.2 Commercial Units will be required to adopt the appropriate accounting practices advised by the Chief Finance Officer and are required to comply with Financial

Regulations except where exceptional arrangements are made by the Chief Finance Officer and approved by Cabinet.

A13 Pensions

It is the responsibility of officers preparing to outsource activities of the County Council that involve the transfer of pension rights and liabilities to notify the Chief Finance Officer of any proposal prior to substantive negotiations taking place with third parties.

In consultation with the Chief Finance Officer the full cost and implication of the transfer of pension rights and liabilities must be disclosed in the financial appraisal that is prepared in relation to the outsourcing proposal.

The Chief Finance Officer must be consulted about and approve revised pension arrangements before formal agreements are made.

B FINANCIAL PLANNING AND CONTROL OF EXPENDITURE

Importance of this area

The importance of this area is in the need for sound planning, monitoring and control of resources. Sound budget management is crucial to informing good decision making and achieving best value in the use of the Council's resources.

B1 Policy Framework

B 1.1 The full Council is responsible for agreeing the authority's policy framework and budget that will be proposed by the Cabinet. In terms of financial planning the key elements are

The strategic plan
The medium-term financial plan
The annual revenue budget
The capital strategy
The annual capital programme
Prudential Indicators (limits for external borrowing, other long-term liabilities and related matters and Treasury Management Strategy)

B2 Performance Plans

B 2.1 The Policy framework includes the statutory plans that the County Council has to compile set out at Article 4 of the Constitution. The Chief Finance Officer is responsible for the provision of financial information to be included in performance plans in accordance with statutory requirements and agreed timetables.

B3 Revenue Budget Preparation

B 3.1 The Chief Finance Officer is responsible for ensuring that a revenue budget for the coming year and a medium-term financial strategy for the two subsequent financial years is prepared for consideration by the Cabinet.

B 3.2 The Chief Finance Officer is responsible for providing guidance on the general format of the budget.

B 3.3 The Cabinet is responsible for setting a target budget for each Cabinet Remit service area.

B 3.4 Subsequently Chief Officers will prepare, in consultation with the Heads of Service and relevant Cabinet Member and in accordance with the framework set down by the Chief Finance Officer an estimate of income and expenditure for the ensuing financial year within the spending targets set by the Cabinet.

B 3.5 The Cabinet will then submit a 'final budget' to the full Council for approval.

B 3.6 The Chief Finance Officer is responsible for reporting to the full Council on the robustness of estimates contained within the budget proposed by the Cabinet and the adequacy of reserves allowed for in the budget proposals.

B4 Determination of Affordable Borrowing

- B4.1 It is the responsibility of the Chief Finance Officer to provide the County Council with a written report on affordable levels of borrowing. This report is to be presented at the meeting when the annual budget is set and should have regard to the Prudential Code for Capital Finance issued by the Chartered Institute of Public Finance and Accountancy. The report will contain a number of prudential indicators that demonstrate that capital spending plans are affordable, prudent and sustainable.

B5 Resource Allocation

- B 5.1 The Chief Finance Officer is responsible for developing and maintaining a resource allocation process that ensures that both capital and revenue expenditure plans take account of the council's policy framework and changing priorities within that.
- B 5.2 It is the responsibility of Chief Officers to ensure that the revenue and capital budget estimates reflect agreed service plans, are in line with the medium-term financial plan, the capital strategy and that they follow any guidance issued by the Cabinet. The guidance will take account of the following:-

- Legal requirements
- Medium term planning prospects
- The strategic plan
- Available resources and spending pressures
- Best value
- Other cross cutting issues

B6 Maintenance of Reserves

- B 6.1 It is the responsibility of the Chief Finance Officer to provide the Cabinet with a written report on levels of reserves that are considered prudent. This advice to be based on an annual risk assessment of the Authority.
- B 6.2 The Authority's medium term financial plan should, in part, be based on how to either reach or maintain the recommended level of reserves.

B7 Revenue Budget Monitoring and Control

- B 7.1 Management and control of a Service budget (or part where appropriate) is the responsibility of the appropriate Chief Officer.
- B 7.2 Chief Officers must ensure that there is a designated senior officer accountable to them for the detailed management of their budget and notify the Chief Finance Officer of those so designated.
- B 7.3 Chief Officers and the Chief Finance Officer will jointly carry out regular budget monitoring and reporting to identify financial problems and key issues and to recommend the management action necessary to resolve them. Responsibility for management action rests with the Chief Officer.
- B 7.4 Joint monitoring reports defining service financial problems and key issues with recommended action will be made to the Cabinet on a regular basis. Where agreement on information or recommended action cannot be reached, the Chief Officer and Chief Finance Officer have the duty to report separately.
- B 7.5 With the explicit approval of the Cabinet in each case, and subject to the overall outturn position, at the end of each financial year any net under-spending within a Service's revenue budget may be carried forward into the following year. Any net over-spending of the Service shall be made good in the ensuing financial year unless other exceptional arrangements are approved by the full Council

- B 7.6 The County Council's final financial position as presented in the Annual Statement of Accounts will be approved by the full Council.

B8 Monitoring and Control of Affordable Borrowing

- B8.1 It is the responsibility of the Chief Finance Officer to develop and maintain systems to monitor performance against prudential indicators. Reports on performance against indicators including early warning of any possible breach of any prudential indicator will be made to the Cabinet on a regular basis.

B9 Authority to Incur Revenue Expenditure

- B 9.1 No expenditure shall be incurred or any reduction in income authorised by any officer or Committee unless such expenditure or reduction in income is:-
- (a) covered by the annual or supplementary budgets approved by the full Council;
 - (b) the benefit of a carried forward under-spending within Regulation 7.5
 - (c) covered by a virement (see Financial Accountabilities B 11)

B10 Purchase of IT Equipment

- B 10.1 The Cabinet have delegated powers for approving the purchase of new and additional IT Hardware to the Chief Finance Officer and the Cabinet Member with responsibility for the Finance or Resources Remit. The approval process will be aligned to the cycle of Cabinet meetings.

B11 Virements

- B 11.1 Where a virement represents a major change in policy and is greater than £100,000, the Chief Officer and the Chief Finance Officer need to prepare a brief report for the Cabinet seeking its approval to the policy change and the associated virement.
- B 11.2 All other virements should be approved by the Chief Officer or nominated representative and the Chief Finance Officer informed in writing.

B12 Capital Expenditure and Leasing

Preparation of the capital programme

- B12.1 The Chief Finance Officer is responsible for ensuring that a capital strategy for the ensuing financial year and four subsequent financial years is prepared.
- B12.2 The Chief Finance Officer is responsible for ensuring that every service area submits to the Cabinet proposals for capital expenditure for the ensuing financial year.
- B12.3 The Capital Programme Group will assist in evaluating Capital Projects proposed for inclusion in the capital programme and make recommendations to the Chief Finance Officer.
- B12.4 Before items included in an approved Capital Programme may be committed a detailed estimate of their cost must be submitted to the Cabinet for approval. Items with a gross cost exceeding £100,000 must be submitted individually; others may be aggregated. **Cabinet may also delegate approval of targeted programmes of work to member led Committees for schemes in excess of this amount.**
- B12.5 The amount of capital expenditure to be financed by **external** borrowing must be approved by the full Council.

Authority to incur, and control of, capital expenditure

B12.6 All capital expenditure proposals must be included in the approved capital programme.

B12.7 Revised project approvals must be obtained in line with the table of delegation set out below and will include the increase in approved programme and its financing. **An exception to the table will be where borrowing is required for financing, and in such instances Cabinet approval must be sought.**

Limit	Authorisation
Up to £50,000, from the original project approval.	Head of Capital & Technical Responsible Finance Officer in conjunction with Relevant Head of Service
Up to £200,000, from the original project approval.	Responsible Chief Finance Officer/ Deputy in conjunction with Capital Programme Group and Relevant Cabinet Member/s
Up to £1,000,000, from the original project approval.	Responsible Chief Finance Officer/Deputy in conjunction with Capital Programme Group and Relevant Cabinet Member/s via FIN letter
Above £1,000,000, from the original project approval.	Full Cabinet. Based on recommendation from Chief Finance Officer and Capital Programme Group

B12.8 The introduction of new capital items after the Capital Programme has been approved (whether additional or in substitution) requires advance approval. Approvals must be obtained in line with the table of delegation set out below, and will include the increase in approved programme and its financing. **An exception to the table will be where borrowing is required for financing, and in such instances Cabinet approval must be sought.**

Limit	Authorisation
Up to £50,000.	Head of Capital & Technical Responsible Finance Officer in conjunction with Relevant Head of Service
Up to £200,000.	Responsible Chief Finance Officer/ Deputy in conjunction with Capital Programme Group and Relevant Cabinet Member/s
Up to £1,000,000.	Responsible Chief Finance Officer/Deputy in conjunction with Capital Programme Group and Relevant Cabinet Member/s via FIN letter
Above £1,000,000.	Full Cabinet. Based on recommendation from Chief Finance Officer and Capital Programme Group

B12.9 New approvals and variations approved in periods will be reported as part of the budget monitoring cycle to members and the Capital Programme Group.

B12.10 The Cabinet must approve any re-phasing of Capital Programmes.

B12.11 Capital items purchased must be recorded in the appropriate register or inventory.

Capital receipts

B12.12 The Chief Finance Officer must be informed of all proposed sales of land and buildings so that the effect on financial and property management can be assessed.

B12.13 The procedures for declaring properties surplus to requirements are set out in the Council's Code of Practice for the Disposal of Surplus Property.

B12.14 The Head of Digital Transformation & Business Support will be responsible for the negotiations of all such sales. The Chief Finance Officer will be consulted on the sale of assets at less than Full Market Value.

B12.15 Capital receipts must be accounted for separately from revenue income and officers banking these monies must ensure accurate use of capital analysis codes, as well as compliance with the other regulations concerning income, banking and Tax.

Leasing

B12.16 All vehicle, plant, furniture and equipment leasing must be negotiated in conjunction with the Chief Finance Officer. Provision for the acquisition of leased items must be included in the capital programme.

B12.17 All property leases and other property acquisitions must be notified to the Chief Finance Officer, who will seek the approval of the Cabinet, before a commitment is entered into so that the effect of Central Government controls on the Capital Programme can be assessed.

C RISK MANAGEMENT AND CONTROL OF RESOURCES

Importance of this area

It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Authority. Equally, regulations are needed to ensure arrangements are in place to protect the assets and resources of the Council.

C1 Risk Management

C 1.1 The Cabinet is responsible for approving the authority's risk management strategy and for reviewing the overall effectiveness of the strategy.

C 1.2 The Chief Finance Officer, in conjunction with Chief Officers and Heads of Service, is responsible for preparing the authority's risk management policy statement and for promoting it throughout the Council and updating it.

C 1.3 The general controls for risk management are:-

C 1.3.1 Procedures are in place to identify, assess, prevent or contain material known risks and these procedures are operating effectively throughout the authority.

C 1.3.2 A monitoring process is in place to review the effectiveness of risk reduction strategies and the operation of these controls

C 1.3.3 Managers know which risks they are responsible for managing and are provided with the relevant information

C 1.3.4 Provision is made for any losses that might result from the risks that remain.

C 1.3.5 Claims are investigated within a given time scale

C 1.3.6 Acceptable levels of risk are determined and insured against where appropriate

C 1.3.7 The Council has identified business continuity plans in the event of a disaster that results in significant loss or damage to its resources.

C2 Internal Control

Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

Systems of internal control

C2.1 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice.

C2.2 It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

- C2.3 The Chief Finance Officer will prepare an annual statement on the effectiveness of the County Council's system of internal control. This statement will be published as part of the Annual Statement of Accounts and will be approved by the Audit Committee.

C3 Separation of duties

Financial procedures must be undertaken whenever possible using separate persons to undertake different parts of a sequence of operations so that no one person authorises the whole of any one transaction. An example would be ordering, receiving and authorising payment for a transaction, where at least two, if not three, people should be involved in the separate parts of the process.

C4 Retention of records

Accounting and other records must be retained for periods that comply with relevant legal requirements and the detailed standards below.

- C 4.1 Records must be retained for periods specified by Internal Audit, which will ensure the Council's compliance with VAT and other law. The following periods provide a broad indication only:

- (a) Expenditure records (e.g. order books, invoices) should generally be retained for three years plus the current year.
- (b) Income records (e.g. receipt books, debtor invoices) should generally be retained for six years plus the current year.
- (c) All records associated with grant funding must be retained for longer periods if required by the funding body.

C5 Investments and Treasury Management

- C 5.1 All investments of money under its control shall be made in the name of the Council or in the name of nominees approved by the Cabinet.
- C 5.2 All securities that are the property of or in the name of the Council or its nominees, and the title deeds of all property in its ownership, shall be held by the Chief Finance Officer or appointed custodians/other nominees or the Council's bankers as appropriate.
- C 5.3 All borrowings will be in the name of the Council.
- C 5.4 The Chief Finance Officer will be the Council's registrar of stocks, bonds and mortgages and will maintain records of all borrowing of money by the Council.
- C 5.5 Funds held in trust will wherever possible be in the name of the Council.
- C 5.6 All officers acting as trustees or controlling funds by virtue of their official position have a duty to exercise due care over the custody of valuables and documents and the administration of funds.
- C 5.7 The Council adopts the key recommendations of CIPFA's Treasury Management in Public Services: Code of Practice (the Code).
- C 5.8 Accordingly, the Council will create and maintain, as the cornerstone for effective treasury management :

a treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities;

suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

- C 5.9 The Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in the TMPs.
- C 5.10 The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the County Council's policy statement and TMPs and, if a CIPFA Member, with CIPFA's *Standard of Professional Practice on Treasury Management*.
- C 5.11 The Council's Corporate Services Committee, or its successor body, will be responsible for ensuring the effective scrutiny of the treasury management strategies and policies.
- C 5.12 The full Council is required to approve certain maximum borrowing levels before the start of each financial year based on the recommendations of the Chief Finance Officer.
- C 5.13 The Chief Finance Officer is empowered to make decisions regarding the premature repayment of debt and the acquisition of new debt (debt rescheduling) within the borrowing limits set by the Cabinet. All such decisions will be in line with the County Council's Treasury Management Policy Statement. A full analysis of the budgetary implications of the debt rescheduling will be undertaken before any decision is reached. This analysis will include an assessment of all risk factors affecting the current and future cost implications of the debt rescheduling.

C6 Security of Council Property

- C 6.1 The Chief Finance Officer will maintain a register of land and buildings owned by the Council and have custody of all title deeds under secure arrangements.
- C 6.2 Heads of Service are responsible for maintaining proper security of Council property and cash holdings in accordance with the detailed standards below:

C 6.2.1 Other than where approved by the Heads of Service the Council's property must not be removed other than in the ordinary course of the Council's business or used other than for the Council's purposes.

C 6.2.2 Where Council property is held in the homes of Officers or Members, those individuals must make reasonable arrangements for its safe custody and return the property when required by the Council.

C 6.2.3 Maximum limits for cash holdings must be agreed with the Chief Finance Officer and must not be exceeded without express permission.

C 6.2.4 All reasonable steps should be taken for the secure storage of cash. The Council's Insurance policy for cash storage carries a £50 excess, which would be borne by the establishment suffering the loss.

C 6.2.5 Keys to safes and similar receptacles must be subject to adequate security and the loss of keys must be reported to the Chief Finance Officer immediately. Safes and similar receptacles must be subject to an annual contents review, listing and certification by an appropriate manager.

C 6.3 The Head of Digital Transformation & Business Support is responsible for maintaining proper security and privacy of information held in the main computer installation.

C 6.4 Heads of Service are responsible for controlling access to main computer installation data and access to all computer data within their own directorates in accordance with the Council's Data Protection and Security Policy and Guidelines.

C7 Sale of Assets

C 7.1 Heads of Service may make arrangements for disposal of surplus items (excluding land and buildings and leased items) with an estimated value of up to £5,000. For surplus items with an estimated value in excess of £5,000 prior notification of the sale must be provided to the Devon Procurement Service, to ensure that value-for-money is secured from the disposal.

C 7.2 All asset disposals must be undertaken transparently so as to maximise income to the Council and no favour should be shown to staff or other third parties.

C8 Stocks and Stores

C 8.1 Heads of Service are responsible for the custody and control of stocks and stores in their directorates in accordance with the detailed standards below.

Detailed Standards

C8.1.1 Unless otherwise agreed in writing by the Chief Finance Officer, a complete record of all stores received on behalf of the Council, whether from suppliers, surplus stores, as gifts, or material returned from works sites, together with a record of all issues made and balances in hand at any time must be kept in a form agreed by the Chief Finance Officer.

C8.1.2 In addition to the periodical testing of stocks in hand, unless agreed otherwise in writing by the Chief Finance Officer, Heads of Service must undertake a complete stocktaking of all stores at least once during each financial year.

C8.1.3 Where required by the Chief Finance Officer, stock sheets must be prepared and passed to them showing at 31st March (as nearly as may be), the actual stocks in hand and their value. This will be as revealed by the stocktaking (see C 8.1.4 below). The stocks in hand and their value must be shown in the stores accounts, together with any surpluses or deficiencies.

C8.1.4 The stocktaking must be supervised by a responsible person (other than the person responsible for the stores) nominated for the purpose by the Service Director, and both the person taking the stock and the person supervising must certify the stock sheets.

C8.1.5 Any deficiency, theft or other loss in value including obsolete stock exceeding 2.5% or £1,000 whichever is the greater, on any one item revealed on the occasion of the annual stocktaking or otherwise, must be reported at the earliest opportunity to the Chief Finance Officer for the necessary authority to write off each deficiency or to obtain a decision as to other action to be taken. The report must state the quantities and values in question, together with any other relevant information. The Chief Finance Officer is empowered to write off deficiencies.

C 8.1.6 Wherever a storekeeper or person in charge of stores hands over, leaves or ceases to have custody of stores, the Head of Service must ensure that a prior check is made of the stores concerned and that a handing over certificate is signed by the out-going and incoming officers.

C 8.1.7 Stocks and stores must not be carried by any directorate in excess of reasonable requirements as ascertained by experience.

C9 Inventories

- C 9.1 Heads of Service are responsible for the maintenance of inventories of plant and equipment for establishments in their control in accordance with the detailed standards below.

Detailed Standards

C 9.1.1 Inventories of plant, equipment, and other moveable articles including those donated or held under leasing agreements or on trust, must be maintained in accordance with the instructions of the Chief Finance Officer in respect of each establishment, depot or other appropriate unit. Such inventories must include items held at the homes of Officers or Members. Chief Officers and Heads of Service must ensure that:-

- (a) such inventories are kept up-to-date;
 - (b) items held under leasing agreements are appropriately identified;
 - (c) any deficiency, theft or other loss is reported at the earliest opportunity to the Chief Finance Officer, who may advise the Cabinet ;
 - (d) the deletion of items from inventories is authorised by the countersignature of an appropriate Officer;
 - (e) details of the disposal of the items are stated on the inventory;
 - (f) an adequate record is maintained of transfer of control and any temporary borrowing or other removal from the establishment of any item which is (or should be) listed in the inventory, including items held at the homes of Officers or Members;
 - (g) whenever an Officer who is responsible for the custody of the items recorded in an inventory hands over that responsibility to another, the inventory is checked and the incoming Officer must sign as accepting responsibility for the custody of the items recorded in the inventory;
- a complete inventory check is carried out at least annually, and the result certified by the Head of Establishment.

C 9.1.2 All property owned by the Council must, as far as practicable, be effectively marked as Council property.

C10 Insurance

The council faces many risks of different kinds in carrying out its functions e.g. risk of damage to assets, loss of resources etc. Regulations here are designed to protect the interests of the Council, its staff and the people it serves.

- C 10.1 The Cabinet will decide the Council's policy on insurance. Heads of Service must notify the County Solicitor promptly of all new risks or properties which may need to be insured and of any alterations affecting existing risks or insurances indicating the amount of cover required.

- C 10.2 All insurances and related claims are to be arranged in accordance with the detailed standards below.

Detailed Standards

C 10.2.1 The County Solicitor is responsible for advising the Cabinet of any insurance required by the Council and of market changes.

C 10.2.2 Any event that gives rise to a claim under any policy of insurance must be notified immediately by the Head of Service concerned to the County Solicitor who will deal with all claims.

C 10.2.3 Any officer in respect of whom the Council is required by Section 114 of the Local Government Act 1972 to take security, and any other person handling public money or money's worth in respect of whom the Cabinet consider it desirable, must be covered by insurance in such form it approves.

C 10.2.4 Any officer who uses his own motor vehicle on Council business is required to insure against third party risks in such form as to indemnify the Council against claims arising, and the policy, including any necessary endorsements and renewal receipts, must be produced for inspection by the Chief Finance Officer if so required other than in those cases where they are deemed to be covered by implied endorsements under the arrangements made between the Local Government Association and various insurers. Chief Officers and Heads of Service are responsible for acquainting officers under his control of the foregoing requirement.

C 10.2.5 Before any contract is made the County Solicitor must approve the insurance cover to be furnished by the contractor in respect of any act or default.

C11 Ex gratia payments

C 11.3 On the recommendation of the Heads of Service, the County Solicitor may, after consultation with the Chief Finance Officer, exercise delegated power to make any ex gratia payment in a sum not exceeding £1,000 for damage to or loss of property where such payment is calculated to facilitate or is conducive or incidental to the discharge of any of the functions of the Council.

C12 Gifts and Hospitality

The Council and the Public expect the highest standards of integrity from public servants. Formal standards are in place to guide staff and Members on these matters and to ensure consistency of judgement.

C 12.1 All employees must observe the provisions of the Council's policy on Gifts and Hospitality which is reproduced in the detailed standards below.

Detailed Standards

C 12.1.1 A particular source of conflict between the private and the public interest is the offer of gifts, hospitality or other benefits in kind to Councillors and Officers in connection with their official duties. A difficult exercise of judgement may sometimes be necessary to decide how the public interest, and the Council's good name, may best be served. A reasonable amount of entertainment is a normal part of the courtesies of public life and extreme inflexibility can give unnecessary offence to people and organisations with whom the Council's relationships should be cordial. But an appearance of improper influence is easily created, and with it encouragement of cynicism about the motives of those who serve in Local Government.

C 12.1.2 With the exceptions listed below, an Officer should refuse any personal gift offered to them or to a member of their family by any person or body who has or seeks dealings with the Council. The offer should be reported immediately to the Chief Officer concerned. These paragraphs are particularly directed to individuals or organisations or persons who already do or who seek to provide work, goods or services to the Council, e.g. building contractors, suppliers of goods or equipment and firms able to provide professional or commercial services to the Council. In addition, there may be occasions where because of the special relationship between the donor and donee, e.g. social worker and client, similar rules should apply.

In these cases, legacies, fees or presents of any description should not be accepted and any employee in doubt should first seek the advice of the Head of Service/ Chief Officer.

C 12.1.3 Exceptions :-

(i) A modest gift of a promotional character given to a wide range of people. These gifts are usually given at Christmas-time and include calendars, diaries, desk sets, tape measures, scales and other articles of use in the office.

(ii) Gifts on the conclusion of any courtesy visit to a factory or firm of a sort normally given by that firm.

(iii) A modest gift where refusal would cause needless offence and the giver is not seeking a decision of business but merely wishes to express thanks for advice, help or co-operation received, e.g. a modest gift from a client for personal care.

(iv) An unsolicited legacy from a client for personal care, which must be reported to Cabinet.

It is wise to err on the side of caution and an obviously expensive gift should raise a question even if it otherwise falls within one of the above categories. If in doubt, seek the advice of the Head of Service/Chief Officer.

C 12.1.4 When a gift has to be refused, this should be with tact, because the offer of gifts is common practice in the commercial world. In some cases a gift is simply delivered and there may be a problem over returning it. It is sometimes acceptable to the giver for the gift to be the subject of a raffle and the proceeds placed to a charitable fund, e.g. Unison Welfare Fund. An arrangement of this sort should only be made with the Head of Service approval and recorded by letter.

C 12.1.5 Hospitality is sometimes offered to representatives of the Council and is accepted at official level because it is reasonable in all the circumstances. Where it is offered to individual employees, special caution is needed where the host is seeking to do business with the Council or to obtain a decision from it. It is important to avoid any suggestion of improper influence. The question is one of judgement and the following examples are intended to give general guidance:-

Acceptable

* A working lunch of modest standard provision to allow the parties to continue to discuss business. Senior Officers should consider reciprocation on a subsequent occasion if there is need for further meetings.

* Invitation to a Society or Institute dinner or a function, for example, private architect inviting Devon Property Practice staff to RIBA dinner.

* Invitation to take part in a sporting event.

* Invitation to take part in Company jubilee or other anniversary celebration.

Unacceptable

* Holiday abroad or weekend in a holiday centre.

* Offer of hotel and tickets for theatre.

* Use of Company flat or hotel suite.

* Invitation to attend sporting events at the courtesy of a private individual or company

In general terms, it will often be more acceptable to join in hospitality offered to a group than to accept something unique to oneself. When a particular matter is currently in issue with the County Council, e.g. an arbitration, then clearly common sense dictates that offers of hospitality be refused even if in normal times they would be on the acceptable list.

C13 Voluntary Unofficial Funds

- C13.1 For reasons of probity and accountability, the good practice applied to Council funds should also be applied to unofficial funds. This section therefore requires that administrative arrangements for unofficial funds meet the standards expected by the Council.
- C13.2 Unofficial funds do not fall within the Council's VAT registration. School unofficial funds must follow the Schools' Financial Regulations set out within the Schools Finance Manual. For VAT guidance relating to unofficial funds please refer to the VAT guides or contact the VAT team for assistance.
- C13.3 Officers controlling, wholly or in part, any voluntary unofficial fund must ensure that audit and accounting arrangements are in place which comply with the detailed standards below and other guidance issued by the Chief Finance Officer.
- C13.4 Heads of Service must ensure that they are aware of all voluntary unofficial funds in their service area, maintain a record of them and ensure that the accounts are audited and put before the management bodies annually.

Detailed Standards

C 13.1.1 Officers must ensure that arrangements are in place to:

- (a) ensure that a suitably experienced person (not necessarily professionally qualified) audits the fund in accordance with procedures recommended by the Chief Finance Officer;
- (b) arrange for audited statements of accounts to be submitted to and received by the appropriate management body at least annually. Such statements must include a signed certificate in a form prescribed by the Chief Finance Officer.
- (c) ensure that other guidance issued by the Chief Finance Officer in the manual "Management of Voluntary Unofficial funds" is complied with

C14 Safeguarding clients' private property

- C 14.1 Heads of Service and heads of establishments responsible for the private property of a person (other than a member of staff) under their or their service areas guardianship or supervision must adhere to the detailed standards below.
- C 14.2 Heads of any establishments responsible for the receipt or disbursement of clients' cash must ensure that such transactions are conducted within arrangements agreed by the Chief Officer and the Head of Devon Audit Partnership.

Detailed Standards

C 14.1.1 Heads of Service must ensure that all steps are taken to:

- (a) prevent or mitigate loss or damage or diminution in value of the private property of any vulnerable client immediately on assumption of responsibility for the care of that client, and;
- (b) inform without delay the Head of Internal Audit of any such case of loss, damage or diminution in value.

C 14.1.2 Heads of establishments must :-

(a) take all steps to prevent or mitigate loss or damage to that property immediately on assumption of responsibility for that person. Such steps must include:-

- (i) preparing (with a Council employee as witness) and then maintaining a detailed inventory of the property;
- (ii) ensuring immediate safe custody of all the property to the satisfaction of the Service Director and the Chief Finance Officer.

(b) in any case of loss or damage or diminution in value, notify without delay the Service Director and the Head of Internal Audit.

C15 Fraud and Corruption

C 15.1 All Officers and Members are responsible for giving immediate notification to the Head of Internal Audit where there are grounds to suggest any financial impropriety or irregularity concerning cash, stores or other property of the Council or held by the Council.

C 15.2 Any financial irregularity will be dealt with in accordance with the Policy Document titled "Strategy for Dealing with Financial Irregularities". Where there are grounds to suggest any irregularity, after preliminary investigation the Chief Finance Officer will consult with the Chief Officer and the County Solicitor before involving the Police if it is considered that a criminal offence may have been committed. A report may be made of any irregularity to the Cabinet after consultation with the appropriate officers.

C16 Audit Requirements

The Council has a statutory responsibility to maintain an effective and adequate system of internal audit. Regulations in this area are therefore important to provide a formal framework for the activities of the Internal Audit team. There are also statutory requirements in respect of external audit and other inspection agencies.

Internal Audit

C 16.1 As required by law the Chief Finance Officer will maintain an internal audit of the Council's financial dealings.

C 16.2 Internal Audit will follow professional standards and guidelines issued by the Chartered Institute of Public Finance and Accountancy and the Auditing Practices Board.

C 16.3 The Chief Finance Officer or authorised representatives may, for the purposes of audit, have the following access to premises and records:

- (a) enter on any Council premises or land and have access to all Council property;
- (b) have access at all times to all records, documents and correspondence relating to all financial and other transactions of the Council or non-official

- funds operated by Council staff or private property belonging to vulnerable clients;
- (c) require and must receive any explanations as are necessary;
- (d) require any employee of the Council to produce cash, stores or any other Council property or that of an unofficial fund under his control;
- (e) remove records, documents or assets required for further investigation as necessary.

External Audit

C 16.4 ~~The Audit Commission is responsible for appointing external auditors to each local authority. In July 2016 Public Sector Audit Appointments Ltd (PSAA) was selected by the Secretary of State for Communities and Local Government to take on the role of Appointing Person for principal local government and police bodies. The basic general powers and duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998~~ **Part 3 of the Local Audit and Accountability Act 2014, establishes the framework for appointing external auditors to each local authority. In July 2016 Public Sector Audit Appointments Ltd (PSAA) was selected by the Secretary of State for Communities and Local Government to take on the role of Appointing Person for principal local government and police bodies. The basic general powers and duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998** **Part 5 of the Local Audit and Accountability Act 2014.**

Other review bodies

C 16.5 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM **Revenue & Customs (HMRC)** ~~Customs and Excise and the Inland Revenue~~, who have statutory rights of access.

C17 Staffing

- C 17.1 Chief Officers are responsible for the operation of the following controls over staffing:
- (a) A staffing strategy is in place that matches staffing requirements and budget allocations
 - (b) Appropriate methods are used to forecast staffing requirements and related costs.
 - (c) Staffing establishments specified as full time equivalents are approved alongside the annual budget.
 - (d) Any subsequent increases in establishment levels will require the approval of the appropriate Cabinet Member.
 - (e) Procedures are in place to ensure that only properly authorised vacancies are advertised.
 - (f) Monitoring of full-time equivalents against budget is undertaken on a quarterly basis.
 - (g) Corporate minimum standards on recruitment and selection are followed at all stages of the recruitment process.

D SYSTEMS AND PROCEDURES

Importance of this area

This area forms much of the routine financial business of the Council and involves large numbers of transactions and staff. This area will be of interest to many people and it is important that such a major area of activity is clearly regulated and those regulations are supported by thorough detailed standards.

D1 General Controls

The general controls for systems and procedures are

- (a) Basic data exists to enable the Authority's objectives, targets, budgets and plans to be formulated.
- (b) Performance is communicated to appropriate managers on accurate, complete and timely basis.
- (c) Early warning is provided of deviations from targets, plans and budgets and management action taken.
- (d) Operating and Audit systems and procedures are secure and monitored.

D2 Procurement arrangements

D 2.1 Heads of Service must ensure and be able to demonstrate that the County Council obtains value for money in its procurement activity, that this accords with service priorities and appropriate procurement procedures have been followed.

D 2.2 The most effective purchasing arrangements should be used. In the case of routine purchasing this should be undertaken via in-house providers and call-off or framework contracts, wherever possible, except:-

- (a) significant transactions excluded by agreement between the Chief Officer and the Head of Procurement;
- (b) small items, which may be purchased through an imprest account in accordance with regulation D 7 below;

The Head of Digital Transformation & Business Support will seek to provide access to a range of corporate and framework contracts. Corporate contracts and approved framework contracts must be used where such contracts exist. Staff should access these contracts using the electronic ordering system if available.

D 2.3 Where any purchasing of goods or services involves tendering or contracts these arrangements must conform to the requirements set out by the Chief Finance Officer in the Council's Minimum Standards and Minimum Procedures for Tenders and Contracts.

D 2.4 The Chief Finance Officer must ensure that e-business/purchasing processes maintain the security and integrity for transacting business electronically and must approve the introduction of such systems.

D3 Orders for goods and services

D 3.1 Heads of Service are responsible for the control and use of all orders and requisitions within their service area, and for access to systems which generate them in accordance with the detailed standards below.

Detailed Standards

D 3.2 Purchase Orders are required for the purchase of all goods and services except:-

- (a) rents (previously agreed by the Chief Finance Officer);
- (b) rates and water charges;
- (c) gas and electricity;
- (d) telephone charges, grants and minor cash purchases - but a record of the submission for payment of such items must be kept;
- (e) where purchased in an emergency situation as described in section D4 below;
- (f) where purchased via a Council credit card in accordance with section D6 below;
- (g) a formal written contract under Part 5 Section 3 of the County Council's Constitution and approved by the Chief Finance Officer is in place;
- (h) small items purchased from imprest accounts;
- (i) spend that is processed via the social care system;
- (j) VAT only invoices;
- (k) insurance claims;
- (l) grants and contributions

D 3.3 All purchase orders must be approved and issued through the Council's P2P/ FINEST financial system or other financial system specifically approved by the Chief Finance Officer.

D 3.4 The design of all orders and requisitions must be approved in advance by the Chief Finance Officer.

D 3.5 Heads of Service are responsible for:-

- (a) the control and use of all orders and requisitions within their services, and for access to systems that generate them;
- (b) providing the Chief Finance Officer with the names and limits of their authority of those authorised to approve orders and a specimen of their signatures;
- (c) ensuring that budget provision exists for all purchases and any commitments created must be reflected in future decision making;
- (d) ensuring that all orders placed include the correct analysis code and VAT code;
- (e) ensuring that staff approving orders have received appropriate purchasing training;
- (f) all orders issued from their services and ensuring that every order:
 - (i) clearly specifies the standards, quality and quantity of goods and services required including any specific requirements;
 - (ii) states the agreed price or contract terms, including relevant taxes, delivery or other charges, early payment discounts and required times of delivery;
 - (iii) where appropriate, shows the Devon County Council contract number to ensure preferred rates or discounts are obtained.

D 3.6 Staff of the Council or Councillors or their families are not allowed to purchase goods privately under County Council contract arrangements or solicit preferential treatment in a private capacity from the Council's suppliers. Staff are not permitted to accept gifts from the Council's suppliers, or potential suppliers, as set out in the Council's statement on official conduct and referred to in section C12 of this document.

D4 Emergency Arrangements

D 4.1 There may be instances where a good or service has to be obtained and access to the P2P/ FINEST or other specifically approved system is not available. In these instances and subject to section D 4.2 below the goods or services may be obtained without a prior purchase order.

D 4.2 The dispensation in section D 4.1 above is restricted to emergency issues only e.g. safety of a vulnerable person, natural disaster or risk of death, risk of physical injury, risk of mental harm or other totally unavoidable circumstance that prevent a purchase order from being raised at the time of purchase.

- D 4.3 In all cases where a good or service has been obtained under sections D 4.1 and D 4.2 above a purchase order must be placed as soon as practicable and in any event within 14 days or payment made through a system specifically approved by the Chief Finance Officer.

D5 Payment of Accounts

- D 5.1 All payments shall be under the direction of the Chief Finance Officer as set out in the detailed standards below.

Detailed Standards

D 5.2 All invoices from suppliers will be directed to the central P2P/ FINEST Accounts Payable team except in respect of goods and services ordered through a non-P2P/FINEST system that has been specifically approved by the Chief Finance Officer.

D 5.3 No payment for goods or services will be made unless the relevant service area has confirmed within the P2P/ FINEST system or other system specifically approved by the Chief Finance Officer that the goods or services have been received and are of a satisfactory standard.

D 5.4 Where appropriate, the relevant Head of Service will ensure that all changes to inventories, stores records, stock books have been made to take account of the goods received.

D 5.5 All invoices which exactly match an approved order will be automatically processed and paid by the central P2P/ FINEST team.

D 5.6 Invoices which do not exactly match an approved order but are within financial tolerances agreed from time to time by the Chief Finance Officer will be automatically processed and paid by the central P2P/ FINEST Accounts Payable team.

D 5.7 Invoices which do not match an approved order and which are outside the financial tolerances set under section D 5.6 above will not be paid and will be referred to the relevant service area who will reconcile any difference with the supplier and amend any relevant order or obtain an amended invoice as necessary before re-submission to the central P2P/ FINEST Accounts Payable team.

D 5.8 In exceptional circumstances payment may be required in advance of the supply of goods or services, though this is not best practice. In such cases, payment must follow the normal authorisation process required by these standards with the exception that the goods or service will not yet have been received. The authorising officer must take extra care in such transactions and ensure:-

- (a) only reputable suppliers are involved.
- (b) that the amounts of such payments are appropriate to be paid in advance and do not present unnecessary risk.
- (c) all other reasonable steps are taken to protect the Council from risk and potential loss.

D 5.9 Staff must ensure that valid payments are processed in sufficient time to meet payment deadlines and to avoid late payments and potential penalties being incurred.

D 5.10 The use of direct debits as a payment method requires the prior agreement of the Chief Finance Officer.

D 5.11 Staff of the Council must not prepare or amend suppliers' invoices.

D 5.12 Staff of the Council who have contact with suppliers of goods or services who are engaged in pressure selling activities, or who receive unsolicited promotional or direct marketing materials, or who receive invoices for goods or services not received, are required to report the matter to their line manager, who, in turn, will advise the Chief Finance Officer.

D 5.13 If, on examining any item submitted to them for payment, the Chief Finance Officer or staff authorised by them is not satisfied that it is in order, it is the duty of the Chief Finance Officer to ensure such investigations as they deem necessary are undertaken before or after payment.

D 5.14 Where credit notes are received in respect of accounts payable, these should be set off against a current accounts payable invoice, or by raising a debtor invoice to recover the sum due.

D 5.15 Sums properly due to the Council must not be written off until the Chief Finance Officer is satisfied that all steps possible have been taken to recover the sums due. Sums in excess of £2,500 will be determined after consultation with the County Solicitor. After this consultation, the authority of the Cabinet Member must then be obtained to write off sums due in excess of £10,000.

D6 Company credit cards

- D 6.1 The Chief Finance Officer will make arrangements for the administration of "company" credit cards and will issue them where circumstances require.
- D 6.2 Heads of Service are responsible for ensuring that "company" credit cards used in their Directorate are only held by appropriate staff and are used strictly in compliance with the specific guidance issued by the Chief Finance Officer.

D7 Imprest accounts and advances

- D 7.1 All advances are made under the direction of the Chief Finance Officer and must be dealt with in accordance with the detailed standards below.

Detailed Standards

D 7.1.1 Advances may be made to appropriate officers on account of imprest expenditure or for other reasons as may be agreed by the Chief Finance Officer.

D 7.1.2 Imprest accounts may only be established, and their details amended, by the Chief Finance Officer who will make the necessary arrangements with the Council's bankers.

D 7.1.3 Imprest holders must maintain a complete record of all transactions. At least once in each month expenditure must be certified by the Head of Service or other authorised officer as correctly paid, the cash in hand (and where applicable reconciled bank account balances) reconciled with the balance shown on the account and reimbursement, supported by all relevant vouchers, claimed from the Chief Finance Officer in such form as he may require. The reconciliation should take account of any reimbursement already claimed but not yet received.

D 7.1.4 In no circumstances may cash received, other than imprest account reimbursement, be paid into these accounts.

D 7.1.5 None of the following items of expenditure shall be paid out of imprests:-

- (a) sums which fall due for payment periodically, (e.g. rents);

- (b) travelling expenses of officers (other than very minor items below £5 for occasions that are neither regular nor frequent) or of Members of the Council;
- (c) except where two signatories sign each such cheque, single payments of £100 or more;
- (d) payment of (or on account of) salaries and wages or payment to an individual of employed status;

D 7.1.6 Payments must not normally be made from imprests to creditors with whom the Council has regular dealings.

D 7.1.7 When required each officer holding an imprest must certify in writing to the Chief Finance Officer that such sum is held, either in cash or in vouchers to be reimbursed.

D 7.1.8 It is the duty of Heads of Service:-

- (a) to verify the balances independently of the imprest holder at frequent intervals;
- (b) to notify the Chief Finance Officer well in advance whenever an officer who holds an imprest gives notice of leaving the employment of the Council or immediately it is known that an officer otherwise ceases to be responsible for such imprest account.

D 7.1.9 A bank account must be opened for all imprest accounts exceeding £100: such bank accounts must not be allowed to run into overdraft. Any imprest exceeding £500 must be operated through a bank account which requires two signatures to effect withdrawals exceeding £500. Heads of Service must notify the Chief Finance Officer of all authorised signatories, and subsequent changes.

D 7.1.10 All reasonable steps should be taken for the secure storage of cash. The Council's insurance policy for cash storage carries a £50 excess, which would be borne by the establishment suffering the loss.

D8 Payroll and Pensions

Regulations in this area are vital to ensuring staff are paid accurately, on time and that payroll information of sound quality is available to management

Salaries and wages

- D 8.1 The payment of all salaries, wages, compensation and other emoluments to all employees or former employees of the Council will be made by the Head of Human Resources or under arrangements agreed by them in accordance with the detailed standards below.

Detailed Standards

D 8.1.1 Each Head of Service must promptly notify the Head of Human Resources in accordance with the time tables and in the form prescribed by them of all matters affecting the payment of such emoluments, and in particular;

- (a) appointments, resignations, dismissals, suspensions, secondments and transfers;
- (b) absences from duty for sickness or other reason, apart from approved leave;
- (c) changes in remuneration, other than normal increments and pay awards and agreements of general application;
- (d) information necessary to maintain records of service for superannuation, income tax, National Insurance etc.
- (e) Changes in circumstances affecting car loans.

The Head of Human Resources will make proper arrangements to inform the Head of Pensions as appropriate.

D 8.1.2 Appointments of all employees must be made in accordance with the regulations of the Council concerning establishments, grades and rates of pay.

D 8.1.3 All time records or other pay documents must be in a form prescribed or approved by the Head of Human Resources and must be certified by or on behalf of the Head of Service.

D 8.1.4 Records or systems for the storage, transfer and processing of information maintained in employing directorates in connection with the payroll function must be in a form agreed by the Head of Human Resources.

D 8.1.5 In applying scales of salaries or wages, Heads of Service/Chief Officers must confer as necessary with the Chief Finance Officer.

D 8.1.6 Where errors in the payment of salaries, wages or pensions are discovered in employing directorates the Chief Finance Officer and the Head of Payroll must be informed immediately. It is the responsibility of the Head of Payroll to inform employees or former employees of errors made and to recover any sums overpaid in accordance with prescribed procedures.

D 8.1.7 Overpayments in excess of £2,500 must not be written off unless the Chief Finance Officer is satisfied:-

- (a) after consultation with the County Solicitor that all steps possible have been taken to recover the sums due; or
- (b) that the cost of recovering any sums due would exceed the sum involved; or
- (c) that recovery would cause undue hardship to the employee concerned.

Overpayments of £2,500 or less must not be written off without the agreement of the Chief Finance Officer and the Head of Service.

The prior authority of the Cabinet Member must be obtained to write off sums in excess of £10,000 unless the matter has been determined as part of the corporate policy and procedure for salary overpayments (formal stage).

Pensions

- 8.2 The payment of all pensions to former employees of the Council will be made by the Chief Finance Officer or under arrangements agreed by them in accordance with the detailed standards **set out in D 8.1 above** below.

D9 Travelling, subsistence and financial loss allowances

- D 9.1 Claims for payment of travelling and subsistence will be made in a manner approved by the Chief Finance Officer as set out in the detailed standards below.
- D 9.2 Payments to Members, including additional Members of County Council Committees who are entitled to claim travelling or other allowances, will be made by the Chief Finance Officer.

Detailed Standards

D 9.1.1 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses must be submitted in accordance with the terms and conditions of the County Council scheme. Due regard must be given to economy: normally, the shortest distance must be used unless authorised by the line manager, with due regard to time taken, such as faster journey times or to avoid roadworks. The claims must agree with entries in the individual's travel diary, be duly certified and in a form approved by the Chief Finance Officer and made up to a specified day of each

month, within twenty-one days thereof. The names of officers authorised to sign such records must be sent to the Chief Finance Officer by Heads of Service together with specimen signatures and be amended on the occasion of any change.

D 9.1.2 The certification by or on behalf of the Heads of Service/ Chief Officers will be taken to mean that the allowances are properly payable by the Council.

D 9.1.3 Officers' claims submitted more than six months after the expenses were incurred will be paid only with the express approval of the Chief Finance Officer or an Officer designated by them.

D 9.1.4 Claimants are responsible for obtaining and retaining VAT receipts (whether in paper or electronic format) to support their expense claims, including mileage claims. Where an employee leaves the employ of the Council the line manager must collect and retain all receipts which are still within the retention period.

D10 Income and Banking

It is important to ensure that all income due to the Council is identified, collected on time and recorded accurately in the Councils accounts. Also, banking arrangements must be appropriate and well recorded for the Council to exercise adequate control.

Income

D10.1 Heads of Service/Chief Officers are responsible for the collection of sums due to the Council and for the issuing of receipts and invoices in accordance with the detailed standards below.

D10.2 A limit is imposed on the cash amount to be received in settlement for the payment for goods and services of £10,000 in any one transaction. This limit is required to ensure that the County Council complies with the Money Laundering Regulations 2007.

D10.3 Scales of charges for services and allowances and any variations thereof (except where fixed by statute) must be reviewed at regular intervals by the Chief Executive or the relevant Chief Officer, as appropriate, and agreed with the Chief Finance Officer before submission to Cabinet for approval.

Detailed Standards

D 10.1.1 The Chief Finance Officer must be consulted by Heads of Service on proposals to acquire any cash till or accounting equipment.

D 10.1.2 The records kept by each department with regard to items of income must be in such form as may be required by the Chief Finance Officer.

D 10.1.3 Heads of Service must provide to the Chief Finance Officer such particulars in connection with work done, goods supplied, or services rendered and all other amounts due, as may be required to record correctly all sums due to the Council and to ensure promptness in the rendering of accounts and the recovery thereof.

D 10.1.4 The Chief Finance Officer must be promptly notified of all money due to the Council under contracts, leases, tenancy and other agreements, conveyances and other arrangements entered into which involve the receipt of money by the Council, and must have access to the original documents or relative particulars.

D 10.1.5 The Chief Finance Officer must maintain a detailed record of land and building in respect of which rent is or may be receivable, together with sufficient details of the terms of tenancy to enable the correct amount of rents receivable to be recovered, either directly from the tenant, or by deduction from salary or wages in the case of service tenancies.

D 10.1.6 Sums properly due to the Council must not be written off until the Chief Finance Officer is satisfied that all steps possible have been taken to recover the sums due. Sums in excess of £2,500 will be determined after consultation with the County Solicitor. After this consultation, the authority of the Cabinet Member must then be obtained to write off sums due in excess of £10,000.

D 10.1.7 Where the Council contracts to supply goods or services to external parties, the arrangements must avoid inappropriate subsidy.

Banking arrangements

D 10.4 The Chief Finance Officer is the sole officer authorised to make arrangements regarding the Council's bank accounts in accordance with the detailed standards below.

D 10.5 The Chief Finance Officer will make arrangements for regular overall bank reconciliation.

D 10.6 Heads of Service, after consultation with the Chief Finance Officer, will make secure arrangements for the collection and banking of cash and for prompt reconciliation and monitoring of these monies.

Detailed Standards

D 10.4.1 All Council bank accounts will be in the name of the Devon County Council, except for the banking arrangements of an officer performing a statutory function in his own right; the Chief Finance Officer must be notified of all bank accounts so held.

D 10.4.2 Unless otherwise agreed by the Chief Finance Officer, officers authorised to collect County Council money must issue official receipts therefor. Also, they must promptly, at such intervals as the Chief Finance Officer may direct, pay over all sums received to the Chief Finance Officer or, by arrangement with them, to the Council's bankers. All reasonable steps should be taken for the secure storage of cash. The Council's insurance policy for cash storage carries a £50 excess, which would be borne by the establishment suffering the loss.

D 10.4.3 Each officer who receives money on behalf of the Council must keep an accurate and chronological account of all receipts and deposits.

D 10.4.4 Money received or held on behalf of the Council must be banked in full and not be used to cash personal or any other cheques whatsoever.

D 10.4.5 Receipts must only be issued on receipt books, tickets and other documents of a similar nature which have been ordered and issued by or under the direction of the Chief Finance Officer. A record must be maintained of every issue of such documents.

D 10.4.6 When banking monies care must be taken to ensure accurate use of analysis codes and VAT codes.

D11 Taxation

Compliance with taxation rules is important for the Council to meet its legal requirements and avoid unnecessary costs. Failure to comply with tax legislation can result in penalties and interest payments (which are payable from service budgets) or may lead to the overpayment or under-recovery of taxes.

- D 11.1 Heads of Service must ensure all staff are aware of the various tax regimes that impact on their areas of operational activity and ensure that they are compliant with legislation governing tax and the detailed standards below.

Detailed Standards

VAT

D 11.1.1 Officers should be aware of the Council's VAT guidance notes, available via the Council's internal web platform, and have access to them as the primary reference document for VAT related matters.

D 11.1.2 VAT must be paid and recovered within the time constraints laid down by H.M Revenue and Customs (HMRC).

D 11.1.3 Officers are responsible for obtaining and issuing proper tax documents (e.g. invoices, receipts) to ensure compliance with VAT law and to facilitate full VAT recovery on expenditure.

D 11.1.4 Officers have a responsibility to operate within the framework of the Council's VAT guidance and to follow the recommendations of the VAT team to ensure the Council's compliance with HMRC's VAT regulations.

D 11.1.5 The VAT team must be immediately notified of all errors that may have a VAT element for due consideration of timely disclosure and/or VAT adjustment prior to the submission of the monthly VAT Return.

D 11.1.6 The Council can only recover VAT incurred on exempt business activities where it can evidence that VAT on these activities is less than 5% of total VAT incurred during that financial year. The partial exemption calculation is based on information processed through the Council's finance systems. All services are responsible for ensuring that they record exempt activity correctly. Any breach of the partial exemption limit could cost the Council a significant sum of money.

D 11.1.7 The VAT team must be notified and consulted at the earliest stage of all new projects, included but not limited to, where they involve land/property (including lease arrangements); joint working or collaborative arrangements or where the Council acts as agent for other parties.

D 11.1.8 Officers must immediately advise the VAT team of any transaction which involves a non-UK creditor. Any sales made to non-UK debtors must be notified to the VAT team before the transaction takes place.

D 11.1.9 Officers must ensure that VAT registration changes of suppliers are immediately notified to the Payments team, supported by documentation from the supplier which evidences the change.

Other taxation

D 11.1.10 Guidance on taxation matters, other than VAT, will be issued from time to time by the Chief Finance Officer.

D 11.1.11 Officers responsible for the issuing or payment of invoices must give consideration to the impact of the various taxes. Particular attention should be paid to the correct treatment of employment taxes and VAT.

D 11.1.12 In instances of doubt over the correct treatment of taxation staff should consult the appropriate staff of the Chief Finance Officer as follows;

P.A.Y.E & National Insurance – Human Resources Payroll Team

VAT and other taxation – Devon Finance Services VAT & Taxation Team

Construction Industry Scheme (CIS) – Devon Finance Services Revenue Team

E COLLABORATIVE AND AGENCY ARRANGEMENTS, EXTERNAL FUNDING AND SERVICE CHANGES

Importance of this area

The importance of this area is in the local authority's distinctive leadership role for the community, bringing together contributions from the various stakeholders, optimising funding opportunities and achieving best value whilst minimising the risk to Devon ratepayers.

This may involve the establishment of collaborative arrangements (formal or informal partnerships), joint ventures, joint operational models (such as pooled budgets) or providing an agency service.

It is essential that the responsibilities, obligations and commitment attached to such arrangements are properly managed and accounted for.

E1 Collaborative Arrangements, Joint Ventures and Joint Operational Models

- E 1.1 The Chief Finance Officer must be consulted on the financial and probity implications of all proposed arrangements before any such agreements are finalised. Final arrangements must then be approved by the Chief Finance Officer and be in accordance with the detailed standards below.
- E 1.2 Chief Officers are required to agree and formally accept the roles and responsibilities of each of the partners involved before the project commences and to communicate regularly with partners for the duration of the project.
- E 1.3 Chief Officers are responsible for assessing the risks and benefits associated with the proposed arrangements and for ensuring any such arrangement is in the best interest of the Council and its service users.
- E 1.4 Chief Officers are responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships, joint ventures and pooled budgets that apply throughout the authority.
- E 1.5 Formal Joint Ventures will be subject to Committee approval. Governance arrangements, financial framework and funding must be agreed in advance of the signing of any agreements or formal commitment of the Authority.
- E 1.6 Further guidance is available in the 'Partnership Guidance'.

Detailed Standards

E 1.1.1 Collaborative arrangements, Joint Ventures and Joint Operational models may be used as a means of acquiring goods, works or services and may be of a complex nature. It is therefore necessary that the Chief Finance Officer is consulted on the financial implications of such arrangements in a timely manner, including the completion of the relevant forms, to include Partnership Risk assessment, VAT and Accounting checklists and must approve that:

- (a) Where applicable, confirmation of DCC as Accountable and/or Lead body.
- (b) DCC specific costs and income are provided for in the Council's budget;
- (c) A governance structure including each partner's agreement to the roles, responsibilities and accountability described in a joint document (partnership

- agreements or Memorandum of understanding/agreement) in a form as agreed with the County Solicitor.
- (d) Agreement with the DCC VAT section on the treatment of VAT for transactions.
 - (e) Arrangements are in place for accurate accounting for costs and income;
 - (f) Sufficient controls are in place for the successful operation of the partnership, including arrangements for sufficient access to financial and other records;
 - (i) Carry forward arrangements have been determined.
 - (ii) A formal risk assessment has taken place, including a risk assessment of third parties, and a management strategy devised
 - (iii) An auditing regime has been established.
 - (iv) A due diligence exercise has been completed in respect of potential partners (including any third parties)

E2 External Funding

- E 2.1 Before any bid for external funding is submitted the Chief Finance Officer must be consulted on the financial and probity implications of the project, **except for projects with a gross spend of less than £50,000, which require approval from the Head of Service.** This covers all funding which is competitively bid and/or where funding bodies are extending current funding proposals.
- E 2.2 **Any proposal for DCC to be the Accountable and/or Lead body must be approved by the Chief Finance Officer.**
- E 2.2 In promoting or committing the authority to any externally funded projects Chief Officers must ensure adherence to the Council's 'External Funding Minimum Standards'.
- E 2.3 All funding received from external bodies or associated parties must be properly recorded in the authority's accounts.
- E 2.4 Key conditions of funding and any statutory requirements must be understood and followed
- E 2.5 Any match-funding requirements must be given due consideration prior to entering into long term agreements and future revenue budgets must reflect those requirements
- E 2.6 Collaborative partnerships to deliver external funding must comply with E1 above.

E3 Work for Third Parties (Agency arrangements)

- E 3.1 The Chief Officer must be consulted on any proposed arrangements for DCC staff to do work for a third party and the proposals must be costed properly before an agreement is reached.
- E 3.2 Where the proposal is for the delivery of any financial service the Chief Finance Officer must give approval before any commitment is made to a third party. The assessment must include governance arrangements (including whose financial framework is to be complied with) and agreed VAT treatment (disclosed or undisclosed agency agreement). Formal contracts or a memorandum of understanding must be drawn up prior to any work commencing. These arrangements may be subject to the annual professional indemnity return.

E4 Alternative Commissioning/Delivery Models

- E 4.1 The Chief Officer must be consulted on the financial and probity implications of proposals which change the mode of delivery for a service or significant part thereof. Project management principles should be followed to produce an options appraisal and risk assessment. The Chief Finance Officer and County Solicitor must be consulted on any significant change because of the potential impact on Council services and the management of risk.

GLOSSARY OF TERMS

<u>TERM</u>	<u>DESCRIPTION</u>
P2P	The Council's automated ordering, goods received and invoice payment system
FINEST	FINEST is the Council's main accounting system and is used for many financial activities, some of which have been performed manually in the past, including raising orders and paying invoices.
Imprest account	This is a separate bank account, with a cheque book facility, to which an advance is made to facilitate quick payment for small items
Capital expenditure	<p>Capital expenditure includes the following however financed:-</p> <ul style="list-style-type: none">(a) the acquisition of land, buildings, furniture, equipment, plant and vehicles;(b) the construction of new buildings or improvements to existing buildings;(c) road improvements, bridgeworks, and traffic management and waste disposal schemes;(d) internal or external professional fee costs on the above;(e) grants and advances for a capital purpose;(f) property leases for more than three years duration. <p>Other expenditure may be brought within the definition of capital expenditure by Central Government Regulations. The Chief Finance Officer will advise Heads of Service/Strategic Directors whenever changes arise.</p>
Capital receipt	The sale of land, buildings and leases of land or buildings of more than three years duration, are capital receipts. Particular rules must be observed in dealing with the proceeds and they must not be confused with revenue income such as fees and charges.
Ex gratia payments	Ex-gratia payments are made in situations where no legal obligation exists.
Voluntary unofficial Funds	These are any funds (other than those of the Council) controlled wholly or in part by an officer by reason of his/her employment either by the Council or by Managers of an establishment maintained by the Council. They include monies collected from fund raising events, donations and other sources.
Virement	Movements of budget provisions between budget headings.
Commercial Units	The Council has a number of units that it regards as "Commercial Units" (some of which have arisen from statute i.e. Direct Service Organisations). In broad terms these units provide services which, though readily available from the private sector, the Council considers preferable to provide in-house for reasons of Best Value. Such units function more naturally in a commercial fashion, are income driven, have clear external competitors but do not operate for profit.

County Treasurer

Chief Finance (s151) Officer

Procurement Officer

The County Council's Procurement Officer

Chief Officers &
Heads of Services

Officers appointed by the Council comprising the management
of the County Council set out at Part 8 of this Constitution

Procedures for Tenders and Contracts

1.0 General

- 1.1 These procedures apply to all contracts, including arrangements for the carrying out of works, the supply of goods and services and the acquisition and disposal of assets. These procedures must be read in conjunction with the Contract Procedure Rules - Minimum Standards for Tenders and Contracts and any procurement guidance notes issued by the Procurement Officer.
- 1.2 Codes of Conduct dealing with Interests of Members and Officers apply to all contracts.
- 1.3 The Schools' Fair Funding Scheme (Scheme of Delegation) governs the management by each school of its delegated and devolved budget as determined in Section 48 of the School Standards and Framework Act 1998.
- 1.4 Due Diligence: for all arrangements where a financial relationship exists between DCC and external organisation(s) or an organisation uses DCC's name, logo, e-mail or telephony system the minimum due diligence checks must be applied (see Constitution Part 5 Code of Business Conduct, Procurement Policy (i) page 128 and (v) page 130)

2.0 Quotation and Tendering Procedures

- 2.1 Apart from particular types of contract specified in section 3, the minimum required numbers of tenders or quotations to be invited from appropriate contractors for a given estimated value of contract are:

- Above £1,000 and up to £2,500 (£5,000 for works) two oral quotations:
- Above £2,500 (£5,000 for works) and up to £10,000, Invite three organisations to submit written quotations;
- Above £10,000 and up to £100,000, Invite three organisations to submit written formal quotations submitted by a specified date and time and based on a written specification and evaluation criteria (referred hereafter as "formal quotation");
- Above £100,000, and up to EU thresholds, invite four organisations to submit tenders;
- Over EU thresholds, invite organisations to submit tenders in accordance with the requirements of the Public Contract Regulations.

The values are for single items or groups of items, which must not be disaggregated artificially.

From 1 January 2018 the sterling equivalents of EU thresholds (net of VAT) are £181,302 for supplies and services, £4,551,413 for works and £615,278 for contracts falling within the light-touch regime and £4,551,413 for concession contracts. The EU thresholds are changed on 1 January of each even-dated year. The Procurement Officer will advise Heads of Service of these changes.

A light-touch procurement regime applies to certain health, social and education services that are above the applicable EU threshold and listed within Schedule 3 of the Public Contracts Regulations 2015. An OJEU notice is required but there is greater flexibility with the procurement process to be followed.

- 2.2 Where quotations apply, they should be sought from contractors selected from a standing list if one exists but if not from suitable contractors or, for a formal quotation, through open competition.

- 2.3 Where formal quotations are required, they should be sought from organisations selected from a standing list. Where there is no standing list, formal quotations may be sent directly to a minimum of three organisations who have been selectively invited to bid without recourse to open advertisement of the opportunity or they may be selected through open competition.
- 2.4 Where tenders are required, Heads of Service have a choice of tendering procedures. For contracts up to EU thresholds, organisations may be selected from a standing list. Where there is no standing list, and for contracts over EU thresholds, appropriate advertisement must be undertaken inviting suitable organisations to express an interest in tendering. Alternatively, a suitable Framework Agreement can be used (see para 3.3 below). Tenders may be received from either all who respond to an advertisement (open competitive tendering) and, for contracts over EU thresholds, from a selection of suitable contractors who have expressed an interest and who are invited by the Council to tender (selective tendering). The number of tenderers to be invited to tender will depend on the particular market and the individual project procurement strategy.
- 2.5 If selection is to be from standing lists, arrangements for standing list compilation, maintenance, review and use must be approved in advance by the County Solicitor.

Procurement Notification Process

- 2.6 Officers planning to carry out any procurement exercise with a value of £10,000 or more must submit an electronic procurement notification form to the Procurement Officer. This will be used to create an initial entry in the Contracts Database.

Appropriate Advertising

- 2.7 Tenders up to the EU thresholds where there have been no selective invitations to quote or tender, and all tenders above the EU thresholds, will be advertised on the Council e-tendering system. Any opportunities that are advertised on the Council's e-tendering system must also be advertised on the government's Contract Finder website.
- 2.8 For services, supplies and works where the total contract value, including any options to extend the initial term of the contract are expected to exceed EU thresholds, an OJEU notice must also be placed and must follow EU procurement requirements with particular regard to be given to the timescale for such tenders.
- 2.9 Any formal quotation following the open competition procedure will be advertised on the Council's e-tendering system. Any opportunities that are advertised on the Council's e-tendering system must also be advertised on the government's Contract Finder website. The Head of Service will determine, if further advertising in relevant local newspapers and trade publications is also required.
- 2.10 The Procurement Officer will ensure that the e-tendering system website address is publicised appropriately.
[www.devontenders.gov.uk / www.supplyingthesouthwest.org.uk]

Selective Tendering

- 2.11 Following advertisement of tenders above the EU thresholds for goods and services (whether in relation to goods, services or works), invitations shall be sent to the prospective tenderers who are best qualified to bid. ~~The appropriate and relevant Cabinet Member shall approve the tenderers for contracts estimated to exceed £250,000 on the recommendation of the Head of Service.~~

Invitation to Tender

- 2.12 Every invitation to tender must specify that the Council e-tendering system will be used to issue and receive tender documentation. The invitation must state the date and time by which the tender must be received by the e-tendering system and that the tender will be held in the secure area of the e-tendering system and cannot be accessed until after the deadline. Adequate time must be allowed for the preparation and return of tenders ensuring compliance where appropriate with EU requirements. Any exceptions to using the e-tendering system must be approved by the Procurement Officer.

Invitation to Quote

- 2.13 The e-tendering system must be used for a formal quotation, save for any exceptions approved by the Procurement Officer. For quotations below £10,000 the e-tendering system may be used but if paper processes are used, the invitation must state the place, date and time by which the quotation must be returned. Adequate time must be allowed for their preparation and return.

Certification notice by Tenderers

- 2.14 Tenderers shall certify and give undertakings that:
- the tender is genuine and intended to be competitive;
 - they have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person*;
 - they have not done and will not do, at any time before the time and date specified for the return of the tender, any of the following:
 - inform any person* the amount or approximate amount of the proposed tender, except where the confidential disclosure of the approximate amount of the tender was necessary to obtain insurance premium or other quotations necessary for tender preparation;
 - enter into any agreement or arrangement with any other person* with the aim of preventing tenders being made or as to the amount of another tender or the conditions on which the tender is made;
 - offer to pay or give or agree to pay or give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender for the Council any of the actions specified and described in this section;
 - cause or induce any person to do any of these things.

* outside the consortium if a consortium tender,

Receipt, Custody and Opening of Tenders and Formal Quotations

- 2.15 The Council's e-tendering system will record the date and time of receipt of all tenders and formal quotations. Any tender or formal quotation not received via the Council's e-tendering system (as a result of an exception approved under paragraphs 2.12 or 2.13)) must be marked with the date and time of receipt and the initials of the receiving officer, and recorded. Any tender or formal quotation received after the specified time shall be recorded as such but must not be considered.
- 2.16 Tenders and any formal quotation not received via the Council's e-tendering system shall be opened at one time and in the presence of at least two officers who shall be independent of each other and shall sign a complete record of all

tenders or formal quotation opened, showing the date and time of opening and the value of each tender or formal quotation.

Use of e-auction functionality

- 2.17 An e-auction process may form part of the overall tender process. The Procurement Officer must approve any proposal to use this process, and such approval will include consideration of all software, systems and procedures to be used. The invitation to tender must state that an e-auction will form part of the tender process.

Acceptance of Single Quotation or Tender Received

- 2.18 This section deals with situations where either a single quotation or tender is received. It does not apply to social care contracts for which specific provision is made at paragraph 3.9. For contracts up to £10,000, the Head of Service will determine whether or not to accept the quotation. For contracts over £10,000, the Procurement Officer and the Head of Service shall jointly consider whether or not, in their professional judgement, best value would be obtained. The following provisions shall then apply:-

a) where the estimated value of the contract is between £10,000 and £100,000 if in their view best value would be obtained then the Head of Service may accept the formal quotation. If in their view value for money would not be obtained, or if there is any doubt, the tendering exercise should either be repeated or the matter referred to the appropriate and relevant Cabinet Member for consideration and decision.

b) where the estimated value of the contract is over £100,000 the matter must be referred to the appropriate and relevant Cabinet Member for consideration and decision taking into account the views of the Procurement Officer and Head of Service as to whether to accept the tender or repeat the tendering exercise.

Financial Provision for Contracts

- 2.19 Where tenders or quotations received vary from the approved estimate, the Head of Service must identify funding for any increase. Where the increase exceeds the greater of 5% or £25,000, the funding must be approved by the Chief Finance Officer before awarding the contract. Approval of the Cabinet Member whose remit includes Finance or Resources must also be obtained before awarding the contract where the variation exceeds £100,000.

Maintaining the Contracts Database

- 2.20 Upon the award of a contract with a value of £10,000 or more, the Heads of Service will update and complete the entry in the Contracts Database.

Exemption from the Tendering and Formal Quotation Process

- 2.21 Where the subject matter of a contract is of a specialised nature with only one or a limited number of possible contractors or where exceptional circumstances have arisen, the Head of Service shall submit a written report requesting an exemption from normal tendering or formal quotation rules to the Procurement Officer.

The authorisation requirements for exemption requests are as follows:

- The Procurement Officer may determine such requests in respect of formal quotations up to £50,000.

- The Procurement Officer in conjunction with the Head of Digital Transformation & Business Support may determine such requests between £50,000 to £100,000.
- The Head Digital Transformation & Business Support may determine such requests above £100,000 up to the relevant legal threshold in line with Part 3 of the Constitution following consultation with the Cabinet Member whose remit includes Procurement.

Tenders subject to the European Procurement Regulations shall be subject to exemptions contained within those Regulations. Exemptions in regard to [Social Care Contracts] are set out below in paragraphs 3.2 – 3.6.

3.0 **Particular Types of Contract**

Acquisition of Property

- 3.1 In order to ensure compliance with capital rules, Heads of Service must obtain approval of the Cabinet Member whose remit includes Finance or Resources before giving instructions for property acquisition to NPS (SW Ltd). The arrangement and terms of all contracts for the acquisition of land or buildings and for property leases must be in line with the Property Transaction process approved by the Council's Executive on 15 January 2008.

Individual Social Care, Support or Education Contracts

- 3.2 The following paragraphs 3.2 – 3.7 cover exemptions from the normal tender processes for contracts which provide for the delivery of social care, support or education to an individual under a statutory duty, or where the service is needed to meet an urgent need. Such exemptions are required because the services are typically of undefined duration; the individual, or their family or carer has a right to express a choice in who provides the service (under government guidance); and there are either defined eligibility criteria that mean the service has to be provided, or there is a presenting need that must be met urgently. Once in place, the services must be supplied consistently and without interruption.
- 3.3 The Heads of Service set out at Part 3 of this Constitution are responsible as identified therein for purchasing social care, support and education services that are delivered to individuals and which fall within the scope of paragraph 3.2 By virtue of the eligibility criteria which are required, these are by definition vulnerable people who may receive a service over a protracted period of time and who rely on services being delivered consistently and without interruption. This places an additional consideration within the commissioning process which is to ensure that the provider market is stable and that long-term relationships between service providers and service users are maintained where this is appropriate.
- 3.4 The aforementioned consideration will on occasion be at variance with the commissioning process required under the Contract Procedure Rules - Minimum Standards for Tenders and Contracts and these Procedures for Tenders and Contracts. Accordingly, it is not appropriate to adhere strictly to the general requirement to tender on every occasion.
- 3.5 In the circumstances described in 3.4 above the following criteria must be satisfied before awarding any individual social care, support or education contract:-

- (i) the service provider selected must have a proven, successful track record in the provision of similar services,
- (ii) the service provider must be able to demonstrate that they can achieve the level of quality required in the provision of the service,
- (iii) the service provider must be able to demonstrate that they can provide the service at a price which represents good value for money,
- (iv) where more than one service provider would be able to meet the criteria listed above then the officer dealing with the procurement must be able to demonstrate that the service provider selected was the most appropriate in relation to the service specification.

3.6 The approval process for awarding an individual social care, support or education contract is as follows:-

- value of contract below £5,000 per week – approval must be by Head of Service or in line with delegated approval levels set out in the service Scheme of Delegated Financial Approval;
- value of contract £5,000 per week or more – approval must be obtained from the Chief Officer or if not available the Chief Executive.

Monthly reports on placement mix, including high cost placements, will be scrutinised by the Cabinet Members with responsibility for Resources and Children's Services.

Non Individual Social Care, Support or Education Contracts

3.7 When social care, support or education contracts other than for an individual, for example block contracts or other contracts not specifically focussing on an individual, are due for renewal, tendering will take place in accordance with the Minimum Standards for Tenders and Contracts and these Procedures for Tenders and Contracts. It is recognised, however, that in certain circumstances, it will be appropriate to seek an exemption from tendering in accordance with paragraph 2.21 above.

3.8 The following factors are examples of circumstances which might justify an exemption for this type of contract:-

(i) there are no other providers who would be able to provide the service at the time of renewal; or

(ii) the service is provided by a voluntary, charitable or not-for-profit organisation that has made a substantial investment in the service and where market testing has established that there is no other provider who could offer similar investment and that there would be no financial advantage to the Council in tendering the service, or

(iii) the funding which is provided to a voluntary, charitable or not-for-profit organisation through a contract helps support the general activity of the organisation without which the organisation's viability might be at risk, and its closure would be to the detriment of the local community, or

(iv) disruption to service users and/or the market would result from a tendering exercise which would outweigh any financial advantage to be gained from undertaking such an exercise, and

3.9 In all cases where such an exemption is sought evidence will need to demonstrate that the contract is providing good value for money.

Framework and Joint Procurement Arrangements

- 3.10 Framework Agreements will be established in accordance with these Procedures for Tenders and Contracts. Framework Agreements set up by government offices or other public bodies may be used after consultation with the Procurement Officer. The relevant Head of Service is responsible for the performance management of the Framework Agreements. Call off contracts under a Framework Agreement will be governed by the terms of the Framework Agreement.
- 3.11 Joint procurement arrangements with other local authorities or public bodies may take place where they represent best value. The Procurement Officer must be notified at the start of the procurement of all such proposed arrangements irrespective of whether the County Council is acting as the lead authority.

Nominated Sub-Contractors and Suppliers

- 3.12 Unless a sub-contractor is subject to an existing County Council framework contract or the sub-contract type is covered elsewhere in this section, where a sub-contractor or supplier is to be nominated to a main contractor, tenders shall be invited from the minimum number of tenderers or all such persons if fewer than the minimum number of sub-contractors or suppliers are considered suitable. Tenders need not be invited if, in the opinion of the Head of Service, it is not reasonably practicable to obtain competitive tenders and the opinion is recorded on the contract file.
- 3.13 All invitations to tender shall require an undertaking by the tenderer that if selected they will be willing to enter into a contract with the main contractor on terms which indemnify the main contractor against his own obligations under the main contract in relation to the works, goods or services included in the sub-contract.
- 3.14 The Head of Service shall nominate to the main contractor the person whose tender in his opinion provides the best value; provided that where the tender is other than the lowest received the circumstances shall be reported to the appropriate and relevant Cabinet Member for information.

Disposal of Assets

- 3.15 Disposals of surplus property will follow procedures set out in the separate Code of Practice for the Disposal of Surplus Property. This includes a requirement for the local County Councillor to be made aware of any proposal to dispose of land or premises in his/her Division. Land and premises shall be disposed of by the Strategic Property Manager. The method of disposal shall ensure fairness and propriety. Except for special categories or cases approved by the Cabinet Member whose remit includes Finance or Resources, the Strategic Property Manager will arrange advertising for:
- (a) land with an estimated value over £20,000, or
 - (b) leases for over seven years, or
 - (c) rentals of over £5,000 p.a. (excluding business rates or Council Tax).

3.16 Payments to Secure Local Bus Services

- 3.16.1 De minimis provisions may be used for:
- (i) existing and new community-based transport schemes developed in partnership with the County Council;

(ii) experimental local bus services up to a maximum of 12 months;

(iii) experimental local bus services where there is a quantifiable shared capital or revenue risk by the County Council and the operator (revenue risk must be demonstrated by, for example, declining support payments or calculated difference between payments and estimated revenue shortfall, based on contractually binding calculations with clawbacks in the event of early termination);

(iv) extending and enhancing existing services by way of frequency enhancements, route alterations, extensions or diversions of services and investment in buses which have been registered commercially - including Kickstart schemes based on joint investment with the operator - subject to the scale of the supported section, in vehicle resource terms, not exceeding that of the commercial core.

3.16.2 Any Quality Bus Partnerships with operators per se should not bring any special exemption from the tendering process or best value assessment, but within the Quality Bus Partnership framework circumstances may arise which, judged on their merits using the above guidelines, may justify a de minimis arrangement.

3.16.3 The award of de minimis contracts for £50,000 or more per year will need to be approved by the Cabinet Member with responsibility for transportation matters.

4.0 **Contracts** **Contents of Contract**

4.1 Heads of Service shall obtain the advice of the County Solicitor on the contract terms to be agreed, including the Council's terms and conditions of contract.

4.2 Every contract shall be in writing or confirmed in writing and shall specify:

- (a) the work, materials, supplies or services to be provided;
- (b) the quality standards and or service specification to be adhered to;
- (c) the price to be paid, with a statement of discounts or other deductions;
- (d) the time or times within which the contract is to be performed;
- (e) the procedures for variations, termination, or penalties for non-compliance, or security for the due performance of any contract including liquidated damages where works are not completed in the time specified
- (f) a suitable VAT clause and ensure that the Council is fully indemnified in respect of any penalties/interest charges which arise where the contractor treats their supply incorrectly for VAT purposes;
- (g) invoicing and payment arrangements as specified by the Chief Finance Officer;
- (h) that the Council shall pay valid and undisputed invoices within a 30 day period, consider and verify invoices in a timely fashion and impose a contractual obligation on the contractor to ensure that they abide by these conditions in relation to their own sub-contractors; and
- (i) such other terms and conditions as are deemed necessary by the Heads of Service having taken advice from the County Solicitor.

4.3 Contracts shall be signed (except where the seal of the Council is to be applied) in accordance with A5c of Financial Regulations.

Cancellation of Contracts

4.4 All written contracts shall contain a clause enabling the Council to cancel the contract and recover from the contractor the amount of any resulting loss if:

(a) the contractor has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for:

(i) doing or not doing, or for having done or not done, any action in relation to the obtaining or execution of the contract or any other contract with the Council;

(ii) showing or not showing favour or disfavour to any person in relation to the contract or any other contract with the Council.

(b) the same things have been done by any person employed by the contractor or acting on his behalf (whether with or without the knowledge of the contractor);

(c) in relation to any contract with the Council the contractor or any person employed by them or acting on their behalf has:

(i) given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972;

(ii) committed an offence under the Bribery Act 2010.

4.5 Every contract that has been tendered via the Official Journal of the European Union must also contain the right for the Council to terminate the contract where:

- (a) there has been a modification of the contract which falls outside one of the permitted categories specified in Regulation 72 of the Public Contracts Regulations 2015 and which are summarised at paragraph 4.5 below;
- (b) the contractor should have been excluded on mandatory grounds under Regulations 57(1) and /or 57(2) of the Public Contracts Regulations 2015
- (c) the contract should not have been awarded in view of a serious infringement under European Law which has been declared as such by the Court of Justice.

Variation of Contracts

4.6 All orders given to a contractor directing them to vary in any respect the subject of the contract must be in writing, signed by the supervising officer and quote an agreed value (if any). The written agreement of the Head of Service must be obtained before variation orders are issued if the total value of the accepted tender will be exceeded by more than £5,000, or if the value of specified elements within the tender total will be exceeded by more than £5,000. Written agreement will not be required for:

- (a) price fluctuations in respect of wages, plant and materials;
- (b) variations resulting from statutory obligations;
- (c) agent authority works subject to equivalent external controls;
- (d) urgent construction arrangements;

but supervising officers must inform Heads of Service in advance of all significant cost increases so that they can ensure that their budgets are not exceeded without appropriate approvals.

In addition to the above requirements, where a contract has been tendered via the Official Journal of the European Union (i.e. a contract above the relevant value threshold), a variation to the original contract terms will trigger a new procurement process unless it falls within one of the following permitted changes:-

- Modifications that are clearly provided for in the original procurement and contract documents; or
- Necessary modifications where a change of contractor cannot be made due to economic or technical reasons and would cause significant inconvenience or substantial duplication of cost and does not result in an increase in price of more than 50% of the original contract value; or
- Modifications to deal with unforeseen circumstances where the modification does not alter the overall nature of the contract and does not result in an increase in price of more than 50% of the original contract value; or
- Modifications to deal with a new contractor replacing the original contractor where the replacement is due to corporate restructuring and the new contractor meets the pre-qualification criteria and there are no other substantial amendments to the contract, or
- Modifications that are not substantial. The following will be considered substantial modifications:-
 - modifications that render the contract materially different in character,
 - modifications that could have resulted in a different outcome in the procurement;
 - modifications which shift the economic balance in favour of the contractor;
 - modifications which extend the scope of the contract considerably, and
 - where a new contractor replaces the old contractor other than in the circumstances permitted above.
- Low value modifications where the value attributable to the modification falls below the relevant EU threshold **and** is less than 10% of the initial contract value for supplies and services or 15% for a works contract.

Where a contractor notifies a change in their company structure which results in a change of VAT treatment of their supply then advice should be sought internally from the VAT team before the contract is novated.

Heads of Service must seek the approval of the County Solicitor in relation to any proposed variation of a contract which has been tendered via the official Journal of the European Union for all other variations of contracts the Head of Service must first seek the advice of the county solicitor.

Payment for Contracts for Building or Civil Engineering Work

4.7 Each certificate for payment must show:

- (a) contract sum (usually tender total);
- (b) value of work to date;
- (c) total amount of certificates previously paid;
- (d) amount of the certificate;
- (e) retention amount (if any);
- (f) value of price fluctuations;
- (g) Value Added Tax (if any).

Monitoring of Contracts

4.8 Heads of Service must monitor all contracts and report to appropriate and relevant Cabinet Member(s) any significant exceptions to normal progress exceeding £100,000. Significant exceptions include delay or advance in expenditure by more than £100,000 compared with expectations within a financial year and critical delay in meeting target completion dates.

(CSO/19/15)

MHCLG: Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities May 2019

After many months delay the anticipated Scrutiny guidance was published on the 7th May. Devon gave evidence into the original Select Committee consideration as well as the drafting of the statutory guidance. The Scrutiny Symposium was held in time for the findings to be sent to MHCLG in their compilation of evidence and final conclusions. Whilst Scrutiny at Devon is well regarded, the publication of this guidance offers the opportunity to review of current practice over and above our regular reflections and to make improvements where possible.

This report summarises the main findings and suggestions for effective Scrutiny and evaluates them against Devon County Council's approach. The key points are as follows:

- The most important thing is culture – creating the conditions for meaningful Scrutiny to operate. This extends to the Council's Chief Executive and political leadership.
- Role and prioritisation – Scrutiny's role has to be clear and focused, and the Scrutiny work programme needs to be carefully prioritised
- Selecting Committee Members and Chairs should be done with a view to their skill set as well as their politics.
- Access to Information – all members have the right to access information to support good Scrutiny, including commercial detail.
- Gathering evidence and making recommendations – the role of the chair in managing the gathering of evidence is seen as especially important – as it the work of members in pulling together SMART and useful recommendations.
- Resourcing – the resource must be available to ensure that the above things can happen properly, and dedicated Scrutiny teams should have a high profile in the authority along with the statutory Scrutiny officer role.

Themes	What does the guidance say?	What do we currently do?	How could we improve?
Establish a strong organisational Culture	Recognising Scrutiny's legal and democratic legitimacy	We have a mature relationship and a positive culture between the Cabinet and Scrutiny. Scrutiny does ask Cabinet to make difficult decisions and at times to put more resources in particular areas. In recent years Cabinet has responded by supporting Scrutiny recommendations where there is a clearly demonstrated evidence base to do so. The leader also attends the Chairs and Vice Chairs group bi-annually to talk to scrutiny.	Continuing to articulate the role and impact of Scrutiny. The annual report is structured in a way to focus on the positive contribution of Scrutiny to the wider democratic mandate of the County Council
	Identifying a clear role and focus		
	Ensuring early and regular engagement between the executive and Scrutiny		
	Managing disagreement – this could be done through an executive/Scrutiny protocol		Further work could be undertaken to ascertain if members see this as an issue – but there is little evidence to suggest that this is an area for concern.
	Providing the necessary support	We have a Head of Scrutiny and two statutory officers, and significant with additional support from the wider Democratic Services team.	The possibility of offering secondments to other parts of the organisation could be explored
	Ensuring Impartial Advice from Officers	Senior Officers meet regularly with Chairs and Vice Chairs to support the work program and impact of Scrutiny – there is clear support for Scrutiny.	
	Communicating Scrutiny's role and purpose to the wider authority	All minutes of Scrutiny Committees go to full council, as well as the Annual Report	Further consideration could be given to greater publicity of Scrutiny task groups with Full Council. Task Groups headline information will be displayed at the Annual Council Meeting. Head of Scrutiny to go to Leadership Group with the annual report.
	Maintaining the interest of full council in the work of the Scrutiny Committee	All Councillors are invited to Scrutiny Masterclass Sessions Annual Scrutiny Report goes to Full Council Local Members regularly register to speak at Scrutiny Committees.	
	Communicating Scrutiny's role to the public	Sporadic press releases on an exception basis	Press Release with the conclusion of every task group and the Annual Report Head of Comms to be invited to future Chairs group to look at opportunities.

Themes	What does the guidance say?	What do we currently do?	How could we improve?
	Ensuring Scrutiny members are supported in having an independent mindset	The Member development steering group co-ordinates training and DCC is a member of the shared training service with South West Councils. The scrutiny team is a professionally dedicated team made up of politically neutral officers. We also have two Independent Advisors to support scrutiny in Health and Adult Care and Children's Scrutiny.	Continuing to offer support and training as required.
Resourcing is pivotal in ensuring success	Creating an effective Scrutiny mechanism requires resource.	We have a 'Head of Scrutiny' as the designated officer within Legal and Comms. DCC works to the Specialist model of dedicated officer support to ensure independence.	Visibility of the statutory nature of the Head of Scrutiny and the team.
	Upper tier authorities are required to designate a Statutory Scrutiny Officer		
Selecting the right Committee Members	Selecting a Scrutiny chair is crucial and needs to be done based on skill set - should considered secret ballot of the Committee to choose.	The Three Scrutiny Committees Chairships are shared between the three parties – Conservative, Lib Dem and Labour. The positions are allocated to parties and the leader and whip of each party determines who takes which position offered.	In an authority with a large majority a secret ballot could return the result of each Scrutiny Committee being from the ruling party. Our current system gives greater pre-eminence to smaller parties – suggest no change.
	All members should have a Scrutiny induction and should receive training on their legal powers and how to prepare for and ask questions at Scrutiny sessions.	We carry out Scrutiny induction for all members after elections The member development steering group co-ordinates members training needs and we offer in-house training and development when required.	We are planning to run a session on asking questions at Scrutiny – as requested by the chairs and vice chairs group.

Themes	What does the guidance say?	What do we currently do?	How could we improve?
	the right Councillors must be selected to be on Committees, and to hold the position of chair. The guidance gives a sense of the personal attributes that people in these positions will require.	Only a minority of Scrutiny members have not taken part in a task group or service visit in the current municipal year. Through our robust and effective Scrutiny practice we engage and support members to develop their skill set. We believe it is good practice to share the chairing of task groups. In practice only a small number are carried out by the chair of Committee.	Continue to encourage our Councilors to take up learning opportunities and to have the right attitude to Scrutiny.
	Scrutiny can consider receiving expert independent advice	We currently contract two specialist advisors to support both children's and health and adult care Scrutiny Committees.	
Default position of sharing information	Committee members should have access to information – commercial confidentiality is not a reason to withhold info.	Members receive detailed reports, briefings and information in a timely manner. Cabinet part 2 is automatically sent to chairs of scrutiny.	The focus of Scrutiny in being clear about exactly the information they want.
Planning Work	The Work programme should be set on an annual basis with enough flex to include topics as they arise.	The work programme is visited each meeting. At times the full nature of the work programme/committee agenda presents difficulty in accommodating as topics as they arise.	We could move to an annual work programme process with an evaluation of which are the most important topics, with flex built in.
	Input to the work programme should be considered from the public, partners and the Executive.	Members reflect resident's concerns and Scrutiny receives suggestions from Cabinet as well as from heads of service.	Further consideration of how Members of the public can suggest issues for Scrutiny to look at?
	Topics should be prioritised so that Scrutiny is effective – fewer, in depth topics are looked at in Committee Must always be able to justify why a particular topic has been considered.	This is an enduring challenge. Whilst Scrutiny cannot look at everything there are many important areas of work that benefit from Scrutiny active involvement.	Look at tools to evaluate work programme topics and continue challenging ourselves to keep shorter agendas.

Themes	What does the guidance say?	What do we currently do?	How could we improve?
	Reports on Performance, risk, complaints, members surgeries, options appraisals and ombudsman reports will be best dealt with outside Committee, but should all be used to inform the work programme	Committee members regularly receive reports on: <ul style="list-style-type: none"> - Risk updates, - performance reports - ombudsman report - and other information as requested At other times SOG meetings have been used to analyse in-depth performance	We do not currently record member's surgery feedback – and this could be considered for pan Devon issues. Much of this information is looked at in public to enable transparency in Scrutiny. Closed sessions would be undesirable for some of this information. Continue to avoid items 'to note' Potential to introduce SOG meetings for Children's and CIRS Scrutiny committees for performance and risk?
	Work can be carried out by <ul style="list-style-type: none"> - An item on a Committee agenda - As a single item agenda on a Committee meeting or other - A short task group - A longer task group A standing panel – rarely used	We currently employ all of these approaches as well as working even more on member development through masterclasses.	Consider single item agendas
Evidence Sessions	Good planning for evidence sessions – including identifying objectives and questions	The Scrutiny officer currently prepares a scope document for each task group/spotlight review. This will include detail on what the review will look at as well as who to speak to and questions to ask. It will also specify a timeframe within which the work will be completed.	We constantly challenge ourselves to apply reflective practice, identifying areas for improvement against an understanding of the positive impact of scrutiny reviews.
	Recommendations should be member led with officer input where necessary – particularly the monitoring officer	The independent scrutiny team work to support Member-led investigations into issues and policy. It is unusual for the Monitoring Officer to give task group input.	

Themes	What does the guidance say?	What do we currently do?	How could we improve?
	Recommendations should be SMART	Our in-house guidance is for SMART, easily trackable and measurable recommendations with guidance of ten per investigation.	
	Six to 8 recommendations are often a good number to enable		
	The Executive should not block recommendations but should see them in advance to 'sense check' them	As in the constitution the Cabinet have two weeks before recommendations are published to comment and make their views known to the task group	

Report of the County Solicitor

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

Recommendation

The Committee is asked to review the Report to ensure compliance with the Joint Negotiating Committee for Chief Executives of Local Authorities (Model Disciplinary Procedure and Guidance) and review the considerations for change (a composite list outlined at Section 7) and determine any changes accordingly.

1. Introduction

- 1.1 In May 2019, the Council received a letter from the Joint Negotiating Committee for Chief Executives of Local Authorities reminding Councils, as they entered a new civic year and would therefore be making appointments to various committees, of the requirements as set out in the Model Disciplinary Procedure and Guidance in the JNC Conditions of Service Handbook.
- 1.2 They reported there had been instances in recent months of some Councils not having the appropriate structures and standing committees in place in order that potential disciplinary issues could be quickly considered. Accordingly, the Council has reviewed its own structures and standing committees in light of these requirements.
- 1.3 All Councils in England should establish:
 - An Investigating and Disciplinary Committee (IDC) (JNC Handbook para 1.2.2)
 - An Appeals Committee (see para 1.2.3)
 - An Independent Panel (see para 1.2.4)
 - An elected Member with the designated power to suspend the Chief Executive immediately in an emergency (see para 3)

2. Investigating and Disciplinary Committee

What is Required

- 2.1 The purpose of the Investigating and Disciplinary Committee is to investigate allegations made relating to (i) Chief Executive conduct; (ii) Chief Executive capability; or (iii) some other substantial issue that requires investigation (as well as determine whether an investigation is needed).
- 2.2 If the Committee determines that an investigation is needed it will also need to appoint an Independent Investigator and consider any report of that Independent Investigator.
- 2.3 The Committee then must decide whether to impose no sanction, impose a sanction short of dismissal or recommend dismissal to the Independent Panel and commence a dismissal process.
- 2.4 The Committee must be a standing Committee appointed by the Council and can undertake other functions as well. It must be politically balanced and include at least one Member of the Cabinet.

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- 2.5 It is suggested it is comprised of 5 Members.

What is in place

- 2.6 The Corporate Disciplinary and Dismissal Policy refers to (in the case of the Chief Executive) the (currently named) Appointments and Remuneration Committee as having the role of reviewing the information reported and if necessary gathering further information in order to determine whether a full investigation and suspension are appropriate.
- 2.7 The Policy also states that the Appointments and Remuneration Committee has delegated authority to consider whether it is appropriate to suspend a Protected Officer (the Chief Executive, Monitoring Officer or Chief Finance Officer)....or to the Chair in cases of emergency (see Section 4).
- 2.8 The Appointments and Remuneration Committee is appointed by the Council and has 5 Members. It includes three Members of the Cabinet and the Leaders of the Labour and Liberal Democrat groups. The current allocations are in line with the political balance calculations.
- 2.9 The terms of reference of the Appointments and Remuneration Committee are clear in that they include *'To discharge the duties of the Council and determine, as appropriate, any disciplinary matters short of dismissal in relation to those Senior Officers at (a) above governed by and in accordance with the Council's Chief Officer Employment Procedure Rules'*.

Considerations for change

- 2.10 It would appear that the title of the (currently named) Appointments and Remuneration Committee is not reflective of its entire role. Whilst the terms of reference are clear that it is within the remit to deal with disciplinary matters (short of dismissal), the Committee is asked whether a Committee name of Appointments, Remuneration and Chief Officer Investigatory Committee would be more appropriate.
- 2.11 If the above is agreed, then the Chief Officer Procedure Rules will need to reflect the revised name. They are compliant in all other areas.
- 2.12 The Council schedule currently shows the currently named Appointments and Remuneration Committee as locally balanced, however, this can be reflected on the schedule as politically balanced.

3. Appeals Committee

What is Required

- 3.1 The purpose of the Appeals Committee is to hear appeals against action taken by the Investigating and Disciplinary Committee on Sanctions (except for dismissal) and then decide whether to confirm the sanction; impose no sanction; or impose a lesser sanction.
- 3.2 It has a fairly limited role, however the decision of the Appeals Committee is final.
- 3.3 The Committee must be politically balanced and include at least one Member of the Cabinet.
- 3.4 Again, it is *suggested* it is comprised of 5 Members, but they cannot be Members who are Members of the Investigating and Disciplinary Committee.

What is in place

- 3.5 The Corporate Disciplinary and Dismissal Policy refers to a detailed appeals process against action short of dismissal as outlined above. It highlights that the 'Appeals

Committee' should comprise the Chair of the County Council together with two members of the Cabinet and two other Members, the composition of the Committee to include a representative from each of the political party groups and excluding any Members previously involved.

Considerations for change

- 3.6 Whilst the Corporate Disciplinary and Dismissal Policy is fully compliant in the recognition of requiring an Appeals Committee, the Council has not formally constituted an Appeals Committee.
- 3.7 The Council will need to appoint such a Committee as a belt and braces approach with the suggestion it be called Appeals (Chief Officer) Committee, so not to be confused with the Appeals (Transport) Committee.

4. An Independent Panel

What is Required

- 4.1 The purpose of the Independent Panel is to review a recommendation of the Investigating and Disciplinary Committee proposing dismissal of the Chief Executive and any representations made by the Chief Executive.
- 4.2 Its role is also to provide advice, views or recommendations via a report to Council before a Chief Executive can be dismissed, for any reason other than redundancy, permanent ill-health or the expiry of a fixed term contract, unless the authority has undertaken to renew that fixed term contract.
- 4.3 It *should* be comprised of at least two independent persons who have been appointed by the Council, for the purposes of the Council Members' conduct regime under *section 28(7) of the Localism Act 2011*.
- 4.4 They also must be appointed at least 20 days before the meeting of the Council at which a recommendation for dismissal is to be considered.

What is in place

- 4.5 The Corporate Disciplinary and Dismissal Policy refers to such a panel (at least two independent persons, who are defined in the Regulations as a person appointed under section 28(7) of the Localism Act 2011) and mirrors the approach as outlined above (for example ensuring the Panel is in place at least 20 working days before the hearing and that the Independent Panel should review the Investigation Report and provide a view and advice to the Authority).
- 4.6 The Annual Council meeting appoints Independent Persons under s28(7) of the Localism Act 2011 and The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015, specifically referencing the consideration of complaints under the Council's Standards/Conduct Regime and Dismissal of certain Statutory Chief Officers.

Considerations for change

- 4.7 This section is fully compliant, however, consideration may wish to be given to referencing the role of the Independent Person under the terms of reference for the currently named Appointments and Remuneration Committee in the Constitution.

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5. **Elected member with the designated power to suspend the Chief Executive**

What is Required

- 5.1 An elected Member with the delegated power to suspend the Chief Executive immediately in an emergency or if an exceptional situation arises whereby allegations of misconduct by the Chief Executive are such that his continued presence at work pose a serious risk to the health and safety of others or the resources, information or reputation of the authority.
- 5.2 It is suggested that this power is held by the Chair of the Investigating and Disciplinary Committee.

What is in place

- 5.3 The [corporate disciplinary and dismissal policy](#) for chief officers and heads of service states the Chair of the currently named Appointments and Remuneration Committee shall have delegated to them the power to suspend a Protected Officer immediately in an emergency if an exceptional situation arises whereby allegations of misconduct are such that the Officer's remaining presence at work poses a serious risk to the health and safety of others or the resources, information or reputation of the Authority.

Considerations for change

- 5.4 Whilst the Policy is clear, it is felt that the Constitution (the Terms of Reference of the currently named Appointments and Remuneration Committee) reflect this power of the Chair.
- 5.5 It would also be beneficial for the Corporate Disciplinary and Dismissal Policy to be available via a link from the currently named Appointments and Remuneration Committee terms of reference.

6. **Process / Flowchart**

- 6.1 For ease of reference, a flow chart relating to the whole discipline process is attached as Appendix 1 to this Report.

7. **Considerations for Change / Amendments (Full List)**

Constitution

- 7.1 To consider renaming the Appointments and Remuneration Committee as the Appointments, Remuneration and Chief Officer Investigatory Committee, so the title is more reflective of its entire role in discipline matters.
- 7.2 If the above is agreed, then the Chief Officer Procedure Rules will need to reflect the revised name. They are compliant in all other areas. It would also seem appropriate to hyperlink from the Chief Officer Procedure Rules to the Corporate Disciplinary and Dismissal Policy for Chief Officers and Heads of Service.
- 7.3 To amend the Terms of Reference of the currently named Appointments and Remuneration Committee to reflect the power to suspend of the Chair of the Committee.
- 7.4 To hyperlink from the (currently named) Appointments and Remuneration Committee terms of reference to the Corporate Disciplinary and Dismissal Policy.
- 7.5 Consideration to be given to referencing the role of the Independent Person under the terms of reference for the currently named Appointments and Remuneration Committee in the Constitution.

- 7.6 To ensure that the Appeals (Chief Officer) Committee is reflected under section 3 of the Constitution (Terms of Reference for all Committees).

Committee Structure / Council Schedule of Committees

- 7.7 The Council schedule shows the currently named Appointments and Remuneration Committee as locally balanced, however, this can be reflected on the schedule as politically balanced.
- 7.8 The Council needs to appoint an Appeals (Chief Officer) Committee.

Other

- 7.9 Ensure the relevant webpage on inside Devon contains the updated JNC handbook <https://inside.devon.gov.uk/task/employee-conduct/discipline/> (currently refers to Sept 2009).
- 7.10 Ensure the current Corporate Disciplinary and Dismissal Policy for Chief Officers and Heads of Service contains the date of the new Regulations (e.g. See paragraph 1).
- 7.11 HR will need to review the current Corporate Disciplinary and Dismissal Policy for Chief Officers and Heads of Service to ensure any other changes in the new JNC booklet are fully reflected in the Policy.

8. Conclusion / Summary

- 8.1 After a review of current processes, it was evident that the Council was compliant with the vast majority of requirements as outlined in the Joint Negotiating Committee for Chief Executives of Local Authorities (Model Disciplinary Procedure and Guidance). The suggestions made at section 7 of the Report seek to strengthen and clarify roles and responsibilities. Whilst the circumstances in which such processes would be used are rare, nonetheless, this Report seeks to identify where procedures can be bolstered and asks Members to consider the changes suggested.

9. Financial considerations

- 9.1 No financial implications have been identified.

10. Risk management considerations

- 10.1 No unmanageable risks have been identified.

11. Equality, Environmental Impact and Public Health Considerations.

- 11.1 No equality, environmental, climate change impact or public health implications have been identified.

JAN SHADBOLT

Electoral Divisions: All

Local Government Act 1972: List of Background Papers:
None
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Appendix 1 – Flow Chart

Disciplinary Procedure for Chief Executive and Protected Officers

